



STATUTORY INSTRUMENTS.

S.I. No. 156 of 2016



EUROPEAN UNION (COLLECTIVE RIGHTS MANAGEMENT)
(DIRECTIVE 2014/26/EU) REGULATIONS 2016

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The Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on him by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market¹, hereby makes the following regulations:

Part 1

PRELIMINARY

Citation, commencement, application and competent authority

1. (1) These Regulations may be cited as European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016.

(2) These Regulations come into operation on 10 April 2016.

(3) These Regulations apply to all collective management organisations established in the State.

(4) Where an entity which is established in the State and is directly or indirectly owned or controlled, wholly or in part, by a collective management organisation carries on an activity which, if carried on by a collective management organisation, would be subject to provisions of these Regulations, those provisions apply to that entity.

(5) The following provisions of these Regulations apply to independent management entities established in the State:

(a) Regulation 14(1) and (2);

(b) Regulation 16;

(c) Regulation 18;

(d) Regulation 19(3).

(6) The Controller is the competent authority designated for the purpose of these Regulations.

¹OJ No. L84, 20.3.2014, p. 72.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 12th April, 2016.*

Interpretation

2. In these Regulations—

“Act of 2000” means the Copyright and Related Rights Act 2000 (No. 28 of 2000);

“collective management organisation” means an organisation of any legal form which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of the rightholders, as its sole or main purpose, and which fulfils either or both of the following criteria:

- (a) it is owned or controlled by its members;
- (b) it is organised on a not-for-profit basis;

“Controller” has the meaning assigned to it by the Act of 2000;

“Directive” means Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market¹;

“director”, in relation to a collective management organisation, means—

- (a) where the law of the State or the statute of the collective management organisation provides for a single administrative board, any member of the administrative board;
- (b) where the law of the State or the statute of the collective management organisation provides for both a management board and a supervisory board (referred to in these Regulations as a “dual board system”), any member of the management board or the supervisory board;

“financial year” in relation to a collective management organisation, means a period for which the accounts of the collective management organisation are drawn up (even if longer or shorter than 12 months);

“general assembly of members”, in relation to a collective management organisation, means the body in the collective management organisation in which members participate and exercise their voting rights;

“independent management entity” means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of the rightholders, as its sole or main purpose, and which is—

- (a) neither owned nor controlled, directly or indirectly, wholly or in part, by rightholders, and

(b) organised on a for-profit basis;

“management fees” means the amounts charged, deducted or offset by a collective management organisation or independent management entity from rights revenue or from any income arising from the investment of rights revenue in order to cover the costs of its management of copyright or related rights;

“member”, in relation to a collective management organisation or independent management entity, means a rightholder or a person representing rightholders, (including another collective management organisation or an association of rightholders), fulfilling the membership requirements of the collective management organisation or independent management entity and admitted to membership by it;

“multi-territorial licence” means a licence which covers the territory of more than one Member State;

“online rights in musical works” means any of the rights of an author in a musical work provided for under Articles 2 and 3 of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society,² which are required for the provision of an online service;

“repertoire”, in relation to a collective management organisation, means the works in respect of which the collective management organisation manages rights;

“representation agreement” means any agreement between collective management organisations by which one collective management organisation mandates another collective management organisation to manage the rights it represents, including an agreement concluded under Regulation 27 or 28;

“rightholder” means any person, other than a collective management organisation or independent management entity, who holds a copyright or related right or who, under an agreement for the exploitation of such a right or by law, is entitled to a share of the rights revenue in respect of such a right;

“rights revenue” means income collected by a collective management organisation or independent management entity on behalf of rightholders, whether deriving from an exclusive right, a right to remuneration or a right to compensation;

“statute”, in relation to a collective management organisation or independent management entity, means the memorandum and articles of association, the statute, the rules or documents of constitution of the collective management organisation or independent management entity;

“user”, in relation to a rightholder, means a person who is carrying out acts subject to the authorisation of the rightholder, or providing remuneration to the

²OJ No. L167,22.7.2001, p. 10.

rightholder or paying compensation to the rightholder, and is not acting in the capacity of a consumer.

Part 2

COLLECTIVE MANAGEMENT ORGANISATIONS

Chapter 1

Representation of rightholders and membership and organisation of collective management organisations

General principles

3. (1) A collective management organisation shall act in the best interests of the rightholders whose rights it represents.

(2) In particular, a collective management organisation shall not impose on rightholders obligations which are not objectively necessary for the protection of their rights and interests or for the effective management of their rights.

Rights of rightholders

4. (1) A collective management organisation shall ensure that rightholders have the rights specified in this Regulation and that those rights are set out in the statute or terms of membership of the collective management organisation.

(2) Rightholders shall have the right to authorise a collective management organisation of their choice to manage the rights, categories of rights or types of works and other subject-matter of their choice, for the territories of their choice, irrespective of the Member State of nationality, residence or establishment of either the collective management organisation or the rightholder; and, unless a collective management organisation has objectively justified reasons to refuse management, it shall be obliged to manage such rights, categories of rights or types of works and other subject-matter, provided that their management falls within the scope of its activity.

(3) Rightholders shall have the right to grant licences for non-commercial uses of any rights, categories of rights or types of works and other subject-matter that they may choose.

(4) A rightholder shall have the right to terminate an authorisation to manage rights, categories of rights or types of works and other subject-matter granted to a collective management organisation or to withdraw from a collective management organisation any of the rights, categories of rights or types of works and other subject-matter, as determined pursuant to paragraph (2), for the territories of their choice, on serving reasonable notice not exceeding six months but the collective management organisation may decide that such termination or withdrawal is to take effect only at the end of the financial year in which the notice is served.

(5) If there are amounts due to a rightholder for acts of exploitation which occurred before the termination of an authorisation or withdrawal of rights took

effect, or under a licence granted before such termination or withdrawal took effect, the rightholder shall retain his rights under Regulations 10, 11, 16, 18, 26 and 31.

(6) A collective management organisation shall not restrict the exercise of rights provided for under paragraphs (4) and (5) by requiring, as a condition for the exercise of those rights, that the management of rights or categories of rights or types of works and other subject-matter which are subject to the termination or withdrawal be entrusted to another collective management organisation.

(7) In cases where a rightholder authorises a collective management organisation to manage rights, the rightholder shall give consent specifically for each right or category of rights or type of works and other subject-matter which the collective management organisation is authorised to manage and any such consent shall be evidenced in documentary form.

(8) A collective management organisation shall inform rightholders of their rights under this Regulation, as well as of any conditions attached to the right set out in paragraph (3), before obtaining their consent to its managing any right or category of rights or type of works and other subject-matter.

(9) A collective management organisation shall inform rightholders who have authorised it to manage any rights before the coming into operation of these Regulations of their rights under this Regulation, as well as of any conditions attached to the right set out in paragraph (3), by 10 October 2016.

Membership rules of collective management organisations

5. (1) A collective management organisation shall comply with the rules laid down in this Regulation.

(2) Rightholders and persons representing rightholders, including other collective management organisations and associations of rightholders, shall be accepted as members if they fulfil the membership requirements of the collective management organisation.

(3) The membership requirements shall be based on objective, transparent and non-discriminatory criteria.

(4) The membership requirements shall be included in the statute or membership terms of the collective management organisation and shall be made publicly available.

(5) Where a request for membership by a rightholder or a person representing rightholders is refused, the rightholder or person shall be provided with a clear explanation of the reasons for the decision.

(6) The statute shall provide for appropriate and effective mechanisms for the participation of the members in the decision-making process of the collective management organisation and the representation of the different categories of members in the decision-making process shall be fair and balanced.

(7) Members and rightholders who have a direct legal relationship by law or by way of assignment, licence or any other contractual arrangement with the collective management organisation but are not members shall be allowed to communicate with the collective management organisation by electronic means, including for the purposes of exercising members' rights.

(8) Records of the members shall be kept and regularly updated.

General assembly of members of collective management organisation

6. (1) A collective management organisation shall comply with the rules laid down in this Regulation.

(2) A general assembly of members shall be convened at least once a year.

(3) The general assembly of members shall decide on any amendments to the statute or to the membership terms of the collective management organisation where those terms are not regulated by the statute.

(4) The general assembly of members shall decide on the appointment and dismissal of the directors, review their general performance and approve their remuneration and other benefits (whether monetary or non-monetary), including pension awards and entitlements, rights to other awards and rights to severance pay.

(5) In a collective management organisation with a dual board system, the general assembly of members shall not decide on the appointment or dismissal of members of the management board or approve their remuneration or other benefits where the power to take such decisions is delegated to the supervisory board.

(6) In accordance with the provisions laid down in Chapter 2, the general assembly of members shall decide on at least the following issues:

- (a) the general policy on the distribution of amounts due to rightholders;
- (b) the general policy on the use of non-distributable amounts;
- (c) the general investment policy with regard to rights revenue and to any income arising from the investment of rights revenue;
- (d) the general policy on deductions from rights revenue and from any income arising from the investment of rights revenue;
- (e) the use of non-distributable amounts;
- (f) the risk management policy;
- (g) the approval of any acquisition, sale or hypothecation of immovable property;

(h) the approval of mergers and alliances, the setting-up of subsidiaries and the acquisition of other entities or of shares or other rights in other entities;

(i) the approval of taking out loans, granting loans or providing security for loans.

(7) The general assembly of members may delegate the powers listed in subparagraphs (f) to (i) of paragraph (6), by a resolution or by a provision in the statute, to the body exercising the supervisory function.

(8) The general assembly of members shall control the activities of the collective management organisation by, at least, deciding on the appointment and removal of the auditor and approving the annual transparency report required by Regulation 20.

(9) All members of the collective management organisation shall have the right to participate in, and the right to vote at, the general assembly of members but a collective management organisation may provide for restrictions on the right of the members of the collective management organisation to participate in, and to exercise voting rights at, the general assembly of members, on the basis of either or both of the following criteria:

(a) duration of membership;

(b) amounts received or due to a member,

provided that any criterion on the basis of which a restriction is imposed is determined and applied in a manner that is fair and proportionate.

(10) If a restriction is imposed on the basis of a criterion in paragraph (9), it shall be included in the statute or the membership terms of the collective management organisation and shall be made publicly available in accordance with Regulations 17 and 19.

(11) Every member of a collective management organisation shall have the right to appoint any other person as a proxy holder to participate in, and vote at, the general assembly of members on his behalf, provided that the appointment does not result in a conflict of interest which might occur, for example, where the appointing member and the proxy holder belong to different categories of rightholders within the collective management organisation.

(12) A proxy shall be valid only for one general assembly of members.

(13) A proxy holder shall enjoy the same rights in the general assembly of members as those to which the appointing member would be entitled.

(14) The proxy holder shall cast votes in accordance with the instructions issued by the appointing member.

Supervisory function

7. (1) A collective management organisation shall put in place a supervisory function for continuously monitoring the activities and the performance of the duties of the persons who manage the business of the collective management organisation which satisfies the requirements of this Regulation.

(2) There shall be fair and balanced representation of the different categories of members of the collective management organisation in the body exercising the supervisory function.

(3) Each person exercising the supervisory function shall make an annual individual statement on conflicts of interest, containing the information specified in Regulation 8(3), to the general assembly of members.

(4) The body exercising the supervisory function shall meet regularly and shall have the following powers:

- (a) to exercise the powers delegated to it by the general assembly of members, including under Regulation 6(5) or (7);
- (b) to monitor the activities and the performance of the duties of the persons mentioned in Regulation 8, including the implementation of the decisions of the general assembly of members and, in particular, of the general policies listed in Regulation 6(6)(a) to (d).

(5) The body exercising the supervisory function shall report on the exercise of its powers to the general assembly of members at least once a year.

Obligations on persons who manage business of collective management organisation

8. (1) A collective management organisation shall take all measures necessary to ensure that the persons responsible for managing its business do so in a sound, prudent and appropriate manner, using sound administrative and accounting procedures and internal control mechanisms.

(2) A collective management organisation shall put in place and apply procedures to avoid conflicts of interest and to secure that, where conflicts of interest cannot be avoided, actual or potential conflicts of interest are identified, managed, monitored and disclosed in such a way as to prevent them adversely affecting the collective interests of the rightholders whom the collective management organisation represents.

(3) The procedures referred to in paragraph (2) shall include an annual individual statement by each of the persons responsible for managing the business of the collective management organisation to the general assembly of members, containing the following information:

- (a) any interests of the person in the collective management organisation;

- (b) any remuneration received in the preceding financial year by the person from the collective management organisation, including in the form of pension schemes, benefits in kind and other types of benefits;
- (c) any amounts received in the preceding financial year by the person as a rightholder from the collective management organisation;
- (d) a declaration concerning any actual or potential conflict between any personal interests of the person and those of the collective management organisation or between any obligations owed by the person to the collective management organisation and any duty so owed to any other person.

Chapter 2

Management of rights revenue

Collection and use of rights revenue

9. (1) A collective management organisation shall comply with the rules laid down in this Regulation.

(2) A collective management organisation shall be diligent in the collection and management of rights revenue.

(3) A collective management organisation shall keep separate in its accounts—

- (a) rights revenue and any income arising from the investment of rights revenue, and
- (b) any own assets it may have and income arising from such assets, from management fees or from other activities.

(4) A collective management organisation shall not use rights revenue or any income arising from the investment of rights revenue for purposes other than distribution to rightholders, except where it is allowed to deduct or offset its management fees in compliance with a decision taken in accordance with Regulation 6(6)(d) or to use the rights revenue or any income arising from the investment of rights revenue in compliance with a decision taken in accordance with Regulation 6(6).

(5) Where a collective management organisation invests rights revenue or any income arising from the investment of rights revenue, it shall do so in the best interests of the rightholders whose rights it represents, in accordance with the general investment and risk management policy referred to in Regulation 6(6)(c) and (f) and having regard to the following rules:

- (a) where there is any potential conflict of interest, the collective management organisation shall ensure that the investment is made in the sole interest of those rightholders;

- (b) the assets shall be invested in order to ensure the security, quality, liquidity and profitability of the portfolio as a whole;
- (c) the assets shall be properly diversified in order to avoid excessive reliance on any particular asset and accumulations of risks in the portfolio as a whole.

Deductions

10. (1) Where rightholders authorise a collective management organisation to manage rights, the collective management organisation shall provide the rightholders with information on management fees and other deductions from the rights revenue and from any income arising from the investment of rights revenue, before obtaining the rightholders' consent to its managing the rights.

(2) A collective management organisation shall ensure that deductions are reasonable in relation to the services provided to the rightholders by the collective management organisation, including, where appropriate, the services referred to in paragraph (4), and shall be established on the basis of objective criteria.

(3) A collective management organisation shall secure that management fees do not exceed the justified and documented costs incurred by the collective management organisation in managing copyright and related rights and that the requirements applicable to the use, and the transparency of the use, of amounts deducted or offset in respect of management fees apply to any other deductions made in order to cover the costs of managing copyright and related rights.

(4) Where a collective management organisation provides social, cultural or educational services funded by deductions from rights revenue or from any income arising from the investment of rights revenue, the collective management organisation shall ensure that the services are provided on the basis of fair criteria, in particular as regards access to, and the extent of, those services.

Distribution of amounts due to rightholders

11. (1) A collective management organisation shall regularly, diligently and accurately distribute amounts due to rightholders in accordance with the general policy on distribution referred to in Regulation 6(6)(a).

(2) The collective management organisation and members of the collective management organisation who represent rightholders shall distribute those amounts to rightholders as soon as possible but no later than the end of the period of nine months after the end of the financial year in which the rights revenue was collected, unless objective reasons relating in particular to—

- (a) reporting by users,
- (b) identification of rights or rightholders, or
- (c) matching of information on works and other subject-matter with rightholders,

prevent the collective management organisation or, where applicable, its members from distributing the amounts before the end of that period.

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

(4) The collective management organisation shall take all necessary measures, consistent with paragraphs (1) and (2), to identify and locate the rightholders and, in particular, before the end of the period of three months after the end of the period referred to in paragraph (2), the collective management organisation shall make available information on works and other subject-matter for which one or more rightholders have not been identified or located to—

- (a) the rightholders that it represents and persons who represent rightholders and are members of the collective management organisation, and
- (b) all collective management organisations with which it has concluded representation agreements.

(5) The information referred to in paragraph (4) shall include, where available, the following:

- (a) the title of the work or other subject-matter;
- (b) the name of the rightholder;
- (c) the name of the relevant publisher or producer;
- (d) any other available information which could assist in identifying the rightholder.

(6) The collective management organisation shall also verify the records referred to in Regulation 5(8) and other readily available records.

(7) If the measures mentioned in paragraphs (4) to (6) fail to produce results, the collective management organisation shall make the information mentioned in paragraph (4) available to the public not later than one year after the end of the three-month period mentioned in that paragraph.

(8) Where the amounts due to rightholders cannot be distributed before the end of the period of three years after the end of the financial year in which the collection of the rights revenue occurred, and the collective management organisation has taken all necessary measures to identify and locate the rightholders referred to in paragraphs (4) to (7), those amounts shall be treated for the purposes of paragraph (9) as being non-distributable.

(9) The general assembly of members of the collective management organisation shall decide on the use of the non-distributable amounts in accordance

with Regulation 6(6)(b), without prejudice to the right of rightholders to claim such amounts from the collective management organisation.

Chapter 3

Management of rights on behalf of other collective management organisations

Rights managed under representation agreements

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

Deductions and payments in representation agreements

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

(2) A collective management organisation which manages rights under a representation agreement shall regularly, diligently and accurately pay amounts due to the other collective management organisation which is party to the representation agreement.

(3) The collective management organisation shall pay those amounts to the other collective management organisation as soon as possible but no later than the end of the period of nine months after the end of the financial year in which the rights revenue was collected, unless objective reasons relating in particular to—

- (a) reporting by users,
- (b) identification of rights or rightholders, or
- (c) matching of information on works and other subject-matter with rightholders,

prevent the collective management organisation from paying the amounts before the end of that period.

(4) The other collective management organisation, or (where it has as members persons representing rightholders) those members, shall distribute the amounts due to rightholders as soon as possible but no later than the end of the period of six months after day of the receipt of those amounts, unless objective reasons relating in particular to—

- (a) reporting by users,

- (b) identification of rights or rightholders, or
- (c) matching of information on works and other subject-matter with rightholders,

prevent the collective management organisation or, where applicable, its members from distributing the amounts before the end of that period.

Chapter 4

Relations with users

Licensing

14. (1) A collective management organisation or independent management entity and a user shall conduct negotiations for the licensing of rights in good faith.

(2) A collective management organisation or independent management entity and a user shall provide each other with all necessary information.

(3) The terms on which rights are licensed by a collective management organisation shall be based on objective and non-discriminatory criteria.

(4) When licensing rights, a collective management organisation shall not be required to use, as a precedent for other online services, licensing terms agreed with a user where the user is providing a new type of online service which has been available to the public in the European Union for less than three years.

(5) A collective management organisation shall ensure that rightholders receive appropriate remuneration for the use of their rights.

(6) A collective management organisation shall ensure that tariffs for exclusive rights and rights to remuneration are reasonable in relation to, among other things, the economic value of the use of the rights in trade, taking into account the nature and scope of the use of the work and other subject-matter, and the economic value of the service provided by the collective management organisation.

(7) The collective management organisations shall inform the users concerned of the criteria used for the setting of those tariffs.

(8) A collective management organisation shall reply without undue delay to a request from a user, indicating, among other things, the information needed in order for the collective management organisation to decide whether to offer a licence.

(9) On receipt of all information needed to make such a decision, the collective management organisation shall, without undue delay, either offer a licence or provide the user with a reasoned statement explaining why it does not intend to license a particular service.

(10) A collective management organisation shall allow users to communicate with it by electronic means, including, where appropriate, for the purpose of reporting on the use of the licence.

Users' obligations

15. (1) A user of rights represented by a collective management organisation shall provide to the collective management organisation, within an agreed or pre-established time and in an agreed or pre-established format, such relevant information at the user's disposal on use of rights represented by the collective management organisation as is necessary to enable the collective management organisation to undertake the collection of rights revenue for the distribution of amounts due to rightholders in order to discharge its obligations under these Regulations.

(2) When agreeing the format for the provision of such information, a collective management organisation and a user shall take into account, as far as possible, voluntary industry standards.

Chapter 5

Transparency and reporting

Information provided to rightholders on the management of their rights

16. (1) A collective management organisation or independent management entity shall make at least the following information available, not less than once a year, to each rightholder to whom it has attributed rights revenue or made distributions in the period to which the information relates:

- (a) any contact details which the rightholder has authorised the collective management organisation or independent management entity to use in order to identify and locate the rightholder;
- (b) the rights revenue attributed to the rightholder;
- (c) the amounts distributed by the collective management organisation or independent management entity to the rightholder for each category of rights managed and for each type of use;
- (d) the period during which the use for which amounts were attributed and distributed to the rightholder took place, unless objective reasons relating to reporting by users prevent the collective management organisation or independent management entity from providing this information;
- (e) deductions made in respect of management fees;
- (f) deductions made for any purpose otherwise than in respect of management fees, including those made for the provision of any social, cultural or educational services;

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

(2) Where a collective management organisation or independent management entity attributes rights revenue and has as members entities which are responsible for the distribution of rights revenue to rightholders, the collective management organisation or independent management entity shall provide the information listed in paragraph (1) to those entities if they do not have the information in their possession.

(3) Entities which are members of a collective management organisation or independent management entity and are responsible for the distribution of rights revenue to rightholders shall make the information listed in paragraph (1) available, not less than once a year, to each rightholder to whom they have attributed rights revenue or distributed amounts in the period to which the information relates.

Information provided to other collective management organisations on management of rights under representation agreements

17. A collective management organisation shall make the following information available, not less than once a year and by electronic means, to a collective management organisation on whose behalf it manages rights under a representation agreement, for the period to which the information relate:

- (a) the rights revenue attributed to the collective management organisation for the rights it manages under the representation agreement;
- (b) the amounts distributed by the collective management organisation for each category of rights managed, and for each type of use, for the rights it manages under the representation agreement, and any rights revenue attributed which is outstanding for any period;
- (c) deductions made in respect of management fees;
- (d) deductions made for any purpose otherwise than in respect of management fees, including those for the provision of any social, cultural or educational services;
- (e) information on any licences granted or refused with regard to works and other subject-matter covered by the representation agreement;
- (f) resolutions adopted by the general assembly of members in so far as those resolutions are relevant to the management of the rights under the representation agreement.

Information provided to rightholders, other collective management organisations and users on request

18. In response to a duly justified request, a collective management organisation or independent management entity shall make available by electronic means and without undue delay to any rightholder or any user, or (in the case

of a collective management organisation) any collective management organisation on whose behalf it manages rights under a representation agreement, at least the following information:

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

Disclosure of information to public

19. (1) A collective management organisation shall make public at least the following information:

- (a) its statute;
- (b) its membership terms and the terms of termination of authorisation to manage rights, if these are not included in the statute;
- (c) standard licensing contracts and standard applicable tariffs, including discounts;
- (d) a list of the persons who manage its business;
- (e) its general policy on distribution of amounts due to rightholders;
- (f) its general policy on management fees;
- (g) its general policy on deductions, otherwise than in respect of management fees, from rights revenue and from any income arising from the investment of rights revenue, including deductions for the purposes of social, cultural and educational services;
- (h) a list of the representation agreements it has entered into, and the names of the collective management organisations with which those representation agreements have been concluded;
- (i) its general policy on the use of non-distributable amounts;
- (j) the complaint handling and dispute resolution procedures available in accordance with Regulations 31 and 32.

(2) The collective management organisation shall publish the information specified in paragraph (1), and keep it up to date, on its public website.

(3) An independent management entity shall make public at least the following information:

- (a) its statute;
- (b) its membership terms and the terms of termination of authorisation to manage rights, if these are not included in the statute;
- (c) standard licensing contracts and standard applicable tariffs, including discounts;
- (d) its general policy on distribution of amounts due to rightholders;
- (e) its general policy on management fees;
- (f) its general policy on deductions, otherwise than in respect of management fees, from rights revenue and from any income arising from the investment of rights revenue, including deductions for the purposes of social, cultural and educational services.

Annual transparency report

20. (1) A collective management organisation shall produce a transparency report, including a special report as mentioned in paragraph (7), for each financial year no later than eight months following the end of the financial year.

(2) The collective management organisation shall publish a transparency report on its website and ensure that it remains available to the public there for at least five years.

(3) A transparency report shall contain at least the information set out in the Schedule.

(4) The accounting information included in a transparency report shall be audited by one or more persons empowered by law to audit accounts in accordance with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC³.

(5) For the purposes of paragraph (4), “accounting information” comprises the financial statements specified in paragraph 1 of the Schedule and any financial information specified in Parts 2 and 3 of the Schedule.

(6) The audit report, including any qualifications of it, shall be reproduced in full in the transparency report.

(7) A special report shall contain the information set out in Part 3 of the Schedule.

³OJ No. L157, 9.6.2006, p. 87.

Part 3

MULTI-TERRITORIAL LICENSING OF ONLINE RIGHTS IN MUSICAL WORKS BY COLLECTIVE MANAGEMENT ORGANISATIONS

Multi-territorial licensing in internal market

21. A collective management organisation shall comply with the requirements of this Part when granting multi-territorial licences for online rights in musical works.

Capacity to process multi-territorial licences

22. (1) A collective management organisation which grants multi-territorial licences for online rights in musical works shall have sufficient capacity to process electronically, in an efficient and transparent manner, data needed for the administration of the licences, including for the purposes of identifying the repertoire and monitoring its use, invoicing users, collecting rights revenue and distributing amounts due to rightholders.

(2) For the purposes of paragraph (1) a collective management organisation shall—

- (a) have the ability to identify accurately the musical works which it is authorised to represent (whether in whole or in part),
- (b) have the ability to identify accurately with respect to each relevant territory, the rights and their corresponding rightholders for each musical work or share in a musical work which it is authorised to represent (whether in whole or in part),
- (c) make use of unique identifiers in order to identify rightholders and musical works, taking into account, as far as possible, voluntary industry standards and practices developed at international or European Union level, and
- (d) make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations granting multi-territorial licences for online rights in musical works.

Transparency of multi-territorial repertoire information

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

(2) The information shall include—

- (a) the musical works represented,

(b) the rights represented (in whole or in part), and

(c) the territories covered.

(2) The collective management organisation may take reasonable measures, where necessary, to protect the accuracy and integrity of the data, to control its re-use and to protect commercially sensitive information.

Accuracy of multi-territorial repertoire information

24. (1) A collective management organisation which grants multi-territorial licences for online rights in musical works shall have arrangements in place to enable a rightholder, another collective management organisation or an online service provider to request a correction of the data referred to in the list of conditions in Regulation 22(2) or the information provided under Regulation 23, where the rightholder, collective management organisation or online service provider, on the basis of reasonable evidence, believes that the data or the information is inaccurate in respect of its online rights in musical works.

(2) Where the claims made in a request under paragraph (1) are sufficiently substantiated, the collective management organisation shall ensure that the data or the information is corrected without undue delay.

(3) The collective management organisation shall provide rightholders whose musical works are included in its own music repertoire and rightholders who have entrusted the management of their online rights in musical works to it in accordance with Regulation 29 with the means of submitting to it in electronic form information concerning their musical works, their rights in those works and the territories in respect of which the rightholders authorise the organisation.

(4) When doing so, the collective management organisation and the rightholders shall take into account, as far as possible, voluntary industry standards or practices regarding the exchange of data developed at international or European Union level, allowing rightholders to specify the musical work, wholly or in part, the online rights, wholly or in part, and the territories in respect of which they authorise the organisation.

(5) Where a collective management organisation (referred to in this paragraph as “the mandating collective management organisation”) mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works under Regulations 27 and 28, paragraphs (3) and (4) shall also apply with respect to the rightholders whose musical works are included in the repertoire of the mandating collective management organisation, unless the collective management organisations agree otherwise.

Accurate and timely reporting and invoicing

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

(2) The collective management organisation shall offer online service providers the possibility of reporting by electronic means the actual use of online

rights in musical works and online service providers shall accurately report the actual use of those works.

(3) The collective management organisation shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or European Union level for the electronic exchange of such data.

(4) The collective management organisation may refuse to accept reporting by the online service provider in a proprietary format if the collective management organisation allows reporting using an industry standard for the electronic exchange of data.

(5) The collective management organisation shall invoice the online service provider by electronic means.

(6) The collective management organisation shall offer the use of a least one format of invoice which takes into account voluntary industry standards or practices developed at international or European Union level.

(7) The invoice shall identify the works and rights which are licensed, wholly or in part, on the basis of the data referred to in the list of conditions under Regulation 22(2), and the corresponding actual uses, to the extent that this is possible on the basis of the information provided by the online service provider and the format used to provide that information.

(8) The online service provider may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard.

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

(10) The collective management organisation shall have in place adequate arrangements enabling the online service provider to challenge the accuracy of the invoice, including when the online service provider receives invoices from one or more collective management organisations for the same online rights in the same musical work.

Accurate and timely distributions to rightholders

26. (1) A collective management organisation which grants multi-territorial licences for online rights in musical works shall distribute amounts due to rightholders accruing from such licences accurately and without delay after the actual use of the work is reported, except where this is not possible for reasons attributable to the online service provider.

(2) The collective management organisation shall provide at least the following information to rightholders with each distribution it makes under paragraph (1):

- (a) the period during which the uses took place for which amounts are due to rightholders and the territories in which the uses took place;
- (b) the amounts collected, deductions made and amounts distributed by the collective management organisation for each online right in any musical work which rightholders have authorised the collective management organisation to represent (in whole or in part);
- (c) the amounts collected for rightholders, deductions made, and amounts distributed by the collective management organisation in respect of each online service provider.

(3) Where a collective management organisation (referred to in this Regulation as “the mandating collective management organisation”) mandates another collective management organisation (referred to in this Regulation as “the mandated collective management organisation”) to grant multi-territorial licences for the online rights in musical works under Regulations 27 and 28, the mandated collective management organisation shall distribute the amounts referred to in paragraph (1) accurately and without delay and shall provide the information referred to in paragraph (2) to the mandating collective management organisation.

(4) The mandating collective management organisation shall be responsible for the subsequent distribution of such amounts and the provision of such information to rightholders, unless the collective management organisations agree otherwise.

Agreements between collective management organisations for multi-territorial licensing

27. (1) Any representation agreement between collective management organisations in accordance with which a collective management organisation (referred to in this Regulation as “the mandating collective management organisation”) mandates another collective management organisation (referred to in this Regulation as “the mandated collective management organisation”) to grant multi-territorial licences for the online rights in musical works in its own music repertoire shall be of a non-exclusive nature.

(2) The mandated collective management organisation shall manage those online rights on a non-discriminatory basis.

(3) The mandating collective management organisation shall inform—

- (a) its members, and
- (b) rightholders who have a direct legal relationship by law or by way of assignment, licence or any other contractual arrangement with it but are not members,

of the main terms of the agreement, including its duration and the costs of the services provided by the mandated collective management organisation.

(4) The mandated collective management organisation shall inform the mandating collective management organisation of the main terms according to which the latter's online rights are to be licensed, including the nature of the exploitation, all provisions which relate to or affect the licence fee, the duration of the licence, the accounting periods and the territories covered.

Obligation to represent another collective management organisation for multi-territorial licensing

28. (1) Where a collective management organisation (referred to in this Regulation as “the requesting collective management organisation”) which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its own repertoire requests another collective management organisation (referred to in this Regulation as “the requested collective management organisation”) to enter into a representation agreement to represent those rights, the requested collective management organisation shall agree to the request if it is already granting or offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collective management organisations.

(2) The requested collective management organisation shall respond to the requesting collective management organisation in writing and without undue delay.

(3) The requested collective management organisation shall manage the represented repertoire of the requesting collective management organisation on the same conditions as those which it applies to the management of its own repertoire.

(4) The requested collective management organisation shall include the represented repertoire of the requesting collective management organisation in all offers it addresses to online service providers.

(5) The management fee for the service provided by the requested collective management organisation to the requesting collective management organisation shall not exceed the costs reasonably incurred by the requested collective management organisation.

(6) The requesting collective management organisation shall make available to the requested collective management organisation information relating to its own music repertoire required for the provision of multi-territorial licences for online rights in musical works.

(7) Where the information is insufficient or provided in a form that does not allow the requested collective management organisation to meet the requirements of this Part, the requested collective management organisation shall be entitled to charge for the costs reasonably incurred in meeting such requirements or to exclude those works for which information is insufficient or cannot be used.

Access to multi-territorial licensing

29. Where a collective management organisation does not grant or offer to grant multi-territorial licences for online rights in musical works, or does not allow another collective management organisation to represent those rights for such purpose, by 10 April 2017, the collective management organisation must ensure that rightholders who have authorised the collective management organisation to represent their online rights in musical works before that date may withdraw from the collective management organisation the online rights in musical works for the purposes of multi-territorial licensing in respect of all territories without having to withdraw the online rights in musical works for the purposes of mono-territorial licensing, so as to grant multi-territorial licences for their online rights in musical works themselves or through any other party they authorise or through any collective management organisation complying with the provisions of this Part.

Derogation for online music rights required for radio and television programmes

30. The requirements under this Part shall not apply to collective management organisations when they grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 of the Treaty on the Functioning of the European Union, a multi-territorial licence for the online rights in musical works required by a broadcaster to communicate or make available to the public its radio or television programmes simultaneously with or after their initial broadcast as well as any online material, including previews, produced by or for the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

Part 4

ENFORCEMENT

Complaints procedures

31. (1) A collective management organisation shall make available to—

- (a) its members,
- (b) rightholders who have a direct legal relationship by law or by way of assignment, licence or any other contractual arrangement with the collective management organisation but are not members of it, and
- (c) collective management organisations on whose behalf it manages rights under a representation agreement,

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

(2) A collective management organisation shall respond in writing to complaints by its members or by a collective management organisation on whose behalf it manages rights under a representation agreement.

(3) Where a collective management organisation rejects a complaint, it shall give reasons.

(4) Nothing in this Regulation limits the ability of any person to bring or defend proceedings in any court.

Alternative dispute resolution procedure

32. (1) A collective management organisation to which Part 3 applies and which grants, or offers to grant, multi-territorial licences for online rights in musical works shall ensure that disputes to which this Regulation applies can be submitted to an independent and impartial alternative dispute resolution procedure.

(2) This Regulation applies to—

- (a) disputes with an actual or potential online service provider regarding the application of Regulation 14, 23, 24 or 25,
- (b) disputes with one or more rightholders regarding the application of Regulation 23, 24, 25, 26, 27, 28 or 29, and
- (c) disputes with another collective management organisation regarding the application of Regulation 23, 24, 25, 26, 27 or 28.

(3) Nothing in this Regulation limits the ability of any person to bring or defend proceedings in any court.

Monitoring compliance

33. (1) The Controller shall monitor compliance with these Regulations.

(2) The Controller may request any relevant person to provide information which may assist the Controller in monitoring compliance with these Regulations.

(3) In paragraph (2), “relevant person” means—

- (a) a collective management organisation (whether or not established in the State),
- (b) an independent management entity,
- (c) an entity within Regulation 1(4),
- (d) a member of a collective management organisation or of an independent management entity,
- (e) a rightholder or a body representing the interests of rightholders, or
- (f) a person who is a user in relation to a rightholder or a body representing the interests of users.

(4) The Controller shall act on any information which is provided by any person if it evidences a failure to comply with any requirement imposed by these Regulations.

Statement of compliance

34. (1) Section 175 of the Act of 2000 is amended—

(a) in subsection (7)—

(i) by the deletion, in paragraph (g), of “and”,

(ii) by the substitution, in paragraph (h), of “that section;” for “that section.”, and

(iii) by the insertion of the following paragraph after paragraph (h):

“(i) in the case of a licensing body in relation to which any provisions of the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016 (referred to in this section as “Regulations of 2016”) apply, a statement of compliance and appropriate supporting evidence.”,

and

(b) by the insertion of the following subsections after subsection (7):

“(7A) In this section and section 179—

“statement of compliance” means a document, in electronic form and signed by a person authorised by the licensing body, stating that the licensing body has complied, is complying and will comply with the requirements imposed on it by the Regulations of 2016 to the extent specified in the document;

“appropriate supporting evidence” means information supporting the statements made in the statement of compliance.

(7B) The conditions referred to in subsection (5)(b) shall include, in the case of a licensing body in relation to which any provisions of the Regulations of 2016 apply—

(a) that the licensing body has provided such further information as the Controller may require (in addition to that contained in the statement of compliance and provided as part of the appropriate supporting evidence) for ascertaining whether the licensing body has complied, is complying and will comply with requirements imposed on it by the Regulations of 2016, and

(b) that the statement of compliance of the licensing body, together with the appropriate supporting evidence and any further information provided by the licensing body, satisfies the Controller that the licensing body has complied, is complying and will comply with requirements imposed on it by the Regulations of 2016.”.

(2) Section 179 of the Act of 2000 is amended by the insertion of the following subsection after subsection (1):

“(1A) The power conferred on the Controller by subsection (1) may not be exercised by reason of a failure by a licensing body to provide a statement of compliance or appropriate supporting evidence—

(a) if—

- (i) the licensing body has, before the expiration of the period of validity of the certificate of registration, submitted to the Controller an application for an extension of the time within which the statement of compliance or appropriate supporting evidence is required to be provided and a satisfactory explanation for the application,
- (ii) the Controller has granted an extension of 28 days from the expiration of that period, and
- (iii) the failure does not continue beyond the extension,

or

(b) unless the Controller has, after the time within which the statement of compliance or appropriate supporting evidence is required to be provided, issued a written notice requiring the person to provide a statement of compliance or appropriate supporting evidence within a specified period and the Controller is satisfied that the notice has not been complied with.”.

(3) Section 280 of the Act of 2000 is amended—

(a) in subsection (6)—

- (i) by the deletion, in paragraph (f), of “and”,
- (ii) by the substitution, in paragraph (g), of “the applicant;” for “the applicant.”, and
- (iii) by the insertion of the following paragraph after paragraph (g):

“(h) in the case of a licensing body in relation to which any provisions of the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016

(referred to in this section as “Regulations of 2016”) apply, a statement of compliance and appropriate supporting evidence.”,

and

(b) by the insertion of the following subsections after subsection (7):

“(7A) In this section and section 284—

“statement of compliance” means a document, in electronic form and signed by a person authorised by the licensing body, stating that the licensing body has complied, is complying and will comply with the requirements imposed on it by the Regulations of 2016 to the extent specified in the document;

“appropriate supporting evidence” means information supporting the statements made in the statement of compliance.

(7B) The conditions referred to in subsection (5)(b) shall include, in the case of a licensing body in relation to which any provisions of the Regulations of 2016 apply—

- (a) that the licensing body has provided such further information as the Controller may require (in addition to that contained in the statement of compliance and provided as part of the appropriate supporting evidence) for ascertaining whether the licensing body has complied, is complying and will comply with requirements imposed on it by the 2016 Regulations, and
- (b) that the statement of compliance of the licensing body, together with the appropriate supporting evidence and any further information provided by the licensing body, satisfies the Controller that the licensing body has complied, is complying and will comply with requirements imposed on it by the 2016 Regulations.”.

(4) Section 284 of the Act of 2000 is amended by the insertion of the following subsection after subsection (1):

“(1A) The power conferred on the Controller by subsection (1) may not be exercised by reason of a failure by a licensing body to provide a statement of compliance or appropriate supporting evidence—

(a) if—

- (i) the licensing body has, before the expiration of the period of validity of the certificate of registration, submitted to the Controller an application for an extension of the time within which the statement of compliance or appropriate supporting evidence is

required to be provided, accompanied by a satisfactory explanation for the application,

- (ii) the Controller has granted an extension of 28 days from the expiration of that period, and
- (iii) the failure does not continue beyond the extension,

or

- (b) unless the Controller has, after the time within which the statement of compliance or appropriate supporting evidence is required to be provided, issued a written notice requiring the person to provide a statement of compliance or appropriate supporting evidence within a specified period and the Controller is satisfied that the notice has not been complied with.”.

(5) The Copyright and Related Rights (Register of Copyright Licensing Bodies) Regulations 2002 (S.I. 463 of 2002) are amended—

- (a) in Regulation 6(1) and (2), by the substitution for “and (a) to (h) in the case of applicants within the meaning of section 38 of the Act of 2000” of “, (a) to (h) in the case of applicants within the meaning of section 38 of the Act of 2000 and (a) to (i) in the case of licensing bodies in relation to which any provisions of the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016 apply”,
- (b) in Regulation 8(2), by the substitution for “(h)” of “(i)”, and
- (c) in the Schedule—
 - (i) by the deletion, in paragraph (g), of “and”,
 - (ii) by the substitution, in paragraph (h), of “the Act of 2000; and” for “the Act of 2000.”, and
 - (iii) by the insertion of the following after paragraph (h):

“In the case of licensing bodies in relation to which any provisions of the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016 apply only—

- (i) a statement of compliance and appropriate supporting evidence (within the meaning of section 175(7A) of the Act of 2000).”.

(6) The Copyright and Related Rights (Register of Licensing Bodies for Performers’ Property Rights) Regulations 2008 (S.I. 306 of 2008) is amended, in the Schedule, by the insertion of the following paragraph after paragraph 7:

“8. In the case of licensing bodies in relation to which any provisions of the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016 apply, a statement of compliance and appropriate supporting evidence (within the meaning of section 280(7A) of the Act).”.

Sanctions for non-compliance

35. (1) Where the Controller considers that a licensing body registered under Part II or III of the Act of 2000 has not complied with any requirement imposed by these Regulations, the Controller may serve a compliance notice on that person.

(2) A compliance notice shall be in writing and—

- (a) shall state that the Controller considers that the person has not complied with a requirement imposed by these Regulations,
- (b) shall specify the provision imposing the requirement and the nature of the non-compliance,
- (c) may request the person, where the non-compliance is continuing, to end it,
- (d) for the purpose of ensuring compliance by the person with the requirement, may request the person to do, or refrain from doing, anything specified in the notice,
- (e) may request the person to give to the Controller a written undertaking that non-compliance with the requirement will not be repeated, and
- (f) shall inform the person of the effect of paragraph (3).

(3) If the Controller is satisfied that a person has failed to comply with a request included in a compliance notice under paragraph (2)(c) or (d), or with an undertaking given in compliance with a request so included under paragraph (2)(e), the Controller may serve an enforcement notice on the person.

(4) An enforcement notice shall be in writing and shall—

- (a) state the grounds on which the Controller is satisfied that the person has failed to comply with the request or undertaking referred to in paragraph (3),
- (b) inform the person that failure to comply with the request or undertaking within such period as is specified in the enforcement notice may cause the Controller to decide to remove the person from the Register of Copyright Licensing Bodies or the Register of Licensing Bodies for Performers' Property Rights under paragraph (6), and
- (c) inform the person of the right to make representations in accordance with paragraph (5).

(5) The person may, within 14 days of the service of the enforcement notice, make representations in writing to the Controller.

(6) If, having regard to any such representations, the Controller is satisfied that the person has failed to comply with an enforcement notice, the Controller shall remove the person from the Register of Copyright Licensing Bodies or the Register of Licensing Bodies for Performers' Property Rights.

(7) The Controller shall serve notice of the removal on the person and the removal shall take effect 21 days from the date of service of the notice unless an appeal is brought under paragraph (8).

(8) The person may, within 21 days from the date of service of the removal, appeal against the removal to the District Court.

(9) The jurisdiction conferred on the District Court by paragraph (8) shall be exercised by a judge of that court assigned to the District Court district in which the person ordinarily resides.

(10) If the person brings an appeal which is unsuccessful, the decision shall take effect when the appeal is finally determined.

(11) A notice that is required to be served on a person under this Regulation shall be addressed to the person by name and may be so served in any of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished to the Controller, at that address;
- (c) by sending it by post in a pre-paid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished to the Controller, to that address.

(12) For the purposes of this Regulation, a company with a registered office shall be regarded as ordinarily residing at its registered office and every other body corporate and every unincorporated body of persons shall be regarded as ordinarily residing at its principal office or place of business.

Exchange of information between competent authorities

36. (1) The Controller shall respond without undue delay to a request for information received from a competent authority of another Member State, designated for the monitoring of the application of the Directive, concerning matters relevant to the application of the Directive, in particular with regard to the activities of collective management organisations established in the State, provided that the request is duly justified.

(2) Where the competent authority of another Member State—

- (a) considers that a collective management organisation established in the State but acting within the other Member State may not be complying with these Regulations, and
- (b) transmits all relevant information to the Controller, accompanied where appropriate by a request to the Controller to take appropriate action,

the Controller shall provide a reasoned reply to that competent authority within three months.

(3) Where the Controller considers that a collective management organisation established in another Member State but acting within the State may not be complying with the provisions of the law of that Member State adopted pursuant to the requirements of the Directive, the Controller may transmit all relevant information to the competent authority of the Member State in which the collective management organisation is established, accompanied where appropriate by a request to that authority to take appropriate action within its competence.

(4) Matters referred to in paragraph (3) may also be referred by the Controller when making such a request to the expert group established in accordance with Article 41 of the Directive.

SCHEDULE

INFORMATION TO BE PROVIDED IN ANNUAL TRANSPARENCY REPORT

Part 1

GENERAL

1. Financial statements comprising a balance-sheet or a statement of assets and liabilities, an income and expenditure account for the financial year and a cash-flow statement.
2. A report on the activities in the financial year.
3. Information on refusals to grant a licence pursuant to Regulation 14(9).
4. A description of the legal and governance structure of the collective management organisation.
5. Information on any persons directly or indirectly owned or controlled, wholly or in part, by the collective management organisation.
6. Information on the total amount of remuneration paid to the persons who exercise the supervisory function, or manage the business, of the collective management organisation in the previous year, and on other benefits granted to them.

Part 2

FINANCIAL INFORMATION

7. Financial information on rights revenue, for each category of rights managed and for each type of use (e.g. broadcasting, online, public performance), including information on the income arising from the investment of rights revenue and the use of such income (whether it is distributed to rightholders or paid to other collective management organisations, or otherwise used).
8. Financial information on the cost of rights management and other services provided by the collective management organisation to rightholders, with a comprehensive description of at least the following:
 - (a) all operating and financial costs, with a breakdown for each category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;
 - (b) operating and financial costs, with a breakdown for each category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs, only with regard to the management of rights, including management fees deducted from or offset against

rights revenue or any income arising from the investment of rights revenue in accordance with Regulations 9(4) and 10(1), (2) and (3);

- (c) operating and financial costs with regard to services other than the management of rights, but including social, cultural and educational services;
- (d) resources used to cover costs;
- (e) deductions made from rights revenues, with a breakdown for each category of rights managed and for each type of use and the purpose of the deductions, such as costs relating to the management of rights or to social, cultural or educational services;
- (f) the percentages of the rights revenue in the relevant financial year, for each category of rights managed, that the costs of the rights management and other services provided by the collective management organisation to rightholders represent and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs.

9. Financial information on amounts due to rightholders, with a comprehensive description of at least the following:

- (a) the total amount attributed to rightholders, with a breakdown for each category of rights managed and for each type of use;
- (b) the total amount distributed to rightholders, with a breakdown for each category of rights managed and for each type of use;
- (c) the frequency of distributions, with a breakdown for each category of rights managed and for each type of use;
- (d) the total amount collected but not yet attributed to rightholders, with a breakdown for each category of rights managed for each type of use, and indicating the financial year in which those amounts were collected;
- (e) the total amount attributed to but not yet distributed to rightholders, with a breakdown for each category of rights managed and for each type of use, and indicating the financial year in which those amounts were collected;
- (f) where the collective management organisation has not carried out distribution before the end of the period specified in Regulation 11(2), the reasons for the delay;
- (g) the total non-distributable amounts, along with an explanation of the use to which those amounts have been put.

10. Information on relationships with other collective management organisations, with a description of at least the following:

- (a) amounts received from other collective management organisations and amounts paid to other collective management organisations, with a breakdown for each category of rights, for each type of use and for each collective management organisation;
- (b) management fees and other deductions from the rights revenue due to other collective management organisations, with a breakdown for each category of rights, for each type of use and for each collective management organisation;
- (c) management fees and other deductions from the amounts paid by other collective management organisations, with a breakdown for each category of rights and for each collective management organisation;
- (d) amounts distributed directly to rightholders originating from other collective management organisations, with a breakdown for each category of rights and for each collective management organisation.

Part 3

INFORMATION FOR SPECIAL REPORT

11. The amounts deducted for the purposes of social, cultural and educational services in the financial year, with a breakdown for each type of purpose and, for each type of purpose, a breakdown for each category of rights managed and each type of use.

12. An explanation of the use of those amounts, with a breakdown for each type of purpose including the costs of managing amounts deducted to fund social, cultural and educational services and of the separate amounts used for social, cultural and educational services.



GIVEN under the Official Seal of the Minister for Jobs, Enterprise and Innovation,
8 April 2016.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations, made pursuant to the European Communities Act 1972, transpose Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014. The Regulations impose governance requirements on collective management organisations established in the state and, separately, allow them to undertake licensing on a multi-territorial basis throughout the European Union.

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