

Collecting Societies Act 2016 (Verwertungsgesellschaftengesetz 2016 — VerwGesG 2016)

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Text

1 Section General

Subject of this Federal Act

§ 1. (1) This Federal Act implements Directive 2014/26/EU on the collective management of copyright and related rights and the granting of multiterritorial licences for rights in musical works for online use in the internal market, OJ L 84, 20.3.2014, p. 72. § 25a and 25b in the version of the Copyright Novelle 2021 after I No 244/2021 implementing Directive (EU) 2019/790 of 17 April 2019 on copyright and related rights in the digital internal market and amending Guidelines atitues.L 130 of 17.05.2019, p. 92.

(2) It lays down the requirements for collective management of copyright and related rights.

(3) The provisions of this Federal Act governing collective management organisations also apply to institutions which, even if only partially, are owned by a collective management organisation or are controlled by a collective management organisation and carry out activities which, if carried out by a CMO, are subject to the provisions of that Federal Act.

Definitions

§ 2. Within the meaning of this Federal Act, the expression means

1. 'Collective management organisation' means an organisation that:

a) exclusively or mainly aimed at exercising rights in works or related rights in a collected form and in the interest of several rights holders on the basis of a statutory or contractual authorisation; and

b) owned by rights holders or entities represented, or controlled by rightsholders or their institutions, or not at profit;

2. 'Independent collective management organisation' means an organisation that perceives rights such as a collective management organisation, whether directly or indirectly, in whole or in part, or directly or indirectly, in whole or in part by rights holders and is aimed at profits;

3. 'Right holder' means a holder of exclusive rights or rights to remuneration or participation, irrespective of whether they own those rights or claims as original or holder of rights derived from rights; CMOs are not rightsholders within the meaning of this Federal Act;

4. 'Right of reference' means a right holder who has concluded a recognition agreement with a collective management organisation;

5. 'Member' means a right holder, an entity representing rightsholders, including other CMOs and organisations of rights holders that meet the conditions for membership of the CMO and is absorbed by it;
6. 'Revenue from rights' means the amounts collected by a collective management organisation for the rightsholders from an exclusive right or a claim for remuneration or participation;
7. 'Exercise of rights' means the exercise of exclusive rights and of remuneration or equity claims, irrespective of the nature of the holding of the CMO with its perception;
8. 'Administrative costs' means the amount collected, removed or cleared by a collective management organisation to cover its costs in the exercise of copyright and related rights from the income from the rights or the proceeds from the investment of those revenue;
9. 'Repertoire' means all the works or other subject -matter for which a CMO manages rights;
10. 'Multi-territory licence' means a licence extending to the territory of more than one Member State of the European Union or a contracting party to the European Economic Area;
11. 'Online rights in musical works' means the rights conferred on the author in a musical work or related linguistic work within the meaning of Article 2 and 3 of Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society, OJ L 167, 22.6.2001, p. 10, in the version of the correction OJ L 6, 10.1.2002, p. 71, which is necessary for providing an online service;
12. 'User' means any natural or legal person who carries out acts which require the authorisation of a rightsholder or which requires payment of compensation or compensation to a right holder;
13. 'User organisation', an overall contractual organisation within the meaning of § 48.

2 Section

Perception authorisation

Requirement and conditions for authorisation to perceive the sign

§ 3. (1) rights under the Copyright Act may only be exercised in the interests of several rights holders with the authorisation of the regulatory authorities in the interest of several rights holders (authorisation to perceive).

(2) The authorisation to perceive the sign may only be granted to a collective management organisation or independent collective management organisation with its registered office in Austria, which satisfies the conditions laid down in Sections 5 and 7 and provides full assurance that it will perform the tasks and obligations incumbent upon it under this Federal Act. Furthermore, a collective management organisation may be granted it only if it complies with the conditions set out in § 6.

(3) Collective management organisations or independent collective management organisations based in another Member State of the European Union or a state party to the European Economic Area, which are entitled under the law of their home country to hold collective rights, do not require any authorisation to be accepted for the purposes of obtaining licences within the meaning of § 54.

(4) If rights are exercised without authorisation to perceive rights within the meaning of subsection 1 or without authorisation within the meaning of subsection 3, the collective management authority shall, at the request of any party or ex officio, order the non-observance of the trade mark.

(5) If rights are exercised without recognition within the meaning of subsection 1 or without authorisation within the meaning of subsection 3, the rights perceived cannot be asserted by the undertaking concerned. He is not entitled to take legal action privately. If CMOs exceed their authorisation to perceive, the transfer of rights for the purposes of grasped perception is ineffective in this respect.

Independent CMO

§ 4. The provisions of this Federal Act governing collective management organisations are to be applied to independent collective management organisations, with the exception of Sections 6, 12 to 22, 76 and 92 (2).

Home professional business management

§ 5. A collective management organisation must have a main professional and technically qualified business management; the condition is in any case fulfilled if an employee of the collective management organisation entrusted with business management tasks is professionally qualified and is active primarily for the CMO.

Organisation rules

§ 6. (1) CMOs must ensure, in their organisational regulations (cooperative contracts, articles of association, statutes, statutes), that their relatives are able to participate appropriately in the formation of the company's will; where there are two or more groups of reference holders with different interests in a CMO, it must also be ensured that their interests are weighed and proportionally taken into account. In this respect, it is appropriate to ensure that the business management of the company can effectively perform its duties and that, at best, the necessary changes to the organisation rules mentioned are not unnecessarily difficult.

(2) In order to properly safeguard the interests of the reference persons who are not included as members of the CMO, as members of an entity representing rightsholders who are involved in the formation of the CMO's will or have equivalent rights to a member pursuant to § 17, a joint representation shall be formed. The regulations governing use of the CMO must contain provisions on the choice of representation by the reference officer and on the powers of representation. At least the following rights must be granted to represent:

1. the right to request the inclusion of items on the agenda of the main meeting of the Members;
2. the right to comment on the subject matter of the agenda of the main meeting of the Members,
3. the right to require the management of information on matters of the collective management organisation;
4. the right to be involved in all matters relating to the conditions of the perception contract (Section 14 (2) (1)) and the administration of revenue from rights (Section 14 (2) (3) to (7)); this right of participation is intended to take into account the economic significance of the rights which the collective management organisation perceives for these rightsholders.

(3) Furthermore, the organisation rules must contain the conditions and criteria for membership (§ 12).

Monopoly principle

§ 7. (1) only one collective management organisation may be granted permission to perceive a particular right.

(2) If two or more applicants apply for the same authorisation, they must be granted the person who is expected to perform these tasks and obligations best; in the event of doubt, it must be assumed that existing CMOs perform these better than those that have not yet been granted permission to perceive. If the decision cannot be made in accordance with this criterion, the authorisation to perceive must be granted to the applicant, who is expected to attach greater economic importance to the rights to whose perception it has been entrusted; even though the economic significance is the same, this is the case.

(3) Moreover, in terms of tunality, more CMOs should no longer be granted a recognition permit than is necessary for an appropriate and economical perception of the rights based on the interests of rights holders and users. Where a new collective management organisation promotes the granting of an authorisation to perceive, the supervision must also invite the existing CMOs that meet the conditions for obtaining the authorisation in question to apply for the granting of the authorisation.

Procedure

§ 8. Before obtaining an authorisation to perceive the sign, the following should be heard:

1. the total contractual entities, in so far as they are eligible for registration as a single contractual partner in accordance with the field of activity of the CMO; and
2. the other Austrian CMOs.

Duration and publication of authorisation for perception

§ 9. (1) the authorisation for perception is to be granted without a temporal restriction. It shall be terminated by the surrender or revocation by the supervision authority.

(2) A surrender of the authorisation will take effect if the regulatory authority has made a disclaimer on its website.

(3) The granting, content and expiry of a authorisation for perception must be published by the regulatory authority on its website.

Delimitation of perception authorisations

§ 10. Where the scope of an authorisation for perception is unclear or disputed, the regulatory authority must decide on its delimitation at the request of a party or ex officio, and publish that decision on its website.

Transfer of perception and association of collective management organisations

§ 11. (1) a collective management organisation may also make use of a authorisation to perceive the mark granted to it by transferring the perception of the right in its entirety or in part to another collective management organisation.

(2) Such a transfer shall be notified to the supervision authority. The display must state that the requirements under subsection 3 are met. The supervision may prohibit the transfer within four weeks from the date of receipt of the display or the remedy of a deficiency in the display. It must indicate the transfer and the content thereof on its website; the transfer takes effect with this notice.

(3) The transfer shown may be prohibited if the transferring collective management organisation does not provide full assurance that it will perform the tasks and obligations of the acquiring company under this Federal Act for the exercise of the right conferred on it.

(4) By transferring an authorisation to perceive the mark, the overall contracts, the contracts of perception and the contracts for the granting of use authorisations from the transferring collective management organisation for the rights entrusted to the CMO to be exercised are transferred to the acquiring CMO; the effects of the regulations governing the transfer of rights also apply to the acquiring collective management organisation.

(5) Associations of collective management organisations are not subject to collective control by the court.

(6) The monitoring authority may invite two or more CMOs to examine the possibility of an association if it is expected that such an association will enable more efficient and efficient management of rights.

3 Section

Membership and corporate record

Membership

§ 12. (1) CMOs must include rightsholders and organisations representing rightsholders as members, including CMOs and organisations of rights holders, if they meet the conditions for membership. These conditions must be based on objective, transparent and non-discriminatory criteria.

(2) If a collective management organisation refuses a request for membership, the reasons for this decision must be understood by the party concerned.

(3) CMOs have allowed their members and reference holders to communicate with them using electronic means of communication.

(4) CMOs must keep lists of members and update them on a regular basis.

CMO bodies

§ 13. (1) in so far as the corporate law governing the collective management organisation does not provide for such bodies, the organisational regulations of a collective management organisation have to provide for the organisation of a collective agreement between members, the management of the business of the CMO and the supervision of the management of the business.

(2) If a collective management organisation cannot, in accordance with the corporate law governing that organisation, be set up in order to form a joint arbitrary body of members, its organisation rules are to grant the powers of the main meeting of members to the body which is responsible for the supervision function. The provisions concerning the main meeting of members shall apply by analogy to the governing body of such a collective management organisation.

Meeting of Members

§ 14. (1) the collective management organisation in which members participate and exercise their vote (main meeting of Members) shall be appointed at least once a year.

(2) The composition of the Members shall decide on:

1. Amendments to organisational rules and conditions of perception contracts;
2. the appointment, dismissal and supervision of the members of the Management and Management Boards, the authorisation of their remuneration and other services, including monetary and monetary services, pension rights, claims for other allowances and collections to them; the appointment or dismissal of members of the governing body, or the approval of their remuneration and other benefits, shall not be decided by the Grand Board if the competence to decide on it has been delegated to the Board of Governors;

3. the general principles for the distribution of amounts received by rightsholders, the use of the non-divisible amounts and the withdrawals from the revenue from the rights and the income from the investment of revenue from rights;
4. the general investment policy regarding the income from the rights and any income arising from the investment of revenue from rights;
5. risk management principles;
6. authorisation for the purchase, sale or lending of real estate;
7. authorise associations and alliance, set up subsidiaries and other organisations and acquire shares or rights to other organisations;
8. authorise the purchase and issuing of loans and the establishment of loan agreements or guarantees;
9. the appointment and dismissal of the final examiner and the approval of the transparency report; for collective management organisations in the legal form of a cooperative, the prerequisites under § 22 (6) Genossenschaft are not affected.

(3) The main meeting of members may delegate the powers under subsection 2 points 5 to 8 to the Board of Appeal.

Participation and vote

§ 15. (1) all members of a CMO shall be entitled to participate in the meeting of members and shall be entitled to vote.

(2) The organisation rules of a collective management organisation may allow restrictions on the right of members to attend the meeting of members and to exercise their vote there on the basis of one of the following criteria:

1. Duration of membership,
2. Amounts received by a Member or due to him/her,

provided that such criteria are determined and applied in a manner that is fair and proportionate.

(3) Each member of a collective management organisation has the right to appoint another natural or legal person who attend the meeting of the Members in his name and shall vote unless representation leads to a conflict of interests. The organisation rules of a collective management organisation may limit the appointment of representatives to represent by other members or by the maximum number of representatives, provided that this does not adversely affect the appropriate and effective participation of the members in the CMO's decision-making process.

(4) A representative will be appointed for only one meeting of the Members. In the main meeting of the Members, the representative shall enjoy the same rights as the Member who appointed him. The representative shall be obliged to vote in accordance with the instructions of the Member who appointed him/her.

(5) The organisation rules of a collective management organisation shall lay down the conditions under which members may attend the main meeting of members, even without a presence on site and without a representative, and be able to exercise their right to vote by means of electronic communications. You can authorise the exercise of other membership rights electronically.

Delegation meeting

§ 16. (1) the organisation rules of a collective management organisation may provide that the powers of the main meeting of members shall be exercised by a meeting of delegates elected by the members of the collective management organisation at least every four years.

(2) Where members' powers are delegated to a delegation meeting, the appropriate and effective participation of members in the decision-making process of the CMO, as well as a fair and balanced representation of different categories of members in the delegation meeting, must be ensured.

(3) The provisions concerning the main meeting of Members shall apply mutatis mutandis to the delegation meeting.

Reference payroll

§ 17. (1) the organisational regulations of a collective management organisation, which include institutions representing the reference holder of the collective management organisation, may provide that all or individual powers of the main meeting of members are to be exercised by a board of pupils.

(2) The provisions concerning the main meeting of Members shall apply by analogy to the reference leave meeting.

Collections (Cabinet -)

§ 18. For CMOs in the legal form of the Genossenschaft, the cooperative contract may specify that all or some of the functions of the General Council (Chief Plenary) are carried out in meetings of the courses. In the case of the courier meetings, the provisions relating to the General Court (Chief Plenary) shall apply by analogy.

Supervision Board

§ 19. (1) CMOs have to appoint a board. The organisation rules of a collective management organisation shall ensure a fair and balanced representation of different categories of reference holders in the supervision board.

(2) The Management Board is required to monitor business management and, in particular, to ensure that the decisions of the main meeting of members on the general principles pursuant to § 14 (2) (3) and (4) are implemented.

(3) The Management Board must hold a meeting at least four times in the financial year. The meetings will be held on a quarterly basis.

(4) The Liaison Board shall report to the Grand Board at least once a year on the exercise of its powers.

Business management

§ 20. (1) CMOs shall make all necessary arrangements to ensure that the persons carrying out the business are performing their task in a solid, prudent and appropriate manner using sound administrative and accounting procedures and internal control mechanisms.

(2) The members of the management body are obliged in respect of the collective management organisation to exercise the care of an ordinary trader in its management.

(3) The members of the governing body must report to the governing board at least once a year on fundamental issues of the collective management organisation's future business policy and present the future evolution of the asset, financial and income position by means of a preliminary account (annual report). They also have to report to the Management Board on a regular basis, at least on a quarterly basis, about the progress of the transactions and the situation of the CMO in comparison with pre-clearance, taking into account future developments (Quarte Report). If there is any valid reason, the Chairperson of the Management Board shall be informed immediately; furthermore, circumstances that are of considerable importance to the genuineness or ners of the collective management organisation must be reported to the Management Board without delay (special report).

Billing

§ 21. (1) the members of the governing body must ensure that an accounting system and an internal control system are managed which meet the requirements of the collective management organisation. They also have to prepare annual accounts for the preceding financial year, irrespective of the size and legal form of the CMO in the first five months of the annual year. Sections 189a to 216, Section 222 (2) and (3) and Sections 223 to 234 UGB are to be applied accordingly. Further legal provisions on accounting remain unaffected.

(2) The members of the governing body shall separate the revenue from the rights and the proceeds from the investment of that revenue, as well as the CMO's own assets, the proceeds of that assets, revenue to cover administrative costs and other activity, separately from the accounting.

Prevention and disclosure of conflicts of interests

§ 22. (1) CMOs shall make all necessary arrangements to avoid any conflict of interests between the members of their institutions and their employees entrusted with management tasks, as well as for any conflict of interests that may have a negative effect on the interests of their advisers. In cases where conflicts of interests cannot be avoided, they must take the necessary measures to identify, remedy, monitor and disclose such conflicts of interests.

(2) The members of the governing body and the supervision board and the employees of the CMOs entrusted with business management shall make a statement to the main meeting of members on an annual basis, in which they disclose the following facts:

1. its participation in the CMO,
2. the allowances (including pension payments, contributions in kind and other services) which they received from the CMO in the course of the financial year;
3. the amounts received in the capacity as the reference person in the expired financial year, and

4. Details of actual or possible conflicts between its personal interests and the interests of the collective management organisation, or between its obligations towards another person and its obligations towards the CMO.

(3) The declarations referred to in subsection 2 shall also be submitted to the private meeting of members at the latest when they are issued and shall be explained at the request of the Board.

4 Section

Rights and obligations to rightsholders and rightsholders

Obligation to perceive

§ 23. (1) CMOs must conclude contracts with rights holders, upon request, on reasonable and uniform terms, for the exercise of the rights belonging to their area of activity (viewing contracts).

(2) CMOs have to establish rights or categories of rights, in their terms and conditions, for certain types of use, rights to certain types of works and other subject matter, and rights for territories that a right holder may grant after its choice by the CMO. When determining those rights or categories of rights, the balance must be maintained between the freedom of the rightsholders to have their works or other subject matter and the ability of the CMO to effectively exercise the rights.

Perception contract

§ 24. (1) the rights or categories of rights granted to a CMO by a reference person and the nature of the works or subject -matter for which it grants rights shall be expressly specified in the perception agreement. The assignment of the rectangle must be documented.

(2) Amendments to the terms and conditions of contracts of perception shall also take effect for guardians who have already concluded a perception agreement, unless they terminate the perception agreement within four weeks after the amendment has been notified to them in writing. Extensions of the scope of the rights and claims held by the collective management organisation shall take effect if, within the same time limit, a beneficiary does not oppose them in the form provided for zes; Restrictions will in any case take effect.

Perception Picture

§ 25. At the request of a collective management organisation, an overall contractual entity or user, the monitoring authority must establish, by means of a communication, that a collective management organisation which has granted authorisation to perceive the supervision holds the rights to the virtually entire range of works or other subject -matter for its entire area of activity or some of them. This decision shall give grounds for the presumption that the collecting society manages the rights for the entire collection of works or other protectable matter within the area laid down by the decision unless there is proof to the contrary. In so far as the conditions for the finding ultimately no longer apply, the regulatory authority shall annul the decision of its own motion or at the request of the Office; the aforementioned persons are entitled to make the application.

Exercise of rights in unavailable works

§ 25a. (1) if a collective management association perceives the rights of reproduction, distribution, broadcast, public reproduction pursuant to Section 18 (3) of the Copyright Act or made available to the public pursuant to § 18a of the Copyright Act to a significant proportion of the stock of works used in Austria or other subject -matter protected by its area of activity, it may grant to a cultural heritage institution (Section 42 (7) of the Copyright Act) an authorisation for non-commercial use, including for the rights of rights holders that it has not granted by way of a perception agreement or a contract with another collective management organisation,

1. the works or subject -matter concerned are permanently in the collection of the facilities,
2. Information on the purpose of identifying the works or subject -matter concerned and an indication of the right holder's right to oppose through the non-available portal established by the European Union Intellectual Property Office for 6 months; and
3. the proprietors of the rights to the works or subject-matter offered for use as unavailable do not oppose the exercise of their rights by the CMO.

(2) The use authorisation pursuant to paragraph 1 may be granted for Austria, for any other Member State of the European Union or for any other party to the Agreement relating to the European Economic Area. In relation to this authorisation, the rights holders who have not concluded a licence agreement with the collective management organisation and whose rights are not exercised on the basis of a contract with

another collective management organisation also have the same rights and obligations as the CMOs' reference holders.

(3) Section 56f (3) to (7) and, insofar as they refer to this provision, Section 71 (6), Section 74 (7), Section 76 (6), Section 76a (5), Section 76d (5) and Section 76f (5) of the Copyright Act are to be applied with the proviso that

1. the opposition can also be declared to CMOs that they have to inform the cultural heritage institutions and the CMO without delay of receipt of the opposition, to revoke the exploitation licences granted to the CMO without delay and to set a reasonable time limit for the termination of use, and the right of the rightsholder to dispel the revenue collected for the exploitation of its works or property remains unaffected;
2. a number of works or other subject -matter may be used in the cases referred to in Section 56f (6) of the Copyright Act, if the CMO granting the authorisation of use also perceives the rights of reproduction, distribution, communication to the public or making available to the public a significant proportion of the stock of works or other subject -matter of protection of their scope of activity, including for the rightsholders of the third country; and
3. a cultural heritage institution that intends to use a work as unavailable also contains information about the parties to the use authorisation, the areas and uses covered, to the European Union Intellectual Property Office for the purpose of incorporation into the Office's online portal.

(4) CMOs that issue user licences for unavailable works or property rights have to publish this on their website and give rightsholders an easy way to oppose permission to use. The exercise of rights in unavailable works or subject -matter shall be shown separately in the accounts to the rightsholders and in the transparency report as a separate category.

(5) The supervision promotes dialogue between user and rights holders' representatives, including CMOs and other stakeholders, in order to promote the granting of usage licences for unavailable works while respecting the rights and interests of rightsholders.

Extended collective rights perception

§ 25 (b). (1) a collective management organisation may issue user licences for rightsholders that have not granted it these rights through a contract of perception or a contract with another collective management organisation even where and to the extent that:

1. the use authorisations fall within a specific area for which the regulatory authority has authorised it to exercise the rights of external pages;
2. three months after the publication of the information referred to in paragraph 4 on the CMO's website, and
3. the proprietors of the rights to the works or subject -matter concerned do not oppose the exercise of their rights by the CMO.

(2) The supervision authority must grant authorisation pursuant to subsection 1 point 1, provided that:

1. the use authorisations should be applied to precisely certain areas of use in which the obtaining of the rightsholders' authorisation is normally adversely affected in each individual case and is unrealistic to such an extent that the required granting of the authorisation is unlikely due to the nature of the use or type of works or other subject matter in question; and
2. the collective management organisation perceives the rights concerned for the relevant area in a significant proportion of the portfolio of works or other subject -matter used domestically.

The authorisation shall be revoked if the conditions are removed or the CMO surrendered its authorisation.

(3) The monitoring authority must publish the authorisation and its revocation on its website and inform the European Commission about the approved area of use, the purpose and types of usage authorisations covered by the authorisation, and how the CMO complies with its obligation to publish.

(4) The collective management organisation shall publish the authorisation of the regulatory authority with an indication on its website that it intends to grant usage licences for outdoor slogans if and as long as it does not oppose the granting of such user licences. In doing so, it has regard to the possibility of opposition and its consequences, the other rights and obligations of the external parties (paragraph 6), the conditions for perception agreements (§ 44 (3)), the overall agreements (section 44 point 4) and regulations of use (§ 44 point 5), the conditions for contracts of use (standard licence agreements); Section 44 point 6) and the rates under which they are calculated charges and statutory allowances

(Section 44 point 7), insofar as these rates are relevant to the uses covered by the authorisation of the regulatory authority.

(5) A right holder may oppose the extended collective rights perception or the granting of individual user licences in general or in certain cases even after the granting of a licence of use or after commencement of use of his or her works or other subject-matter. The opposition may be declared to the CMOs granting the authorisation or to the user; the user and the CMO must inform each other without delay of receipt of the opposition. The collective management organisation must revoke without delay any use authorisation and set a reasonable time limit for the termination of use. This is without prejudice to the right holder's claim to divulgation of the revenue collected for the use of its works or subject-matter.

(6) In relation to the usage licences granted on the basis of this provision, the rights holders who have not concluded a licence agreement with the collective management organisation and whose rights are not exercised on the basis of a contract with another collective management organisation also have the same rights and obligations as the licensees of the CMO.

(7) Use certificates pursuant to subsection 1 may only be granted for use domestically.

Licences for non-commercial use

§ 26. (1) even after granting exclusive rights to the CMO, the rightsholder remains entitled, subject to the conditions laid down for that purpose by the collective management organisation, to allow others to use their works or subject-matter in a non-commercial manner.

(2) The main composition of a collective management organisation shall lay down the conditions for exercising this right. They must be included in the conditions of perception contracts.

Termination of the perception contract

§ 27. (1) rightsholders may terminate the viewing contract in whole or in part, within a reasonable period of not more than six months. It may be provided in the conditions of perception contracts that such an end of the perception contract can only be pronounced at the end of the financial year. Furthermore, this right cannot be made dependent on further conditions, such as the granting of rights to another CMO.

(2) CMOs may provide, in their terms and conditions for perception contracts, that the termination of the perception agreement is without prejudice to the granting of use granted before the termination of the perception contract.

(3) Assignee who terminated the perceiving agreement in whole or in part shall retain their rights under this Federal Act in relation to revenue lost from use prior to the termination of the perception agreement or prior use authorisations issued therefrom.

Information undertakings before concluding a contracts for perception

§ 28. (1) CMOs must inform the rightsholders of their rights under Sections 23, 24, 26 and 27 and the conditions for the exercise of the right pursuant to Section 26 prior to the conclusion of the licence agreement; it is sufficient for this purpose to indicate to the rightsholders the conditions of perception contracts.

(2) They also have to clarify rights holders before concluding the perception agreement regarding administrative costs and other withdrawals from the revenue resulting from the rights and the withdrawals from the installations of revenue resulting from rights.

Perception of rights

§ 29. (1) CMOs shall protect and operate rights effectively and in their own name, which have been granted to them by virtue of a licensing agreement. In so doing, they must proceed as much as possible and ensure that there is a reasonable relationship between the effort to capture the facts on which the claim is based, the enforcement of these claims and the highest level of distribution accuracy, on the one hand, and the benefits obtained from them, on the other. They must act in the best interests of their relatives and may only impose on them obligations which are objectively necessary for protecting their rights and interests or for the effective exercise of those rights.

(2) CMOs also have to provide for the maintenance and exploitation of the rights referred to in paragraph 1, including abroad by concluding mutual contracts or otherwise, to the greatest extent possible; here too, the principles of effectiveness, economy and comparability of funds set out in paragraph 1 must be observed.

Considered for the following intended purpose

with regard to the reference period, see § 90

Revenue recovery and management

§ 30. (1) CMOs must exercise due care in relation to the confiscation and management of revenue resulting from the rights.

(2) CMOs are required to distribute the revenue from the rights and the proceeds from the investments made to the rightsholders or to use them for the purposes decided by the main meeting of members (Section 14 (2) (3)).

(3) If a collective management organisation assigns revenue from the rights or the proceeds from the investment of such revenue, this must take place in the best interest of the rightsholders whose rights it holds, and in accordance with its general investment policy and risk management principles. In doing so, it

1. to ensure that the investment is made solely for the benefit of those rights holders;
2. investment the assets in such a way as to guarantee the security, quality, liquidity and efficiency of the portfolio as a whole; and
3. to reasonably diversify the investments in such a way as to avoid excessive dependency on a particular asset and risk concentration in the portfolio.

Considered for the following intended purpose

with regard to the reference period, see § 90

Discrimination of reference holders of other CMOs

§ 31. CMOs may not treat rights holders whose rights are exercised under an agreement with other collective management organisations. This applies in particular to the applicable rates, the administrative costs and the conditions of recovery and distribution.

Considered for the following intended purpose

with regard to the reference period, see § 90

Deductions

§ 32. (1) payments must be reasonable in relation to the services provided to rightsholders by the collective management organisation and determined on the basis of objective criteria.

(2) Administrative costs shall not exceed the amount of objectively justified and substantiated costs incurred by the CMO in the exercise of the rights.

(3) Only administrative costs and other amounts for which the CMO has expressly consented to the reduction may only be deducted from revenue received by CMOs from the management of rights for other CMOs.

Social and cultural institutions

§ 33. (1) CMOs may set up social and cultural institutions for their reference holders and their members.

(2) CMOs claiming claims for storage media remuneration are required to create social and cultural institutions, which will contribute 50 % of the total revenue from this allowance minus the related administrative costs. However, the obligation to create social institutions does not apply to CMOs, the reference persons of which are exclusively broadcasting companies.

(3) CMOs which claim claims under Section 76 (8) of the Copyright Act are required to create social and cultural institutions and assign to them that part of the revenue which cannot be assigned individually to any performer.

(4) CMOs have to lay down established rules for benefits from their social and cultural institutions on the basis of fair criteria, in particular with regard to access to such services and the scale thereof.

(5) As regards the means to be paid to the social and cultural institutions arising from the memory media remuneration, the Federal Minister for Justice may determine by means of regulations which circumstances the rules to be laid down in paragraph 4 must take into account. That regulation must ensure, inter alia, that:

1. there is a balance between contributions to social institutions, on the one hand, and to cultural institutions, on the other;
 2. in the area of social institutions, it is primarily possible to provide support to individual reference holders and their members in emergency positions;
 3. the funding in the field of cultural institutions will promote the interests of reference holders.
- (6) The supervision publishes every year on its website a report on the extent and use of the income received from social and cultural institutions in accordance with section 2 of the previous year.

Considered for the following intended purpose

with regard to the reference period, see § 90

Distribution

§ 34. (1) CMOs must establish established rules for distribution on the basis of the general principles adopted by their home meetings, which excludes arbitrary action (rules of distribution). The rules on distribution can assess cultural high-quality works or property rights higher than other and original works than editing. CMOs to which authors and proprietors of assigned rights belong may be taken into account in the distribution of members of both groups, irrespective of who has brought the rights into the CMO.

(2) The distribution and distribution to rightsholders and other CMOs must be carried out regularly, carefully, correctly and as soon as possible. Insofar as possible without unreasonable expense, this is to be carried out as accurately and traceably as possible.

(3) The distribution and disbursement must take place no later than nine months after the end of the financial year during which the income from rights and entitlements was collected. In the case of amounts received from other collecting societies, this must take place no later than six months following receipt.

(4) The time limits under subsection 3 extend by the time required to overcome any obstacle to distribution and distribution, such as a lack of user reports or lack of information on works and rightsholders.

(5) If the amount of the amounts to be distributed in detail does not justify the expense associated with the distribution, then the release can be maintained until the amounts to be paid have reached a reasonable amount. These amounts must be shown separately in the CMO's book-keeping.

Considered for the following intended purpose

with regard to the reference period, see § 90

Ironable amounts

§ 35. (1) if rights holders cannot be identified or located within the time limits laid down in Section 34 (3) and (4), the amounts to which they are entitled must be shown separately in the CMO's bookkeeping.

(2) CMOs have to check their lists of members and other easily available records and take all other necessary steps to identify and locate those rights holders. To that end, they must provide details of works and other subject -matter to the following persons and bodies no later than three months after expiry of the time limits referred to in Section 34 (3) and (4):

1. their reference holder and their members, represented by the Facilitator, and
2. any collective management organisation with which they have concluded agreements on granting collective rights.

(3) The information referred to in paragraph 2 shall include, where available, the following:

1. the title of the work or other subject-matter,
2. the name of the rightsholder,
3. the name of the publisher or producer concerned; and
4. any other relevant information that could be useful for identifying the rightsholder.

(4) If these steps are unsuccessful, CMOs shall be required to publish the information under subsection 3 on their website no later than one year after expiry of the period referred to in subsection 2.

(5) If the amounts received by the rightsholders cannot be distributed after three years following the end of the financial year in which the revenue from the rights was collected, even though all the necessary

measures have been taken to identify and locate the rightsholders, these amounts are considered not to be distributed.

5 Section

Rights and obligations towards users

Granting of user licences

§ 36. (1) CMOs must make it easier for users of their works and services to obtain the necessary exploitation authorisations under reasonable conditions, in particular for reasonable remuneration.

(2) CMOs and users must act in good faith to grant use licences and provide each other with all the necessary information. Where a contract for the granting of an authorisation to use is not concluded merely because the CMO did not enter into negotiations in good faith or refused a contract without due cause, the user has a right to grant the authorisation under reasonable conditions.

(3) Where the collective management organisation refuses the use authorisation merely because no agreement can be reached on the calculation of the fee, the consent shall be deemed to have been granted if the user has paid the undisputed part of the fee to the CMO and has provided security in the amount of the disputed part of the fee by means of a judicial deposit or the payment of a bank guarantee.

(4) The copyright ssenat may reasonably reduce the amount of the security at the request of the user. A decision on such a request must be made as quickly as possible without any formal evidence proceedings, applying by analogy Section 273 of the Austrian Code of Civil Procedure.

Conditions and rates of use and remuneration

§ 37. (1) terms and rates of use and remuneration must be based on objective and discriminatory criteria. However, CMOs are not obliged to take advantage of usage licences as a precedent that they have awarded online services offered to the public for less than three years.

(2) Without prejudice to Section 50 (4), it must be suggested in the licence agreements that CMOs are regularly provided by the users within the framework of the reasonable amount of information necessary for calculating and distributing the charges.

(3) CMOs have to ensure that the rightsholders they care receive reasonable remuneration for the use of their rights and claims. Rates of exclusive rights and compensation claims must be duly reconciled with, inter alia, the economic value of the exploitation of the rights, taking into account the nature and extent of the use of the work and other subject matter, as well as the economic value of the services provided by the CMO. Furthermore, the statutory tariff criteria must also be taken into account.

(4) CMOs must inform the relevant users without delay of the criteria forming the basis of the tariff list.

Rates for equipment and storage media

§ 38. (1) before claiming new remuneration for devices or storage media, the CMO must determine the actual use of the devices or storage media by means of empirical investigations and, on the basis of which, communicate with the user organisation about the appropriate level of remuneration and the conclusion of a general contract. Before a tariff is set up, the Federal Chamber of Employment must also be given the opportunity to submit observations.

(2) Orders and results of empirical investigations must be published.

Advisory gears for equipment and storage media payment

§ 39. (1) an advisory board is established for consultancy with regard to the equipment and storage media remuneration pursuant to § 42b UrhG.

(2) The task of the Advisory Board is to monitor and assess the market for duplicators and storage media in order to capture new devices and storage media, or to change use, and to facilitate the conclusion or renegotiation of overall contracts.

(3) The Board shall be composed of representatives of the CMOs requesting the allowances and user organisations.

(4) The collective management authority, as Registry, assists the advisory board in the performance of its duties. It publishes an annual report on the activities of the Advisory Committee on its website.

(5) The Federal Ministry of Justice can lay down more detailed provisions by means of regulations.

Response to queries, electronic communications

§ 40. (1) CMOs must reply user requests without delay and inform users of the information they need for a permit to use. Once all the necessary information has been received, they must either submit to users without delay offers for use or to give a reasoned explanation as to why they refuse the authorisation for a specific use.

(2) CMOs have the option of communicating with them by using electronic means of communication.

Considered for the following intended purpose

with regard to the reference period, see § 90

6 Section

Transparency and reporting obligations

Billing against rights holders

§ 41. (1) CMOs shall invoice rightsholders to which they assigned or distributed revenue from the rights in the reporting period at least once a year. The accounting should give right holders sufficient grounds for checking the correct allocation and payment of amounts to them.

(2) The annual accounts must at least contain:

1. the contact details of the right holder,
2. the revenue assigned to the rightsholder and the amounts distributed to him/her broken down by categories of rights and types of use;
3. the period of account uses, unless the CMO does not have the data required for objective reasons such as the absence of use reports,
4. the discounts related to revenue broken down into administrative costs, withdrawals for the provision of social, cultural or educational services and withdrawals for other purposes; and
5. revenue assigned to the rightsholder but not yet distributed.

(3) CMOs whose members represent rights holders may fulfil their obligations under subsection (1) through those members.

Considered for the following intended purpose

with regard to the reference period, see § 90

Accounting against other CMOs

§ 42. (1) CMOs must invoice other CMOs, at least once a year, in electronic form at least once a year.

(2) The annual accounts must at least contain:

1. the revenue assigned to the other CMO and the amounts distributed to it, broken down by categories of rights and types of use;
2. the revenue assigned to the other CMO but not yet distributed,
3. the discounts related to revenue broken down into administrative costs, withdrawals for the provision of social, cultural or educational services and withdrawals for other purposes;
4. Information on user licences granted or refused for works and other subject matter from the Repertoire of the other CMO;
5. Information on decisions of the main meeting of members, insofar as they are decisive for the exercise of the rights covered by the agreement with the other CMO.

Repertoire information

§ 43. (1) CMOs are obliged to provide free of charge information as to whether they claim the right in Austria to use a work or other subject -matter of protection in the manner intended by the applicant. However, CMOs may require a charge set by CMOs to answer them with the authorisation of the regulatory authority and make the provision of information dependent on the payment thereof in advance, if the response to the request requires a particular effort.

(2) CMOs are also obliged to provide, without delay, information about their Repertoire to other CMOs for which they perceive rights or charge them with the management of rights, upon a sufficiently reasoned request.

(3) The information referred to in paragraph 2 includes

1. the existence of works and other subject -matter falling within their Repertoire or, if this can not be determined, the types of works or other subject -matter of protection,
2. the rights they perceive for their rightsholders or other CMOs; and
3. the territories for which they are entitled.

(4) When providing information, CMOs may take reasonable measures, where necessary, to protect the integrity of the data, to monitor their use and to protect commercially sensitive information.

Publication obligations

§ 44. CMOs must make the following documents, as currently valid, available on their website:

1. the perspectives of perception,
2. the organisation rules, including membership conditions;
3. the conditions of perception contracts,
4. the general contracts applicable to them;
5. the regulations governing their use,
6. the terms and conditions for contracts of use (standard licensing agreements)
7. the rates according to which they charge charges and legal remuneration;
8. a list of persons carrying out the business of the CMO;
9. the general principles for the distribution of amounts received by rights holders, the distribution rules and the rules on benefits from social and cultural institutions;
10. the general principles governing the use of the non-divisible amounts;
11. the general principles for administrative management;
12. the general principles for other vent, including the withdrawals for social and cultural institutions;
13. a list of contracts with foreign collective management organisations with the names of those collective management organisations,
14. Lists of the names (top names) of their relatives and their members, indicating any substantive or territorial restrictions on the perception of rights; and
15. the means for complaints and alternative dispute resolution.

Considered for the following intended purpose

with regard to the reference period, see § 90

Transparency Report

§ 45. (1) CMOs must draw up annual transparency reports which contain the annual accounts (in any case consisting of balance sheets, profit and loss accounts and cash flow accounts), reports on activities in the expired financial year, reports on the withdrawals for social and cultural institutions and details of the following items:

1. the refusal of use authorisations in the previous financial year,
2. a description of the CMO's legal form and organisational structure;
3. the entities directly or indirectly, wholly or partially owned by the collective management organisation, whether directly or indirectly, in whole or in part;
4. the total amount of allowances and other benefits paid to members of the Management Board, the governing body and the staff entrusted with business management tasks in the previous financial year.

(2) The transparency report shall contain the following information on revenue and proceeds:

1. revenue from rights broken down by category of rights and method of use;
2. the revenue resulting from the investment of revenue,
3. the use of these proceeds broken down by distribution to rightsholders, distribution to other CMOs or any other use.

(3) The transparency report shall contain the following information on the costs of the perception of rights and other services:

1. Operating costs and financial expenditure broken down by category of rights held and, if the costs cannot be allocated directly to one or more categories of rights, an explanation of the method for calculating those indirect costs;
2. Operating costs and financial expenses broken down by category of rights held and, if the costs cannot be directly assigned to one or more categories of rights, an explanation of the method for calculating those indirect costs, only for the perception of rights, including the costs for the amounts deducted or cleared from the revenue from rights as administrative costs;
3. Operating costs and financial expenditure for services other than the exercise of rights, including social and cultural institutions;
4. Funds to cover costs;
5. Withdrawals of revenue from rights broken down by category of rights held and method of use, as well as the purpose of the reduction, such as expenditure on the perception of rights or for social and cultural institutions;
6. the percentage of expenditure on rights management and other services provided by the CMO to its rightsholders in terms of revenue from rights in the relevant financial year broken down by category of rights held and, if the costs cannot be allocated directly to one or more categories of rights, an explanation of the method for calculating those indirect costs.

(4) The transparency report shall contain the following information on distribution:

1. the total amount and the media of the amounts allocated to rightsholders, broken down by category of rights and method of use;
2. the total amount and media values of the amounts distributed to the rightsholders, broken down by category of rights and method of use;
3. the dates and number of payments broken down by category of rights and method of use;
4. the total amount of amounts collected but not yet assigned to rightsholders, broken down by category of rights and method of use, indicating the financial year in which the amounts were recovered;
5. the total amount of the amounts assigned to the rightsholders but not yet distributed to them, broken down by category of rights and method of use, indicating the financial year in which the amounts were collected;
6. the barriers which have led to an extension of the period for distribution and release (Section 34 (4));
7. the total sum of all non-divisible amounts, with explanations of their use.

(5) The transparency report shall contain the following information on payments from and to other CMOs:

1. amounts paid by or to other CMOs, broken down by category of rights, method of use and CMO;
2. Administrative costs and other profits deducted from revenue from other CMOs, broken down by category of rights, types of use and collective management organisations;
3. Administrative costs and other profits deducted from the amounts paid by other CMOs, broken down by category of rights and collective management organisation;
4. amounts paid directly to rightsholders from the payments from other CMOs, broken down by category of rights collected and collective management organisation.

(6) The report on withdrawals for social and cultural institutions includes:

1. the amounts spent in the financial year for social and cultural institutions, broken down by intended purpose and for each purpose, broken down by category of rights and types of use;
2. an explanation of the use of these amounts broken down by purpose, including the costs for managing the payments to social and cultural institutions and the separate amounts used for social and cultural institutions.

Considered for the following intended purpose

with regard to the reference period, see § 90

Review and disclosure of the transparency report

§ 46. (1) the annual accounts contained in the transparency report and the information under Section 45 (2) to (6) are to be examined by an auditor. Without prejudice to Section 22 (6) of the law on commercial and economic associations, auditors or auditing companies, as well as the revisors ordered pursuant to Sections 2 and 3 of the GenRevG 1997, may be used as auditors. Section 269 (1), Sections 270, 271 and § 272 to 276 of the German Civil Code apply mutatis mutandis.

(2) If, during his review, the auditor establishes facts that indicate that the CMO cannot fulfil its obligations or which allows it to expect that the CMO will not be able to fulfil its obligations in the future, he or she shall inform the regulatory authority accordingly.

(3) The confirmation report and any objections should be included in the transparency report.

(4) CMOs must publish their transparency reports on their website no later than eight months after the end of each financial year for the preceding financial year and keep them publicly available for at least seven years.

7 Section

Total contracts

Total contracts

§ 47. (1) CMOs to which the supervision has granted a recognition permit and user organisations are required to conclude overall contracts on the following circumstances, after tunality:

1. as to the content of the contracts with which a CMO grants the necessary authorisation to users of works and other subject -matter;
2. on the refunding of statutory remuneration and participation claims.

(2) At the request of the user organisation, a central position must be designated in a single contract. The central office shall be responsible for implementing the overall contract and any use contracts covered by the overall contract, including billing and collection of compensation. If the members of a user organisation require the authorisation of several CMOs for a specific use or establish certain actions by members of a user organisation, those CMOs shall, at the request of the user organisations, conclude collective agreements jointly, unless a refusal to conclude a joint contract is justified.

Overall eligibility for contract

§ 48. (1) overall contracts can only be concluded by CMOs, to whom the supervision has granted authorisation to perceive, and to the following global contracting organisations (user organisations):

1. according to their professional field of action, the legal professional interest groups employed in this regard, whose geographical area of action extends to the entire Federal territory;
2. if such an association does not exist, free associations of users to which the supervision has granted the qualification to conclude general contracts.

(2) The qualification pursuant to subsection (1) (2) should generally only be granted to an association whose local area of action covers the entire Federal territory and which is representative of its scope of action in relation to its members. Before granting the authorisation, the CMOs concerned must be heard. The qualification can be denied by the regulatory authorities at any time for an exceptional reason; such a ground is, in particular, the case where an association fulfils its obligations under an overall contract or its articles of association to a large extent.

(3) The representative of interests appointed under subsection 1 (1) may contractually transfer their entitlement to conclude general contracts to a free association of users. This transfer requires approval by the supervision authority in order for it to be effective. Paragraph 2 applies mutatis mutandis to the approval of the assignment; moreover, the approval may only be granted if it has been ensured that the members of the free association have been able to participate in an appropriate manner in the association's decision-making processes.

(4) At the request of the Austrian Union of towns and cities or of the Austrian Union of Cabinet, the monitoring authority must also grant the latter the overall contractual capacity within the meaning of paragraph 1.

Normative effect

§ 49. From the date of entry into force of an overall contract within its scope, the provisions of an overall contract are considered to be part of any specific contract concluded by the collective management organisation with a member of the user organisation regarding the authorisation of use or the

reimbursement of the statutory compensation claim. Agreements deviating from the overall contract, provided that they do not exclude the overall contract, are only valid if they are cheaper for the user and the user organisation agrees to this advantage; special agreements may be entered into on objects which are not regulated in the overall agreement. Moreover, overall agreements regarding the granting of statutory remuneration are binding on the members of the user organisation even without concluding a specific contract.

Shape and contents

§ 50. (1) overall agreements require written form in order to be valid.

(2) In particular, they must contain provisions on the amount, as well as on the calculation and payment of the fee for the authorisation of use or the statutory remuneration.

(3) The purpose of the overall contract is to ensure that any disputes between the CMO and the members of the user organisation will be settled in an amicable manner. The overall contract may provide, in this sense, that an amicable settlement of the dispute is to be sought before an action is brought by the user organisation through negotiations between the user organisation and the CMO or any other appropriate means; this applies in particular to disputes arising during negotiations relating to the conclusion or amendment of individual agreements concerning use authorisations with regard to the calculation of the remuneration, in particular with regard to classification in tariff categories.

(4) At the request of the collective management organisation, the overall contract shall state that the members of the user organisation shall regularly provide it with all the information necessary to calculate and distribute the remuneration or remuneration within the reasonable period. To the extent that this information can reasonably be expected and does not involve the use of radio broadcasts for public representation, lists of the works used and other subject matter must also be included. In so far as the particular circumstances in the case of public communication by means of image or sound recording carriers require exceptions, this must be taken into account accordingly.

Publication and entry into force

§ 51. (1) the conclusion of a general contract must be made available to the public by the collective management organisation without delay on its website.

(2) In the absence of any contrary agreements, the provisions of the overall contract governing the relationship between the CMO and the members of the user organisation shall enter into force one week after the publication of the overall contract on the CMO's website.

(3) Paragraphs 1 and 2 shall apply mutatis mutandis to contracts which amend or cease to enter into a single agreement.

Date of expiry

§ 52. (1) an overall contract can only be concluded for an indefinite period. Differing agreements are not valid.

(2) At any time, the parties may terminate, amend or replace a new overall contract by agreement. Where a party's request to amend the overall contract or to replace it with a new overall contract is rejected, it may request the creation of regulations governing use. However, such a request is admissible before the expiry of two years after the entry into force of the overall contract only with the consent of the supervision.

(3) If the user organisation that has concluded an overall agreement is in existence or is denied the capability to conclude general contracts, the overall contract will cease to exist. However, the provisions of the overall contract, which have been transferred to prior contractual contracts pursuant to § 49, remain in force as an integral part of these contracts until their termination or modification, if they do not become feasible by the expiry of the remaining provisions of the overall agreement. The collective management organisation must continue to apply the terms and conditions agreed in such an overall contract as a tariff within the meaning of Section 44 (1) (7).

Contracts with ORF, the Federal Government and the countries

§ 53. (1) Section 50, Section 52 (2) and § 66 shall apply mutatis mutandis to collective management contracts.

1. by means of Austrian radio broadcasting for the granting of authorisation to broadcast works or other subject matter by radio and to include, for their own broadcasting purposes, on image or sound carriers;
2. with the Federal Government regarding the granting of use authorisations and the payment of statutory remuneration.

(2) At the request of a country, the monitoring authority must grant it overall contractual capacity within the meaning of subsection 1 point 2.

8 Section

Specific rules for collective management organisations that grant multi-territorial licences to online musical works

Requirements for CMOs that issue user licences for online services in several states

§ 54. (1) CMOs that make use of the collective rights to music and related language works harmonised in Articles 2 and 3 of Directive 2001/29/EC by providing licences for the simultaneous provision of online services in several Member States of the European Union or contracting parties to the European Economic Area must have complete and correct data about the works they perceive, rightsholders and rights, as well as sufficient capacity to process such data in order to provide efficient and transparent usage licences for individual works, rightsholders or individual territories, and to process user communications and processed amounts.

(2) These CMOs must also be able to identify the rights they perceive in any work or part of a work, their rightsholders and the territories for which the rights are granted.

(3) For this purpose, they must use clear identifiers to enable rightsholders and works to determine, to the greatest extent possible, voluntary standards and practices developed at international or Union level.

(4) They must also be able to identify and remedy errors in the data of other CMOs that issue licences within the meaning of paragraph 1 quickly and effectively.

Referrals to the supervision

§ 55. (1) if a collective management organisation based in Austria intends to grant licences within the meaning of § 54, it must indicate this to the supervision before taking up this activity. The advertisement must state that the requirements of § 54 are met.

(2) The regulatory authority may prohibit the intended commencement of the activity within four weeks of the notification or remedying of a deficiency in the notification if, on the basis of the advertisement, it is to be expected that the collective management organisation does not fulfil the conditions referred to in § 54 or that the commencement of the activity affects the performance of the functions of the CMO.

(3) It must prohibit such activity even if it has been initiated without any advertisement or if it subsequently becomes apparent that the collective management organisation does not meet the requirements of § 54 or that the commencement of the activity affects the performance of the functions of the collective management organisations.

(4) The monitoring authority must make reference to the non-prohibition or subsequent prohibition on its website.

Repertoire information

§ 56. Section 43 applies to information about the Repertoire, for which authorisation for the simultaneous provision of online services in several Member States of the European Union or contracting party to the European Economic Area is given, with the proviso that information on the existence of works which fall within the CMO's Repertoire is not to be given without the restriction pursuant to Section 43 (3) (1).

Datacollection and preservation

§ 57. (1) CMOs pursuant to Section 54 (1) shall keep the data on the rights they perceive up to date. They have the right holders to enable other CMOs and online service providers to report incorrectly recording of rights in cases where they have reason to believe that the data used to provide online services are incorrect.

(2) Such CMOs also have to enable their relatives to communicate electronically data about their works, their rights and the territories for which they grant the rights. In doing so, CMOs and guardians have to take into account as far as possible voluntary industry standards and data exchange practices developed at international or EU level.

Monitoring, registration of use, billing

§ 58. (1) CMOs pursuant to Section 54 (1) shall monitor the online services in respect of which they have granted use of a work.

(2) They allow providers of online services to report the uses electronically and offer a method based on voluntary, international or EU standards or practices for electronic data exchange.

(3) Online service providers must report the use of the works correctly. CMOs may refuse a report in a format selected by a provider if they accept the report in accordance with a standard for electronic data exchange that is customary in the sector.

(4) CMOs must immediately list the reported uses electronically, unless this is not possible, for reasons that are not the responsibility of the online service provider. You have to provide a format based on voluntary, international or EU standards or practices. The invoice must show the rights subject to the licence of use and their actual use with reference to the rightsholders and their works, as well as the territories for which the use authorisations were granted. The providers of online services cannot refuse to accept an invoice on the basis of their format if a collective management organisation uses a standard customary in the sector.

(5) CMOs pursuant to Section 54 (1) are required to set up standardised methods of invoices for online service providers, in particular in cases where a provider receives invoices from one or more CMOs for the same uses of a work.

Distribution and billing

§ 59. (1) the income from the certificates of use for online services shall be paid to the rightsholders immediately after the actual use of the work has been reported, but at the latest once a ground for refusal to be borne by an online service provider has ceased to exist.

(2) Every payment must be made to the rightsholders, which must contain at least the following information:

1. the period and territories of the use in question,
2. the amounts collected, debited and paid, broken down by exploitation right to works,
3. the collected, debited and paid amounts broken down according to each provider of an online service.

(3) Revenue from the perception of rights for another CMO shall be paid immediately, but at the latest after the removal of an obstacle from the other collective management organisation to be borne by an online service provider. With the payment, the other CMO shall be sent a billing within the meaning of paragraph 2.

(4) The other collective management organisation must pay the revenue to the rightsholders and forward the bills to them, insofar as the collective management organisations concerned have not agreed to the payment and billing by the CMO pursuant to Section 54 (1).

Contracts between CMOs

§ 60. (1) contracts between collective management organisations with which a collective management organisation entrusted another with the granting of use of works for the simultaneous provision of online services in several Member States of the European Union or contracting parties to the European Economic Area may not prevent CMOs from also administering the rights which are the subject of the agreement themselves or transmitting them to further collective management organisations. The collective management organisation entrusted shall carry out the online rights in a fair manner.

(2) A transferring collective management organisation shall inform its rightsholders of the central terms of the agreement, including the duration of the agreement and the cost of the services provided by the CMO entrusted.

(3) The collective management organisation entrusted to the CMO shall provide information on the central conditions for granting use of works for the rights entrusted for the exercise of the rights, including the nature of the exploitation, all provisions relating to or affecting remuneration, the duration of the permit to use the work, the accounting periods and the areas to which it applies.

Obligation to perceive

§ 61. (1) CMOs pursuant to Section 54 (1), which, for the repertoire of other CMOs, offer or offer licences for the simultaneous provision of online services in several Member States of the European Union or contracting parties to the European Economic Area, must conclude, upon request, a contract for the exercise of those rights with other collective management organisations that do not grant or offer such licences under the same conditions as for their own repertoire. They have to include the repertoire of other CMOs in their offers, which they target online services providers.

(2) A collective management organisation that receives an offer to conclude an agreement regarding such a perception of a different company must reply in writing and without delay.

(3) The administrative costs charged by the collective management organisation entrusted to the commissioning CMO for the services provided shall not exceed the costs that it has incurred reasonably.

(4) The CMOs entrusted to the CMO must provide the relevant collective management organisation with the information on its own music shop that is necessary for granting licences for online uses.

(5) To that end, the collective management organisation entrusted to the broadcasting organisation must enable the commissioning collective management organisation to communicate electronically data on the works, rights and areas for which it grants the rights. In doing so, the CMOs concerned must take into account as far as possible voluntary industry standards and data exchange practices developed at international or EU level.

(6) Where the information is insufficient or in a format that the collective management organisation to be entrusted does not have to accept within the meaning of the preceding paragraph, it shall be entitled to reasonably charge for the costs incurred in meeting the requirements or to exclude works for which insufficient or usable information has not been submitted.

Exception to online rights in musical works for radio and television programmes

§ 62. This section shall not apply to CMOs insofar as they issue, on the basis of a voluntary bundling of the necessary rights, a multiterritorial licence for online rights to musical works which require broadcasting organisations to make their radio or television programmes accompanying their first broadcast or television programmes and other online content, including guides, produced by or for the broadcasting organisation, in compliance with the rules of Article 101 and 102 TFEU.

9 Section

Appeal management, Dispute Resolution and supervision

1. Subsection

Appeal Management

Appeal Management

§ 63. (1) CMOs shall set up complaints management for their members, z and CMOs for which they own rights. You have the option of filing an appeal in electronic form and informing the entitled parties thereof on their website.

(2) Appeals must be dealt with effectively and quickly and in writing. If an appeal is dismissed, it must state the reasons on which it is based.

2. Subsection

Dispute resolution

Brokerage services provided by the supervision authority

§ 64. Where disputes arise between collective management organisations, on the one hand, and other CMOs, user organisations, users, z or rightsholders, on the other, within the scope of application of this Federal Act, any party may request mediation from the regulatory authority.

Dispute resolution by the Conciliation Committee

§ 65. (1) the Conciliation Committee may be referred to in any dispute between:

1. a collective management company established in Austria in accordance with Section 54 (1),
 - a) undertakings wishing to offer or offer online services via the application of Sections 36, 37 and 40, § 56 to 58;
 - b) with rights holders or other collective management organisations regarding the application of Sections 56 to 61; and
2. a collective management organisation and a user regarding conditions of use (§ 37);
3. between collective management organisations concerning the distribution of proceeds from a joint overall contract and the specific agreements based thereon.

(2) The Conciliation Committee shall put forward comparative proposals to the parties. Such a settlement will be deemed to have been accepted by the parties if neither of the parties raises an objection within three months.

3. Subsection

Sentences

Sentences

§ 66. (1) if negotiations on an overall contract are unsuccessful, both the CMO and the user organisation may request that the legal conditions which are supposed to form the subject matter of the overall contract be regulated by the copyright ssenat by means of a regulations governing use; this provision must remain within the limits set by the parties' requests. The regulations governing use have the effect of an overall contract pursuant to § 49.

(2) Sentences can only be issued with effect for an indefinite period. Where a general agreement is concluded in respect of an object covered by the regulations governing use, the regulations governing use shall not take effect to that extent. Where a party's request for a different overall contract to be concluded on the subject matter provided for by regulations of use is rejected, it may request the creation of regulations governing use; however, before the expiry of two years following the entry into force of the regulations governing use, such a request is only admissible with the approval of the supervision.

(3) If the user organisation to which regulations of use apply are in existence or is denied the entitlement to conclude general contracts, the regulations of use shall cease to apply. Section 52 (3), second and third sentences, shall apply mutatis mutandis.

Referral to the Conciliation Committee

§ 67. (1) the request for the creation of regulations governing use shall be admissible only if the Conciliation Committee has previously been called upon and the latter has either adopted a proposal for Conciliation or if the time limit for this has expired.

(2) The Conciliation Committee shall adopt a proposal for Conciliation within three months of the appointment of the Chairperson; the parties may agree to extend this time limit.

(3) The proposed Conciliation shall contain a fully drafted overall contract between the parties. It must be reasoned. Where no party submits a request to the Copyright Court for the drafting of regulations within four weeks from the date of notification of the proposed Conciliation, this will be deemed to be an implied conclusion of a global agreement with the content proposed by the Conciliation Committee.

Entry into force and publication of regulations

§ 68. (1) the copyright ssenat may specify that a regulations governing use shall enter into force on the date on which the application for assignment is filed with the copyrights, unless an overall contract is in force with regard to the subject matter to be regulated by the regulations governing use. Otherwise, sentences of sentences shall enter into force on the day following the day following which they are published pursuant to subsection 2.

(2) The Federal Minister for Justice must immediately make statements in the editorial file.

4. Subsection

Supervision

Supervision content

§ 69. (1) the monitoring authority must ensure that collective management organisations with their principal place of business in Austria perform the tasks and obligations imposed on them under this Federal Act in the proper manner.

(2) In the case of collective management organisations based in another Member State of the European Union or a contracting party to the European Economic Area, paragraph 1 applies, on condition that supervision is limited to compliance with the tasks and obligations laid down in Directive 2014/26/EU in Austria.

(3) The regulatory authority must take action against persons who generally perceive rights and claims in Austria without authorisation or entitlement (Section 3 (3)).

(4) Members of a collective management organisation, rights holders, users, CMOs and other stakeholders may inform the regulatory authority of activities or circumstances that they consider to be an infringement of this Federal Act. However, there is no legal right to action by the supervision authorities.

(5) CMOs shall provide the monitoring authority with the information it requests about all matters relating to the management of the management and to enable it to inspect them in the management books and the other documents of the CMO.

(6) The monitoring authority shall be entitled to attend the main meeting of the Members, a delegation or reference board, the meeting of members of a member establishment, the meeting of a common representative and at the meetings of the Board, making statements and suggestions. Where management is carried out by a collegial body, the monitoring authority may require it to be given the opportunity to make statements and suggestions at meetings of that body.

Communication obligations

§ 70. (1) CMOs shall notify the monitoring authority of any change of persons authorised to represent them.

(2) Furthermore, CMOs must submit in writing to the supervision without delay

1. any modification of the organisational regulations (cooperative contract, articles of association, sentences, statutes),
2. the conditions of perception contracts and their modification,
3. contracts with foreign collective management organisations;
4. the distribution rules and their modification;
5. the rules governing benefits from social and cultural institutions and their modification,
6. the rates and their modification,
7. the overall contracts and the contracts referred to in § 53,
8. the cooperation agreements with other CMOs;
9. decisions of the main meeting of members, a reference or delegation meeting, a supervision board and of advisers and committees, or comparable institutions;
10. the transparency report,
11. declarations pursuant to Section 22 (2) and,
12. where the supervision needs to do so, the decisions in judicial or administrative proceedings in which the collective management organisation is a party shall be taken.

Regulatory actions

§ 71. (1) the monitoring authority shall issue orders to a collective management organisation by means of notification where:

1. the organisation regulations do not comply with the requirements of this Federal Act;
2. the collective management organisation does not fulfil its obligations to the regulatory authority (§ 69 (5) and § 70) or refuses to exercise the right to participate pursuant to Section 69 (6);
3. the collective management organisation does not perform the other tasks and obligations incumbent on it in accordance with this Federal Act.

(2) In the communication referred to in paragraph 1, the monitoring authority shall specify a reasonable period within which the collective management organisation must comply with the mandate; the period may be extended at the request of the CMO for valid reasons.

(3) If the collective management organisation does not comply with an order pursuant to subsection (1) (3) within the time limit given to it, the monitoring authority of the collective management organisation may, by a decision, require the collective management organisation to appoint the body responsible for that purpose; Paragraph 2 also applies to this communication.

(4) Paragraphs 1 and 2 shall apply mutatis mutandis to supervision pursuant to Section 69 (2).

Revocation of authorisation for perception

§ 72. (1) the regulatory authority shall revoke the authorisation to perceive the sign where:

1. the collective management organisation does not comply with an order pursuant to Section 71 (1) (1) or (3) within the period given to it;
2. if the collective management organisation does not comply with an order pursuant to Section 71 (1) (3) within the period given to it and an order pursuant to Section 71 (3) is not possible or not expedient;
3. the collective management organisation continues to comply with the obligation even after the demotion of the responsible body pursuant to § 71 (3).

(2) The supervision may at any time verify whether the conditions for obtaining the authorisation for perception are still in place; 10 years after the granting of the authorisation to perceive the mark, and subsequently after a further ten years, it has to do so. If the conditions are no longer present, the regulatory authority shall revoke the authorisation to perceive it.

Effects of the withdrawal of the authorisation to perceive

§ 73. (1) in a decision revoking the authorisation to perceive the mark, the monitoring authority shall determine the point in time at which the revocation becomes effective in such a way that the exercise of the rights and claims concerned can continue as undisturbed as possible.

(2) If, at the same time, the revocation of the authorisation to perceive the perception is granted to another CMO (follow-up organisation), the following shall apply:

1. Overall contracts concluded with the successor organisation by the CMO whose authorisation to perceive has been revoked (predecessor company); the effect of sentences issued for the predecessor company also extends to the successor company.

2. Use licences granted in a legally valid manner by the predecessor company remain effective even after the entry into force of the withdrawal of the authorisation to perceive the sign; however, the fees to be paid for this can only be paid to the successor company with a free liability effect.

3. The perception agreements concluded with the predecessor company relate to the successor company, in so far as a person entitled to take charge does not object to the successor company's authorisation to perceive it by means of a registered letter within four weeks of the date of publication of the authorisation to perceive the successor company. The predecessor company is obliged to provide the successor company with the documents necessary for the management of rights, where available in electronically legible form, and to provide the information required therefor.

Control of the conditions of perception contracts

§ 74. (1) if a collective management organisation intends to amend the terms and conditions of perception contracts, it must indicate this to the supervision authority.

(2) The monitoring authority may prohibit the application of the changes within four weeks from the entry of the display or the remedy of a deficiency in the display to the extent that they contradict the requirement of timeliness and consistency.

(3) The amendments may not be applied before expiry of the period referred to in paragraph 2.

(4) The supervision may take subsequent regulatory actions even if it has not prohibited the amendments.

Publications from the supervision authority

§ 75. The monitoring authority must create and run a website and publish, in an appropriate manner, the decisions of the monitoring authority and the copyright circle, the composition of the copyright station, the authorisation to perceive granted and the data to be published pursuant to Section 44 (1).

Cooperation with supervisors in the European Union and the European Economic Area

§ 76. (1) the supervision authority may request regulatory authorities of other Member States of the European Union or contracting parties of the European Economic Area for information about collective management organisations based in their territory and active in Austria. The request for information must state what the supervision needs to provide with the information. It must reply without delay to such a request for information from another supervision if sufficient reasons are given.

(2) The monitoring authority of another Member State of the European Union or of another state of the European Economic Area may request appropriate measures against a collective management organisation based there and working in Austria and provide it with all relevant information if such a collective management organisation is suspected of infringing the national legislation of its country of origin pursuant to Directive 2014/26/EU.

(3) At the request of the monitoring authority of another Member State of the European Union or another state of the European Economic Area, the monitoring authority must reply within three months to a CMO employed abroad and based in Austria and to state in its reply whether and which measures were taken or why it has refrained from taking any measures.

(4) Where the monitoring authority has made a request within the meaning of paragraph 2, it may also consult the expert group established in accordance with Article 41 of Directive 2014/26/EU in this matter.

Cooperation with the Commission

§ 77. (1) the regulatory authority represents Austria as the competent authority for cooperation in the development of multiple territorial licences pursuant to Article 38 of Directive 2014/26/EU and, for Austria, is participating in the expert group pursuant to Article 41 of Directive 2014/26/EU. They have to report to the Federal Ministry of Justice on cooperation and the expert group meetings.

(2) The monitoring authority must notify the Commission of changes to the list of CMOs based in Austria, which existed on 10 April 2016.

Penalties

§ 78. (1) who

1. Rights and claims without authorisation to perceive under Section 3 (1) or without authorisation pursuant to § 3 (2) in the interest of several rights holders,

2. acts as an organisation or representative of a collective management organisation against an order of the regulatory authority pursuant to § 71 (1) and (2) or (4) or,

is an administrative offence and must be punished by the regulatory authority by a fine of up to EUR 20,000.

(2) The fine which can be imposed pursuant to § 5 of the Austrian Administrative Enforcement Act 1991, ment. No 53, may not exceed EUR 10,000 in any individual case.

5. Subsection

Authorities and procedures

Copyright-dressing

§ 79. (1) the Copyright Office, established at the Federal Ministry of Justice, consists of a chairperson and two other members; the Chairperson shall be appointed for one and a total of two replacement members for the other Members. The Chairperson must act as a judge of the Supreme Court, who must act as a judge of another Court of Justice in general civil or commercial matters at the time of his appointment. This also applies by analogy to the replacement members.

(2) Members of the Copyright Office shall not be bound by any instructions in the exercise of this Office. The Federal Minister for Justice has the right to inform themselves about all the objects of the management of the copyright and to refer to members of the Copyright Board for differing reasons.

(3) The Federal Ministry of Justice must appoint the members and replacement members of the Copyright Office for five years. Restitutio in integrum is admissible. If the office of a Member or substitute Member ceases to exist during the term of office, a Member or a spare member shall be appointed in his or her place for the remainder of the term of office.

(4) For the appointment of the Chairperson, the Federal Ministry of Justice has requested a proposal from the President of the Supreme Court of Justice and a proposal from the President of the Higher Regional Court of Vienna for the appointment of the other two Members. This also applies by analogy to the appointment of the spare Members. Each appointment proposal, if there are sufficient suitable candidates, must include at least three people.

(5) The office of a Member or substitute shall lapse upon death, upon surrender and at the end of the term of office. The Office shall also cease to exist where the Member

1. finds that it is not capable of properly exercising the Office;

2. seriously breached his obligations or otherwise behave in a manner incompatible with the Office's reputation;

3. Invitations to three successive meetings, without sufficient exclamation, do not take place.

In cases relating to points 1 to 3, the Office will only cease to apply with the finding by the copyright ssenat, which has to decide on the matter after hearing the Member concerned.

(6) The Federal Ministry of Justice must provide the copyright manager with the necessary staff.

Copyright fees and fees

§ 80. (1) members and writers of the Copyright Office shall be entitled to remuneration for their time and workload. Remuneration is to be regulated in a Regulation of the Federal Ministry of Justice, taking into consideration the importance and scope of the tasks of the Copyright Office.

(2) The use of the Copyright Office is subject to payment of a fee, the amount of which must be determined by the Regulation of the Federal Ministry of Justice. Fees must be fixed in such a way as to cover, on average, the cost generated by the copyright and staff made available to him.

(3) Upon the conclusion of each set of proceedings, the copyright attorney shall determine the fee provided for in paragraph 2 in accordance with the effort caused by the proceedings and order the applicant for a declaration of invalidity or its opponent or both of them, at his reasonable discretion, to pay that fee. The submission of the fee is determined by the rules governing the deposit of judicial and judicial administration fees.

Proceedings before the Copyright Office

§ 81. (1) the General Administrative Procedure Act 1991 is to be applied to proceedings before the Copyright Office, provided that this Federal Act contains no different provisions; they must be carried out as quickly as possible.

(2) The copyright ssenat shall communicate and decide under the leadership of the Chairperson. The Chairperson has to take procedural orders. Furthermore, the Chairperson shall invite the other Members for negotiations and meetings.

(3) The copyright ssenat shall decide by simple majority of the votes cast. It is inadmissible to agree with this.

(4) Where a member of the Copyright Office is prevented from acting, the replacement Member appointed for that Member shall, in the event that he or she is prevented from acting, be replaced by the second alternate member.

(5) Members of the copyright conference may be rejected on the grounds of equity (Section 7 (1) AVG). Sections 21 and 22 (1) to (3) JN apply mutatis mutandis for the exercise of the right of refusal. A decision on the rejection shall be taken by the copyright ssenat excluding the refused Member.

(6) The copyright ssenat shall connect proceedings relating to the issuing of sentences, in respect of the subject matter of which the participating collective agreements are to be concluded jointly within the meaning of Section 47 (2), to the joint hearing and decision.

(7) Cases for which the copyright hotel is responsible shall be removed from the ordinary courts.

Arbitration Committee

§ 82. (1) the Conciliation Committee shall consist of three Members. Each member is appointed by each party; the two Members shall elect the Chairperson. This must be a person who is not involved in the case and must not be in a relationship with any party which cast doubt on its independence. Members and replacement members of the Copyright Office are excluded from appointment.

(2) The applicant must send the intended application to the respondent by registered letter and designate the Member appointed by him. If the defendant does not name the Member appointed by the applicant within two weeks by a letter to the applicant, the applicant may request the appointment of the second Member and the Chairperson of the Copyright Board from the chairperson of the Copyright Board. If the two members appointed by the parties do not elect the chairperson within two weeks from the name of the second member, each party may request the Chairperson of the Copyright Board; together, the parties may submit this request before expiry of the time limit.

(3) Members appointed by the Chairperson of the Copyright Office are entitled to a reward, which must be governed by regulations by the Federal Ministry of Justice, bearing in mind the importance and scope of their work. The right of the second member to pay this allowance is directed against the party who failed to appoint, and the Chairperson's claim against both parties is jointly and severally liable.

(4) Where CMOs are jointly concluded collective agreements within the meaning of Section 47 (2), then the parties may conclude differing agreements regarding the composition of the Conciliation Committee and the number of votes they may receive.

(5) The Conciliation Committee may request administrative assistance from the supervision.

Collective management agency

§ 83. (1) within the meaning of this Act, the collective management authority established at the Federal Ministry of Justice is the collective management organisation authority.

(2) The appointment of the head of the office must be preceded by a call for tender for general promotion pursuant to section 3 of the 1989 Act on tender.

(3) The supervision authority is an authority attached to the Federal Ministry of Justice. All cases on the part of the authority have to be dealt with under the name 'crushing for CMOs'.

(4) Decisions on appeals against decisions of the supervision authority shall be taken by ayes.

Financing of the supervision

§ 84. (1) the collective management organisations and entities that are eligible for contract shall contribute to the supervision of contributions, the sum of which corresponds to the staff and material effort of the supervision authority, which is required in accordance with the principles of economy, efficiency and suitability to carry out the following tasks of the supervision authority (total financing):

1. the granting and delimitation of recognition authorisations, the control of their compliance and the control of the transfer of recognition authorisations (§ 3, 10, 11);
2. supervision of collective management organisations pursuant to § 69 (1), (5) and (6);
3. the fixing and pre-payment of financial contributions in accordance with paragraph 3;
4. the adoption of regulatory measures pursuant to Sections 71 and 72;
5. control pursuant to § 74 and the examination of the conditions for the presumption of perception pursuant to § 25;
6. the creation and maintenance of a website pursuant to § 75;
7. the granting of the authorisation to conclude general contracts pursuant to Section 48 (2) to (4) and Section 53 (2);
8. the administrative support of complaints committees pursuant to § 82 (5).

(2) The Federal Minister for Justice must fix the amount of the total financing by means of regulations. The total financing is to be divided into the individual parties who have to pay the contribution in accordance with the following principles:

1. one quarter in the same parts to the total contractual entities;
2. one quarter in equal parts to the collective CMOs,
3. one quarter of total contractual CMOs in relation to their sales; and
4. one quarter of the total contractual CMOs in relation to the number of reference holders.

(3) The monitoring authority shall fix the financing contributions that are due to the individual contributions to be paid by means of a decision and be subject to a requirement for each quarter in advance; Financial contributions to be paid by a public professional organisation may require the supervision of its umbrella organisation established nationwide. The determination of the funding contributions to the CMOs shall be based on the turnover of the previous calendar year and the number of guests at the end of this year. If the number of CMOs or the number of user organisations changes, the financial contributions related to them should be refixed with effect from the following calendar month.

10 Section

Final and transitional provisions

Tax release

§ 85. The collective management organisations and their institutions are, in so far as they act within the scope of the area of activity described in the authorisation to perceive, distinguished from all charges under German law from income, revenue and assets. The same applies in relation to associations of collective management organisations (mergers and disposals within the meaning of Articles I and III Umgründungsgesetz, ction No 699/1991), which were not prohibited by the regulatory authorities pursuant to § 11.

Entry into force

§ 86. (1) with the exception of Section 92 (2), this Federal Act enters into force on 1 June 2016. As from the entry into force of this Federal Act, the German Act on CMOs (Collective Law 2006 — VerwGesG 2006) will cease to apply, Therl. I No 9/2006. Section 92 (2) shall enter into force on the day following the publication of this Federal Act.

(2) If the provisions of the Austrian Trade Mark Act 2006 relate to provisions of the Austrian Trade Mark Act, the corresponding provisions of this Federal Act replace those provisions.

(3) Regulations based on this Federal Act may be issued from the day following the date of its publication, and administrative acts in individual cases, in particular appointments, may be adopted from that date; however, they will not take effect until 1 June 2016.

(4) The entries for Sections 25a and 25b, Section 1 (1), Sections 25a and 25b in the version of the Federal Act beans I No 244/2021 enter into force on the day following which the notice was published.

Continuation of legal instruments

§ 87. (1) the amount of total financing under Section 84 is up until the issuing of a new regulation by the Federal Ministry of Justice pursuant to the Regulation of the Bundeskanzler of 22 June 2006 on the overall financing of the regulatory authority under the CMO Act 2006, I.I. II No 236/2006.

(2) The members of the Copyright Office as at 31 May 2016 will continue to be appointed for the remainder of the last relevant appointment period. The fee for the remuneration of the members and writers of the copyright register, the demotion of the members of the Conciliation Committee appointed by the Chairperson or Chairperson of the Copyright Committee and the recourse to the copyright law continue to be covered by the Copyright Regulation.

(3) According to the corresponding provisions of this Federal Act, operating licences for collective management organisations, recognition of authorisation to conclude general contracts as well as overall contracts and sentences that are still in force at the time of the entry into force of this Federal Act continue to apply. Within three years of the entry into force of this Federal Act, the monitoring authority must examine, for the purposes of Section 72 (2), the further valid authorisation for perception for the next time.

(4) At the time of the entry into force of this Federal Act in the case of copyright, the Boards of Appeal, the collective management authority or procedure pending, the provisions of this Federal Act are to be continued in accordance with the provisions of this Federal Act.

Adapting organisational rules, perception contracts and distribution rules

§ 88. (1) CMOs have until 31. On December 2016, adapt its organisation regulations, contracts of perception and distribution provisions to Sections 6, 12 to 19, 23, 24, 26 and 27, 30 to 32, 34 and 35, and inform the regulatory authority thereof.

(2) The members' daily meetings are to be decided for the first time in 2016 on the objects referred to in Section 14 (2), but on the approval of the transparency report for the first time in 2017. The declaration pursuant to Section 22 (2) is to be made for the first time in 2016.

Obligations to provide information on the perception of rights

§ 89. CMOs must inform their reference holders of their rights under Sections 23, 24, 26 and 27 by 10 October 2016 and the conditions for exercising the right under § 26; for this purpose, it is sufficient that the amended conditions for perception contracts are made available on their websites.

Transitional provisions related to transparency and reporting obligations, distribution

§ 90. (1) Articles 41, 42, 45 and 46 are to be applied for the first time to financial years after 31. December 2015.

(2) § § 30 to 32, 34 and 35 shall apply for the first time to revenue after the 31th The financial year starting from December 2016.

Access to multizone licensing

§ 91. (1) if a collective management organisation which uses the collective rights to music and related language works, harmonised in Articles 2 and 3 of Directive 2001/29/EC, has not granted or offered for sale to its Repertoire, until 10 April 2017, authorisations for simultaneous use in several Member States of the European Union or contracting parties to the European Economic Area, nor has another CMO entrusted with it, its licensees may withdraw those rights for the purposes of granting multiple territorial licences for all territories without also granting it the online rights to musical works authorised by other geographical locations for the purposes of granting multiple territorial licences.

(2) CMOs that grant multiterritorial licences to online musical works have to enable those rights holders to communicate electronically data on their works, their rights and the territories for which they grant the rights, on the basis of industry standards and practices.

(3) In any dispute between a collective management organisation and a licensee in relation to its claim under subsection 1, the Conciliation Committee may be called upon.

Cooperation with the Commission

§ 92. (1) the monitoring authority must submit to the Commission, by 10 October 2017, a report on the status and development of the granting of multiterritorial licences in Austria. The report includes, in particular, information on the availability of multiple territorial licences in Austria, the compliance of CMOs with Sections 54 to 62 and an assessment of developments in relation to multi-territorial licences for online music rights by users, consumers, rightsholders and other interested parties.

(2) The monitoring authority must provide the Commission with a list of CMOs established in Austria by 1 June 2016.

Implementation

§ 93. The implementation of this Federal Act is entrusted with the implementation of Section 85 of the German Finance Act and, for the rest, the Federal Ministry of Justice.

(Translated with eTranslation – not revised)