

**LAW 4481/2017 (Official Government Gazette A' 100/20.07.2017) on collective management of copyright and related rights, multi-territorial licensing in musical works for online use in the internal market and other issues falling within the scope of the Ministry of Culture and Sports.**

**SECTION 1: COLLECTIVE MANAGEMENT AND OTHER MATTERS**

**Article 1**

**Purpose**

The purpose of the first section of the law is to harmonize the national legislation with the Directive 2014/26/EU “on the collective management of copyright and related rights and multi-territorial licensing in musical works for online use in the internal market” (EE L 84), the regulation of operation of collective management organisations or collective protection organisations and of independent management entities, together with the amendment of the provisions of Law 2121/1993 (A' 25).

**Article 2**

**Scope**

**(Article 2 par. 1, 2, 3 and 4 of the Directive)**

1. Articles 1 to 54 shall apply to collective management organisations established in Greece and, where expressly provided for by the law, to collective protection organisations established in Greece.
2. Articles 33 to 41 and paragraph 2 of Article 44 shall apply to collective management organisations established in Greece managing the rights of authors in musical works which are intended for online use on a multi-territorial basis.
3. Articles 1 to 54 shall apply to the management and protection of the related rights that are regulated in Chapter 8 of Law 2121/1993 (OJ A' 25), unless otherwise specified.
4. Provisions of Articles 1 to 54 shall apply to entities owned or controlled, directly or indirectly, wholly or in part, by a collective management organisation, provided that those entities conduct an activity which, if conducted by a collective management organisation, would be subject to the provisions of this Law.
5. Provisions of Articles 1 to 54 shall apply to the authorized representatives of the collective management organisations (whether natural or legal persons), who have been entrusted, either wholly or in part, with the responsibilities or activities related to the collective management provided for in this Law or in Law 2121/1993.
6. Article 22 par. 1, Articles 25 and 27, items(a), (b), (c), (f), (g) and (h) of paragraph 1 and paragraph 3 of Article 28, Article 32, Article 43, Articles 46 and 47 and Article 49 shall apply to all independent management entities established in Greece.
7. The provisions on collective management organisations, as set out in Articles 1 to 54, with the exception of paragraphs 1 and 4 of Article 32, shall apply to the independent management entities referred to in Article 50, unless otherwise specified in this Law.

8. Articles 1 to 54 shall apply to collective management organisations established outside the European Union (EU) but operating within the Greek territory.

9. References to the EU herein include the European Economic Area.

### **Article 3**

#### **Definitions**

**(Articles 3 items (a), (b) to (e), (f), (h) to (n) and 36 paragraph 1 of the Directive)**

For the purposes of Articles 1 to 54 the following definitions shall apply:

- a) 'Collective management organisation' means any organisation which is authorized by law or by way of assignment, license or any other contractual arrangement to manage copyright or related rights on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or main purpose, and which fulfils one or both of the following criteria:  
(aa) it is owned or controlled by its members;  
(bb) it is organized on a not-for-profit basis.
- b) 'Collective protection organisation' means any organisation authorized by way of assignment, license or any other contractual arrangement for the protection of copyright or related rights on behalf of more than one rightholder and for their collective benefit, as its sole or main purpose.
- c) 'Independent management entity' means any organisation which is authorized by law or byway of assignment, license or any other contractual arrangement to manage copyright or related rights on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or main purpose, and which is: aa) neither owned nor controlled, directly or indirectly, wholly or partly, by rightholders, and bb) it is organized on a for-profit basis.
- d) 'Rightholder' means any person or entity, other than a collective management organisation, which holds a copyright or a related right or, under an agreement for the exploitation of rights or by law, is entitled to a share of the rights revenue.
- e) 'Member' means a rightholder or an entity representing rightholders, including other collective management organisations and associations of rightholders, fulfilling the requirements of the collective management organisation for the admission and registration of members and admitted by it.
- f) 'Statute' means the memorandum and Articles of Association, the rules or documents of constitution of a collective management organisation.
- g) 'Object of protection' means the subject-matter protected by a related right in accordance with the Law 2121/1993.
- h) 'Operating license' means the decision of the Minister of Culture and Sports authorizing the operation of a collective management or collective protection organisation and an independent management entity referred to in Article 50.
- i) 'General Assembly of Members' means the body in the collective management organisation, wherein members participate and exercise their voting rights, regardless of the legal form of the organisation.
- j) 'Rights revenue' means income collected by a collective management organisation on behalf of rightholders, whether deriving from an exclusive right, a right to remuneration or a right to compensation.

- k) 'Management fees' means the amounts charged, deducted or offset by a collective management organisation from rights revenue or from any income arising from the investment of rights revenue, in order to cover the costs of its management of copyright or related rights. With regard to collective protection organisations 'management fees' means the amounts charged, deducted, or offset from the contributions of their members.
- l) 'Representation agreement' means any agreement between collective management organisations whereby one collective management organisation mandates another collective management organisation to manage the rights it represents, including the agreement concluded under Articles 38 and 39.
- m) 'User' means any person or entity that is carrying out acts subject to the authorization of the rightholders, remuneration of the rightholders or payment of compensation to rightholders and is not acting in the capacity of a consumer.
- n) 'Repertoire' means the works or objects of protection in respect to which a collective management organisation manages rights.
- o) 'Multi-territorial license' means a license which covers the territory of more than one EU Member State.
- p) 'Online rights in musical works' means any of the rights of an author in a musical work provided for under items (a) and (g) of paragraph 1 of Article 3 of Law 2121/1993, which are required for the provision of an online service.
- q) 'HCO' means the Hellenic Copyright Organisation, which is the competent body for copyright and related rights issues in Greece. Also, HCO is the competent authority for the disclosure of information provided for under Articles 36, 37, 38 and 41 of the Directive, in accordance with the more specific provisions of this Law.

#### **Article 4**

##### **Operating License**

1. Any collective management organisation, collective protection organisation and independent management entity under Article 50, established in the Greek territory and intending to assume the collective management or protection of the powers deriving from the economic right of the authors or rightholders of related rights, is required to obtain an operating license granted by the Minister of Culture and Sports, in accordance with the procedure set out in this Article.

2. The concerned organisation or independent entity referred to in Article 50 shall, before the commencement of its operation, submit to the HCO an application, obligatorily accompanied by the following:

- a) its statute, including its capital, to the extent that it is required under the respective legal form;
- b) the legal representative, the members of the Board of Directors and of the Supervisory Board and the Director – General, if any. These persons need to not have been charged, by way of final judgment, with a felony, or convicted of felony or misdemeanour punishable by a minimum term of imprisonment of two (2) years, or, regardless of the quantum of the penalty, of crimes against property or property rights for smuggling, counterfeiting or forgery, tax evasion, active and passive corruption. To ascertain the non-final referral and the non-conviction of the previous subparagraph, these persons shall submit to the HCO a certificate of non-referral from the competent judicial authority and a copy of their criminal record certifying that they have never been convicted. Those

persons must also submit a statement of information referred to in item (d) of paragraph 2 of Article 31;

c) the number of rightholders who have entrusted or will entrust the organisation with the management or protection of the powers deriving from their economic right;

d) a draft of the assignment agreement, indicating the legal form and duration of management or protection;

e) the rights distribution regulation, indicating the time, the principles and the method of distribution of the rights revenue per category of rightholders;

f) the amount of management fees, as well as any other information that requested by the Ministry of Culture and Sports or the HCO, to assure the operational sustainability and effectiveness of the collective management or collective protection organisation or independent management entity referred to in Article 50. The collective protection organisations do not submit the item under (e), nor the list of members of the Supervisory Board.

3. If the requirements of this Law are met and it is evident that the applicant organisation or the applicant independent entity referred to in Article 50 are sustainable and can effectively manage the rights of the rightholders who have entrusted them with the management or protection of their rights and upon conforming suggestion by HCO, the Minister of Culture and Sports grants an operating license by means of a reasoned decision, which is communicated to HCO and to the applicant organisation or the independent management entity referred to in Article 50. The decision granting the operating license to the collective management or the collective protection organisation or to the independent management entity of referred to in Article 50 is published in the Official Government Gazette and posted on the websites of HCO and of the licensed organisation.

4. The collective management organisation and the independent management entity referred to in Article 50 is obliged, no later than three (3) months following the publication of their operating license in the Official Government Gazette, to send to HCO their tariff table in order for the HCO latter to post it on its website according to the provisions of paragraph 2 of Article 23.

5. Any modification of the elements referred to in paragraph 2 is communicated to the Minister of Culture and Sports and to HCO immediately and no later than five (5) days following the change. If the Minister of Culture and Sports does not raise any objections, upon reasoned recommendation by HCO and within thirty (30) days following the communication of the modification, it shall be deemed approved. Until the expiry of the above deadline, as well as in case on non-communication, the elements of paragraph 2 prior to the modification are still valid.

6. If the collective management organisation or the collective protection organisation wishes to extend its competencies, a prior expansion of its corresponding operating license for the granting of which the provisions of the present Article are implemented, is required.

7. The collective management organisation and the independent management entity established in another member state of the EU may operate in the Greek territory, without requiring a license issued by the Minister of Culture and Sports, provided that they have previously notified HCO of their intention and have submitted the registration and license certificates HCO , particulars showing their establishment in an EU member – state, insofar as it is respectively provided under the national legislation of that member - state. In addition, they need to communicate their contact details, including their address, their tax registration number, their registered office and their legal representative.

8. Without prejudice to the provisions of Article 32, any independent management entity established in the Greek territory, may operate within it, provided that it has communicated its intention to do so to the HCO, as well as its contact details including its address, its tax registration number, its registered office and its legal representative. In addition, it communicates to HCO a list of the rightholders whom it represents, and their respective works or objects of protection, as well as the type of management it engages in. The Minister of Culture and Sports, upon a recommendation by HCO, draws up an act which ascertains the submission of the relevant information, and sends it to the independent management entity. This information, without prejudice to paragraph 4 of Article 32, shall be updated at least once a year and no later than on the 31<sup>st</sup> of January of each year.

9. Collective management organisations or collective protection organisations which have not been licensed in accordance with the provisions of this Article cannot manage or protect the rights that they represent, nor exercise the powers provided under Article 6. The same applies to independent management entities referred to in Article 50.

## **Article 5**

### **Establishment of a unitary collective management organisation**

1. Collective management organisations operating with approval from the Minister of Culture and Sports may establish a unitary collective management organisation which they authorize exclusively with the competence, in particular, to negotiate, grant licenses, conclude remunerations agreements, claim the right to remuneration, proceed to any judicial or extrajudicial action, collect the relevant remuneration from users and distribute it to the respective collective management organisations.

2. The provisions of this Law on collective management shall also apply to the licensing of the unitary collective management organisation, as well as to any other issue related to collective management.

3. Any pending trials at the time of establishment of a unitary collective management organisation shall be continued by the original litigating parties until they are finally disposed of. continue until their final completion.

## **Article 6**

### **Competencies**

1. Collective management organisations have indicatively the following competencies and any other competence consistent with the nature and purpose of a collective management organisation of case a' of Article 3, provided that they are included in the authorization of the Minister of Culture and Sports and provided for in their statute:
  - a) to manage the economic right, the powers deriving therefrom, categories of powers or types of works or objects of protection for the territories of the rightholders;
  - b) to enter into agreements with users on the terms of exploitation of the works as well as on the due, percentage and/or reasonable remuneration;
  - c) to ensure that rightholders receive a proportional in accordance with paragraph 1 of Article 32 of Law 2121/1993;
  - d) to collect the remuneration provided for in this Law and in Law 2121/1993 and to distribute to the rightholders the amounts received;

- e) to exercise the right of the rightholder to grant a license or refuse it for a cable operator to retransmit cable or other material transmissions in accordance with Article 35 of Law 2121/1993;
  - f) to conclude representation agreements and inform the other collecting societies about the revenues, deductions, licenses granted and any other information relating to the management of rights under these agreements provided for in this Law or in Law 2121/1993;
  - g) to provide rightholders, other collecting societies under representation agreements and users - even the potential ones - with the information provided for in Articles 25 to 27;
  - h) to publish and post on their websites the information required in accordance with Article 28,
  - i) to prepare and publish the annual transparency report referred to in Article 29,
  - j) to grant multi-territorial licenses for online rights in musical works, provided that they meet the legal requirements and take all the relevant actions provided for in this Law,
  - ja) Pursuant to the fourth subparagraph of Article 7 (1), to undertake any administrative, judicial or extrajudicial action for the legitimate protection of the rights of the rightholders and, in particular, submit applications for interim measures, bring actions, appeal, sue and prosecute, bring civil proceedings, seek the prohibition of acts infringing copyright with regard to the powers conferred upon them and request the seizure of unlawful copies or the judicial escrow of the goods in accordance with Article 64 of Law 2121/1993;
  - jb) to receive from users all the information necessary for the application of the tariffs, the calculation of the remuneration and the collection and distribution of rights, using the relevant recognized industrial standards;
  - jc) to conduct in collaboration with the public authority or in accordance with the procedure laid down in Article 64 of Law 2121/1993, to carry out the necessary inspections in shops selling or renting or borrowing copies or publicly performing the works they protect in order to ascertain whether these acts do not infringe the rights of the rightholders;
  - jd) to provide social, cultural or educational services for the benefit of the rightholders;
  - je) to organize and participate in conferences on copyright and related rights issues.
2. The cases (h), (ja), (jc), (jd) and (je) of the aforementioned paragraph, as well as paragraph 1 of Article 17 shall also apply to collective protection organisations.

## **Article 7**

### **Presumptions**

1. Collective management organisations and collective protection organisations are presumed to have the power to manage and protect the rights of all works or objects of protection or all the rightholders for which or for whom they state in writing that the relevant powers or equitable remuneration rights have been transferred to them or that they act under power - of -attorney or any other contractual agreement.

Insofar as a collective management organisation, operating under the license granted by the Minister of Culture and Sports, exercises rights or brings claims under Law 2121/1993, which are subject to mandatory collective management, it is presumed that it represents all, and without exception, rightholders, nationals and foreigners, and all, and without exception, their works. If, in the case of the preceding paragraph, there are more collective management organisations for a specific category

of rightsholders, the I presumption applies if the rights are exercised jointly by all the relevant collective management organisations according to the more specific provisions of Law 2121/1993. Collective management and collective protection organisations can act in their name, judicially or extra judicially, if their competence is based on a transfer of the relevant power, or on a power - of - attorney, or on any other contractual agreement. Also, they are entitled to exercise all the rights that have been transferred to them by the rightholders or they are covered by power - of - attorney or by any other contractual agreement.

2. In order to ensure the legal protection of works and rightsholders represented by a collective management organisation or a collective protection organisation, with regards to works used without the requisite permission or without payment of equitable remuneration, a mere sample of such works is sufficient and no thorough list is required.

3. The presumptions shall be applied by the collective management organisations in such a way as to not affect the rights of the rightholders, as provided for in the Law, and in particular, their ability to assign or not, either wholly or in part, to distinct collective management organisations the management of certain powers or certain works or other subject-matter of protection.

4. If a rightholder disputes that a collective management organisation is competent for a given work which was included in the statement provided for in paragraph 1 and in the contract concluded with a user on the basis of such statement, then the organisation shall be obliged to assist the counterparty of the user in every possible way, and in particular, to intervene in the relevant court. If it is shown that the organisation did not represent the work, such organisation shall be liable for damages to the counterparty and may be sanctioned in accordance with Article 46. The relevant claim of the rightholder shall be brought in accordance with the special labour disputes procedure. This paragraph does not apply to cases of mandatory collective management.

## **Article 8**

### **General provisions – Operation and Organisation**

1. Collective management organisations operate under any legal form under the terms of case a' of Article 3.

2. If the collective management organisations operate in the form of a public limited company, the shares of that company are obligatorily wholly nominative and to the rest, the provisions of paragraphs 2, 3, 5, 6, 7 and 9 of Article 24 of Law 1746/1988 (A'2) are applicable. The communication that is provided for under paragraphs 6 and 7 of Article 24 of Law 1746/1988 is made towards the Ministry of Culture and Sports and towards the HCO.

3. Collective management organisations may also operate in the form of civil cooperatives according to Law 1667/1986 (A' 196).

In this case:

a) where in Law 1667/1988 the Ministry of National Economy is mentioned as the competent authority, for the implementation of this law the competent authority is the Ministry of Culture and Sports;

b) these cooperatives may be established and operate in the Greek territory as an exception to the principle of locality;

- c) legal persons may also participate as members in the cooperatives;
- d) the statute of these cooperatives may provide for:
  - aa) without prejudice to Article 13, terms, internal procedures and bodies that decide on the entry, withdrawal or exclusion of a partner, in derogation from the terms, the procedures and the bodies that are provided in paragraphs 4, 5, 6, 7 and 8 of Article 2 of Law 1667/1986;
  - bb) the right of the partners to obtain an unlimited number of optional shares under the terms of paragraph 5 of Article 9;
  - cc) the non-transferability of cooperative shares;
  - dd) without prejudice to paragraph 5 of Article 9, categories of partners, either without a right to vote or with a number of votes per partner that is independent from the number of obligatory or optional shares of each partner;
  - ee) the terms that determine the quorum and participation in the general meeting in derogation from the terms provided for in Article 5 of Law 1667/1986;
- e) these cooperatives are always of limited liability and partners are not personally liable for the debts of the cooperatives.

## **Article 9**

### **General Assembly of Members (Article 8 paragraphs 2 to 12 of the Directive)**

1. A General Assembly of Members shall be convened at least once a year.
2. The General Assembly of Members shall decide on the following matters:
  - a) the amendments of the statute;
  - b)
    - aa) the appointment or dismissal of the members of the Board of Directors and the members of the Supervisory Board;
    - bb) the approval of the remuneration or the provision of any other, monetary or non-monetary, benefit to the members of the Board of Directors and of the Supervisory Board and the Director - General, following an assessment of their overall performance, as well as of the compensation due in the case of dismissal of such persons, without prejudice to paragraph 8;
  - c) the method of distribution of the amounts due to the rightholders and the regulation of rights' distribution;
  - d) the basic principles for the use of the non-distributable amounts;
  - e) the investment policy regarding the rights revenue and the income arising from the investment of the rights revenue, taking into account paragraph 4 of Article 17 and paragraph 7 of Article 19;
  - f) the deductions from rights revenue and from the income arising from the investment of the rights revenue, taking into account Article 18;



g) the use of rights revenue and of any income arising from the investment of rights revenue in relation to the manner, timing or any other detail;

h) the use, on a case-by-case basis, of the non-distributable amounts in accordance with the basic principles under item (d), that have been already decided;

i) the management of possible cases which may affect the fulfillment of obligations and the achievement of the goals of the organisation (risk management policy);

j) the approval of any acquisition, sale or mortgage on property;

ja) the approval of mergers or coalitions, the setting up of subsidiaries and the acquisition of other entities or shares or rights in other entities;

jb) the approval of taking out loans, granting loans or providing security for loans;

jc) the drawing up of the terms under Article 14 concerning the granting of licenses for non-commercial uses of their rights;

jd) any other additional matter provided in the present Law or the statute.

3. The General Assembly of Members of a collective management organisation can assign to the Supervisory Board referred to in Article 10, by a decision or a provision in its statute, the powers that are mentioned in cases i, j, ja, and jb of paragraph 2.

4. The General Assembly of Members of a collective management organisation controls the activities of the organisation, deciding at least on the appointment or removal of certified auditors – accountants and approving the annual transparency report of Article 29.

5. All members of the collecting management organisation have the right to participate in and to vote at the General assembly of Members. The members of the collecting management organisation, whether individuals or legal entities, cannot have controversial interests with the collecting management organisation. The General Assembly of members can limit the rights of participation in and vote at the General Assembly of Members on the basis of the amounts received or due to a member and/or the duration of their membership, provided that these criteria are set and implemented with a fair and proportional manner, and that they are included in the statute of the collective management organisation and are published according to Articles 26 and 28.

6. Each member of a collecting management organisation has the right to appoint any other member, that can be an individual or an entity, as his proxy in order to participate in and vote at the General Assembly of Members on his account, given that this appointment does not lead to a contradiction of interests. The proxy can represent up to two (2) members of the collective management organisation. Every proxy is valid for only one (1) general assembly of members. The proxy has the same rights in the general assembly with those of the member that appoints him. The proxy votes according to the instructions given to him by the member that appointed him.

7. The powers of the General Assembly of Members of a collective management organisation can be exercised by an assembly of representatives, elected at least every four (4) years by the members of the collective management organisation provided that:

a) the proper and effective participation of members in the procedure of decision-making for the collective management organisation is guaranteed and,

b) the representation of different categories of members in the assembly of representatives is fair and balanced. The rules that are being enacted in paragraphs 1 to 6 apply mutatis mutandis in the assembly of representatives.

8. If the collective management organisation does not have a General Assembly of Members due to its legal form, the powers of the General Assembly are exercised by the Supervisory Board, in accordance with the provisions of Article 10.

9. The independent management entities referred to in Article 50 are obliged to provide in their statutes a General Assembly of Members who have entrusted the management of their rights thereto. For the participation and representation with a proxy of each member in the General Assembly, paragraph 6 applies.

In respect to the General Assembly of Members, the following shall apply:

a) The members of the General Assembly shall meet once (1) a year and within six (6) months from the end of the management use and it must be convened by the Board of Directors of the independent management entity of Article 50. If a meeting is not convened within fifteen (15) days from the end of the deadline of the previous sentence, it is convened by the Supervisory Board. If again it is not convened within seven (7) days from the following day of the end of the aforementioned 15-days deadline, the meeting is convened by order of the Small-claims Court following a request of at least ten (10) members.

b) The General Assembly may also hold extraordinary meetings when a request is submitted to the Board of Directors by 1/25 of its members or by the Supervisory Board, but by no less than five (5) of its members, also defining the topic of discussion. If the Board of Directors does not convene the extraordinary general meeting within fifteen (15) days from the submission of the request of the Supervisory Board or of the 1/25 of its members, the meeting is convened by order of the Small-claims Court, at the request of at least 1/25 of its members.

c) The notice of invitation designates the place, the day and the time where the meeting will be held and the topics to be discussed. The notice is communicated to the members at least seven (7) days before the date of the General Assembly, by a registered letter or by e-mail or by fax.

d) The General Assembly of Members is in quorum and its meeting is valid, when at the beginning of the meeting at least half of the members are present. If there is no quorum, the General Assembly of Members is convened after five (5) days without any additional notice, in the same place and at the same time, and decides on all matters of the original agenda, as long as at least 1/5 of the members is present. If again there is no quorum, the General Assembly of members is convened after three (3) days, with no additional notice, in the same place and at the same time, and decides on all the matters of the original agenda regardless of the number of members who are present or represented.

e) The following acts fall within the exclusive competence of the General Assembly of Members:  
aa) the election of the members of the Supervisory Board of paragraph 8 of Article 10, as well as the determination of their remuneration;

bb) the decision on the way of representation of different categories of members of the independent management entity of Article 50 in the Supervisory Board, so as to guarantee their fair and balanced representation. The revenue that each member receives by the independent management entity of Article 50 or/and the duration of its membership shall be taken into account as criteria for the number of votes of each member at the General Assembly, given that those criteria are determined and implemented with a fair and proportionate manner;

cc) the discharge of the members of the Supervisory Board from any liability;

dd) the submission of a suggestion to the Supervisory board concerning the tariff table and the charging policy of the independent management entity and the determination of terms and licensing fees;

ee) the submission of suggestions for the best way of distribution of the rights collected, as well as the assistance of the supervisory Board in every matter that falls within its scope. The members of the Supervisory Board do not have the right to vote on the issue of discharge of their own liability.

f) The decisions of the General Assembly of Members are taken with the absolute majority of the votes cast.

10. As to the remainder, with regard to the general assemblies of members, provisions of Law 1667/1986 about general assemblies apply.

## **Article 10**

### **Supervisory Board**

#### **(Article 9 of the Directive)**

1. Each collective management organisation must have a Supervisory Board, which monitors the activities and actions of the natural or legal persons managing the business activities of the organisation. The members of the Supervisory Board may be from three (3) to nine (9).

2. The representation of the different categories of members of the collective management organisation in the Supervisory Board must be fair and balanced.

3. Each member of the Supervisory Board of the collective management organisation submits to the general meeting of members an annual individual statement on conflicts of interest, containing the information referred to in the third subparagraph of Article 31 (2).

4. The Supervisory Board of the collective management organisation shall meet regularly and, in any case, at least four (4) times a year and shall have at least the following powers:

a) The exercise of the powers conferred on it by the General Assembly of Members under Article 9 (3);

b) The monitoring of the activities and the performance of the duties of the members of the Board of Directors, the Director - General and/or the Directors, where a Director-General or Directors have been appointed, as well as of those persons entrusted with such duties and responsibilities;

c) The monitoring of the implementation of the decisions of the General Assembly of Members, and in particular the powers listed in Article 9 (2) (c) to (f);

d) The compliance with the provisions of Articles 1 to 54 and of the Statute.

5. For the exercise of its powers, the Supervisory Board may request from the persons referred to in paragraph 4 (b) any information, data, books or documents of the collective management organisation required for the purposes of paragraph 4.

6. The Supervisory Board shall report on the exercise of its powers at least once a year to the General Assembly of Members.

7. Members of the Board of Directors or the Director-General or director may not participate in the Supervisory Board. It is forbidden to be spouses or have any affinity between them to the first or second degree between members of the Board of Directors, the director – general or the director and the members of the supervisory board. The members of the Supervisory Board are responsible for any fault. By decision of the General Assembly of members, the members of the Supervisory Board may be relieved of their responsibility.

8. As to the independent entities referred to in Article 50, the members of the Supervisory Board are nine (9) and are elected by the General Assembly in accordance with Article 9(9). The term of office of the Supervisory Board is three (3) years, with the exception of the term of office of the first Supervisory Board, which may not exceed two (2) years. By way of exception to the independent management entity, referred to in Article 50, that existed at the time of the entry into force of this Law, the members of the first Supervisory Board and the duration of their term of office shall be appointed by decision of the Minister of Culture and Sports, following a recommendation in writing submitted to him by the members of the independent management entity referred to in Article 50, provided that they are submitted within ten (10) working days of the entry into force of this law (as amended under Article 346 of Law 4512/2018).

9. The powers of the Supervisory Board of the independent entity referred to in Article 50 shall be the taking of decisions on issues relating to the management of the economic right or the powers deriving therefrom and the monitoring of their implementation, and in particular:

a) The rights distribution regulation and the distribution of the amounts due to the rightholders. These decisions are taken by a two-thirds majority (2/3) of the members of the Supervisory Board;

b) The investment policy and the use with regard to the rights revenue and to any income accruing from their investment, taking into account Article 17 (4) and Article 19 (7) accordingly;

c) The use of amounts that cannot be distributed;

d) The deductions from the rights revenue and the income accruing from the investment, taking into account Article 18, including the decision to justifiably exceed the management costs referred to in paragraph 3 of Article 18;

e) Monitoring, controlling and overseeing the strategic business plan of rights management;

f) The submission of an opinion to the Board of Directors prior to the approval of the annual transparency report referred to in Article 29;

g) The proposal to the Board of Directors, which is binding, on the pricing approach followed and the detailed tariff table of the independent management entity;

h) The proposal to the Board of Directors, which is binding, concerning the amendment of the statute provisions which are either directly or indirectly related to the collective management;

i) The provision of information to the Board of Directors, at the request of its chairman or other person mandated by him, on the matters of operation of the independent management entity referred to in Article 50;

j) The submission of an opinion before deciding how to deal with users who refuse to either license or to abide by the terms of a signed license agreement;

ja) The participation through its legal representative in negotiations of licensing terms and fees, as well as procedures for friendly or consensual dispute resolution with contracted or non-affiliated users;

jb) The submission of an opinion to the Board of Directors prior to the decision to find resources beyond those already existing, and the enlargement and development of the existing;

jc) The submission of an opinion to the Board of Directors before deciding on how to manage possible cases that may affect the fulfilment of obligations and the achievement of the objectives of the independent management entity;

jd) The approval of remuneration or the provision of another, whether financial or otherwise, benefit to the members of the Board of Directors and the Director - General, after evaluating their overall performance;

je) The proposal to the Board of Directors, which is binding, on the allocation of funds for social, cultural and educational services and on the conditions under which the authorizations referred to in Article 14 are granted;

jf) The submission of an opinion on any other matter introduced by the Board of Directors.

10. If it is ascertained that an infringement has been committed by the Board of Directors, the Supervisory Board may have recourse to the procedure provided for in Articles 43 and 46 to 47 or 51.

11. Paragraphs 5, 6, 7 and 10 also apply to the independent management entities referred to in Article 50.

12. For the exercise of all its powers, the Supervisory Board may authorize independent statutory auditors or accountants or legal advisors, of their discretion and choice, at cost amounting up to 3% of the annual management fees, where appropriate, paid by the collective management organisation or the independent management entity referred to in Article 50, provided that the obligation of confidentiality is complied with and that there is no conflict of interests.

## **Article 11**

### **Relationships between the collective management organisations and rightholders - General principles (Articles 4 and 5 (1) of the Directive)**

1. Collective management organisations must act in the best interests of the rightholders whose rights they represent and not impose obligations on them that are not objectively necessary to protect their rights and interests or to effectively manage their rights.

2. The rights and obligations of rightholders, as described in Articles 12 to 16, must be laid down in the statute of the collective management organisation.

## Article 12

### Management Authorization (Article 5 (2), (4), (5), (6), (7) and (8) (a) of the Directive)

1. Rightholders have the right to authorize a collective management organisation of their choice to manage the economic right or the powers deriving therefrom or categories of powers or types of works or objects of protection of their choice, for the territories of their choice, irrespective of the Member State of nationality, residence or establishment of either the collective management organisation or of the rightholder (authorisation agreement). The authorization may be granted by delegation of the right, or of the relevant powers for the purpose of management, either by power - of - attorney or any other contractual agreement. Authorization shall be made every time in writing and for a certain period of time that cannot be longer than three (3) years. In case of doubt, it is presumed that the authorization concerns all works, including future works, for a period not exceeding three (3) years. The collective management organisation is obliged to manage the economic right, powers or categories of powers or types of works or objects of protection, provided that their management falls within the scope of its activities unless it has objectively justified reasons for refusing management.

2. Rightholders have the right to terminate in whole or in part the authorization agreement in respect of the economic right or categories of powers or types of works or objects of protection of their choice for the territories of their choice or to revoke any of the rights, powers or types of works and objects of protection from the collecting society after a three-month written notice. The termination shall take effect three months after the written notice has been given, and the authorizations granted prior to the termination shall continue to be valid until the end of their term.

3. If there are any amounts due to a rightholder for acts of exploitations which occurred prior to the expiry of the authorization agreement, or before the termination or the revocation, or by virtue of an authorization granted prior to the expiry of the termination or prior to the termination or the revocation, the rightholder retains his rights under Articles 18, 19, 25, 27, 37 and 42.

4. The collective management organisation cannot restrict the exercise of rights that are referred to in paragraphs 2 and 3 by imposing, as a condition for their exercise, the assignment to another collective management organisation of the management of the rights or categories of powers or types of works or objects of protection which are subject to expiration or have been terminated or revoked.

5. Where the rightholder authorizes a collective management organisation the management of the economic right, or powers, or categories of powers, or types of works, or objects of protection, it gives consent specifically for each power or category of powers or type of protection works or objects. Any such consent must be evidenced in writing and documented.

6. The rights of rightholders deriving from paragraphs 1 to 5 shall be included in the authorization agreement.

7. Before being granted with the authorization of the management referred to in paragraph 1, the collective management organisation shall inform the rightholders of their rights under paragraphs 1 to 5 and of the conditions for exercising the right provided for in Article 14. This information shall be, inter alia, communicated at least by posting on the website of the collective management organisation and by e-mail to the rightholder.

## **Article 13**

### **Admission of Members (Article 6 of the Directive)**

1. A collective management organisation shall accept rightholders and entities representing rightholders, including other collective management organisations and associations of rightholders, as members if they fulfil the membership requirements, which shall be based on objective, transparent and non-discriminatory criteria. Those membership and registration requirements shall be included in the statute of the collective management organisation and shall be made publicly available on the website of the organisation. In cases where a collective management organisation refuses to accept a request for membership, it shall provide the rightholder with a clear justification and explanation of the reasons for its decision.
2. The statute of a collective management organisation shall provide for appropriate and effective mechanisms for the participation of all its members in the organisation's decision-making process. The representation of the different categories of members in the decision-making process shall be fair and balanced.
3. A collective management organisation shall allow its members or their respective represented rightholders to communicate with it by electronic means, including for the purposes of exercising members' rights.
4. A collective management organisation shall keep records of its members or their respective represented rightholders and shall regularly update those records and in any case, every month. The collective management organisation must submit to HCO once a year and by 20 January a full list of its members or their respective represented rightholders, together with their e-mail addresses.

## **Article 14**

### **Licenses for non-commercial uses (Article 5 (3) of the Directive)**

1. Rightholders shall have the right to grant licenses for non-commercial uses of any rights, categories of rights or types of works and other subject-matter of their choice.
2. By a decision of the General Assembly, collective management organisations set out the conditions on which the rightholders grant non-commercial licenses with the obligation to inform the rightholders of their options and provide them with the best discretion possible for the exercise of their respective rights.

## **Article 15**

### **Rights of rightholders who are not members of a collective management organisation (Article 7 (1) of the Directive)**

Article 13 (3) and (4), Article 27, Article 38 (2) and Article 42 shall also apply to rightholders who, notwithstanding the fact that they are not members of collective management organisations, are entitled, by law or by way of assignment, or license or any other contractual agreement, to receive rights revenue.

## **Article 16**

### **Obligation to inform of the rightholders' works**

Rightholders who have entrusted to a collective management organisation the management of all their works must inform in writing about the works they have published in any way and about any new work published after the management has been assigned to the organisation. In this context, the collective management organisation reminds rightholders annually of this obligation and at the same time enables them to communicate it by electronic means.

## **Article 17**

### **Rights revenue (Article 11 of Directive)**

1. A collective management organisation shall be diligent in the collection and management of rights revenue. In rights revenue, interest from investing this revenue is included. For the purpose of the first sentence, collective management organisations shall keep appropriate records of membership, licenses and uses of the works and other objects of protection. The relevant data required for the effective collective management of rights shall, also, be provided by rightholders and users and shall be checked by the collective management organisation.
2. A collective management organisation shall keep separate in its accounts: a) rights revenue and any income arising from the investment of rights revenue, and b) its own assets and income arising from such assets, from management fees or from other activities.
3. A collective management organisation shall not be permitted to use rights revenue or any income arising from the investment of rights revenue for purposes other than distribution to rightholders. An exception is made where it is allowed to deduct or offset management fees or to use the rights revenue or any income arising from the investment of rights revenue in compliance with a decision taken in accordance to paragraph 2 of Article 9 or paragraph 8 of Article 10.
4. Where a collective management organisation invests rights revenue or any income arising from the investment of rights revenue, it shall do so in the best interests of the rightholders whose rights it represents, in accordance with the general investment and risk management policy that could affect the fulfillment of obligations and the achievement of the organisation's objectives which refer to cases e' and h' of paragraph 2 of Article 9 and having regard to the following rules:



- (a) where there is any potential conflict of interest, the collective management organisation shall ensure that the investment is made in the sole interest of those rightholders;
- (b) the assets shall be invested in order to ensure the security, quality, liquidity and profitability of the portfolio as a whole;
- (c) the assets shall be properly diversified in order to avoid excessive reliance on any particular asset and accumulations of risks in the portfolio as a whole.

## **Article 18**

### **Deductions (Article 12 paragraphs 1, 2, 3 and 4 of the Directive)**

1. Deductions shall be reasonable in relation to the services provided by the collective management organisation to rightholders and shall be established on the basis of objective criteria.
2. A collective management organisation is required to provide the rightholder who has entrusted it with the management of his rights, before obtaining his consent to manage his rights, with documented information on management fees and other deductions from the rights revenue and from any income arising from the investment of rights revenue.
3. Management fees of the collective management organisation shall not exceed the justified and documented costs in managing copyright and related rights. Management fees should not exceed, on average, 20% of the gross rights revenue of the collective management organisation. This percentage does not include the costs of legal claims for the rights of the organisation's members. The costs of a legal procedure include exclusively the full amount which must be paid in order for the case to be brought before the court and the conduct of the proceedings, and is related, in particular, to court stamping fees, (megarossimo), administrative fees and bills.  
This percentage also applies to cases where the collective management organisation is a member of a unitary collective management organisation. In this case, the percentage of the collective management organisation shall be calculated with the percentage of the unitary collective management organisation in relation to the management that the latter exercises on behalf of the former. Such percentage may be reasonably exceeded after the Board of the Directors of the collective management organisation, upon suggestion of the Supervisory Board, commissions a financial-technical study, which is binding only if the results of the study are accepted by the Supervisory Board. This 20% percentage does not apply to newly established collective management organisations and up to three (3) years of the commencement of their operations, under the condition that at the end of each management period, the General Assembly or the Supervisory Board of the independent management entities referred to in article 50, examines and confirms the need to maintain the excess of the above mentioned 20% percentage.
4. What applies to the use and transparency of use of the amounts deducted or offset from the management fees, also applies to any other deductions made to cover costs arising from management of copyright and related rights.
5. With respect to collective management organisations, whose annual gross income does not exceed the amount of five hundred thousand (500.000) euro, management fees must not exceed, on average, twenty-five per cent (25%) of the collective management organisation's gross revenue.

## Article 19

### Distribution of amounts due to rightholders (Article 13, paragraphs 1 to 6 of the Directive)

1. The distribution of amounts to rightholders takes place proportionally, to the extent possible, to the real use of their works.

2. Without prejudice to paragraph 2 of Article 21 and Article 37, the collective management organisations shall regularly, diligently and accurately distribute and pay amounts due to rightholders in accordance with the distribution regulation.

Every collective management organisation or its members, which are entities representing rightholders, shall distribute and pay those amounts to rightholders as soon as possible but no later than nine (9) months from the end of the financial year in which the rights revenue was collected, unless objective reasons relating, in particular, to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation or, where applicable, its members from meeting that deadline.

3. Where the amounts due to rightholders cannot be distributed within the deadline set in paragraph 2 because the relevant rightholders cannot be identified or located and the exception to that deadline does not apply, those amounts shall be kept separate in the accounts of the collective management organisation.

4. The collective management organisation shall take all necessary measures, consistent with paragraph 2, to identify and locate the rightholders and shall verify the data referred to in paragraph 4 of Article 13, as well as other readily available data.

No later than three (3) months after the expiry of the deadline set in paragraph 2, the collective management organisation shall make available information on works and other subject-matter for which one or more rightholders have not been identified or located to:

- a) the rightholders that it represents or the entities representing rightholders, where such entities are members of the collective management organisation; and
- b) all collective management organisations with which it has concluded representation agreements.

The information referred to in the second subparagraph shall include, where available, the following:

- (aa) the title of the work or other subject-matter;
- (bb) the name of the rightholder;
- (cc) the name of the relevant publisher or producer; and
- (dd) any other relevant information available which could assist in identifying the rightholder.

If the abovementioned measures fail to produce results, the collective management organisation shall make that information available to the public at the latest one (1) year after the expiry of the three-month (3) period.

5. Where the amounts due to rightholders cannot be distributed after three (3) years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the collective management organisation has taken all necessary measures to identify and locate the rightholders referred to in paragraph 4, those amounts shall be deemed non-distributable. This provision applies also to the non-distributable amounts from the collection of the equitable remuneration.

6. The General Assembly of Members of a collective management organisation or respectively, the Supervisory Board of an independent management entity of Article 50, shall decide on the use of the non-distributable amounts in accordance with point (d) of paragraph 2 of article 9 or paragraph 9 of article 10 respectively, without prejudice to the right of rightholders to claim such amounts from the

collective management organisation or the independent management entity of Article 51 in accordance with the statute of limitations of claims.

7. Only half of the non-distributable amounts can be used by the collective management organisation or the independent management entity or Article 50, for investments, while the other half can be used in a separate and independent way, to fund social, cultural and educational activities for the benefit of the rightholders. By a decision of the General Assembly of Members of a collective management organisation or of the Supervisory Board of the independent management entity referred to in Article 50, the amount of the non-distributable investments can be increased. Also, the General Assembly of members of a collective management organisation or respectively, the Supervisory Board of the independent management entity referred to in Article 50 can decide that part of the non-distributable amounts will be distributed to rightholders, if this decision does not clash with the ability of the rightholders to claim and receive the amounts corresponding to claims that are not time-barred.

8. Rightholders' claims for rights revenue against collective management organisations shall be time-barred ten (10) years from the end of the financial year in which they were collected. If the rightholders are not identified or located, the abovementioned ten (10) years period is calculated from the date of the completion of the procedure referred to in paragraph 4.

## **Article 20**

### **Rights management under representation agreements (article 14 of the Directive)**

A collective management organisation must not discriminate against any rightholder whose rights it manages under a representation agreement, in particular with respect to the applicable tariffs, management fees, and the conditions for collection of the rights revenue and distribution of amounts due to rightholders.

## **Article 21**

### **Deductions and payments in representation agreements (Article 15 paragraphs 1,2 and 3 of the Directive)**

1. A collective management organisation shall not make any deductions, other than in respect of the management fees on the rights revenue derived from the rights it manages on the basis of a representation agreement, or from any income arising from the investment of that rights revenue, unless the other collective management organisation that is party to the representation agreement expressly consents to such deductions.

2. The collective management organisation shall regularly, diligently and accurately distribute and pay amounts due to other collective management organisations, as soon as possible but in any case no later than nine (9) months from the end of the financial year in which the rights revenue was collected, unless objective reasons relating, in particular, to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation from meeting that deadline.

3. The other collective management organisation, or, where it has as members entities representing rightholders, those members, shall distribute and pay the amounts due to rightholders as soon as possible but no later than six (6) months from receipt of those amounts, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation or, where applicable, its members from meeting that deadline.

## Article 22

### **Licensing, determination of remuneration and equitable remuneration (Article 16 paragraphs 1 to 4 and Article 35 paragraph 1 of the Directive)**

1. Collective management organisations and users shall conduct negotiations for the licensing of rights in good faith and, within this framework, they shall provide each other with all necessary information.
2. Collective management organisations, in order to allow users to use works from their repertoire, can claim from users a percentage fee according to Article 32 of Law 2121/1993.
3. Licensing terms shall be based on objective and non-discriminatory criteria. When licensing rights for online services, collective management organisations shall not be required to use, as a precedent for other online services, licensing terms agreed with a user where the user is providing a new type of online service which has been available to the public in the European Union for less than three (3) years.
4. For the granting of the license, users submit a request to the collective management organisation, indicating, inter alia, the information needed for this purpose. Upon receipt of all relevant information, the collective management organisation shall, without undue delay, either offer a license or provide the user with a reasoned statement explaining why it refused to license a particular service, which statement it shall also notify to HCO.
5. A collective management organisation shall allow users to communicate with it by electronic means, including for the purpose of reporting on the use of the license.
6. In the event of non-payment of a license fee or disagreement as to the amount of the remuneration that the collective management organisation is claiming, the user must, before any use, advance to the collective management organisation the requested amount or the amount that the Single - Member Court of First Instance determined and awarded by a provisional order, at the request of either the user or the collective management organisation, in accordance with the procedure of interim measures, and as usually paid in similar cases or as reasonable, if no similar cases exist. Following a lawsuit filed by a collective management organisation or the user, the competent Single - Member Court of First Instance, which tries the case in accordance with the procedure of monetary disputes under the Code of Civil Procedure, determines definitively and awards the amount of the remuneration.
7. In case of a dispute between a user and a collective management organisation concerning the amount of the remuneration of Article 49 of Law 2121/1993 and the terms of its payment, the Single - Member Court of First Instance, trying the case in accordance with the procedure of interim measures, determines them by provisional order, following a request by a user or a collective management organisation, and shall provisionally award up to half of the equitable remuneration it has determined. For a definitive determination of the equitable remuneration and the terms of its payment, the last sentence of Article 6 applies.
8. All financial transactions between the users, the collective management organisations and the independent management entities referred to in Article 50, such as, in particular, the payment of the remuneration due, shall be made through a banking system either by deposit in a bank account owned by the collective management organisation or the independent management entity referred to in Article 50 with explicit reference to the period of use corresponding to the amount paid, either by the use of debit or credit cards.

## **Article 23**

### **Tariffs (Article 16 paragraph 2(c) subparagraph c and 3 of the Directive)**

1. Rightholders shall receive appropriate remuneration for the use of their rights. Tariffs shall be reasonable in relation to, inter alia, the economic value of the use of the rights in trade, taking into account the nature and scope of the use of the work and other subject-matter, as well as in relation to the economic value of the service provided to the user by the collective management organisation. Collective management organisations shall inform the user concerned of the criteria used for the setting of those tariffs.
2. The collective management organisations shall, by decision of the Board of Directors, draw up a table of the remunerations required by the users (tariffs); the collective management organisations shall communicate to the public such tariffs, together with any changes thereto through a posting on their webpage and shall immediately notify the HCO in order to be posted on its webpage in a machine readable format, at a fixed data repository, and, where possible, made accessible through application programming interfaces. Such postings are a prerequisite for the validity of the tariffs. In determining and applying their tariffs, collective management organisations must apply objective criteria, never act in an arbitrary way, nor engage in abusive discrimination.
3. Collective management organisations and representative associations of users may enter into agreements for the determination of the remuneration payable by the user to each category of rightholders, as well as with regard to any other issue relating to the relations of the parties under this Law and Law 2121/1993. These agreements, as well as any amendments thereto, are immediately notified to the HCO and posted on the websites of the parties and HCO.
4. Disputes between collective management organisations and users concerning the amount of the remuneration that the user must pay, may be submitted to arbitration by agreement. The arbitrators are appointed from a table drawn up by the HCO every two (2) years, the preparation of which takes mandatorily into account the opinions of both parties. As to the rest, Articles 867 et seq. of the Civil Procedure Code apply.
5. The collective management organisations and the representative associations of users may agree in writing and before a dispute arises, on the appointment of a person as arbitrator in order to determine the remuneration to be paid by the user. The arbitrator is appointed from a table drawn up by the HCO every two (2) years, the preparation of which takes mandatorily into account the opinions of both parties. The arbitrator can order the advanced payment of the amount until the final amount of the remuneration due is determined. The arbitrator thus appointed is the sole person competent for the resolution of the dispute and his decision is enforceable. An arbitrator can be also appointed by the Minister of Culture and Sports and resorting to that arbitrator for the resolution of the dispute shall depend on the will of the parties.

## **Article 24**

### **Users' obligations (Article 17 of the Directive)**

1. Users must provide the collective management organisation within the first fortnight of every semester, unless otherwise agreed, lists of works that they have used or produced or sold or leased or lent or performed to the public or broadcast or presented to the public the previous semester or

the mutually agreed period of time, mentioning the exact number of copies produced or available, as well as the frequency of presentations to the public, as well as, all the relevant information at their disposal concerning the use of rights that the collective management organisation represents and which is necessary for the application of the tariffs, the collection of the rights revenue and the distribution and payment of the amounts due to the rightholders. All the above information shall be submitted in accordance to a certain format provided to them by the collective management organisation, which takes under consideration the current industry standards. There shall be a single format for each category of use for all collective management organisations, which are required to send a model format to HCO. The user's obligation to submit a report based on such format shall be included in the license agreement concluded with the collective management organisation.

2. In the case where a user breaches the above obligation, the collective management organisation may impose a ten per cent (10%) surcharge on the remuneration due. If the user violates this obligation more than twice, the organisation may impose a fifteen per cent (15%) surcharge on the amount due or terminate the agreement.

## **Article 25**

### **Information provided to rightholders on the management of their rights (Article 18 of the Directive)**

1. Without prejudice to paragraph 2 of this Article, Article 26 and paragraph 2 of Article 37, each collective management organisation shall make available, no later than nine (9) months after the end of each year of use, to each rightholder to whom it has attributed rights revenue for the said period irrespective of whether the amounts attributed are paid or not, at least the following information:

(a) any contact details which the rightholder has authorized the collective management organisation to use in order to identify and locate him;

(b) the rights revenue attributed to the rightholder;

(c) the amounts paid by the collective management organisation to the rightholder per category of rights managed and per type of use;

(d) the period during which the use took place, for which amounts were attributed and paid to the rightholder, unless objective reasons relating to reporting by users prevent the collective management organisation from providing this information;

(e) deductions made in respect of management fees;

(f) deductions made for any purpose other than management fees,

(g) any rights revenue attributed to the rightholder which is outstanding for any period.

2. Where a collective management organisation has as members entities which are responsible for the distribution of rights revenue to rightholders, it shall provide the information listed in paragraph 1 to those entities, provided that they do not have that information in their possession. These entities are required to provide the above information no later than nine (9) months after the end of each year of use to each rightholder to whom they have attributed rights revenue for that particular year of use, regardless of whether they have paid it or not.

## **Article 26**

### **Information provided to other collective management organisations on the management of rights under representation agreements (Article 19 of the Directive)**

The collective management organisation makes available, no later than nine (9) months after the end of the fiscal year and by electronic means, to collective management organisations on whose behalf it manages rights under a representation agreement, at least the following information for that particular year of use:

- (a) the rights revenue attributed and the amounts paid by the collective management organisation per category of rights managed and per type of use, for the rights it manages under the representation agreement;
- (b) the rights revenue attributed and which have not been paid for any period of time;
- (c) deductions made in respect of management fees;
- (d) deductions made for any purpose other than in respect of management fees as referred to in Article 18;
- (e) information on any licenses granted or refused with regard to works and other subject-matter covered by the representation agreement;
- (f) resolutions adopted by the General Assembly of Members of the collective management entity or the Supervisory Body of the independent management entity referred to in Article 51 respectively, provided that those resolutions are relevant to the management of the rights under the representation agreement.

## **Article 27**

### **Information provided to rightholders, other collective management organisations and users on request (Article 20 of the Directive)**

Without prejudice to Article 34, a collective management organisation shall, upon a reasonable request, makes at least the following information available by electronic means and without undue delay to any collective management organisation on whose behalf it manages rights under a representation agreement or to any rightholder or to any user, including potential users:

- (a) the works or other subject-matter it represents, the rights it manages, directly or under representation agreements, and the territories covered; or
- (b) where, due to the scope of activity of the collective management organisation, such works or other subject-matter cannot be determined, the types of works or of other subject-matter it represents, the rights it manages and the territories covered.

2. The obligation of the collective management organisation according to paragraph 1 shall also apply for the purposes of conducting a diligent search, in good faith, on the part of the users of orphan works in order to identify and locate the rightholders in accordance with paragraphs 1 and 6 of article 27A of Law 2121/1993 which was added by Article 7 of Law 4212/2013 (A' 257).

## Article 28

### Disclosure of information (Article 21 paragraphs 1 and 2 of the Directive)

1. The collective management organisation shall publish on its website at least the following information:
  - (a) its statute;
  - (b) its membership terms and the terms of termination of authorization to manage rights, if these are not included in its statute;
  - (c) standard licensing contracts and standard applicable tariffs, including discounts, if they exist;
  - (d) agreements with representative's users association on the determination of remuneration;
  - (e) the persons referred to in paragraph 1 of Article 31 managing the business activities of the collective management organisation, the members of the Board of Directors and of the Supervisory Board, the Director –General;
  - (f) the method of distribution of the amounts due to rightsholders and the regulation concerning the rights distribution per category of rightsholders, in which the exact method of distribution is stipulated;
  - (g) the management fees and the method for their calculation;
  - (h) the deductions, other than concerning the management fees, from rights revenue and from any income arising from the investment of rights revenue;
  - (i) a list of the representation agreements it has entered into and the names of the collective management organisations with which those representation agreements have been concluded;
  - (j) the use of non-distributable amounts, including the allocation of funds for the purposes of social, cultural and educational services;
  - (ja) the complaint handling and dispute resolution procedures available in accordance with Articles 42 and 44 to 45;
  - (jb) the annual transparency report referred to in Article 29;
  - (jc) the licensing terms for non-commercial uses according to Article 14;
  - (jd) the format in which the user submits to the collective management organisation the necessary information for the use of the work according to Article 24;
  - (je) the procedures for amending the data referred to in paragraph 3 of Article 33 or the information provided under Article 34;
  - (jf) the decision to impose sanctions on the collective management organisation, if such a decision exists;
  - (jg) the criteria for limiting voting rights at the general meeting of the members of the collective management organisation or of the independent management entity referred to in Article 50 and;
  - (jh) the rights of rightsholders referred to in paragraphs 1 to 5 of Article 12 and;
  - (ji) its repertoire, which it shall keep up to date at least every six (6) months.
2. The collective management organisation shall publish on its webpage at least the information referred to in cases a, e, ja, jf and jg.
3. The collective management and the collective protection organisations shall publish the information above in a machine-readable format and at a fixed place of storage and shall keep it updated.



## **Article 29**

### **Annual transparency report (Article 22 paragraphs 1, 3 and 4 of the Directive)**

1. The collective management organisation, irrespective of its legal form, draws up and makes public an annual transparency report, including the special report referred to in paragraph 2, for each financial year no later than eight (8) months following the end of that financial year.

The collective management organisation shall publish on its website the annual transparency report, which shall remain available to the public on that website for at least five (5) years.

2. The special report shall address the use of the amounts deducted for the purposes of social, cultural and educational services and shall contain at least the information set out in paragraph 3 of Article 30.

3. The financial statements referred to in 1(a) of Article 30, together with any financial information referred to in paragraph 1(g), 1(h) and paragraph 2 of Article 30 shall be audited by one or more certified auditors, who shall draw up an audit report. The audit report shall be reproduced in full in the annual transparency report.

4. Provisions of other laws concerning the financial management and control of the collective management organisations remain in force.

## **Article 30**

### **The content of the transparency report (Annex to the Directive)**

1. The information to be provided in the annual transparency report is the following:

(a) financial statements comprising a balance-sheet or a statement of assets and liabilities, an income and expenditure account for the financial year and a cash-flow statement;

(b) a report on the activities of the financial year;

(c) information on the refusal to grant a licence pursuant to paragraph 4 of Article 22;

(d) a description of the legal and governance structure of the collective management organisation;

(e) information on any other entities directly or indirectly owned or controlled, wholly or in part, by the collective management organisation;

(f) information on the total amount of remuneration paid to the persons referred in paragraph 3 of Article 10 and in paragraph 1 of Article 31 in the previous year, and on other benefits granted to them;

(g) the financial information referred to in paragraph 2;

(h) a special report on the use of any amounts deducted for the purposes of social, cultural and educational services, containing the information referred to in paragraph 3.

2. Financial information to be provided in the annual transparency report is the following:

a) financial information on rights revenue, per category of rights managed and per type of use including information on the income arising from the investment of rights revenue and the use of such income (whether it is distributed to rightholders or other collective management organisations, or otherwise used).

b) Financial information on the cost of rights management and other services provided by the collective management organisation to rightholders, with a comprehensive description of at least the following items:

aa) all operating and financial costs, with a breakdown per category of rights managed by the collective management organisation and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;

bb) operating and financial costs, with a breakdown per category of rights managed by the collective management organisation and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs, only with regard to the management of rights, including management fees deducted from or offset against rights revenue or any income arising from the investment of rights revenue in accordance with paragraph 3 Article 17 and Article 18;

cc) operating and financial costs with regard to services other than the management of rights, but including social, cultural and educational services;

dd) resources used to cover costs;

ee) deductions made from rights revenue, with a breakdown per category of rights managed by the collective management organisation, per type of use and the purpose of the deduction, such as costs relating to the management of rights or to social, cultural or educational services;

ff) the percentages that the cost of the rights management and other services provided by the collective management organisation to rightholders represents compared to the rights revenue in the relevant financial year, per category of rights managed by the collective management organisation, and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs.

(c) Financial information on amounts due to rightholders, with a comprehensive description of at least the following items:

aa) the total amount attributed to rightholders, with a breakdown per category of rights managed by the collective management organisation and type of use; bb) the total amount paid to rightholders, with a breakdown per category of rights managed by the collective management organisation and type of use;

cc) the frequency of payments, with a breakdown per category of rights managed by the collective management organisation and per type of use;

dd) the total amount collected but not yet attributed to rightholders, with a breakdown per category of rights managed by the collective management organisation and type of use, and indicating the financial year in which those amounts were collected;

ee) the total amount attributed to but not yet distributed to rightholders, with a breakdown per category of rights managed by the collective management organisation and type of use, and indicating the financial year in which those amounts were collected;

ff) where a collective management organisation has not carried out the distribution and payments within the deadline set in paragraph 2 Article 19, the reasons for the delay;

gg) the total non-distributable amounts, along with an explanation of the use to which those amounts have been put

(d) Information on relationships with other collective management organisations, with a description of at least the following items:

aa) amounts received from other collective management organisations and amounts paid to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;

bb) management fees and other deductions from the rights revenue due to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;

cc) management fees and other deductions from the amounts paid by other collective management organisations, with a breakdown per category of rights and per organisation;

dd) amounts distributed directly to rightholders originating from other collective management organisations, with a breakdown per category of rights and per organisation according to paragraph 3 Article 37.

3. Information to be provided in the special report referred to in paragraph 2 Article 29 shall include:

- a) the amounts deducted for the purposes of social, cultural and educational services in the financial year, with a breakdown per type of service. The categories of rights from which the amount and share of each category originates, as well as the use of the amount shall be recorded per service;
- (b) information and explanation on the use of those amounts, with a breakdown per type of service, the persons receiving those amounts, managements costs deducted to fund social, cultural and educational services, as well as the amounts actually deducted for those services.

## **Article 31**

### **Obligations of the persons who manage the business of the collective management organisation (Article 10 of the Directive)**

1. A collective management organisation takes all necessary measures so that the persons who manage its business, such as the Board of the Directors, the Director - General, and the directors, do so in a sound, prudent and appropriate manner, using sound administrative and accounting procedures and internal control mechanisms.

2. Collective management organisations put in place and apply procedures to avoid conflicts of interest, and where such conflicts cannot be avoided, to identify, manage, monitor and disclose actual or potential conflicts of interest in such a way as to prevent them from adversely affecting the collective interests of the rightholders whom the organisation represents.

The procedures referred to in the previous subparagraph shall include at least an annual individual statement to the General Assembly of Members of the collective management organisation or to the Supervisory Board of the independent management entity referred to in Article 50 by the persons referred to in paragraph 1, before they have assumed their duties, and subsequently, on an annual basis. The above-mentioned statement shall include at least the following information:

- a) any interests in the collective management organisation;
- b) any remuneration, compensation, or benefit received in the preceding financial year from the collective management organisation, including in the form of pension schemes, insurance benefits, benefits in kind and other types of benefits;
- c) any amounts received in the preceding financial year as a rightholder from the collective management organisation or the independent management entity referred to in Article 50;
- d) a declaration concerning any actual or potential conflict between any personal interests and those of the collective management organisation or between any obligations owed to the collective management organisation and any other natural or legal person.

## **Article 32**

### **Independent management entities (Article 36 paragraphs 1 and 2 par. 4 of the Directive)**

1. Independent management entities, with the exception of those referred to in Article 50, may not manage copyright and related rights subject to mandatory collective management. Article 7 shall not apply to independent management entities with the exception of those referred to in Article 50.

2.If an independent management entity operates in the Greek territory in the form of a public limited company, its shares shall be registered in their entirety. If a shareholder of such an independent management entity is another public limited company, with a stake of at least 1% in its share capital, the shares of that company shall also be registered in their entirety, up to the last identified registered natural person. In case of participation of companies of a legal form, other than the form of public limited company, in which public limited companies participate or hold shares with a stake of at least 1%, their shares shall be registered in their entirety, up to the last identified registered natural person.

3.The obligations under paragraph 2 shall also apply to foreign public limited companies, which have a branch in Greece or operate through established agents, provided that the law of the country of their registered office provides for the registration of their shares in their entirety up to the last identified registered natural person, in respect of their activities in whole or in part. If there is no such obligation according to the law of the country in which they have their registered office, they shall produce a relevant certificate from the competent authority of that country, to the extent it is provided for by a legal provision, otherwise the foreign company shall provide a declaration of similar content and a detailed list of shareholders up to the last identified registered natural person, as provided for in paragraph 2, which shall apply accordingly.

4.Within three (3) months from the commencement of their activities, independent management entities shall submit to the HCO the information provided for in items a, b, c, f, g and h of Article 28 (1), as well as information regarding representation agreements, where they operate as exclusive representatives. This information shall be updated immediately upon each variation and in any event once a year, no later than the 31st of January in accordance with Article 4 (7). This information may be required to be supplemented or explained.

5.For the entry of an independent management entity into a collective management organisation, pursuant to Article 13 (1), the following is required:

(a)the lack of any conflict between the interests of members and/or shareholders and/or partners and/or management members of the independent management entity and those of the collective management organisation and of their members or their rightholders respectively,

(b)the prohibition on the simultaneous potential exercise of anti-competitive practices by the independent management entity, and

c) the approval of the entry by an increased majority of 75% of the members present at the general meeting and/or of the supervisory board of the respective collective management organisation.

## **Article 33**

### **Conditions for multi-territorial licencing for online rights in musical works (Article 24 paragraphs 1 and 2 of the Directive)**

1. A collective management organisation shall grant multi-territorial licenses for online rights in musical works only if it has sufficient capacity to process electronically, in an efficient and transparent manner, data needed for the administration of such licenses, in particular for the purposes of identifying the repertoire and monitoring its use, invoicing users, collecting rights revenue and distributing amounts due to rightholders.

2. In order to determine whether the collective management organisation has the necessary capacity, the Hellenic Copyright Organisation may, in particular, request that all information it considers necessary, including information on the technological infrastructure of the organisation, as well as the extent to which such information takes into account, insofar as possible, voluntary industry standards

and practices applicable at international or EU level, so that an effective and transparent electronic processing of multi-territorial licenses is ensured.

3. For the purposes of paragraph 1, a collective management organisation shall comply, at least, with the following conditions:

(a) to have the ability to identify accurately the musical works, wholly or in part, which the collective management organisation is authorised to represent;

(b) to have the ability to identify accurately, wholly or in part, with respect to each relevant territory, the rights and their corresponding rightholders for each musical work or share therein which the collective management organisation is authorised to represent;

(c) to make use of unique identifiers in order to identify rightholders and musical works, taking into account, as far as possible, voluntary industry standards and practices developed at international or Union level;

(d) to make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations granting multi-territorial licences for online rights in musical works.

4. Musical works include lyrics and music in audiovisual works but not musical works in the form of sheet music.

#### **Article 34**

##### **Transparency of multi-territorial repertoire information (Article 25 of the Directive)**

1. The collective management organisation which grants multi-territorial licences for online rights in musical works provides to online service providers, to rightholders whose rights it represents and to other collective management organisations, by electronic means, in response to a duly justified request, up-to-date information allowing the identification of the online music repertoire it represents. This shall include:

- (a) the musical works represented;
- (b) the rights represented wholly or in part; and
- (c) the territories covered.

2. The collective management organisation may take reasonable measures, where necessary, to protect the accuracy and integrity of the data, to control their reuse and to protect commercially sensitive information.

#### **Article 35**

##### **Accuracy of information on multi-territorial repertoires (Article 26 of the Directive)**

1. Every collective management organisation granting multi-territory licenses for online rights in musical works must have mechanisms in place to enable rightholders, other collective management organisations and online service providers to request the correction of the data referred to in the conditions set out in paragraph 3 of Article 33 or information provided under Article 34, where such

rightholders, collective management organisations and online service providers believe, on the basis of sufficient evidence, that the data or the information is inaccurate with regard to their online rights in musical works.

These mechanisms, which are made available to third parties through the collective management organisation's website, provide the receiver of the relevant request, the manner in which the request is made, including the ability to send an e-mail, as well as the estimated time of response. If the request is sufficiently substantiated, the collective management organisation shall ensure that the data or information is corrected without undue delay.

2. The collective management organisation shall provide rightholders whose musical works are included in its repertoire and rightholders who have entrusted to it the management of their online rights in musical works, in accordance with Article 40, with the means of electronic submission of information on their musical works, their rights in those works, and the territories for which the rightholders authorize the organisation. During the electronic submission, collective management organisations and rightholders shall, as far as possible, take into account voluntary industry standards or practices relating to the exchange of data developed at international or EU level, allowing rightholders to identify the musical work in whole or in part, the online rights, in whole or in part, and the territories for which they authorize the collective management organisation.

3. Where a collective management organisation mandates another collective management organisation to grant multi-territorial licenses for online rights in musical works in accordance with Articles 38 and 39, the mandated collective management organisation shall also apply paragraph 2 in relation to the rightholders, whose musical works are included in the repertoire of the mandated collective management organisation, unless the collective management organisations agree otherwise.

## **Article 36**

### **Accurate and timely reporting and invoicing (Article 27 (1) to (5) of the Directive)**

1. A collective management organisation monitors the use of online rights in musical works which it represents, wholly or in part, by online service providers to which it has granted a multi-territorial licence for those rights.

2. The collective management organisation shall offer online service providers the possibility of reporting by electronic means the actual use of online rights in musical works and online service providers shall accurately report the actual use of those works. The collective management organisation shall offer the use of at least one method of reporting which takes into account voluntary industry standards or practices developed at international or EU level for the electronic exchange of such data. The collective management organisation may refuse to accept reporting by the online service provider in a proprietary format if the collective management organisation allows for reporting using an industry standard for the electronic exchange of data.

3. The collective management organisation shall invoice the online service provider by electronic means. The collective management organisation shall offer the use of at least one format which takes into account voluntary industry standards or practices developed in international or EU level. The invoice shall identify the works and rights which are licensed, wholly or in part, on the basis of the

information in paragraph 3 of Article 33 and the corresponding actual uses, to the extent that this is possible on the basis of the information provided by the online service provider and the format used to provide that information. The online service provider may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard.

4. The collective management organisation shall invoice the online service provider accurately and without delay after the actual use of the online rights in that musical work is reported, except where this is not possible for reasons attributable to the online service provider.

The frequency of submission of this report is determined by agreement but, in any case, at least twice a year.

5. The collective management organisation provides online service providers with adequate mechanisms enabling them to challenge the accuracy of the invoice, including the cases where the on-line service provider receives invoices from one or more collective management organisations for the same online rights in the same musical work.

## **Article 37**

### **Accurate and timely payment to rightholders (Article 28 of the Directive)**

1. Without prejudice to paragraph 3, any collective management organisation which grants multi-territorial licences for online rights in musical works distributes amounts due to rightholders accruing from such licences accurately and without delay after the actual use of the work is reported, except where this is not possible for reasons attributable to the online service provider.

2. Without prejudice to paragraph 3, the collective management organisation shall provide at least the following information to rightholders together with each payment it makes under paragraph 1:

(a) the period during which the uses took place for which amounts are due to rightholders and the territories in which the uses took place;

(b) the amounts collected, deductions made, and amounts distributed by the collective management organisation for each online right in any musical work which rightholders have authorized the collective management organisation, wholly or in part, to represent;

(c) the amounts collected for rightholders, deductions made, and amounts distributed by the collective management organisation in respect of each online service provider.

3. Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works under Articles 38 and 39, the mandated collective management organisation shall distribute the amounts referred to in paragraph 1 accurately and without delay and shall provide the information referred to in paragraph 2 to the mandating collective management organisation. The mandating collective management organisation shall be responsible for the subsequent distribution of such amounts and the provision of such information to rightholders, unless the collective management organisations agree otherwise.

4. Paragraphs 5 to 8 of Article 19 on the definition and use of non-distributable amounts shall also apply to this Article.

## **Article 38**

### **Agreements between collective management organisations for multi-territorial licensing (Article 29 of the Directive)**

1. Any representation agreement between collective management organisations whereby a collective management organisation mandates another collective management organisation to grant multi-territorial licenses for the online rights in musical works in its own music repertoire is of a non-exclusive nature. The mandated collective management organisation shall manage those online rights on a non-discriminatory basis.
2. The mandating collective management organisation shall inform its members of the main terms of the agreement, including its duration and the costs of the services provided by the mandated collective management organisation.
3. The mandated collective management organisation shall inform the mandating collective management organisation of the main terms according to which the latter's online rights are to be licensed, including the nature of the exploitation, the terms or provisions which relate to or affect the license fee, the duration of the license, the accounting periods and the territories covered.

## **Article 39**

### **Obligation to represent another collective management organisation for multi-territorial licensing (Article 30 (1) to (6) of the Directive)**

1. Where a collective management organisation which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its own repertoire requests another collective management organisation to enter into a representation agreement to represent those rights, the requested collective management organisation is required to agree to such a request if it is already granting or offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collective management organisations.
2. The requested collective management organisation shall respond to the requesting collective management organisation in writing and without undue delay. In the event of a negative reply, it must be sufficiently justified.
3. Without prejudice to paragraphs 5 and 6, the requested collective management organisation shall manage the represented repertoire of the requesting collective management organisation on the same conditions as those which it applies to the management of its own repertoire.
4. The requested collective management organisation shall include the represented repertoire of the requesting collective management organisation in all offers it addresses to online service providers.
5. The management fee for the service provided by the requested collective management organisation to the requesting organisation shall not exceed the costs reasonably incurred under those circumstances.



6. The requesting collective management organisation shall make available to the requested collective management organisation information relating to its own music repertoire required for the provision of multi-territorial licences for online rights in musical works. Where information is insufficient or provided in a form that does not allow the requested collective management organisation to meet the requirements of Articles 33 to 41, the requested collective management organisation shall be entitled to charge the costs reasonably incurred in meeting such requirements or to exclude those works for which information is insufficient or cannot be used.

## **Article 40**

### **Access to multi-territorial licensing (Article 31 of the Directive)**

If a collective management organisation does not grant or offer to grant multi-territorial licences for online rights in musical works or does not allow another collective management organisation to represent those rights for such purpose by 10 October 2017, rightholders who have authorised that collective management organisation to represent their online rights in musical works can withdraw from that collective management organisation the online rights in musical works for the purposes of multi-territorial licensing in respect of all territories without having to withdraw the online rights in musical works for the purposes of mono-territorial licensing, so as to grant multi-territorial licences for their online rights in musical works themselves or through any other party they authorise or through any collective management organisation. The written notice of three (3) months provided in paragraph 2 of Article 12 shall also apply in this case and the termination shall be effective three months after the submission of the written notice.

## **Article 41**

### **Specific arrangements (Article 32 of the Directive)**

The provisions of Articles 33 to 41 shall not apply to collective management organisations when they grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules a multi-territorial licence for the online rights in musical works required by a broadcaster to communicate or make available to the public its radio or television programmes simultaneously with or after their initial broadcast, as well as any online material, including previews, produced by or for the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

## **Article 42**

### **Complaint procedures (Article 33 paragraphs 1 and 2 of the Directive)**

1. Collective management organisations shall make available to their members, and to collective management organisations on whose behalf they manage rights under a representation agreement,

effective and timely procedures for dealing with complaints, particularly in relation to authorisation to manage rights and termination or withdrawal of rights, membership terms, the collection of amounts due to rightholders, deductions and distributions.

2. Each collective management organisation shall post, in a prominent way, on its website the data required for the submission of complaints, as well as the relevant context and the procedure governing the submission and processing of such complaints.

3. If a complaint is lodged with a collective management organisation, the organisation shall inform the complainant of receipt of the complaint immediately and in any case no later than three (3) working days after submission. The complaint shall be filed in writing in any manner deemed appropriate by the complainant, including e-mail.

4. The collective management organisation shall provide a written and justified response at the latest within twelve (12) working days following the receipt of the complaint. If further information is required from the collective management organisation, it may request it from the complainant within that time limit. In this case, the collective management organisation must give a written and justified response at the latest within seven (7) working days from the date of receipt of the supplementary information.

## **Article 43**

### **Notification of potential violations (Article 36 paragraph 2 of the Directive)**

1. Members of a collective management organisation, rightholders, users, collective management organisations and other interested parties may notify the HCO in writing or in any way they deem appropriate, including email, of activities or circumstances which, in their opinion, constitute a violation of the provisions of this Law or of Law 2121/1993.

2. Within two (2) working days of receipt of the notification, the HCO shall inform the sender of its receipt and shall notify it to the party concerned and to the Ministry of Culture and Sports. The Ministry of Culture and Sports, through its competent services and/or the HCO and/or other co-competent Ministries, should investigate such activity or circumstances and to this end may request both the person who made the notification and the party concerned to produce any document or other evidence it deems appropriate. Also, in the course of the inquiry procedure under Article 46, the person to whom the notification pertains is required to accept the investigation without interruption and to submit to the persons carrying out the investigation all the requested documents, elements and data, as well as any other requested information within the framework of this investigation, within the reasonable time limit designated by the Minister of Culture and Sports. The provisions of Article 46 shall apply to the investigation ordered by the Ministry of Culture and Sports. Upon a justified recommendation by HCO, the Ministry of Culture and Sports shall inform the sender of the notification of the outcome of the investigation within a reasonable time. If an infringement is established, the provisions of Articles 46 to 47 shall apply.

## **Article 44**

### **Alternative dispute resolution procedures (Article 34 of the Directive)**

1. Disputes between collective management organisations, collective protection organisations and members of collective management organisations, rightholders or users regarding the provisions of this law and of Law 2121/1993 may, if so desired by all the parties involved, be submitted to mediation, in accordance with the provisions of Law 3898/2010 (A' 211).

2. Disputes relating to a collective management organisation which grants or offers to grant multi-territorial licences for online rights in musical works may also be submitted to mediation, and in particular:

(a) disputes with an actual or potential online service provider regarding the application of Articles 22, 34, 35 and 36;

(b) disputes with one or more rightholders regarding the application of Articles 34 to 40, and;

(c) disputes with another collective management organisation regarding the application of Articles 34 to 39

3. In case of failure of the mediation, minutes shall be drawn up in accordance with paragraph 2 of Article 9 of Law 3898/2010. The procedure of mediation shall be without prejudice to the right of parties to bring an action before a court. The parties can resort to mediation either before or during links pendens. In the case where the dispute is submitted to mediation, any it shall action before the court is ruled out until the completion of the procedure. If it is submitted -to mediation-while the court proceedings are still pending, the court, at each instance of the trial, if the parties agree, shall postpone the trial of the case to an immediate trial date and in any case no later than six months.

### **Article 45 (Article 35 paragraph 2 of the Directive)**

Article 44 shall be without prejudice to the right of parties to assert and defend their rights by concurrently bringing an action before a court.

## **Article 46**

### **Sanctions (Article 36 (3), sub-paragraphs one and two of the Directive)**

1. Any violation of the provisions of this Law or of Law 2121/1993 by a collective management or protection organisation or an independent management entity or an independent management entity referred to in Article 50 shall result in the imposition, cumulatively or alternatively, of the following sanctions, on the basis of the following procedure:

a) an administrative fine of two thousand (2,000) to two hundred thousand (200,000) euro,

(b) temporary or definitive revocation of the operating license.

2. Sanctions may also be imposed on account of refusal, in whole or in part, on the part of the organisations or independent entities referred to in paragraph 1 to cooperate with the Minister of Culture and Sports and the HCO in the framework of this Law and Law 2121/1993, which also includes

the failure to produce data, the refusal to produce books and other documents requested and the failure to provide copies or extracts thereof.

3. The gravity and severity of the offense, its duration, any prior notification by the Minister of Culture and Sports requesting compliance on account of the same violation, the recurrence of the infringement, previous offenses, the gross revenue and the general economic status of the organisations or independent management entities referred to in paragraph 1 shall be taken into account for the determination of the type of sanction and of the amount of the fine.

4. Where a specific breach is established for the first time, the Minister of Culture and Sports may, depending on its gravity, address a recommendation of compliance and set a reasonable deadline for compliance. If the organisation or independent entity fails to fully comply within the above deadline, paragraph 1 shall apply. The organisation's compliance or non-compliance is determined by decision of the Minister of Culture and Sports, following a reasoned recommendation by HCO.

5. For monitoring the compliance of the collective management or protection organisations or the independent management entities referred to in paragraph 1 with the provisions of this Law and of Law 2121/1993, an investigation shall be carried out, either ex officio or following a complaint. This investigation shall be carried out by the competent services of the Ministry of Culture and Sports and/or other co-competent ministries or HCO.

6. The decision ordering the investigation may also include an audit by independent auditors - accountants or audit services of other co-competent ministries, mandated by a joint decision of the Minister of Culture and Sports and any competent Minister. If a breach is established, the Minister of Culture and Sports may charge the total cost of the audit to the audited organisation or independent entity referred to in paragraph 1. Such costs, as well as any administrative fine, shall be charged on the statutory management fees of the organisation or independent entity referred to in paragraph 1. During the investigation, the investigated organisation or independent entity referred to in paragraph 1, shall without delay make available to the investigators any such information as they deem necessary. In the event of refusal or obstruction of those conducting the investigation in the performance of their duties, they may request the assistance of the prosecuting authorities and any other competent authority.

7. The findings of the investigation carried out shall be communicated to the Minister of Culture and Sports and to HCO. HCO shall invite the respective organisation or independent entity to a hearing, according to the procedure under Article 6 of the Code of Administrative Procedure (L. 2690/1999). After the hearing, the HCO shall communicate to the Minister of Culture and Sports the views of the audited organisation or independent entity, shall draw up a report and shall submit a reasoned recommendation to the Minister of Culture and Sports with respect to the issuance of a decision on the breach and the sanctions referred to in paragraph 1. In the event of a breach, the Minister shall, without prejudice to paragraph 4, issue a decision establishing the breach and imposing a penalty.

The decision shall be served to the organisation or the independent entity referred to in paragraph 1 and shall be made public by posting on the websites of the organisation and of HCO.

8. The temporary revocation of the operating licenses of the organisations or independent entities referred to in paragraph 1 shall be imposed for a period of up to six (6) months during which their operation shall be suspended, except for the capacity to appear in pending trials.

9. The decision ordering the temporary revocation of the operating licenses of the organisations and the independent entities referred to in paragraph 1 shall enter into force one (1) month after its

publication in the Official Government Gazette. The decision on the definitive revocation shall enter into force three (3) months after its publication in the Official Government Gazette.

10. The decision ordering the temporary or definitive revocation of the operating licenses of the organisations and the independent entities referred to in paragraph 1 shall be published in the Official Government Gazette.

11. The amount of the administrative fine shall be determined by decision of the Minister of Culture and Sports, following a recommendation by HCO.

## **Article 47**

### **Collection of the fine**

The ministerial decision to impose a fine constitutes an enforceable title, according to which the fine is collected in accordance with the provisions of the legislative decree 356/1974 (Official Government Gazette A' 90) "On the Code for the Public Revenue Collection".

## **Article 48**

### **Exchange of information between competent authorities (Article 37 of the Directive)**

1. The Hellenic Copyright Organisation shall respond, without undue delay, to a request for information, submitted by a competent authority of another EU Member State, concerning matters relevant to the application of Articles 1 to 54, and in particular with regard to the activities of collective management organisations and independent management entities established in the Greek territory, provided that the request is duly justified.

2. Where the Hellenic Copyright Organisation considers that a collective management organisation established in another EU Member State but acting within the Greek territory may not be complying with the provisions of the national law of the Member State in which that collective management organisation is established and which have been adopted pursuant to the requirements laid down in this Directive, it shall transmit all relevant information to the competent authority of the Member State in which the collective management organisation is established, and notify it to the Minister of Culture and Sports.

This information may be accompanied by a request to that authority to take appropriate action within its competence. If the Hellenic Copyright Organisation receives relevant information and/or a request from another EU Member State's competent authority on a collective management organisation established in the Greek territory but operating in another Member State, it shall forward the request or the information to the Ministry of Culture and Sports and shall recommend the appropriate measures to be taken. HCO shall provide the competent authority with a justified response within (3) three months from the receipt of the relevant request.

3. After having notified the Minister of Culture and Sports, HCO may submit the issues referred to in paragraph 2 to the Expert Group.

## **Article 49**

### **Protection of personal data (Article 42 of the Directive)**

The processing of personal data carried out within the framework of this Law shall be subject to the provisions of Law 2472/1997 (A'50).

## **Article 50**

### **Collective management by independent management entities in dominant position**

Independent management entities that either existed or are established after the entry into force of this Law and which engage in collective management of copyright or related rights and which are in a dominant position in the Greek market in the category they represent, are obliged to provide in their statutes for a general assembly of their members and a supervisory board, according to paragraph 9 of Article 9 and paragraph 8 of Article 10.

The provisions of this Law relating to collective management organisations including the relevant provisions of Articles 7 and 28 and the provisions on mandatory collective management, as well as the provisions of Law 2121/1993, including paragraph 2 of Article 69 of Law 2121/1993, as this paragraph was replaced by paragraph 13 of Article 7 of Law 2819/2000 (A' 84) shall apply to independent management entities which existed during the time that this Law came into force.

## **Article 51**

### **Commissioner for Reorganisation**

1. In the event that a collective management organisation or an independent management entity referred to in Article 50 fails to meet its overdue financial obligations towards its creditors, including rightholders who have entrusted them with the management of their rights on a general and permanent basis (cease of payments), the competent court may, at the request of the creditors or the supervisory board or the Minister of Culture and Sports, upon recommendation by HCO, assign to the receiver the exclusive power of reorganisation of the collective management organisation or the independent management entity or the independent entity referred to in Article 50. The provisions of legislation on bankruptcy shall also apply.

2.(a) In the event of actual or threatened failure to meet the financial obligations on the part of the legal persons referred to in paragraph 1 or in the event of a serious financial or management problem which endangers the rights of the rightholders, the Minister of Culture and Sports may lodge an application with the Single-member Court of First Instance of the region where the organisation or entity has its registered office, for the appointment of a Commissioner for Reorganisation and a deputy, by nominating five (5) persons of recognized prestige and professional experience in matters of business administration or finance pursuant to a list of persons recommended by the HCO or the Supervisory Board. The Commissioner for Reorganisation shall have the power to reorganize the organisation or the entity.

(b) The court shall adjudicate in accordance with the procedure of non-contentious jurisdiction. The hearing of the case shall take place within five (5) days of the lodging of the application. The court shall select the person to be appointed as Commissioner for Reorganisation and his/her deputy within fifteen (15) days following the hearing, taking into account the qualifications of the persons nominated.

The court shall also determine his/her term of office, which shall be at least one (1) year, and shall decide on whether the Minister of Culture and Sports may extend the Commissioner's term of office for up to two (2) years, as well as on the Minister's discretionary power to dismiss the Commissioner, where there are serious grounds and with a specific statement of reasons, before the expiry of the Commissioner's term of office. The decision of the court shall not be subject to ordinary or extraordinary legal remedies and its effect may not be arrested.

c) From the publication of the court's decision, the Commissioner assumes the management of the legal person, superseding the statutory administration and management bodies in the exercise of their powers. The Commissioner shall assess the financial, administrative and organisational state of the legal person referred to in paragraph 1 and shall endeavor to redress the organisation or entity. The Commissioner shall represent the legal person referred to in paragraph 1 vis-a-vis third parties, in judicial and extra-judicial proceedings, as well as in its daily transactions, including the preparation of financial statements and the filing of tax returns, whereas the requirement for approval of the financial statements by the general assembly of shareholders shall be suspended as long as the reorganisation process is in place.

The Commissioner may bring any action before a court and exercise any legal remedy in the name of the legal persons referred to in paragraph 1, in order to defend their interests and the interests of their members, including any action for damages against persons involved in the management or the personnel, for damages incurred by the collective management organisation or the independent management entity on account of acts or omissions of such persons. The employees of the collective management organisation shall be required to provide the Commissioner with any information or data requested and to facilitate the performance of his duties.

The appointment of the Commissioner shall not entail the cancellation, termination or variation of any agreements, the maturity of any debts of the legal person referred to in paragraph 1 or the suspension of individual prosecutions against the members of the administration.

d) The remuneration of the Commissioner for Reorganisation shall be freely determined by the court on the basis of a recommendation by the Minister of Culture and Sports, as formulated at the suggestion of HCO, taking into account the value of the assets of the legal persons referred to in paragraph 1, the Commissioner's term of office and the beneficial effect of his activity on the interests of members.

The Commissioner's remuneration shall be paid on a monthly basis and, along with other Reorganisation expenses, it will be firstly charged on HCO's budget. To assist the Commissioner's work, HCO may, upon proposal by the Commissioner, conclude service agreements with legal, financial or technical advisers, subject to the approval of the persons and their remuneration by the Minister of Culture and Sports. Permanent employees of Ministries, independent Authorities, as well as of legal entities governed by public and private law within the general government, may be seconded to HCO, according to Law 4440/2016 (A' 224), and they shall assist in the Commissioner's work. Seconded employees shall receive the entire salary of their organisation and those salaries shall be charged on HCO's budget.

The term of service agreements may not exceed the length of the Commissioner's term of office.

Concerning compensation for work exceeding the mandatory working hours of persons assisting the Commissioner, the provisions of item (a) of paragraph 2 of par. C of Article 20 of L. 4354/2015 (A'176) shall apply. Compensation for the above-mentioned mandatory overtime shall be attested by the Commissioner and shall be charged on HCO's budget.

The Ministers of Finance and Culture and Sports shall, by joint decision, determine the arrangement details of payment by the legal entities referred to in paragraph 1 to the HCO of an amount equal to the costs (in particular, the Commissioner's remuneration, other reorganisation costs, salaries and contracts) which shall be charged on HCO's budget for the reorganisation of legal entities referred to in paragraph 1. Such sum shall be charged on the management fees of the legal persons referred to in paragraph 1, as provided for in this Law.

e) The Commissioner's liability shall be limited to malicious intent and gross negligence. The Commissioner for Reorganisation shall not be subject to detainment nor shall he be liable under civil or criminal law or otherwise for the debts of the company undergoing reorganisation, irrespective of the time of their confirmation and the time at which they were incurred.

#### **Article 51A**

1. In the case where the operating license of a collective management organisation or of an independent management entity referred to in Article 50 is revoked by decision of the Minister of Culture and Sports, the management of the rights of the rightholders is entrusted to HCO, exceptionally and on a temporary basis, until the collective management is undertaken by another organisation, and in any case for a time - period not exceeding two (2) years. These duties are performed by the Special Service of exceptional rights management under paragraph 3 of Article 11 of Presidential Decree 311/1994 (A' 165). By the same decision, a Temporary Administrator, responsible for the management of the rights of the rightholders, is appointed. This person shall be of recognized prestige and respective professional experience in financial or legal matters. This person may also be a general government or a public-sector employee; in this case, it is deemed as ex officio seconded to this position for the time period of performance of duties. The period of service on this position shall be considered, with regard to all its effects, as an actual service on his/her permanent post. Following the end of the term of office, the appointed person shall automatically return to the post formerly held. By a decision of the Board of Directors of HCO, upon a recommendation issued by the Temporary Administrator, the necessary works contracts, for the exceptional administration, are concluded, as well as the procurement or service contracts, which display an exceptional and urgent character in derogation from the Procurement Regulation of HCO, while they are also excluded from the general or special provisions of Law 4412/2016 (A' 147) and Law 4413/2016 (A' 148).

To assist the Temporary Administrator's work, the HCO may, upon proposal by the Administrator, conclude service agreements with legal, financial or technical advisers, as well as with administrative personnel, insofar as their appointment, along with their remuneration, have been approved by the Board of Directors of HCO. The duration of those agreements shall not exceed the duration of the exceptional administration. By the decision of the first subparagraph, the monetary amounts kept in separate accounts under item (a) of paragraph 2 of Article 17 are transferred to the HCO in order to be attributed to the rightholders. For the same purpose, securities and dematerialized securities related to the rights of the rightholders are also transferred to HCO. In payment of those securities, the amount of any commission in force during the withdrawal of the operating license of the collective management organisation or of the independent management entity referred to in Article 50 is deducted and is further paid to the respective organisation or entity. By the same decision, the remuneration of the Temporary Administrator is determined, as well as the execution mode, the formalities concerning the commencement and termination of performance of duties, and any other detail regarded as necessary. The Temporary Administrator shall submit to the Board of Directors of the HCO and to the Minister of Culture and Sports a six – monthly activity report.



2. The authorization and representation agreements concluded by the organisation or the independent management entity referred to in Article 50, whose operating license has been withdrawn, are terminated automatically. Upon the publication of the decision referred to in paragraph 1, new, identical agreements shall be deemed concluded between the rightholders and HCO, as well as between collective management organisations and HCO, for the time period remaining under the previous agreement, and which shall not exceed the duration of the exceptional administration. Rightholders and collective management organisations have the right to oppose to the aforementioned authorization and representation as entrusted to HCO, within sixty (60) days from the publication of the decision referred to in paragraph 1, by notifying, in writing, the HCO of their statement that they do not wish to be represented by the latter. The rightholders and the collective management organisations shall be informed with regard to this right from the Special Service of exceptional administration of rights by all appropriate means. Following the expiry of the aforementioned time period, paragraph 2 of Article 12 of Law 4481/2017 shall be applicable.

3. The provisions of Article 7 of this Law, as well as the provisions of Article 18, paragraph 7 of Article 35, Article 49 and paragraph 2 of Article 69 of Law 2121/1993 (A' 25) shall be also applicable in the event of exceptional administration as performed by HCO.

4. The provisions set out in this Law shall apply to the Special Service of exceptional rights administration, to the extent they are compatible with the purpose of the exceptional administration. Within the operating framework of the Special Service, and as long as the exceptional administration persists, a General Assembly of members shall operate, as well as a Supervisory Board as set out in Articles 9 and 10 in respect of collective management organisations. Item a' of paragraph 2, as well as item b' of paragraph 2 of Article 9, with regard to the election and removal of the members of the board of directors, the Director - General's appointment, the remuneration of the aforementioned persons, as well as of the members of the Supervisory Board, are explicitly exempted from the competencies of the General Assembly.

5. During the exceptional administration as set out in paragraph 1, the collective management organisation or the independent entity referred to in Article 50, whose operating license has been revoked, is obliged to allow, without any restrictions, the access of the persons certified by the HCO to the physical, digitized or digital documentation archive or/and to the works of the rightholders which it represented at the time when the operating license was revoked, as well as to any other archive necessary for the management of rights. For the purposes of exceptional management and supervision, the HCO shall be the legitimate user of those archives. "Access" shall also mean the ability of the persons certified by HCO to access the premises of the collective management organisation or the independent entity referred to in Article 50, for the aforementioned purpose. The HCO takes all the necessary measures for the protection and preservation of the physical, digitized and digital documentation archives and/or the works of the rightholders of the organisation or the independent management entity referred to in Article 50, whose operating license has been revoked, and the competent authorities shall contribute to the aforementioned purposes. The HCO shall not be liable for any destruction or corruption of the physical, digitized or digital archives, as well as of the works of the rightholders for whatever reason, except in the case of gross negligence or willful misconduct.

6. Any person preventing, hindering via all kind of media or carriers, denying access to the archives referred to in paragraph 5, concealing or removing documents and evidence, and with his/her acts thereto, delaying, hampering or negating the work of the HCO, shall be punished with a term of imprisonment of up to three (3) years and with a monetary fine of at least ten thousand (10.000) euros.

7. In the event of divestment or transfer of the archive referred to in the previous paragraph for any reason, Greek State shall have pre-emptive purchase rights.

8. The General Assembly of the members of the Special Service of exceptional rights management shall decide on the collective management organisation which will undertake the management of their rights. The transfer of activities of the Special Service to the successor collective management organisation, as well as the regulation of the matters concerning the assessment of the value of the assets transferred, and the terms of payment of the amount that may occur from the successor organisation to the HCO, shall be determined in a joint order issued by the Minister of Culture and Sports and the Minister of Finance.

9. The size of the amount of the exception subsidy granted to the HCO from the State budget with regard to the exceptional and temporary duties undertaken by the Special Service of exceptional rights management under this Article, shall be determined in a joint order issued by the Minister of Culture and Sports and the Minister of Finance. This subsidy does not affect the character of the legal nature of the HCO in accordance with paragraph 4 of Article 69 of Law 2121/1993 (as inserted by paragraph 7 of Article 45 of Law 4531/2018).

## **Article 52**

### **Rights infringement on the internet**

1. In Law 2121/1993, following Article 66D, an Article numbered 66E and entitled “Sanctions for infringement of copyright and related rights on the internet” is inserted, as follows:

“1. In cases of copyright or related rights infringement on the internet, the rightholder may follow the procedure described in the following paragraphs. For the purposes of this Article, rightholder means the rightholder whose right has been infringed on the internet, as well as any collective management organisation or collective protection organisation entrusted with the management or protection of copyright or related rights. This procedure shall not apply to infringements committed by end - users through downloading or streaming or peer to peer file sharing, which allow for direct exchange of digital files of works between end - users, or to cases of infringement by means of provision of data storage services through cloud computing. This procedure shall be without prejudice to the procedure provided for by the Regulation on Management and Assignment of .gr Domain names of the Hellenic Telecommunications and Post Commission (EETT), which is specified by EETT’s decision.

2. For the implementation of the procedure provided for in this Article, a Committee for the Notification of Copyright and Related Rights Infringement on the Internet shall be constituted by decision of the Minister of Culture and Sports, assisted by the personnel of the HCO. The Committee shall consist of three-members, and in particular, of the Chairman of the Board of Directors of the HCO, the vice – president of the Board of Directors of the HCO as his/her deputy, a representative of EETT and his deputy, both appointed by the Chairman of EETT, a representative of Hellenic Data Protection Authority (HDP) and his deputy, both appoint by the Chairman of HDP. The Chairman of HCO shall be the President of the Committee and the representative of EETT’s shall act as secretary. The term of office of the Committee shall be three (3) years.

3. Any issue related to the establishment, operation and responsibilities of the Committee shall be determined by decision of the Minister of Culture and Sports. The provisions of Article 21 of Law 4354/2015 (A’176), as amended by the similar provisions of Article 52 of Law 4369/2016 (A’33), shall apply to the determination of the remuneration of the members of the Committee. The decision of

sentence 1 herein shall also determine the fee payable to HCO by the applicant, upon his application to the Committee, as a fee for the examination of his case. This fee shall be paid in advance and shall be a prerequisite for the commencement of the procedure.

4. The rightholder shall submit his application for the termination of the infringement either in person or by electronic means. He shall fill in the pre-established application form posted on the website of the HCO to the Committee, shall submit it to the Committee and shall attach any document referred to therein as mandatory, as well as any other relevant information evidencing his right. As a condition for the admissibility of his application, the rightholder must have followed the procedure provided for by the provider, and that this procedure failed to produce results notwithstanding its conclusion within a reasonable time.

5. Within ten (10) working days from receipt of the application, the Committee shall decide either (a) to close the case or (b) to continue with the proceedings.

a. The case shall be closed by an act of the Committee, stating at least one of the following reasons:

- aa. non - use of the pre-established application form;
- bb. lack of sufficient information;
- cc. lis pendens between the same parties or a final decision on the dispute at issue;
- dd. lack of competence;
- ee. lack of reasons and sufficient evidence (manifestly unfounded);
- ff. withdrawal of the application prior to its examination;
- gg. non - payment of the examination fee in accordance to paragraph 3;
- hh. license for the use of rights.

b. In the case of continuation of the procedure, the Committee shall, within ten (10) working days from receipt of the application, simultaneously inform access providers on the internet, and, where possible, the hosting service provider and the administrators, and/or owners of the websites referred to in the application. Such notification shall include at least the precise determination of rights allegedly infringed, the provisions of the law which, according to the rightholder's statement, are violated, a summary of the facts and the outcome of the evaluation of evidence, the competent person to whom objections may be submitted, the terms of termination of the procedure and a reference to the voluntary compliance for which the parties involved may opt. The addressee of this notification may voluntarily comply with the applicant's request or obtain from the applicant a relevant license within ten (10) working days from the date of receipt of the notification. Alternatively, he may raise his objections to the Committee within five (5) working days from the date of receipt of the notification, sending, at the same time, all the evidence showing, in particular, that there is no infringement. These periods may be extended to twice their length upon a decision issued by the Committee. In the case of voluntary compliance of the addressee of the notification, the Committee shall issue a decision in which his voluntary compliance is expressly stated. In the event that a license for use of rights is obtained, the case shall be closed. Upon expiry of the deadline for objections to be raised and where necessary, the Committee shall request from any party that additional information be produced within five (5) working days.

6. Within five (5) working days from the expiry of the above deadlines, the Committee shall examine the case, and in no later than forty (40) working days following the submission of the application, shall notify the addressees of the notification and the applicant of its decision by which:

a. Where no infringement of copyright and/or related rights has been established, it shall close the case by a reasoned act;

b. or, where an infringement has been established, it shall issue a reasoned decision, whereby it requests from the addressees to comply with it within a time period not exceeding three (3) working days from the date of service of the decision.

Where the time limits referred to in paragraph 5 are extended by decision of the Committee under the seventh subparagraph, the deadline of forty (40) working days under the first subparagraph shall be extended to sixty (60) working days. If the Committee finds that a copyright or a related right has been infringed, it shall request from the addressees of the notification to remove the infringing content from the website on which it had been illegally posted or to block access to it. If the content is hosted on a website whose server is located within the Greek territory, the Committee shall request the addressees of the notification to remove that content. In the case of large - scale infringements, the Committee may decide to discontinue access to this content, instead of its removal. If the website is hosted on a server located outside the Greek territory, the Committee shall request the internet access provider to block access to this content.

7. In the case of non-compliance with the operating part of the decision, the Committee shall impose a fine amounting to five hundred (500) up to a thousand (1000) euros for each day of non-compliance. The severity of the infringement and its recurrence shall be amongst the criteria taken into account. A joint decision of the Ministers of Finance and Culture and Sports shall establish the procedure for the imposition and recovery of the fine, the services competent for its collection, as well as any other related matter.

8. The commencement of the procedure before the Committee shall not suspend or effect the exercise of claims for the same dispute before the courts. However, if an action has been brought by the same applicant with the same claim before the courts, the Committee shall close the case. Furthermore, the issuance of a decision by the Committee does not deprive the parties involved from their right to seek the protection of their legitimate interests before the courts.”

**2.**In Article 4 of Law 2225/1994 (A'121), following paragraph 1.c, as inserted by paragraph 2 of Article 11 of Law 4416/2016 (A'160), paragraph d is added, as follows:

“d. In addition, confidentiality may be waived for the purpose of ascertaining felony copyright and related rights infringement, as provided for in Law 2121/1993 (A'25).”.

## Article 53

### Transitional provisions (second subparagraph of Article 5 (8) of the Directive)

1. Collective management organisations and independent management entities referred to in Article 50, operating with the approval of the Minister of Culture and Sports upon the entry into force of this Law, in the sense that they are existing collective management organisations under Law 2121/1993, which fall within one of the above categories after the entry into force of this Law - shall submit to the HCO their amended statutes within six (6) months from the entry into force of this Law. More specifically, collective management organisations which are to be converted into independent management entities with the features referred to in Article 50 shall provide, in their statutes, for a General Assembly and a Supervisory Board in accordance with the provisions of this Law. Until then, it is presumed that collective management and protection organisations and independent management entities under Article 50 operate legally, their existing approvals of operation are still in force and all provisions of Law 2121/1993 and of this Law apply to them. In case of non-compliance after the expiry of the above deadline, the provisions of Articles 46 and 47 on sanctions shall apply.

2. Independent management entities operating within the Greek territory upon the entry into force of this Law shall, within six (6) months from the entry into force of this Law, notify the information provided for in paragraph 7 of Article 4. Failure to notify within that period shall entail the imposition of sanctions in accordance with the procedure laid down in Articles 46 and 47.

3. The collective management organisation shall inform those rightholders who have already authorized it to manage their rights, of their rights under paragraphs 1 to 5 of Article 12 and Article 14, in accordance with paragraph 1 of Article 12 by e-mail or by any other means deemed appropriate, no later than six (6) months after the entry into force of this Law.

4. The obligations referred to in paragraph 3 and the second subparagraph of Article 13 (4) respectively shall enter into force as of 15 November 2017.

5. The obligations referred to in the third subparagraph of paragraph 1 and in Article 17 (2), Article 22 (5) and Article 42 shall be fulfilled as of 15 November 2017.

6. The obligation under the second subparagraph of Article 18 (3) shall apply as of 1 November 2019. As of the 1st of November 2017, the management fees of the collective management organisation shall not exceed, on average, 25% of its gross rights revenue, with the exception of legal fees for securing the rights of its members as described in Article 18, and as of the 1st of November 2018, its management fees shall not exceed an average of 22% of its gross rights revenue. The obligation under Article 18 (5) shall apply as of 1 November 2019.

7. Individual statements to the General Assembly of members of the persons managing the business activities of the collective management organisation and the members of the Supervisory Board referred to in Article 31 (2) and paragraph 3 of Article 10 respectively, shall be submitted within six (6) months from the entry into force of this Law.

8. The obligations of collective management organisations under Articles 19, 21, 25 and 26 shall be fulfilled as of the 30th of November 2017.

9. The obligation of collective management organisations to prepare and publish the Annual Transparency Report shall be fulfilled in 2018 and shall cover the year of use 2017.

10. Paragraphs 6 and 7 of Article 22 shall not apply to pending proceedings at the time of the entry into force of this Law until the issuance of a final judicial decision thereon.

11. Articles 49, 54 to 58 of Law 2121/1993, as in force prior to their repeal by article 54 par.1 of this Law, shall apply to any pending proceedings, at the time of entry into force of this Law, relating to the collective management obligation under Articles 18, 49 and 56 of L. 2121/1993, until the issuance of a final judgment on the respective cases.

12. Any references in L. 2121/1993 as well as in any other provision of the applicable legislation, to the Articles 54 to 58 of L.2121/1993, shall, from the entry into force of this Law, be construed as references to Articles 1 to 54 of this Law.

## **Article 54**

### **Repealed and amended provisions of Law 2121/1993**

1. From the entry into force of this Law, any provision contrary to this Law shall be repealed, without prejudice to L. 988/1943, which remained into force, under par. 2 of Article 72 of Law 2121/1993. Moreover, without prejudice to paragraph 12 of Article 53 and paragraph 14 of this Article, Articles 54 to 58 of Law 2121/1993 and paragraph 3 of Article 72 of L. 2121/1993 are repealed.

2. Article 18 of Law 2121/1993 is amended as follows:

A. Paragraph 3, as replaced by paragraph 1 of Article 14 of L. 3049/2002 (A' 212) and amended by paragraph 8 of Article 46 of L. 3905/2010 (A' 219) is replaced as follows:

"3. If, for the free reproduction of the work for private use, technical means are used, such as audio or video recorders or audio/video recorders, magnetic tapes or other material suitable for the reproduction of sound or images or sound and images, including digital means, in particular CD-RW, CD-R, DVD and other storage media with a capacity of less than one (1)TByte or equal or more than one (1) TByte-, computers, including tablets and smartphones with a random access memory (RAM) size of more than 4 GB, devices or components, whether or not computer-aided, used for digital copying, transcription or otherwise reproducing, photocopying machines and paper suitable for photocopies, scanners and printers, reasonable remuneration is due to the creator of the work and to the holders of related rights under this provision, with the exception of items to be exported. The reasonable remuneration shall be determined as follows:

(a)With regard to computers, including those with a random-access memory (RAM) of more than 4 GB, remuneration is set at 2% of their value. The remuneration shall be distributed to authors, performing artists, producers of recorded magnetic tapes or other material media of sound or image or sound and image and to publishers of printed forms. The distribution of the reasonable remuneration rates on computers to the collective management organisation of each category or sub-category of rightholders, the means of collection of monies and payment shall be determined in accordance with paragraph 11.

(b)Remuneration for audio, video or audio/video recording devices, magnetic tapes or other media suitable for the reproduction of sound or images or sound and images, including digital duplication media other than storage media with a capacity less than 1 TByte, as well as for devices or components, whether computer-aided or not and used for digital copying, transcription or otherwise reproducing, is set at 6% of the value. The remuneration shall be distributed by 55% to authors, by

25% to performing artists and by 20% to producers of recorded magnetic tapes or other media of sound or image or sound and image.

(c) To 4% of the value of photocopiers, scanners, printers using paper suitable for photocopying, and storage media with a capacity of less than 1 TByte. The remuneration shall be distributed half-way between the authors and publishers.

The concept of photocopying devices also includes any multi-function machine capable of copying.

In any case, the value shall be calculated upon import or disposal from the factory. The remuneration shall be paid by the importers or by the producers of those items, it shall be entered on the invoice and shall be collected by collective management organisations operating with the approval of the Minister of Culture and Sports and covering, in whole or in part, the category of rightholders concerned.

Within the framework of this Article, the HCO may, on the basis of an expert study which takes into account technological developments, the Greek, EU and international markets, propose to the Minister of Culture and Sports arrangements regarding technical means and their characteristics, the rate of remuneration on their value, the categories of rightholders and the remuneration rates per category."

B. Paragraph 4, which was added by paragraph 1 of Article 3 of Law 2435/1996 (A' 189) and amended by paragraph 2 of Article 14 of L. 3049/2002 (A' 212) is replaced as follows:

"(4a) Whoever imports or acquires intra-Community products or produces and offers technical equipment and/or paper suitable for photocopies which, in accordance with paragraph 3, are subject to payment of reasonable remuneration, shall, within thirty (30) days from the end of each calendar quarter, declare in writing and on oath, pursuant to L. 1599/1986, to the HCO:

(aa) the quantity and total value of technical means and/or photocopying paper imported or acquired within the Community or produced and made available in the immediately preceding calendar quarter by category and type of technical means; and

(bb) that this is the actual quantity and total value without any concealment.

(b) Each collective management organisation shall have the right to request at any time from any debtor, by written notice, to declare in writing and on oath, pursuant to L. 1599/1986, to the HCO

(aa) the quantity and total value of technical means and / or paper suitable for photocopying by category and type of technical means in detail, which, in accordance with paragraph 3, are subject to payment of reasonable remuneration and which, on a case-by-case basis, it imported or acquired within the Community or produced and made available,

(bb) that this is the actual quantity and total value without any concealment.

Within one (1) month of such notice, the debtor shall be obliged to submit to HCO the above-mentioned statement signed by him/her in the case of a sole proprietorship, or by his/her Statutory representative in the case of a company.

(c) If the debtor fails to submit the above statement within the time limits specified in subparagraphs (a) and (b) of this paragraph or fulfils this obligation in an insufficient or incorrect manner, he shall pay twice the reasonable remuneration provided for in paragraph 3, in which case paragraphs 6, 7, 8, 9 of this Article shall additionally apply. "

C. Paragraph 6, as amended by paragraph 33a of Article 10 of Law 3207/2003 (A' 302) is replaced as follows:

"6. If the debtor fails to comply with the obligation to submit the declaration under paragraph 4, the Single-member Court of First Instance, which considers the case following the interim measures procedure, shall order the person who has been summoned for the immediate submission of the declaration, in any case of non-compliance, to pay a penalty of three thousand (3,000) to thirty thousand (30,000) euros, to the requesting collective management organisation."

3. (a) In Article 22 of Law 2121/1993, the title of which is amended to "Libraries and Archives", a second paragraph is added, which shall enter into force as of 4.3.1993, namely from the entry into force of Law 2121/1993, worded as follows:

"2. It is permissible, without the authorization of the author and without remuneration, to publicly borrow works from the libraries of primary and secondary education institutions (school libraries) and from the academic libraries that are members of the Hellenic Academic Libraries Association."

b) A Presidential Decree issued within one (1) year after the entry into force of this Law, upon proposal of the Ministers of Interior, Education, Research and Religious Affairs and Culture and Sports, shall determine the remuneration received by rightholders for the public borrowing, the means and system of its collection and distribution, all libraries and entities which fall within the scope of the regulation, with the exception of the libraries referred to in paragraph 2 of Article 22 of L. 2121/1993, as inserted by item a of the preceding paragraph, as well as any other relevant details. Until the issuance of the Presidential Decree referred to in the preceding paragraph, public libraries, libraries belonging to legal persons governed by private and public law, supervised by the State, municipal libraries, libraries of public benefit institutions and organisations, educational institutions and missions in Greece, and libraries of private schools shall pay no remuneration for public borrowing.

4. In Article 30 of Law 2121/1993, as this Article was finally replaced by Article 2 of Law 4212/ 2013 (A' 257) is replaced as follows:

"1. With respect to collaborative works, copyright lasts as long as the life of the last surviving author and seventy (70) years following his death, calculated from the 1st of January of the year following the death of the last surviving author.

2. The term of protection of musical compositions with lyrics is the same as the one mentioned in paragraph 1, provided that both contributions, by the composer and the lyricist, have been created specifically for the particular musical composition with lyrics. "

5. In Article 35 of Law 2121/1993, as amended by paragraph 1 of Article 8 of L. 2557/1997 (A' 271), paragraphs 5,6,7 and 8 are added as follows:

"5. The right of the author to grant or refuse authorization to a cable operator for retransmission through cable may only be exercised through collective management organisations. Where the author has not entrusted the management of the right to cable retransmission to a collective management organisation, the collective management organisation which has been authorized by the Ministry of Culture and Sports to manage the rights of the same category may manage the right to cable retransmission. Where there is more than one collective management organisation authorized to manage rights of the same category, the author shall be free to choose among them the collective management organisation which he authorizes to manage the right of cable retransmission. The author referred to in this paragraph shall have the same rights and obligations as the rightholders who



have entrusted the organisation with the management and may claim these rights within three (3) years from the date of the cable retransmission of the work.

6. The provisions of the preceding paragraph shall not apply to rights exercised by a broadcaster in respect of its own broadcasts, regardless of whether the relevant rights are its own or have been transferred to it by other authors or other rightholders.

7. In the case of secondary synchronous, uninterrupted and unchanged broadcasting of radio and television programs via cable or other material means, collective management of the relevant right of the author is mandatory.

8. The provisions of paragraphs 5 to 8 shall apply mutatis mutandis to the management and protection of the related rights governed by the provisions of the eighth chapter of Law 2121/1993."

6. Article 49 of Law 2121/1993, is amended as follows:

a. In paragraph 1, as amended by paragraph 6 of article 81 of Law 3057/2002 and paragraph 2 of article 46 of Law 3905/2010 (A' 219), the fourth and fifth sub-paragraphs are repealed.

b. In the last subparagraph of paragraph 5, as this paragraph was inserted by paragraph 6 of Article 81 of Law 3057/2002 (A' 239), the reference to the fourth and fifth subparagraph of Article 49 (1) is deleted.

c. In paragraph 6, as added by paragraph 1 of article 46 of Law 3905/2010 (A' 219) is repealed.

7. In paragraph 4 of Article 65 of Law 2121/1993 the words "from three hundred thousand to one million drachmas" are replaced by the words "eight hundred and eighty (880) to two thousand nine hundred (2,900) euros".

8. Article 65A of Law 2121/1993, as this article was added by par. 9 of Article 2 of Law 3524/2007 (A' 15) and amended by paragraphs 6 and 7 of Article 46 of Law 3905/2010 (A' 219) is amended as follows:

a. In the first subparagraph of paragraph 2, the words "or related rights" are inserted after the words "intellectual property".

b. Paragraph 2A is added as follows: "2.A. Whoever, without any legitimate right and in violation of the provisions of this Law, reproduces phonograms stored on any technical storage media, including hard disks, whether embedded or not on a computer, shall pay an administrative fine of one thousand (1,000) euro."

9. Article 66 of Law 2121/1993, is amended as follows:

a. In the first paragraph of paragraph 3, "2 to 10 million drachmas", is amended to "six thousand (6,000) to thirty thousand (30,000) euros" and in the second subparagraph of the same paragraph, "5 to 20) million drachmas", is amended to "fifteen thousand (15,000) to sixty thousand (60,000) euros".

b. Paragraph 6 is replaced by the following:

"By way of exception from the provision of Article 82 (10) (b) of the Penal Code, in the event of conversion of the custodial sentence, the conversion amount is set at five times the limits of the conversion amount provided for each case in the Penal Code".

c. In paragraphs 8 and 9, "one to five million drachmas" is amended to "three thousand (3.000) to fifteen thousand (15.000) euros".

d. In paragraphs 11 and 12, as added by paragraph 10 of Article 2 of Law 3524/2007 (A' 15) the words "shall lead to the deletion of criminal culpability" shall be replaced by "shall result in non-prosecution and any prosecution shall be dismissed".

e. Paragraph 11.A. is added as follows:

"11. A. Where the offense concerns phonograms (musical compositions) stored on any technical storage media or computer, the unconditional payment of the administrative fine by the offender under paragraph 2 of Article 65A and under the prescribed conditions shall result in non-prosecution and the dismissal of any prosecution, provided that the offense relates to up to 1,000 musical compositions".

f. In paragraph 13, as added by paragraph 10 of Article 2 of Law 3524/2007 (A' 15), and renumbered under (g) hereof, the words "and the deletion of criminal culpability" shall be replaced by "and the non-prosecution or the dismissal of criminal prosecution".

g. Paragraphs 11, 12, 13 and 14, as added by paragraph 10 of Article 2 of Law 3524/2007 (A' 15), are renumbered to 10, 11, 12 and 13.

10. Paragraph 1 of Article 68A of Law 2121/1993, as this Article was added by paragraph 11 of Article 8 of Law 2557/ 1997 (A' 271) and amended by paragraph 1 of Article 5 of Law 4212/2013 (A' 257), is amended as follows:

a. The first subparagraph is replaced by the following:

"The term of protection provided for in Articles 29, 30 paragraph 1, 31 and 52 shall apply to all related works and related rights protected in at least one Member State on 1.7.1995 pursuant to national laws on copyright and related rights."

b. Its third subparagraph, as added by paragraph 1 of Article 5 of Law 4212/2013 (A' 257) is replaced as follows:

"The term of protection provided for in Article 30 (2) shall apply to musical compositions with lyrics provided that either the musical composition or the lyrics were protected in at least one Member State of the European Union on 1 November 2013 and to musical compositions with lyrics created after this date, subject to any exploitation acts carried out before 1 November 2013 and to any acquired rights of third parties."

11. The second subparagraph of par. 1 of Article 69 of Law 2121/1993 is replaced as follows:

" HCO may also organize any kind of seminars to educate and inform judges, lawyers, civil servants, authors, holders of related rights, educators, students on copyright and related rights, and to provide mediation services on copyright, related rights and collective management issues, as well as time-stamping services, namely by providing certified dates in relation to works or objects of protection which may be protected by copyright and/or a related right (time stamping services)".

12. Article 71 of Law 2121/1993 is amended as follows:

a. In paragraph 3, which was added by paragraph 12 of Article 8 of Law 2557/1997 (A' 271), reference to Article 57 (8) and (9), is amended to reference to Article 35 (5) to (8).

b. Paragraph 4, which was added by paragraph 12 of Article 8 of Law 2557/1997 is replaced as follows:

"Articles 11, 29 (1), 30 (1), 31, 51A, 52c, d, e, f, g and 68A (1) of this Law implement Directive 93/98/EEC of the European Council of 29 October 1993 harmonizing the term of protection of the right, as well as of copyright and of certain related rights."

c.Paragraph 9, which was added by Article 9 of Law 4212/2013 (A' 257) is replaced as follows:

"Articles 30 (2), 52 (c), second subparagraph, 52 (d), second and third sub-paragraphs, 52 (d), subparagraphs aa to gg, 68A paragraph 1, third to sixth sub-paragraph and Article 68A, paragraph 1 implement Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights."

13.Paragraph 9 of Article 72 of Law 2121/1993, which was added by paragraph 14 of Article 46 of Law 3905/2010 (A' 219) is replaced as follows:

"A Presidential Decree, issued upon proposal of the Minister of Culture and Sports, may allow for the codification of the legislation on copyright, related rights and collective management in its entirety, for the amendment of the order and numbering of the provisions, for the merging of similar provisions and, in general, for any amendments necessary for the administrative codification of such legislation."  
"

14. Presidential Decree 42/2015 (A' 71) shall be repealed as of the date of entry into force of this law. This Presidential Decree shall still apply to pending cases before the Administrative Authorities.

15. a. Par. 10 of Article 54 of Law 2121/1993, added by Article 15 of Law 4463/2017 (A' 42) is amended with effect from 30.3.2017 as follows:

"10. The Minister of Culture and Sports may, after consulting with the HCO, and provided that there is a strong chance that the collective management organisation is unable to fulfil its obligations, and in particular to collect and attribute to rightholders the sums it receives on their behalf, due to, by way of example, the lack of own funds, appoint, as a pre-emptive administrative measure, a Temporary Commissioner, whose term of office shall be six (6) months, and which term may be renewed once (1) for up to three (3) months.

The Temporary Commissioner shall ensure that users receive payment and attribute it to rightholders. At the same time, the temporary Commissioner shall, on behalf of the organisation, bring any legal actions and appeals for defending the interests of rightholders which it represents, and shall represent the organisation in both judicial and extrajudicial procedures, in order to safeguard the rights of rightholders, as well as in any dispute arising from its own decision or action. In order to achieve these objectives, the Temporary Commissioner supersedes the administration as of the date of publication of his appointment in the Official Government Gazette.

At the same time, the Temporary Commissioner shall intervene, in a decisive manner, by immediately cancelling any act or decision not taken by the Commissioner himself in order not to disrupt the operation of the organisation and to avoid its bankruptcy.

The Board of Directors shall keep the Temporary Commissioner informed of other management issues, and in the event that he disagrees with the decision or action which may affect the viability of the organisation or the interests of the rightholders, the Commissioner shall make the decision himself.

The Temporary Commissioner is selected by the Minister for Culture and Sports among persons of recognized prestige and having adequate professional experience in business or organisation management or financial or legal matters.

The appointment of a Temporary Commissioner may not be invoked as a reason for amending or terminating any contract or agreement to which the organisation is a party.

The management bodies and the employees of the collective management organisation shall be required to immediately provide the Temporary Commissioner with any information or data requested and to facilitate the performance of his duties.

The Temporary Commissioner's liability, upon the exercise of his duties, shall be limited to malicious intent and gross negligence.

To assist the Temporary Commissioner in his work, the HCO may, upon proposal by the Temporary Commissioner, conclude service agreements with legal, financial or technical advisers, as well as with administrative personnel, subject to the approval of those persons and their remuneration by the Minister of Culture and Sports.

Permanent employees of Ministries, independent Authorities, as well as of legal entities governed by public and private law within the General Government, may be seconded to the HCO, in order to assist the Temporary Commissioner in his work. Such secondment shall be carried out by way of derogation from the applicable provisions, by a joint decision of the Ministers of Culture and Sports and any competent Minister, as the case may be. Seconded employees shall receive the entire salary of their organisation. The above remuneration shall be charged on HCO's budget.

The duration of service agreements, as well as of any secondment, may not exceed the length of the Temporary Commissioner's term of office.

The Temporary Commissioner's remuneration shall be determined, upon recommendation by the HCO, in the decision on his appointment, and shall be charged, along with the management fees and the remuneration of the persons hired to assist in his work, as per above, on the HCO 's budget.

Concerning compensation for work exceeding the mandatory working hours of persons assisting the temporary Commissioner, the provisions of item a of subparagraph 2 of paragraph C of Article 20 of Law 4354/2015 (A' 176) shall apply. Compensation for the above – mentioned mandatory overtime shall be attested by the Temporary Commissioner and shall be charged on HCO's budget.

The Commissioner shall submit to the Minister of Culture and Sports a summary report of his activities at the end of each month, as well as a schedule for the following month and a comprehensive report at the end of his term of office.

The term of office of the Temporary Commissioner shall expire upon expiry of the term for which he was appointed. Otherwise, the Minister of Culture and Sports may, by reasoned decision, revoke the appointment of the Temporary Commissioner for reasons connected with the performance of his duties or the need to reorganize the organisation."

b. Paragraph 10 of Article 54 of Law 2121/1993, as amended by this Law, shall no longer apply:

(a) if the appointment of the Temporary Commissioner is revoked or terminated by a decision of the Minister of Culture and Sports for any of the reasons set forth in the above provision; or

(b) if a Commissioner is appointed in accordance with paragraph 2 of article 52 hereof.