

# **COPYRIGHT COLLECTIVE MANAGEMENT ORGANIZATION ACT**

Promulgated by the President on November 5, 1997

Amended and Promulgated by the President on February 10, 2010

Articles 4-1, 6-1, 15-1, 19-1, 47-1, 48-1 added and Articles 4, 6, 12, 13, 15, 21, 22, 24, 27, 38, 41, 42, 44, 45, and 48 amended and promulgated by the President on May 18, 2022

## **CHAPTER I GENERAL PRINCIPLES**

### **Article 1**

This Act is enacted in accordance with Article 81, paragraph 3 of the Copyright Act.

### **Article 2**

The competent authority referred to in this Act is the Ministry of Economic Affairs (MOEA).

Issuance of establishment permits for copyright collective management organizations (CMOs), as well as guidance and supervision of their operations, will be carried out by the specialized agency designated by the MOEA.

### **Article 3**

The terms used in this Act shall be defined as follows:

1. Copyright collective management services ("collective management services"): Services for the management of economic rights on behalf of multiple economic rights holders, in which uniform royalty rates and methods for distribution of royalties are adopted as the basis for collection and distribution of royalties, and in which license agreements with users are established in the name of those providing the management.
2. Copyright collective management organization ("CMO"): An incorporated association engaging in collective management services, organized by economic rights holders, approved and established pursuant to this Act, and exercising rights and performing obligations in the name of the CMO.
3. Individual license agreement: An agreement between a CMO and a user under which the exploitation of specific economic rights under the management of the CMO is licensed to the user for its exploitation and royalties are paid by the user.
4. Blanket license agreement: An agreement between a CMO and a user under which all economic rights under the management of the CMO are licensed to the user for a specific period, with no restriction on the number of uses, and royalties are paid by the user.
5. Management agreement: An agreement between an economic rights holder and a CMO for management of such rights and distribution of the royalties collected to said economic rights holder by the CMO.

6. Management fees: The fees a CMO charges an economic rights holder for performing collective management services.
7. Royalty rates: The criteria for calculation, the ratios, or the amounts of royalties that the CMO collects for providing the economic rights it manages for exploitation by users.
8. Joint royalty rate: A single royalty rate jointly adopted by two or more CMOs with respect to the same type of exploitation.

## CHAPTER II ESTABLISHMENT

### **Article 4**

To establish a CMO, the promoters shall prepare an application form, with the following documentation attached, and apply to the specialized agency in charge of copyright matters for a permit:

1. A register of promoters.
2. The articles of organization.
3. The royalty collection and distribution rules.
4. Templates for individual license agreements, blanket license agreements, and management agreements.
5. Other documents designated by the specialized agency in charge of copyright matters.

The register of promoters under subparagraph 1 of the preceding paragraph shall include the following items:

1. The names of the promoters, and their nationalities, dates of birth, and domiciles or residences. For a juristic person promoter, the information shall include its name, the date of its establishment, the locations of its offices or places of business, and the name, date of birth, and domicile or residence of its representative.
2. The titles, authors, and categories of the works for which a promoter is the economic rights holder; furthermore, provide an electronic format file.
3. The minutes and sign-in lists of all promoter meetings held within 6 months before the application date.

The minimum number of the promoters referred to in paragraph 1 shall be determined by the specialized agency in charge of copyright matters for different respective categories of works. One-half or more of the promoters shall have domestic domiciles or offices.

The application form mentioned in paragraph 1 shall state the purposes of applying for an establishment permit and shall bear the signature or personal seal of each promoter.

When a CMO adds a new category of works to those it manages, it shall submit a permit application to the specialized agency in charge of copyright matters, attaching a list of the economic rights holders for the new category along with the documents

named in paragraph 1, subparagraphs 2 through 5.

The provisions of paragraph 2 and paragraph 3 regarding promoters shall apply mutatis mutandis to the list of economic rights holders and their numbers.

#### **Article 4-1**

When the specialized agency in charge of copyright matters processes an application case for a permit to establish a CMO under paragraph 1 of the preceding article, after the application documents are complete, it shall post an announcement of the application case on the website of the specialized agency in charge of copyright matters for 30 days, for public comments.

Public comments under the preceding paragraph may be taken into consideration in the review by the specialized agency in charge of copyright matters.

#### **Article 5**

When multiple CMOs wish to merge and become a single CMO, they shall apply to the specialized agency in charge of copyright matters for a permit approval, attaching a list of economic rights holders and the documents named in paragraph 1, subparagraphs 2 through 5 of the preceding article.

The specialized agency in charge of copyright matters shall revoke the permits of the CMOs that are extinguished as a result of the merger; their rights and obligations shall be succeeded to by the post-merger surviving CMO or newly established CMO.

#### **Article 6**

No person to whom any of the following circumstances applies may be a promoter of a CMO:

1. Having no legal capacity or having limited legal capacity, or receiving an order for commencement of assistance, where the order has not been voided.
2. Having been declared bankrupt or had a court issue a ruling for the commencement of liquidation proceedings, where the person's rights have not yet been reinstated.
3. Having committed a crime of fraud, breach of fiduciary duty, embezzlement, or violation of the Copyright Act, and after receiving a final and irrevocable guilty judgment, having received a sentence of no less than six months imprisonment where the sentence has not yet been served, or has not been fully served, or two years have not yet passed after serving of the sentence, expiration of the probation period, or pardon. In the case of a juristic person, having committed a criminal violation of the Copyright Act and having received a final and irrevocable guilty judgment where the judgment has not been executed, has not been fully executed, or two years have not yet passed after execution of the judgment.
4. Having been sentenced by a final and irrevocable ruling to a rehabilitative disposition, where the sentence has not yet been served, or has not been fully served, or two years has not yet passed after serving of the sentence.

#### **Article 6-1**

No person to whom any of the following circumstances applies may be a

promoter who applies for a permit to establish a CMO:

1. Currently being a member of a CMO that conducts the same collective management services.
2. Simultaneously being a promoter who applies or has applied for permits to establish two or more CMOs that conduct the same collective management services.

#### **Article 7**

The articles of organization of a CMO shall include the following information:

- 1.The CMO's name.
- 2.The CMO's purpose.
- 3.The address of its principal office, and address of any branch offices.
- 4.The category of works whose economic rights are under its management, and the scope of the rights.
- 5.The manner in which membership qualification is obtained and forfeited.
- 6.The rights and obligations of members.
- 7.Rates or amounts of management fees.
- 8.The numbers, functions, terms of office, and methods of election and discharge of directors, supervisors and members of the complaint committee set out in Article 20, paragraph 1.
- 9.The kinds of meetings it will hold, procedures for convening the meetings, and methods of resolution.
- 10.Sources of funds, and their accounting treatment.
- 11.The method of public announcement.
- 12.Types of disputes between any member and a CMO that are subject to handling by the complaint committee, and the procedures and methods of dispute resolution.
- 13.Procedures for amending the articles of organization.
- 14.Procedures for changing royalty rates.
- 15.Procedures for changing the method of royalty collection and distribution.
- 16.Procedures for amending templates for individual license agreements, blanket license agreements, or management agreements.
- 17.The dates on which the articles of organization were adopted and amended.
- 18.Other matters required by laws and regulations.

#### **Article 8**

Under any of the following circumstances, the specialized agency in charge of copyright matters shall deny an application for establishment of a CMO:

- 1.The name of the organization is the same as that of a CMO already granted an establishment permit.
- 2.The information supporting the application for establishment permit reveals that the applicant is unable to effectively administer collective management services.
- 3.Application particulars are found to be in violation of a law or regulation or to contain misrepresentations.
- 4.Statutory procedures are not observed and no correction is made within a period given by the specialized agency in charge of copyright matters.

Where the scope of management being applied for overlaps in whole or in part with the categories of works and the scope of rights under the management of a CMO that has already been granted an establishment permit, the specialized agency in charge of copyright matters may deny approval for the overlapping portion if the other CMO is already capable of functioning as a management collective.

The specialized agency in charge of copyright matters shall notify the applicant in writing whether the application for establishment permit has been granted or denied, and publish the approved application on its website.

#### **Article 9**

A CMO shall incorporate as a juristic person within six months after the specialized agency in charge of copyright matters issues an establishment permit.

The CMO of the preceding paragraph shall submit a photocopy of its incorporation certificate to the specialized agency in charge of copyright matters for recordation within thirty days after its incorporation. It shall also make public announcement of its incorporation certificate, articles of organization, the royalty collection and distribution rules, and templates for individual license agreements, blanket license agreements, and management agreements; the same shall apply to amendments of the above items.

The public announcement of the preceding paragraph shall be published in an appropriate manner, such as publication in a newspaper at the place where the principal office of the CMO is located, or on the CMO's website.

#### **Article 10**

A person not organized and approved for establishment as a CMO in accordance with this Act shall not conduct collective management services or perform any other juristic act in the name of a CMO.

Where any party violates the preceding paragraph, any individual or blanket license agreement executed by it shall become null and void and the offender shall be liable for compensation of damages for any resultant loss to another person. Where there are two or more offenders, they shall bear joint and several liability.

### **CHAPTER III ORGANIZATION**

#### **Article 11**

A member of a CMO shall be an economic rights holder.

An economic rights holder may not be at the same time a member of two or more CMOs providing the same collective management services.

If an economic rights holder violates the provision of the preceding paragraph and joins two or more CMOs at different times, the rights holder will be deemed to have not joined the CMO or CMOs it entered at later times; a rights holder who joins two or more CMOs at the same time shall choose membership in only one among them within 30 days after the time it joins; a rights holder that fails to make a choice within 30 days will be deemed to have joined none of the CMOs.

## **Article 12**

A CMO may not reject any applicant for membership who meets the membership qualifications set out in its articles of organization.

A CMO shall adopt mechanisms for reviewing the economic rights and other relevant information of its members, and the members shall provide supporting documents for the relevant rights.

A member may withdraw from the organization at any time, unless the articles of organization provide that withdrawal can only take place at the end of a business year or after a period of pre-announcement.

## **Article 13**

Under any of the following circumstances, a member shall be deemed to have withdrawn from the organization:

1. Death, bankruptcy, or dissolution of the member.
2. Loss of membership qualifications.
3. Dissolution of the CMO is ordered.

## **Article 14**

A member shall execute a management agreement with its CMO to entrust the CMO with management of its economic rights.

A member shall have the right, in accordance with the royalty collection and distribution rules, to request distribution of royalties, and also has the obligation to pay management fees and membership fees.

## **Article 15**

The highest authority of a CMO shall be the general meeting of its members.

The board of directors of a CMO shall have at least three directors, to be elected from among the members by the general meeting of its members.

The supervisors of a CMO shall be elected from among the members by the general meeting of its members. At least one of the supervisors shall have a domestic domicile.

The terms of a CMO's directors and supervisors may not exceed four years. Directors and supervisors may be re-elected to consecutive terms. However, the

number of persons serving consecutive terms may not exceed two-thirds of the number of directors or supervisors respectively; if the chairman of the board is re-elected, his or her term of office shall not exceed eight years in total.

When a CMO director or supervisor seat becomes vacant, the by-elected successor or replacement shall serve until the term of the original incumbent expires. If the chairman of the board is elected in a by-election, the term of office shall be counted toward the number of years specified in the proviso of the preceding paragraph.

#### **Article 15-1**

No person to whom any of the following circumstances applies may serve as a director or supervisor of a CMO; if already serving as such; the person shall ipso facto be dismissed:

1. Having any of the circumstances set out in the subparagraphs of Article 6 apply.
2. Having committed a criminal offence under the Organized Crime Prevention Act and found guilty by a final and irrevocable judgment, where the sentence has not yet been served, or has not been fully served, or five years have not yet passed after serving of the sentence, expiration of the probation period, or pardon.
3. Having committed a criminal offence under the Anti-Corruption Act and found guilty by a final and irrevocable judgment, where the sentence has not yet been served, or has not been fully served, or two years have not yet passed after serving of the sentence, expiration of the probation period, or pardon.
4. Having had a negotiable instrument dishonored and still being within the blacklist period.
5. Having been found guilty by a final and irrevocable judgment of a criminal offense under the Securities and Exchange Act or the Money Laundering Control Act, where the sentence has not yet been served, or has not been fully served, or five years have not yet passed after serving of the sentence, expiration of the probation period, or pardon.

#### **Article 16**

Except for the first general meeting of CMO members, which shall be convened by promoters, general meetings of members shall be convened at least once a year by the board of directors.

Unless specially provided in this Act or the articles of organization, a resolution of the general meeting of members shall require a majority of votes cast at a meeting attended by members representing a majority of the total voting rights.

An amendment to the articles of organization shall require at least two thirds of votes cast at a meeting attended by members representing a majority of the total voting rights.

Members shall have equal voting rights, except where the articles of organization

provide otherwise.

In respect of the number of members attending a meeting and the number of favorable votes required as provided for in paragraphs 2 and 3 above, if a higher requirement is provided for in the articles of organization, such provision shall apply.

The provisions in Article 57 of the Civil Code shall apply to the dissolution of a CMO.

#### **Article 17**

The board of directors shall carry out its functions in accordance with laws, regulations, its articles of organization, and resolutions of the general meeting of members.

In the event that a resolution of the board of directors violates the provision of the preceding paragraph and causes injury to the CMO, directors participating in the resolution shall be jointly and severally liable for damages, provided that any director who has expressed opposition, as confirmed by records or a written statement, shall be exempt from liability.

#### **Article 18**

A supervisor shall carry out the following duties:

1. Investigating the operational and financial status of the CMO and auditing its books and documents, either personally or by retaining an attorney or a certified public accountant.
2. Auditing the statements prepared under paragraph 1 of Article 21, either personally or by retaining a certified public accountant, and reporting the inspection results at a general meeting of members.

A supervisor who through neglect of his/her duties causes damage to the CMO shall bear liability for damages.

A supervisor shall not act concurrently as a director, complaint committee member, or staff member of the CMO.

#### **Article 19**

If a director of a CMO bargains with the CMO on his/her own behalf or on behalf of another party, a supervisor shall act as the representative of the CMO.

#### **Article 19-1**

A CMO shall establish an internal control system with respect to personnel matters, finances, and business, and shall file that system, and any change thereto, with the specialized agency in charge of copyright matters for recordation.

The CMO shall perform the collective management services in a reasonable, prudent, and appropriate manner in accordance with the internal control system under the preceding paragraph. It furthermore shall file an internal control statement with the specialized agency in charge of copyright matters within three months after the



close of each fiscal year.

The competent authority will adopt regulations governing the content, applicable scope, operating procedures, and recordation of the internal control system under paragraph 1, the filing of the internal control statement under the preceding paragraph, and other matters for compliance.

## **Article 20**

A CMO shall have a complaint committee to handle disputes between members and the CMO in accordance with its articles of organization. The committee shall have at least five members, who shall be elected by the general meeting of members from among CMO members, impartial members of society, or scholars or experts.

A CMO may stipulate in its articles of organization that any dispute between a member and the CMO shall not be brought up at a general meeting of members until it has been handled by the complaint committee.

A director, supervisor, or staff member of a CMO shall not be a member of its complaint committee.

A complaint committee member shall withdraw voluntarily if he/she has personal interest in a complaint case.

A CMO shall notify the complaining member of the decision made by the complaint committee and the decision shall be carried out by the board of directors. However, the case may be brought up for resolution at a general meeting of members if the complaining member or the board of directors is opposed to the decision rendered by the complaint committee.

## **Article 21**

At the end of each business year, the board of directors shall prepare the following statements and refer them to supervisors for auditing at least thirty days before a general meeting of members is held:

1. A business report.
2. A property list.
3. Financial statements, which shall include the balance sheet, final statement of revenues and expenditures, and cash flow statement.

The financial statements in subparagraph 3 of the preceding paragraph shall be audited and attested by a certified public accountant.

The statements listed in paragraph 1, together with the supervisor's audit report, shall be made available at the principal office of the CMO at least ten days before a general meeting of members is held, and members may at any time inspect and review the same, either by themselves or in the company of any attorneys or certified public accountants retained by them.

## **Article 22**

The board of directors shall submit the statements listed in the preceding Article,

together with the supervisor's audit report, for ratification at a general meeting of members. Upon ratification through a resolution of the general meeting of members, directors and supervisors shall be released from liability; this provision does not apply, however, given the commission of any unlawful act by a director or supervisor.

After the business report in subparagraph 1 and the financial statements in subparagraph 3 of paragraph 1 of the preceding article have been ratified by the general meeting of members, the CMO shall publish the status of collection and distribution of the royalties on its website for public inspection.

## CHAPTER IV RIGHTS AND OBLIGATIONS OF A CMO

### **Article 23**

A CMO shall provide collective management services for members in accordance with laws, regulations, its articles of organization, and resolutions of the general meeting of its members.

A CMO, when providing collective management services under the preceding paragraph, shall collect management fees at the stipulated rate or in the stipulated amount.

The rate or amount of management fees in the preceding paragraph shall be stipulated based on the funding required to maintain normal operation of the CMO.

### **Article 24**

A CMO shall adopt royalty rates and dates for implementation of the rates for each type of exploitation of the economic rights under its management. A CMO shall take the following factors into account when setting royalty rates:

1. The result of consultations with the users, and the users' suggestions.
2. The economic benefit to be obtained by users through exploitation of the works.
3. The numbers of economic rights under its management.
4. The type and quantity of the exploitation.
5. Other factors that the specialized agency in charge of copyright matters designates for consideration.

In adopting the royalty rates of the preceding paragraph, when a blanket license agreement is employed, users shall be provided with a choice of the following fee calculation models:

1. A specific monetary amount or ratio.
2. Another fee calculation model negotiated and agreed upon between the user and the CMO.

A CMO shall lower at its discretion the royalty rates of paragraph 1 when the user exploits a work for cultural, educational, or other purposes in the public interest; when the exploitation is non-profit in nature, the CMO shall further lower at its discretion the royalty rates.

The specialized agency in charge of copyright matters may conduct investigations into the actual circumstances of use of the works under the management of any CMO.

The specialized agency in charge of copyright matters shall guide the CMO to use innovative technology methods to improve its management efficiency and reduce the cost of exploitation, and to refine the fee calculation model, so as to enhance the rights and interests of copyright owners and the convenience of users.

The royalty rates of paragraph 1 shall be publicly announced for the purpose of review by the general public, and shall be reported to the specialized agency in charge of copyright matters for recordation. The royalty rates may not be implemented at any time prior to 30 full days after the date of announcement. The same provisions shall apply in the case of any change to the royalty rates.

A CMO shall state the reasons for adoption of the royalty rates at the time of their public announcement pursuant to the preceding paragraph.

When a CMO has not adopted a royalty rate for a specific type of exploitation in accordance with the provisions of paragraph 1, a user may request the CMO in writing or in an electronic format file to adopt a royalty rate; prior to the adoption of such a royalty rate, the provisions of Chapter 7 of the Copyright Act shall not apply to any instance of exploitation for which adoption of a royalty rate has been requested.

## **Article 25**

A copyright user who objects to a royalty rate set by a CMO may apply to the specialized agency in charge of copyright matters for a review; at the time of application it shall also submit written reasons and other related materials.

When the specialized agency in charge of copyright matters receives an application pursuant to the preceding paragraph, it shall publish the application on its website. Other users with the same circumstances of exploitation may also submit written reasons and related materials and make a request of the specialized agency in charge of copyright matters for participation in the application for review.

After receiving an application for review pursuant to paragraph 1, the specialized agency in charge of copyright matters may order the CMO to provide the factors under each subparagraph of the preceding article that it used in consideration of the royalty rates, its conditions for licensing, and other relevant documents. The CMO may not refuse such an order.

When the specialized agency in charge of copyright matters performs its review, it may change the criteria, ratios, or amounts for calculation of royalties originally adopted by the CMO, and shall seek the opinion of the Copyright Review and Mediation Committee.

When there are matters requiring supplementation or correction with respect to an application under paragraph 1 that are not performed within the period designated by the specialized agency in charge of copyright matters, or in the absence of reasons for application, the specialized agency in charge of copyright matters may reject the application.

When there is sufficient reason for an application for review under paragraph 1,

the specialized agency in charge of copyright matters shall make a determination of the given royalty rate, which shall be effective from the date of application for review, provided that in the case of applications made prior to the date of implementation of a given royalty rate, the newly determined rate shall take effect from the date of implementation.

A royalty rate that has been determined pursuant to the preceding paragraph may not be changed by the CMO within three years from its date of implementation, and during the same period, users also may not make any further application for review of matters on which such a determination has been made, provided that these provisions will not apply in the case of a material change in circumstances.

The specialized agency in charge of copyright matters may prohibit the implementation of a royalty rate which is under application for review pursuant to paragraph 1 when the rate is in violation of the law, or when there is no legal basis for collection of that royalty rate.

The review determinations under paragraph 6 and the preceding paragraph shall be published on the website of the specialized agency in charge of copyright matters.

If a royalty rate is determined through a review by the specialized agency in charge of copyright matters, then for any license agreement that was signed between a user and a CMO prior to the determination, the user may, during the effective term of the agreement, request a change by the CMO in the amount of the royalty.

When implementation of a CMO's royalty rate has been prohibited by the specialized agency in charge of copyright matters, the CMO shall return the royalties already collected.

The review decision of an application under paragraph 1 shall be made by the specialized agency in charge of copyright matters within four months from the date the documents are fully submitted.

The members of the Copyright Review and Mediation Committee under paragraph 4 shall include government authorities, scholars, experts, rights holders and users.

## **Article 26**

For royalty rates between the time of application for review and the review determination, the user may make a provisional payment, based on the type of exploitation, at the royalty rate originally set prior to the change in rate or at the originally stipulated royalty amount; if there is no originally set royalty rate or originally stipulated royalty amount, the user may apply to the specialized agency in charge of copyright matters to approve an amount for provisional payment.

Prior to its approval of the provisional payment of the preceding paragraph, the specialized agency in charge of copyright matters may seek the opinion of the Copyright Review and Mediation Committee.

The amount of provisional payment approved pursuant to paragraph 1 shall be published on the website of the specialized agency in charge of copyright matters, and during the period of review of the royalty rate, the provisional payment shall apply to all users engaging in exploitation under the same circumstances.

When a user makes a provisional payment to a CMO pursuant to paragraph 1, and where the payment is clearly indicated as a provisional payment, the user's exploitation will not be subject to the provisions of Chapter 6 and Chapter 7 of the Copyright Act.

When a user has made provisional payments pursuant to paragraph 1, then except where otherwise stipulated between the two parties, the payments shall be adjusted based on the royalty rate determined through the review process; when an application for royalty rate review is rejected, the payments shall be adjusted based on the CMO's publicly announced royalty rate.

When the implementation of a royalty rate for which a review application has been made by a user is prohibited pursuant to paragraph 8 of the preceding article, the CMO shall return the provisional payments already collected.

#### **Article 27**

A CMO shall publish information related to the works under its scope of management on the Internet for public access, including a list of the economic rights holders under its management, and the names of the works managed, the authors, the percentages of the economic rights held, the numbers of works, or other information sufficient to allow the works under its management to be identified, and shall also provide information within a reasonable scope in response to applications by members of the public.

When a CMO negotiates a blanket license agreement with a user, it shall inform the user of the information under the preceding paragraph.

#### **Article 28**

The following items shall be expressly set out in a individual license agreement:

- 1.The name of the economic rights holder, and title of the work.
- 2.The economic rights to be licensed for exploitation.
- 3.The territory, term, and method of licensed exploitation.
- 4.The method of calculation and the amount of royalties.
- 5.Method of royalty payment.
- 6.Liability for breach.
- 7.The date of agreement.

#### **Article 29**

In addition to setting out the matters required in subparagraphs 2 through 7 of the preceding article, a blanket license agreement shall also state that the licensee is licensed, within a specified period, to use all the economic rights managed by the CMO an unlimited number of times..

#### **Article 30**

The specialized agency in charge of copyright matters may designate relevant

CMOs to adopt a joint royalty rate with respect to a specified type of exploitation.

The designated CMOs under the preceding paragraph shall engage in consultation in order to adopt the joint royalty rate and methods of distribution of royalties, to be collected from users by one of the CMOs.

If agreement cannot be reached by consultation pursuant to the preceding paragraph, any of the CMOs may apply to the specialized agency in charge of copyright matters for a determination.

The provisions of Article 24 through Article 26 shall apply to the joint royalty rate of paragraph 2.

In determining the joint royalty rate under paragraph 3, the opinions of users and of the Copyright Review and Mediation Committee shall be sought, and the disposition containing the determination shall be published on the website of the specialized agency in charge of copyright matters.

A joint royalty rate that has been determined pursuant to the preceding paragraph may not be changed by the CMOs within three years from its date of implementation, and during the same period, users also may not make any application for review of the rate, provided that these provisions will not apply in the case of a material change in circumstances.

The provisions of paragraph 2 through the preceding paragraph shall be implemented two years after promulgation of the 12 January 2010 amendments to this Act.

When, prior to the date of implementation under the preceding paragraph, CMOs that have been designated pursuant to paragraph 1 have already undertaken consultation and adopted a joint royalty rate with respect to a specific type of exploitation, they may apply the provisions of Article 24 through Article 26.

### **Article 31**

When a member withdraws from a CMO, the CMO shall terminate the management agreement and cease to manage that member's economic rights.

A copyright user who has already entered into a license agreement with the CMO prior to a member's withdrawal may continue to exploit the works of the member who has withdrawn until the agreement expires and need not pay further royalties to that member, provided that where the license agreement contains stipulations prohibiting continued exploitation, those stipulations shall apply.

In the absence of the circumstances under the proviso of the preceding paragraph, the member who has withdrawn may apply to the CMO to request distribution of royalties, provided that the member who has withdrawn may not so request distribution of royalties when it has joined another CMO and may receive distribution of royalties in the new CMO for the exploitation by users set out in the preceding paragraph.

When stipulations exist between the CMO and the user as in the proviso of paragraph 2, the CMO shall immediately notify the user when the member withdraws from the CMO.

## **Article 32**

A CMO shall not refuse a request from a non-member economic rights holder for management of the rights holder's economic rights that falls within the scope of categories of works and rights managed by the CMO.

## **Article 33**

The provisions of Article 11, Article 14, Article 20, paragraphs 1, 2, and 5, Article 23, paragraphs 1 and 2, and Article 31 shall apply mutatis mutandis to matters between non-member economic rights holders and a CMO.

## **Article 34**

Within the scope of rights managed by it, a CMO shall provide licenses with the same terms and conditions to users engaging in exploitation under the same circumstances.

If a user is refused a license by the CMO, or no licensing agreement can be reached, the user shall be deemed to have obtained a license if, prior to exploitation, the user has made payment of or lodged with a court the royalty rate or the amount demanded by the CMO.

When a user has made payment to the CMO or lodged payment with a court pursuant to the preceding paragraph, it may at the same time lodge a declaration with the CMO, reserving the right of later opposition.

## **Article 35**

A CMO shall warrant its authorization to manage the rights whose exploitation it is licensing under its individual license agreements or blanket license agreements. When a user is clearly aware at the time of execution of an agreement that the CMO has no such authorization to perform management, the CMO is not liable to make such a warranty unless otherwise stipulated in the agreement.

## **Article 36**

A CMO shall exercise the due care of a good administrator when providing collective management services.

## **Article 37**

A copyright user shall periodically provide the CMO concerned with a record of use as the basis for calculating royalties to be distributed. When the license agreement stipulates otherwise, however, its provisions shall govern.

A CMO may, at its own cost, request a user at any time to provide a record of use.

If a user fails to provide a record of use or provides one that is materially incorrect or untrue, the CMO may terminate the license agreements executed with the user.

## **Article 38**

The CMO shall maintain a segregated account with a financial institution for

deposit of the royalties it collects. Except for the deduction of management fees under paragraph 2 or as otherwise provided by other laws, royalties may not be used in any way other than distributing them.

Based on its royalty collection and distribution rules, a CMO shall make periodic distribution of the balance of the royalties collected, after the deduction of management fees, to economic rights holders.

The "periodic distribution" referred to in the preceding paragraph shall take place at least once each year.

When a CMO distributes royalties, its board of directors shall, in accordance with its royalty collection and distribution rules, compile a table of royalty distributions that contains the following information, and submit it to the supervisors for auditing and confirmation after auditing and attestation by a certified public accountant:

- 1.The names of the economic rights holders and the economic rights held thereby.
- 2.The amount of each royalty payment and the total amount of royalties received.
- 3.The amount of management fees deductible from each royalty or the total amount thereof.
- 4.The distributable balance after deduction of the total management fees under subparagraph 2 above from the total amount of royalty received under subparagraph 2.
- 5.The method of calculating the amount to be distributed to each individual.
- 6.The amount to be distributed to each individual.

A CMO shall distribute royalties in accordance with the table of royalty distributions audited and confirmed by its supervisors, and keep said table of royalty distributions at its principal office. It also shall provide the economic rights holders with the table of royalty distributions for their works or make it available for them to review.

The competent authority will adopt regulations governing certified public accountant auditing and attestation procedures, working papers, reports, and other compliance matters under paragraph 4 and Article 21, paragraph 2.

### **Article 39**

When providing collective management services, a CMO may initiate litigious or non-litigious actions in its own name on behalf of economic rights holders. The CMO, however, may initiate criminal proceedings only when it has an exclusive license or has received [the economic rights] by way of trust transfer.

The "litigious actions" mentioned in the preceding paragraph shall mean the institution of civil and administrative suits and complaints or private prosecutions in criminal cases. "Non-litigious actions" shall mean administrative appeal and other actions.

## **CHAPTER V REWARD, GUIDANCE, AND SUPERVISION OF COLLECTIVE**



## MANAGEMENT ORGANIZATIONS

### **Article 40**

The specialized agency in charge of copyright matters may reward a CMO for excellence in providing collective management services.

### **Article 41**

The specialized agency in charge of copyright matters may at any time audit or order the CMO to submit within a specific deadline the statements that CMOs are required to prepare or compile in accordance with applicable laws and regulations or their articles of organization. The specialized agency in charge of copyright matters may also at any time inspect the operational and financial status of a CMO or order it to report on its handling of operations and finances within a specific deadline.

When performing the audits and inspections of the preceding paragraph, the specialized agency in charge of copyright matters may order a CMO to submit supporting documents, vouchers, statements, and relevant information, and shall return the same, after reviewing them, within one month from the date of receipt.

A CMO shall not evade, hinder, or refuse an audit or inspection made or order given by the specialized agency in charge of copyright matters pursuant to the preceding two paragraphs.

The specialized agency in charge of copyright matters, as it deems necessary in accordance with the state of a CMO's business and property, may order the CMO to change its method of operation, or order the CMO to submit a financial improvement by a specific deadline, or issue other necessary dispositions.

### **Article 42**

If a CMO commits any act in violation of laws, regulations, or its articles of organization, the specialized agency in charge of copyright matters may order it to make corrections within a prescribed deadline.

If the CMO does not make the correction within the prescribed deadline of the preceding paragraph, the specialized agency in charge of copyright matters may suspend or dismiss from office, or order the CMO to replace from office, the director, supervisor, or complaint committee member who committed the unlawful act.

### **Article 43**

When any of the following circumstances applies to a CMO, the specialized agency in charge of copyright matters shall revoke its establishment permit:

- 1.The CMO fails to carry out incorporation registration within the period of time prescribed in Article 9, paragraph 1.
- 2.The CMO fails to commence collective management services within one year after its incorporation registration.
- 3.The CMO is incapable of effectively performing collective management services.

## CHAPTER VI PENAL PROVISIONS

#### **Article 44**

For a violation of Article 10, paragraph 1, the offender shall be punished with an administrative fine of not less than NT\$500,000 and not more than NT\$2.5 million.

When any of the following circumstances applies to a CMO, it shall be punished with an administrative fine of not less than NT\$100,000 and not more than NT\$500,000:

1. Evading, hindering, or refusing an audit, inspection, or order by the specialized agency in charge of copyright matters, in violation of Article 41, paragraph 3.
2. Violation of an order given or other required measures imposed by the specialized agency in charge of copyright matters pursuant to Article 41, paragraph 4.
3. Failure to make correction within the prescribed deadline in accordance with an order given pursuant to Article 42, paragraph 1.

The administrative fines under the preceding two paragraphs may be imposed for each successive infraction until correction is effected.

#### **Article 45**

When any of the following circumstances applies to a CMO and is of a material nature, and the CMO has still failed to make corrections after receiving a penalty under paragraph 2 of the preceding article, the specialized agency in charge of copyright matters shall revoke its establishment permit:

1. Unauthorized use of member royalty allocations, in violation of Article 38, paragraph 1.
2. Failure to distribute royalties, in violation of Article 38, paragraph 2.
3. Other violation of law or regulation or its articles of organization.

If a CMO, in violation of an order under Article 42, paragraph 2, fails to replace from office the director, supervisor, or complaint committee member who committed the unlawful act, and the circumstances are serious, the specialized agency in charge of copyright matters furthermore shall revoke its permit.

### **CHAPTER VII Supplementary Provisions**

#### **Article 46**

For an organization for the management of economic rights on behalf of economic rights holders that was duly established prior to the 7 November 1997 date on which this Act was promulgated and took effect, it shall continue to handle any matters that were under its management and which had not terminated prior to the promulgation and taking effect of the Act.

If the organization of the preceding paragraph did not apply for an establishment permit for collective management services within one year after this Act was promulgated and enforced, or if approval was denied for the application, then any agreement executed with a user in the name of the organization for licensed exploitation of economic rights before the date on which this Act was promulgated and enforced, and which had not yet expired by 31 December 1998, shall be

terminated on that date.

#### **Article 47**

The provisions of Articles 24 through 26 will apply to royalty rates which were already implemented, or which were under application for review but where the review was not completed, prior to the enforcement of the articles of this Act amended on 12 January 2010, provided that this shall not apply to royalty rates which were determined through a review by the specialized agency in charge of copyright matters prior to the enforcement of the articles of this Act amended on 12 January 2010, and which at that time had been implemented for less than two full years.

#### **Article 47-1**

A person already serving as a director, supervisor, or chairman of the board of a CMO prior to the enforcement of the articles of this Act amended on 29 April 2022 and remaining incumbent at the time of enforcement of the amendment may continue to serve until the end of the person's term, free from the restrictions set out in Article 15, paragraph 4.

#### **Article 48**

When, after approval for establishment of a CMO, the CMO's establishment permit is voided or revoked, then except under the circumstances of article 43, subparagraph 1, the specialized agency in charge of copyright matters shall order the CMO's dissolution, shall provide written notification of the reasons to the district court of the relevant jurisdiction and the CMO, and shall publish the same on its website.

#### **Article 48-1**

When the dissolution of a CMO has been ordered, the court, upon a motion by the specialized agency in charge of copyright matters or an interested party, may, when it deems necessary, dismiss the liquidator.

#### **Article 49**

Except where dates of enforcement have been otherwise provided, this Act shall be enforced from the date of promulgation.