The Establishment of a *sui generis* Framework for the Protection of Works of Mas: Is it a Viable Option?

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Common forms of legal protection

Intellectual property
- Copyright
- Related rights
- Trademark
- Trade secrets
- *Sui generis* rights
  - Computer programs – never materialized
  - Databases – materialized but never caught on

Unfair competition

Contracts
Advantages of copyright

- It is already there
- Automatic protection
- Familiar system, also for foreigners
- Internationally recognized
- Can be supplemented by other forms of protection
- Offers strong protection with well-defined rights
- Limitation for artistic works in public places do not apply (S. 17(a))

... and disadvantages

- Depends on jurisprudence
- Requires a protected work
- Works of mas may not be recognized elsewhere
- Sometimes not respected in practice
- No specific rules on ownership
- Limited protection for works of art in public places
- Limitations for works situated in public places may be different in other countries
Advantages of *sui generis*

A potentially very flexible solution
Appropriately described subject matter
Can be supplemented by other forms of protection
May offer strong protection with well-defined rights
Rights on ownership may reflect the specific conditions of the industry

... and disadvantages

Depends on both political will and later jurisprudence
Unfamiliar system, in particular for foreigners
Not internationally recognized
Will not necessarily be better respected in practice than copyright
Everything will depend on what can be agreed on in the political process
Protection through contracts

Well established system, generally recognized and used for sports ‘rights’
Requires a factual basis for requiring users to enter into contracts, such as physical control of venue
Comprehensive drafting required, but templates exist
Does not bind third parties who are not privy to the contract
Very flexible type of protection, if parties can agree
Can to some extent be imposed on media seeking accreditation to the venue
Protection against unfair competition

Well established system, but very different levels of protection in different countries
May be used to supplement copyright, related rights and rights established through contract
In practice varying, sometimes unclear and often uncertain scope of rights
For at ændre "Enhedens navn" og "Sted og dato": Klik i menulinjen, vælg "Indsæt > Sidehoved / Sidefod". Indføj "Sted og dato" i feltet for dato og "Enhedens navn" i Sidefod.

Thank you for your attention.

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