

Abstract

Reconsidering the Remuneration Exemption for Classroom Use of Copyrighted Works in K-12 Schools

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This article reexamines the proviso to Article 25(6) of the Korean Copyright Act, which exempts schools at or below the high school level from paying remuneration for classroom use of copyrighted works. It analyzes the legislative history and the asymmetrical remuneration structure within Article 25, and reviews the proviso in light of the constitutional protection of property rights, the principle of equality, and the three-step test under the Berne Convention and the TRIPS Agreement. It also compares educational-use schemes in Germany, Japan, Australia, the United Kingdom, and the United States, and estimates the fiscal impact of introducing remuneration in light of local education finance and the declining school-age population. The analysis finds that, although the proviso may still fall within the outer bounds of constitutional permissibility, such permissibility does not by itself justify its retention. Its original policy rationales have substantially weakened, and the estimated cost of remuneration—roughly KRW 1.2 to 10 billion annually, or 0.001 to 0.011 percent of the local education budget—undermines the fiscal case for full exemption. The article therefore calls for legislative reconsideration, including deletion or redesign of the proviso, based on a low flat per-student rate and collective settlement at the national level or through metropolitan and provincial offices of education.

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Keywords

educational use of copyrighted works, classroom use, classroom-use remuneration, remuneration exemption, limitations on economic rights of authors, property rights guarantee, equality principle, proportionality principle, three-step test, local education finance