

IP Survey Report

I . Mongolian National Broadcaster

1. Profile of the Institute

Mongolian National Radio (MNR) was established in 1934 and Mongolian National Television (MNT) in 1967. Together, these two institutions form the Mongolian National Broadcaster (MNB). MNB is one of the first media broadcasting systems established in Mongolia.

On 27 September 1967, MNT started broadcasts and with it started Mongolian TV broadcasting. Initially all programmes were broadcast live, but in December 1971, Mongolian TV studios opened and another important step towards improving the quality of the images and enabling the pre-recording of documentaries and short films was taken. This allowed the broadcasting schedule to become much more varied and entertaining. Since the 1980s, MNB began working with a new generation of equipment made in Japan, France, and Russia, and this, along with a new TV centre being put in to commission, made the transition to colour possible.

Until the mid-1980s programmes were only watched by a small percentage of the population, but with the help of radio relay lines, reception was extended. In 1991, MNB began broadcasting via the AsiaSat satellite, and this allowed its programmes to be received in even the remotest parts of Mongolia. Today, some 70 per cent of the country's population watches the national TV channel. MNT operates two channels at the national level and broadcasts various programmes in five different languages abroad. MNB Channel 2 is broadcast at the national level for minority groups.

According to the 2005 Law of Mongolia on Public Radio and Television, MNB has amended its structure, operational directives, management, and policies on broadcasting, and thus has gained independence, particularly in terms of programming. MNB is in operation on a principle of favouring the pluralism, transparency, and national gain.

MNB in Ulaanbaatar, Mongolia, covers entertainment programmes and local news, and the company broadcasts its programmes in Mongolia as well as in Asia and Europe.

MNB conducts research, documents, broadcasts, and archives ICH, including language and literature, oral expressions, performing arts, traditional craftsmanship, traditional festivals, ceremonies, rituals, dance, and music.

MNB is classified as a non-governmental organisation.

According to the Law of Mongolia on Public Radio and Television, the National Committee of Public Radio and Television, a supernumerary organisation consisting of fifteen members, or public representatives, is the administrative body of public radio and television.

The National Committee of Public Radio and Television was appointed on 14 October 2005. The fifteen members are

- G. Purevbat, monk
- L. Bold, Chairman, Committee of Mongolian Artists Union
- Chilaajav, Chairman, Writers' Union
- Ts. Dashdondov, Journalist
- R. Hadbaatar, Vice President, Mongolian Newspapers Association
- O. Munguntuul, Italy-Mongolia Friendship Society
- O. Erdene-Ulzii, Honored President, Kick Boxing Association
- N. Sodnomdorj, President, Mongolian Trade Union
- L. Tumurbaatar, Executive Director, Anti Cancer Association
- Zanaa, Board Chair
- R. Burmaa, Chair, Social Progress—Women's NGO
- G. Tserenpurev, Executive Director, Mongolian Banks Association
- N. Zoljargal, Employee, Trade and Development Bank
- Damdinsuren, Food Sector Workers Association
- Buyanbadrakh, Director, FM 107 Radio Station, journalist

As stated in the Law of Mongolia on Public Radio and Television, the sources of budget are

- Income from the service of Radio and Television programmes
- Profits from social advertisements

- Income from rental of technical equipment and other materials
- Donations and support from the state budget
- And other possible/available sources

2. Information Building and Sharing

MNB is engaged in all ICH activities, including identifying, documenting, inventorying, database/archive building, publishing and distributing, and using digital contents. MNB, through research and study or through field surveys, identifies and documents specified individuals, group, or community who have the targeted subject or knowledge and skills concerning ICH. Collected materials, such as audio-visual recordings, photos, and other related items are subjected to become archive/database material. These materials are widely broadcasted, distributed, and used for information building and sharing activities. Although the issue concerning ICH intellectual property and its copyright issues relates to every activity, it mainly involves TV programmes, documentation, film productions, registration and information database/archive building, information sharing, and the use of digital contents in TV programmes as well as broadcasting and distributing such programmes. The following example involves registration and information database/archive building and broadcasting and distributing folk performing arts.

In 1954, the Golden Fund (archive) of Song and Music at the MNR was established. According to the statements of former employees of the MNR, the Golden Fund contains abundant materials starting from folk traditional songs and music to the best of contemporary works composed and performed by the renowned masters of today.

In 1983, a new TV programme of folk performing arts entitled the *Repertoire of Folk Music* was launched and is still actively reached to the audiences.

In 1976, the first TV series called *Works of Folk Art* started under the theme of 'Traditional Craftsmanship of Wood Engraving'. Since this period, the production of TV documentaries of ICH works, their dissemination and broadcasting, and the safeguarding activities for research and advertisement purposes effectively began.

Two series of *Mongol Khuumei*, a documentary movie, were produced by Telekino Productions at the MNT in 1983; two series of *Tsatsal* (Libation), a

documentary movie, were produced by Telekino Productions in 1985; and the two series of *Ingen Egshig* (A Melody of Mare-Camel), a documentary movie, were produced by Telekino Productions in 1987. Each of these has won first place at Solongo, the International Festival of TV Works of Folk Arts.

Since 1988, the controversial or debated contest—serial TV show titled *Durvon Berkh* (Four Toughs) has aired with purposes of revitalising and safeguarding traditional customs and rituals.

In 1991, the two series of *Dembee Mine Dee*, a documentary movie, were produced by Telekino Productions and won first place at Solongo, the International Festival of TV Works of Folk Arts.

Thus, since its establishment, the MNB has been engaged in conducting various ICH-related activities. Even now, the MNB is operating and launching various TV programmes to promote and disseminate ICH. These programmes include *Altan Yazguur* (Golden Lineage), *AriusahuinGumuda* (about Buddhist religious customs), *ArdmiinKhugjmiinSan* (Repertoire of Folk Music), *MongolYosZanshil* (Mongolian Customs and Traditions), *Khuuchin Pyanz* (Old Disc), and *BiMongolHun* (I Am Mongolian).

MNR constantly broadcasts programmes with traditional songs, music, folk performing arts, traditional customs, and rituals to foreign audiences through its Mongolian Voice Radio Station. Despite these special programmes, MNR also broadcasts folk songs, music, and performing arts through its song and music programme. Through Channel 2, the MNB also provides TV programmes for minority ethnic groups in their own languages to introduce and safeguard their language, history, traditions, and customs, such as *Aldai—Khonash* for the Tuva ethnic group and *Toonto Nyutag* for people of Buriat-Mongolian ethnicity.

Besides the mentioned ICH-related activities, including the production of various different TV programmes, documentaries, and shows, the MNB is also engaged in establishing and maintaining the registration and information database/archive. The activities of improving and enriching the archive and information sharing have been extended in recent years. Since digitising video tapes, the ICH digital contents are being widely used for advertisement and dissemination purposes.

The decision to what to include in the archive is made by MNB Programmes Department according to the criteria stating that ‘those radio or television

works shall be registered and included in the Golden Fund—MNB’s archive, which are considered the best produced work, requiring high-quality skills or historically significant or unrepeatable contents’. The Rule to Preserve, Maintain, Enrich, and Use the Golden Fund has been approved, and it is in an effective state today to regulate the activities concerning the registering radio and television works in the archive, broadcasting them, and sharing information.

Broadcasting ICH-related programmes is regulated according to the MNB’s programmes policy. ICH-related programmes such as those mentioned above—*Altan Yazguur*, *AriusahuinGumuda*, *ArdmiinKhugjmiinSan*, *MongolYosZanshil*, *Khuuchin Pyanz*, and *BiMongolHun*—each have a certain number of series to be broadcast within a year.

In paragraph 10 of Article 2 of the Law of Mongolian on Public Radio and Television, it is stated that the ‘works, broadcasted through MNB programmes, possessing materials concerning the life of Mongolian people and the history of their development, particularly with the contents of scientific, social, political, economic, historical, artistic, and cultural significance shall be registered and included in the Public Radio and Television Archive’. The same paragraph also states that the ‘Public Radio and Television Archive is subject to and is a branch of the National Central Archive. Thus, regulating the activities concerning the establishment, maintenance, preservation, enrichment, and use of the materials of Public Radio and Television Archive is subject to National Archives Law’. In addition, the MNB’s Rule to Preserve, Maintain, Enrich, and Use the Golden Fund is observed on a daily basis. The historically significant materials, particularly the ones concerning ICH elements created by Mongolian people play an important role or cover the predominant percentage of all materials maintained at the MNB’s Golden Fund Archive. These materials were selected in accordance with certain criteria to be registered and kept as archival elements. Even though the archive is being enriched year by year, the magnetic tapes recorded between 1950 and 1990 are in danger of becoming superannuated and out of date. Because of this, the administration of the MNB is starting to take measures to revive and digitise these materials and use them for dissemination and advertisement purposes. A scanned copy of the Rule to Preserve, Maintain, Enrich, and Use the Golden Fund is attached.

The MNB obtains ICH-related data or archives through fieldwork and documentation.

During the first stage, concerned professionals and experts from the MNB are designated to conduct comprehensive research using all data and information sources available to identify the main subject/ICH bearer, his or her residency, and other related information.

For the second stage, the MNB either invites the subject/ICH bearer to the studio to participate in producing the TV programme or the selected team of professionals travels to the subject/ICH bearer's residence to document the ICH element in its original state during the proper period or season.

The index of data or archives of the MNB is as follows:

- (a) Name of data: audio-visual records
- (b) Offline/online data
- (c) Type of data: text, photo, video, audio
- (d) Source of data: fieldwork and documentation
- (e) Context of data: significant
- (f) Person/Organisation who has rights on the data: Mongolian National Broadcaster

3. IP Issues in Information Building and Sharing

MNB does not have experience with a project regarding IP aspects of ICH. There is currently no department, unit, or individual undertaking tasks related to intellectual property in MNB, but there is a supernumerary individual working as MNB legal counsel.

If any issue or problem concerning ICH intellectual property or copyrights comes up or persists, the matter must be settled in accordance with the Copyright Law of Mongolia. There are no other specific and active rules or regulations at present, and to date, no specific issues or problems concerning ICH intellectual property and copyrights have been in effect. It is certain that, as of now, the function or any regulatory factors towards intellectual property and copyright issues have not been set properly or at all at the MNB and in its operational directives.

In Article 26.1 of Chapter 8 in the Mongolian Law on Broadcasting, it is stated that 'broadcasters may only broadcast programmes that they produced or for which they hold broadcasting rights, and copyrights must be clearly indicated as part of the credits displayed with each programme'; and in Article 26.2 of the same chapter, it is stated that 'the name of the producer of every programme shall be displayed or read out at the end of the programme'.

Besides these texts, there are no other statements included for copyright or intellectual property issues.

The MNB does not have a principle for protecting IP aspects of ICH at present. However, there is a statement in the employment morality guideline stating that ‘the employee shall not use any material without its owners’ confirmed consent’.

The MNB is a considerably important organisation in the media field, broadcasting programmes at the national level. The MNB conducts all the activities including obtaining, registering, documenting, and digitising data in the process of ICH information building and sharing. To conduct these activities, the MNB goes through many stages: a stage for preparing, a stage for collecting and creating information, a stage for maintaining information, a stage for processing and producing information, and a stage for using and disseminating information. Therefore, it is highly possible that issues and problems concerning ICH intellectual property and copyrights—problems regarding complying with the country’s laws and regulations or customs, identifying the nature of rights existing on ICH, determining ICH ownership, obtaining prior informed consent or approval, maintaining collected information, sharing benefits, copying and reproducing ICH, or any other problems—could arise during the organisation’s ICH information building and sharing processes.

Because the groundwork for establishing a legal environment for protecting ICH and related copyrights is now just being set and because the concerned organisations have less than twenty years of experience in the field of copyright protection, intellectual property issues and problems at these organisations have not yet been visible. For example, most materials used for film or documentary productions or other purposes were mostly from state archives, so exposure such problems and issues have been rather limited to date.

As a result of the above questions and corresponding answers made by the MNB on ICH information building and sharing, the following conclusions have been reached.

- Intellectual property matters and ICH copyright issues in particular are poorly observed at the MNB. There is little understanding or knowledge concerning intellectual property and copyright issues among concerned organisations, individuals, and the general public.

From one point of view, Mongolia began understanding and implementing copyright regulations only since 1995; and from another point of view, there is a little knowledge and understanding among copyright owner organisations and individuals, thus there is little capacity to fully exercise their rights. In addition, the law is not feasibly being implemented at the concerned ICH information building and sharing organisations.

- There are no existing guidelines, rules, and regulations at this organisation for ICH information building and sharing activities and ICH copyright issues in particular. To date, no issues concerning ICH intellectual property or copyrights have been presented at the MNB. Only the Rule to Preserve, Maintain, Enrich, and Use the Golden Fund concerning copyright is currently active. Although it is an effort or attempt to comprehensively cover the stages of information building and sharing, there are no provisions concerning copyrights.
- There is currently no concerned department, unit, or individual at the MNB responsible for intellectual property and ICH copyright issues. Legal matters are handled only by the designated legal counsel. Because the legal counsel is responsible for all legal matters arising at the MNB, it isn't possible for the MNB's legal counsel to handle and regulate the issues concerning the intellectual property or copyright.
- Also lacking are regulations governing the MNB activities, such as to own the created ICH information, to protect the owned information by copyright, and to share and use that information. In another words, Implementation of copyright law is lacking. As of now, not one NGO has cooperated with the MNB in the field intellectual property and copyright protection.

Based on these conclusions, it is recommended that the following measures be undertaken immediately.

1. Organise training meetings and seminars concerning ICH intellectual property and copyright issues for the staff and professionals at the MNB with aims to raise the awareness of the importance of ICH and copyright matters and to strengthen their capacity
2. Approve and implement a law, associated guidelines, and rules on ICH copyright corresponding to the Convention and Mongolia law. Within this framework, it is indeed inevitable to develop and implement the rules and regulations concerning the copyright issues that could arise while collecting, using, sharing, and protecting information.

In paragraph 10 of Article 2 of the Law of Mongolian on Public Radio and Television, it is stated that the 'works, broadcasted through MNB programmes, possessing materials concerning the life of Mongolian people and the history of their development, particularly with the contents of scientific, social, political, economic, historical, artistic, and cultural significance shall be registered and included in the Public Radio and Television Archive'. The same paragraph also states that the 'Public Radio and Television Archive is subject to and is a branch of the National Central Archive. Thus, regulating the activities concerning the establishment, maintenance, preservation, enrichment, and use of the materials of Public Radio and Television Archive is subject to National Archives Law'. In addition, the MNB is subject to implementing other laws in its activities, such as the Law on Patents, Law of Mongolia on Trade Names and Trademarks, Law of Mongolia on Copyright and Related Rights, Law for Protection of Cultural Heritage, and the Law of Mongolia on Advertisement. The MNB is not currently implementing any specific guidelines, rules, or regulations concerning intellectual property and copyrights other than the Rule to Preserve, Maintain, Enrich, and Use the Golden Fund. Therefore, there is a need to approve and implement such a guideline, rule, or regulation.

3. There is no statement concerning ICH intellectual property and copyright issues in the MNB operational directives. The MNB also has no department, unit, or individual responsible for ICH copyrights. Therefore, there is an immediate need to have MNB's organisational and operational directives amended and to have a special unit or department for ICH copyrights.

As stated above and as a result of this survey, there is a need to organise training meetings and seminars concerning ICH intellectual property and copyright issues for the staff and professionals at the MNB with aims to raise the awareness of the importance of ICH and copyright matters and to strengthen their capacity and to approve and implement a law, associated guidelines, and rules on ICH copyright corresponding to the Convention and Mongolia law. Within this framework, it is indeed inevitable to develop and implement the rules and regulations concerning the copyright issues that could arise while collecting, using, sharing, and protecting information. Furthermore, there is also an immediate need to establish a special unit or department dedicated to ICH copyright matters. Accordingly, the MNB is planning to implement a specific project to solve the abovementioned issues.

Starting from 2013, the project will continue for two years undertaking the following activities:

- conduct training meetings and seminars on intellectual property issues in the process of ICH information building and sharing;
- conduct comprehensive research and develop an adequate guideline
- make amendments to improve the MNB's internal policy and add a new unit responsible for ICH intellectual property and copyright issues
- develop a draft guideline and associated forms conforming to the Convention and Mongolian law and implement the guideline and forms accordingly
- revitalise the MNB's registration and information database/archive (Golden Fund) to revive superannuated records and documentaries on tapes and to digitise and use the updated data

Due to the lack of experience in the field not only at the MNB, but in Mongolia in general, there is a need to have international or foreign expertise involved collaborating with the development of adequate guidelines, rules, or regulations. Therefore, it is decided that the MNB should invite an international organisation to cooperate with developing the project proposal.

MNB, since its establishment, has been engaged in ICH research, advertisement, documentation, broadcasting, and dissemination and with maintaining and archiving activities. In 2011, the MNB and the Culture and Art Committee—the government implementing agency—have signed a contract to cooperate. The contract states “to collaboratively make efforts on safeguarding and preserving the tangible and intangible cultural heritage and oral literature of the Mongols, to disseminate the implementation progress of national projects, including ‘Morin Khuur (Horse head fiddle)’, ‘Urtiin Duu (Folk long song)’, ‘Mongol Khuumei’ and ‘Bii Biilgee (Mongolian Traditional Dance), strengthening the knowledge on National language and script, traditional knowledge of upbringing children, documentation and distribution of Folk Arts Festival to the General public and other significant measures.”