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Later amendments to this legislation
None

Act on collective management of copyright and related rights¹⁾

WE MARGRETHE II, by God's Grace Queen of Denmark, proclaim: The Danish Parliament has passed and We, by Our consent, have ratified the following Act:

Chapter 1

Scope of this Act etc.

Scope

Section 1. This Act, with the exclusion of Chapter 7, applies to all collective management organisations established in Denmark.

2. Chapter 7 applies to those collective management organisations established in Denmark managing the rights in musical works intended for online consumption on a multi-territorial basis.

3. The relevant provisions of this Act apply to entities established in Denmark, directly or indirectly owned or controlled, wholly or in part, by a collective management organisation, provided that such entities carry out an activity which, if carried out by the collective management organisation, would be subject to the provisions of this Act.

4. Sections 19 and 21; section 22 (1-3) and 22 (5-7); and sections 38 and 39 apply to all independent management entities established in Denmark.

5. Subsections 1-3, 6 and 7 similarly apply to any collective management organisation established outside the European Economic Area, but which is active in Denmark, and subsection 4 similarly applies to any independent management organisation established outside the European Economic Area, but which is active in Denmark.

6. Where a collective management organisation decrees in its statutes that a member organisation must distribute amounts due to the rightholders, cf. section 24, the provisions in Chapter 3 and in section 18 (4); section 19 (3); and sections 38 and 39 apply to the member organisation. In this connection, that member organisation is obliged to ensure that the rightholders are allowed the opportunity to decide on the use of the rights revenues in those areas referred to in section 6 (5), points 1-6.

7. Where a collective management organisation decreed in its statutes that a member organisation must release a transparency report, cf. section 24, sections 23 and 38-39 apply to the member organisation. In this connection, that member organisation must ensure that the rightholders are allowed the opportunity to approve the transparency report.

Definitions

Section 2. For the purposes of this Act, the following definitions shall apply:

- 1) *Collective management organisation:* 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 those rightholders, as its sole or main purpose, and which fulfils one 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.
- 2) *Independent management entity*: 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 those rightholders, as its sole or main purpose, and which is neither owned nor controlled, directly or indirectly, wholly or in part, by rightholders; and which is organised on a for-profit basis.
 - 3) *Rightholder*: Any person or entity, other than a collective management organisation, that holds a copyright or related right or, under an agreement for the exploitation of rights or by law, is entitled to a share of the rights revenue.
 - 4) *Member*: A rightholder or an entity representing rightholders, fulfilling the membership requirements of the collective management organisation and admitted by it.
 - 5) *General assembly of members*: The body in the collective management organisation, wherein members participate and exercise their voting rights, regardless of the legal form of the organisation.
 - 6) *Rights revenue*: Income collected by a collective management organisation on behalf of rightholders, whether deriving from an exclusive right, a right to remuneration or a right to compensation.
 - 7) *Management fees*: The amounts charged or deducted by a collective management organisation from rights revenue or from any income arising from the investment of rights revenue in order to cover the costs of its management of copyright or related rights.
 - 8) *Representation agreement*: Any agreement between collective management organisations, whereby one collective management organisation mandates another collective management organisation to manage the rights it represents, including an agreement concluded under sections 30-33.
 - 9) *User*: Any person or entity that is carrying out acts subject to the authorisation of rightholders, remuneration of rightholders or payment of compensation to rightholders and is not acting in the capacity of a consumer.
 - 10) *Repertoire*: The works in accordance with section 2 in the Danish Act on copyright and related rights, in respect of which a collective management organisation manages rights.
 - 11) *Multi-territorial license*: A license, which within the European Economic Area covers the geographical territory of more than one Member State.
 - 12) *Online rights in musical works*: Rights of an author in a musical work provided for under section 2 of the Danish Act on copyright and related rights, which are required for the provision of an online service.
 - 13) *Rights*: The copyrights provided for in section 2 of the Danish Act on copyrights and related rights, and the related rights provided for in Chapter 5 of the Danish Act on copyrights and related rights.
 - 14) *Work*: Any work protected under the Danish Act on copyright and related rights, and any production protected under sections 65-71 of the Danish Act on copyright and related rights.
 - 15) *Musical works*: Any musical work protected under the Danish Act on copyright and related rights.

Chapter 2

Representation of rightholders and membership and organisation of collective management organisations

Rights of rightholders

Section 3. Rightholders may authorise a collective management organisation of their choice to manage the rights, categories of rights or types of works of their choice, for the territories of their choice. The collective management organisation is obliged to manage such rights, categories of rights or types of works, unless it has objectively justified reasons to refuse management or their management does not fall within the scope of its activity.

2. In cases where a rightholder authorises a collective management organisation to manage his rights, he shall give consent specifically for each right or category of rights or type of works which he authorises the collective management organisation to manage. Any such consent shall be evidenced in documentary

form.

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. A collective management organisation authorised by the rightholder, cf. subsection 1, may set out restrictions to the use of this right.

4. A rightholder shall have the right to terminate the authorisation to manage rights, categories of rights or types of works granted by them to a collective management organisation and to withdraw from a collective management organisation any of the rights, categories of rights or types of works of their choice, for the territories of their choice, upon serving reasonable notice not exceeding six months. The collective management organisation may, however, decide that such termination or withdrawal is to take effect only at the end of the financial year of that collective management organisation.

5. If there are amounts due to a rightholder for acts of exploitation which occurred before the termination of the authorisation or the withdrawal of rights took effect, or under a licence granted before such termination or withdrawal took effect, the rightholder shall retain his rights under sections 14-16, 19, 21, 29 and 36.

6. A collective management organisation shall not restrict the exercise of rights provided for under subsections 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 which are subject to the termination or the withdrawal be entrusted to another collective management organisation. This subsection is void in those cases, where mandatory collective management applies.

7. A collective management organisation shall inform rightholders of their rights under subsection 1 to 6, as well as of any conditions attached to the right set out in subsection 3, before obtaining their consent to its managing any right or category of rights or type of works.

8. The rights provided in subsections 1 to 6, as well as any conditions attached to the right set out in subsection 3, must be set out in the statutes or membership terms and conditions of a collective management organisation.

9. Subsections 1-8 do not affect the extent of the provisions in the Danish Act on copyright and related rights concerning license agreements or mandatory collective management.

Membership rules of collective management organisations

Section 4. A collective management organisation shall accept rightholders and entities representing rightholders as members if they fulfil the membership requirements, which shall be based on objective, transparent and non-discriminatory criteria. Those membership requirements shall be included in the statute or membership terms of the collective management organisation and shall be made publicly available. In cases where a collective management organisation refuses to accept a request for membership, it shall provide the rightholder with a clear explanation of the reasons for its decision.

2. The statute of a collective management organisation shall provide for appropriate and effective mechanisms for the participation of its members in the organisation's decision-making process. The representation of the different categories of members in the decision-making process shall be fair and balanced.

3. A collective management organisation shall allow its members to communicate with it by electronic means, including for the purposes of exercising members' rights.

4. A collective management organisation shall keep records of its members and shall regularly update those records.

Rights of rightholders who are not members of the collective management organisation

Section 5. Section 4 (3); section 21; section 31 (1); and section 36 apply to any collective management organisation in respect of rightholders who have a direct legal relationship by law or by way of assignment, licence or any other contractual arrangement with them but are not their members.

General assembly of members of the collective management organisation

Section 6. A general assembly of members shall be convened at least once a year.

2. The general assembly of members shall decide on any amendments to the statute and to the membership terms of the collective management organisation, where those terms are not regulated by the statute.

3. The general assembly of members shall decide on the appointment or dismissal of members of the Board of the Directors or Management Board, review their general performance and approve their remuneration and other benefits, cf., however, subsection 4.

4. In a collective management organisation with a dual board system, where a Board of Directors oversees overall and strategic management, while a management board oversees daily leadership, the general assembly of members shall not decide on the appointment or dismissal of members of the management board or approve their remuneration and other benefits, where the power to take such decisions is delegated to the Board of Directors.

5. In accordance with the provisions laid down in Chapter 3, the general assembly of members shall decide at least on the following issues:

- 1) the general policy on the distribution of amounts due to rightholders;
- 2) the general policy on the use of non-distributable amounts;
- 3) the general investment policy with regard to rights revenue and to any income arising from the investment of rights revenue;
- 4) the general policy on deductions from rights revenue and from any income arising from the investment of rights revenue;
- 5) the use of non-distributable amounts;
- 6) the risk management policy;
- 7) the approval of any acquisition, sale or hypothecation of immovable property;
- 8) the approval of mergers and alliances, the setting-up of subsidiaries, and the acquisition of other entities or shares or rights in other entities;
- 9) the approval of taking out loans, granting loans or providing security for loans;
- 10) the appointment and removal of the external auditor; and
- 11) the approval of the annual transparency report, referred to in section 23.

6. The general assembly of members may delegate the powers listed in subsection 5, points 6-9, by a resolution or by a provision in the statute, to the body exercising the supervisory function, cf. section 8.

Section 7. 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. However, a collective management organisation may set restrictions on the right of the members of that collective management organisation to participate in, and to exercise voting rights at, the general assembly of members, on the basis of one or both of the following criteria, provided that such criteria are determined and applied in a manner that is fair and proportionate:

- 1) duration of membership; and
- 2) the size of amounts received by or due to a member.

2. The criteria laid down in subsection 1, points 1 and 2, shall be included in the statute or the membership terms of the collective management organisation and shall be made publicly available in accordance with sections 20 and 22.

3. Every member of a collective management organisation shall have the right to appoint any other person or entity as a proxy holder to participate in, and vote at, the general assembly of members on his behalf, provided that such appointment does not result in a conflict of interest which might occur.

4. Irrespective of the provision in subsection 3, a collective management organisation may set out restrictions concerning the appointment of proxy holders and the exercise of the voting rights of the members they represent. Such restrictions may not prejudice the appropriate and effective participation of members in the decision-making process of the collective management organisation. The restrictions shall

be included in the statute or the membership terms of the collective management organisation and shall be made publicly available in accordance with sections 20 and 22.

5. Each proxy shall be valid for a single general assembly of members.

Supervisory function

Section 8. Each collective management organisation must have 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 organisation. In organisations, where the general assembly of members appoints a Board of Directors, cf. section 6 (3), the Board of Directors may perform the supervisory function.

2. Where a collective management organisation has different categories of members, there shall be fair and balanced representation of the different categories of members 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 referred to in section 9 (3), to the general assembly.

4. The body exercising the supervisory function shall meet regularly and shall exercise at least the powers delegated to it by the general assembly of members, and have the powers to monitor the activities and the performance of the duties of the persons referred to in section 9.

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 of the persons who manage the business of the collective management organisation

Section 9. Each collective management organisation shall take all necessary measures so that the persons who manage its business do so in a sound, prudent and appropriate manner, using sound administrative and accounting procedures and internal control mechanisms.

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

3. The procedures according to subsection 2 include an annual individual statement by each of the persons referred to in subsection 1 to the general assembly of members. The statement must contain the following information:

- 1) any interests in the collective management organisation;
- 2) any remuneration received in the preceding financial year from the collective management organisation;
- 3) any amounts received in the preceding financial year as a rightholder from the collective management organisation; and
- 4) any actual or potential conflict between any personal interests and those of the collective management organisation or between any obligations owed to the collective management organisation and any duty owed to any other natural or legal person.

Chapter 3

Management of rights revenue

General provision

Section 10. A collective management organisation shall be diligent in the collection and management of rights revenue.

Separation of rights revenue a.o. in accounts

Section 11. A collective management organisation shall keep separate in its accounts rights revenue and any income arising from the investment of rights revenue from any other income and other assets.

Use of rights revenue

Section 12. A collective management organisation shall not be permitted to use rights revenue or any income arising from the investment of rights revenue for purposes other than distribution to rightholders, except where it is allowed to deduct or offset its management fees or to otherwise use the rights revenue or any income arising from the investment of rights revenue in compliance with section 6 (5).

Investment of rights revenue

Section 13. 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. The investment must be made in accordance with the general investment and risk management policy referred to in section 6 (5), points 3 and 6, and having regard to the following rules:

- 1) 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;
- 2) the assets shall be invested in order to ensure the security, quality, liquidity and profitability of the portfolio as a whole;
- 3) 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 in rights revenue

Section 14. Before a rightholder authorises a collective management organisation to manage his rights, the collective management organisation is required to provide the rightholder with information on management fees and other deductions from the rights revenue and from any income arising from the investment of rights revenue.

2. Deductions shall be reasonable in relation to the services provided by the collective management organisation to rightholders, and shall be established on the basis of objective criteria.

3. Management fees shall not exceed the justified and documented costs incurred by the collective management organisation in managing copyright and related rights.

4. Where a collective management organisation provides social, cultural or educational services funded through deductions from rights revenue or from any income arising from the investment of rights revenue, such services shall be provided on the basis of fair criteria.

Distribution of amounts due to rightholders

Section 15. Each collective management organisation shall regularly, diligently and accurately distribute and pay amounts due to rightholders in accordance with the general policy on distribution referred to in section 6 (5), point 1.

2. Amounts due must be distributed and paid to rightholders as soon as possible but no later than nine months from the end of the financial year in which the rights revenue was collected, unless objective reasons prevent the meeting of that deadline.

Section 16. Where the amounts due to rightholders cannot be distributed within the deadline set in section 15 (2), those amounts shall be kept separate in the accounts of the collective management organisation.

2. The collective management organisation shall take all necessary measures, consistent with section 15, to identify and locate the rightholders.

3. The collective management organisation shall, at the latest three months after the expiry of the deadline set in section 15 (2), make available information on works and other subject-matter for which one or more rightholders have not been identified or located to the rightholders that it represents or the

entities representing rightholders and all collective management organisations with which it has concluded representation agreements.

4. Where available to the collective management organisation, the information referred to in subsection 3 shall include the title of the work, the name of the rightholder, the name of the relevant publisher or producer and any other relevant information available which could assist in identifying the rightholder.

5. The collective management organisation shall, in connection with the identification and localisation of rightholders in accordance with subsection 2, also verify the records referred to in Section 4 (4) and other readily available records.

6. If the, in subsections 2-5 above, mentioned measures fail to produce results, the collective management organisation shall make that information set out in subsection 4 available to the public at the latest one year after the expiry of the three-month period, cf. subsection 3.

7. Where the amounts due to rightholders cannot be distributed after three years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the collective management organisation has taken all necessary measures to identify and locate the rightholders referred to in subsections 2-6, those amounts shall be deemed non-distributable.

8. The general assembly of members of a collective management organisation shall decide on the use of the non-distributable amounts.

Chapter 4

Management of rights on behalf of other collective management organisations

Section 17. A collective management organisation shall not discriminate against any rightholder, whose rights it manages under a representation agreement.

Section 18. A collective management organisation shall not make deductions, other than in respect of management fees, from the rights revenue derived from the rights it manages on the basis of a representation agreement, or from any income arising from the investment of that rights revenue, unless the other collective management organisation that is party to the representation agreement expressly consents to such deductions.

2. The collective management organisation shall regularly, diligently and accurately distribute and pay amounts due to other collective management organisations.

3. The collective management organisation shall carry out such distribution and payments to the other collective management organisation as soon as possible but no later than nine months from the end of the financial year in which the rights revenue was collected, unless objective reasons prevent the collective management organisation from meeting that deadline.

4. A collective management organisation, receiving the amounts due from another collective management organisation, shall distribute and pay the amounts due to rightholders as soon as possible but no later than six months from receipt of those amounts, unless objective reasons prevent the collective management organisation from meeting that deadline.

Chapter 5

Transparency and reporting

Information provided to rightholders on the management of their rights

Section 19. Any collective management organisation, which itself attributes rights revenue or distributes amounts due to rightholders, must make available, not less than once a year, to each rightholder to whom it has attributed rights revenue or made payments, at least the following information:

- 1) any contact details which the rightholder has authorised the collective management organisation to use in order to identify and locate the rightholder;
- 2) the rights revenue attributed to the rightholder;

- 3) the amounts paid by the collective management organisation to the rightholder per category of rights managed and per type of use;
- 4) the period during which the use took place for which amounts were attributed and paid to the rightholder, unless objective reasons relating to reporting by users prevent the collective management organisation from providing this information;
- 5) deductions made in respect of management;
- 6) deductions made for any purpose other than in respect of management fees; and
- 7) any rights revenue attributed to the rightholder which is outstanding for any period.

2. Where a collective management organisation attributes rights revenue and has as members entities which are responsible for the distribution of rights revenue to rightholders, cf. section 24, the collective management organisation shall provide the information listed in subsection 1 to those entities, provided that they do not have that information in their possession.

3. The member organisations shall make at least the information listed in subsection 1 available, not less than once a year, to each rightholder to whom they have attributed rights revenue or made payments in the period to which the information relates.

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

Section 20. A collective management organisation shall make at least the following information available, not less than once a year and by electronic means, to collective management organisations on whose behalf it manages rights under a representation agreement:

- 1) the rights revenue attributed, the amounts paid by the collective management organisation per category of rights managed, and per type of use, for the rights it manages under the representation agreement, and any rights revenue attributed which is outstanding for any period;
- 2) deductions made in respect of management fees;
- 3) deductions made for any purpose other than in respect of management fees as referred to in section 18;
- 4) information on any licences granted or refused with regard to works covered by the representation agreement; and
- 5) 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

Section 21. In response to a duly justified request, a collective management organisation shall make available to any collective management organisation on whose behalf it manages rights under a representation agreement or to any rightholder or to any user information about the works it represents; the rights it manages, directly or under representation agreements, and the territories covered; or, where, due to the scope of activity of the collective management organisation, such works cannot be determined, the types of works it represents, the rights it manages and the territories covered.

2. Information according to subsection 1 must be made available by electronic means and without undue delay.

Disclosure of information to the public

Section 22. Any collective management organisation must make public and keep correct on its website the following information:

- 1) its statute;
- 2) its membership terms and the terms of termination of authorisation to manage rights, if these are not included in the statute;
- 3) standard licensing contracts and standard applicable tariffs;
- 4) the list of persons overseeing daily management, cf. section 9;

- 5) its general policy on distribution of amounts due to rightholders;
- 6) its general policy on management fees;
- 7) its general policy on deductions, other than in respect of management fees, from rights revenue;
- 8) 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;
- 9) its general policy on the use of non-distributable amounts; and
- 10) the available complaint handling and dispute resolution procedures.

Annual transparency report

Section 23. Any collective management organisation shall draw up and make public an annual transparency report for each financial year no later than eight months following the end of that financial year.

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

3. The annual transparency report shall contain at least the information set out in the Annex 1.

4. The transparency report shall contain a special report addressing the use of the amounts deducted for the purposes of social, cultural and educational services. The special report shall contain at least the information set out in point 3 of Annex 1.

5. The accounting information included in the annual transparency report shall be audited by one or more persons empowered by law to audit accounts in accordance with the Danish Act on Auditing.

6. The audit report, including any qualifications thereto, shall be reproduced in full in the annual transparency report.

7. Subsections 1-6 similarly apply to the member organisations of a collective management organisation, where those member organisations are responsible for drawing up the transparency report, cf. section 24. Transparency reports drawn up by member organisations must remain available to the public for at least five years on the member organisation's website, unless that member organisation does not have a website, and on the collective management organisation's website.

Chapter 6

Distribution of responsibility between collective management organisations and their member organisations

Section 24. Collective management organisations, whose membership consists of organisations representing rightholders, may in their statutes resolve that the distribution of amounts due to rightholders, cf. sections 15, 16 and 18 (4), and the production of a transparency report, cf. section 23, be undertaken by their member organisations.

Chapter 7

Multi-territorial licensing of online rights in musical works by collective management organisations

Capacity to process multi-territorial licences

Section 25. Any collective management organisation which grants multi-territorial licences for online rights in musical works must have sufficient capacity to process electronically, in an efficient and transparent manner, data needed for the administration of such licences.

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

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

- collective management organisation is authorised to represent;
- 3) to make use of unique identifiers in order to identify rightholders and musical works; and
 - 4) to make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations granting multi-territorial licences for online rights in musical works.

Transparency of multi-territorial repertoire information

Section 26. A collective management organisation which grants multi-territorial licences for online rights in musical works must provide by electronic means, in response to a duly justified request, to online service providers, to rightholders whose rights it represents and to other collective management organisations up-to-date information allowing the identification of the online music repertoire it represents. This up-to-date information shall include the musical works represented, the rights represented, and the territories covered.

Accuracy of multi-territorial repertoire information

Section 27. A collective management organisation which grants multi-territorial licences for online rights in musical works must put in place arrangements to enable rightholders, other collective management organisations and online service providers to request a correction of the data referred to in the list of conditions under section 25 (2) or the information provided under section 26. Where the claims are sufficiently substantiated, the collective management organisation shall ensure that the data or the information are corrected without undue delay.

2. 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 section 34 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. When doing so, the collective management organisation 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.

3. Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works under sections 30-33, the mandated collective management organisation shall also apply subsection 2 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

Section 28. A collective management organisation shall monitor the use of online rights in musical works by online service providers to which it has granted a multi-territorial licence for those rights.

2. The collective management organisation shall offer online service providers the possibility of reporting by electronic means the actual use of online rights in musical works and online service providers shall accurately report the actual use of those works. The collective management organisation shall offer the use of 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. The collective management organisation may refuse to accept reporting by the online service provider in a proprietary format if the organisation allows for reporting using an industry standard for the electronic exchange of data.

3. The collective management organisation shall invoice the online service provider by electronic means. The collective management organisation shall offer the use of a least one format which takes into account voluntary industry standards or practices developed at international or European Union level. 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 section 25 (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. The online service provider may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard.

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

5. The collective management organisation shall have in place adequate arrangements enabling the online service provider to challenge the accuracy of the invoice.

Accurate and timely payment to rightholders

Section 29. A collective management organisation shall distribute amounts due to rightholders 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 together with each payment it makes under subsection 1:

- 1) the period during which the uses took place for which amounts are due to rightholders and the territories in which the uses took place;
- 2) the rights revenue collected, any 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; and
- 3) the rights revenue collected for rightholders, deductions made, and amounts distributed by the collective management organisation in respect of each online service provider.

3. Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works under sections 30-33, the mandated collective management organisation shall distribute the amounts referred to in subsection 1 accurately and without delay, and shall provide the information referred to in subsection 2 to the mandating collective management organisation. The mandating collective management organisation shall be responsible for the subsequent distribution of such amounts and the provision of such information as set out in subsection 2 to rightholders, unless the collective management organisations agree otherwise.

Non-exclusivity

Section 30. Whereby a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works in its own music repertoire, the mandate must be of a non-exclusive nature.

Information about main terms

Section 31. A mandating collective management organisation mandating another collective management organisation to grant multi-territorial licenses for the online rights in musical works in its own music repertoire shall inform its members of the main terms of the representation agreement.

2. 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.

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

Section 32. Where a collective management organisation which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its own repertoire requests another collective management organisation to enter into a representation agreement to represent those rights, the requested collective management organisation is required to agree to such a request if it is already granting or

offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collective management organisations.

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

Section 33. The requested collective management organisation, cf. section 32, 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.

2. 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.

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

4. The requesting collective management organisation shall make available to the requested collective management organisation information relating to its own music repertoire required for the provision of multi-territorial licences for online rights in musical works. Where information is insufficient or provided in a form that does not allow the requested collective management organisation to meet the requirements of this Title, 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

Section 34. A rightholder can withdraw the online rights in musical works to multi-territorial licensing from any collective management organisation, which the rightholder has authorised to represent these rights, where that collective management organisation does not grant or offer to grant multi-territorial licenses for online right in musical works or does not allow another collective management organisation to represent those rights for such purpose. The rightholder can elect not to withdraw the authorisation for the collective management organisation to his online rights in musical works for the purposes of mono-territorial licensing.

Derogation for online music rights required for radio and television programmes

Section 35. The requirements under this Title shall not apply to collective management organisations when they grant, on the basis of the voluntary aggregation of the required rights, 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. The first paragraph shall also apply to any online material, produced by or for the broadcaster, which is ancillary to the initial broadcast of its radio or television programme.

Chapter 8

Enforcement measures, supervision and sanctions

Complaints procedures

Section 36. Collective management organisations shall make available to their members, and to collective management organisations on whose behalf they manage rights under a representation agreement, effective and timely procedures for dealing with complaints.

2. Collective management organisations shall respond in writing to complaints according to subsection 1. Where the collective management organisation rejects a complaint, it shall give reasons.

The Copyright License Tribunal (Ophavsretslicensnævnet)

Section 37. Any disputes between a collective management organisation and an actual or potential online service provider regarding the application of sections 26-28, disputes between a collective management organisation and one or more rightholders regarding the application of sections 26-34, and disputes between a collective management organisation and another collective management organisation regarding the application of sections 26-33 may be brought before the Copyright License Tribunal (*Ophavsretslicensnævnet*), cf. section 47 (1) in the Danish Act on copyright and related rights.

Supervision

Section 38. The Minister for Culture supervises collective management organisations covered by this Act in all areas that do not fall under the scope of the Copyright License Tribunal (*Ophavsretslicensnævnet*).

2. Where the Minister for Culture requests from a collective management organisation information about its business, that collective management organisation shall provide the information requested without undue delay.

3. The legislation in subsections 1 and 2 similarly apply to the member organisations of a collective management organisation, where those member organisations fall under the scope of this Act, cf. sections 1 (6-7).

4. After serious or repeated infringements of the legislation in this Act, the Minister for Culture may, in whole or in part, cancel an approval issued in accordance with sections 38 (5), 39 (3), 50 (4), 66b (3), 68 (2) or 75a in the Danish Act on copyright and related rights.

Sanctions

Section 39. Where other legislation does not warrant stricter sanctions, a fine is imposed on he who

- 1) fails to provide information according to section 38 (2), or
- 2) infringes on sections 4 (4), 6 (1-5), 8 (1), 8 (3), 8 (5), 9 (3), 11-12, 14 (1), 15 (2), 16 (1), 16 (3-6), 18 (1), 18 (3-4) or sections 19-23.

2. The wording in subsection 1 similarly applies to the member organisations of a collective management organisation, where those member organisations fall under the scope of this Act, cf. sections 1 (6-7).

3. Companies and similar entities (legal persons) may fall liable for sanctions in accordance with the legislation in Chapter 5 of the Danish Penal Code.

Chapter 9

Entry into force, amendments to other legislation, transitional measures and territorial validity

Section 40. This Act shall enter into force on 10 April 2016, subject to subsection 2.

2. Section 34 of this Act shall enter into force on 10 April 2017.

3. Section 42 (3) of this Act shall not apply with regards to rights acquired before the entry into force of this Act.

Section 41. A collective management organisation must, no later than 10 October 2016, inform those rightholders who, at the time of entry into force of this Act, have already authorised that organisation to manage rights, cf. section 3 (1), of their rights derived from sections 3 (1-6), as well as of all conditions attached to that right derived from section 3 (3).

Section 42. In the Danish Act on copyright and related rights, cf. Consolidation Act N^o 1144 dated 23 October 2014, the following amendments are made:

1. *The footnote* to the title of the Act is worded as followed:

»1) This Act contains provisions implementing Council Directive 91/250/EEC of 14 May 1991, Official

Journal 1991, L 122, P. 0042; Council Directive 92/100/EEC of 19 November 1992, Official Journal 1992, L 346, P. 0061; Council Directive 93/83/EEC of 27 September 1993, Official Journal 1993, L 248, P. 0015; Council Directive 93/98/EEC of 29 October 1993, Official Journal 1993, L 290, P. 0009; Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996, Official Journal 1996, L 77, P. 0020; Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001, Official Journal 2001, L 167, P. 0010; Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001, Official Journal 2001, L 272, P. 0032; Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004, Official Journal of the European Union 2004, L 157/ 45; parts of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006, Official Journal of the European Union 2004, L 376/ 36; parts of Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 about the amendment of Council Directive 89/552/EEC of 3 October 1989, Official Journal of the European Union 2007, L 332/ 27; parts of Directive 2011/77/EC of the European Parliament and of the Council of 27 September 2011 about the amendment of Directive 2006/116/EEC of the European Parliament and the Council, Official Journal of the European Union 2011, L 265/ 1; Directive 2012/28/EC of the European Parliament and of the Council of 25 October 2012, Official Journal of the European Union 2012, L 299/ 5; and parts of Directive 2014/26/EC of the European Parliament and of the Council of 26 February 2014, Official Journal of the European Union 2014, L 84/ 72«

2. In *section 47 (2), first paragraph*, after »section 51 (2)« is added: »section 52a (8), section 52b (4),«.

3. After Chapter 2, the following is inserted:

»Chapter 2 a

Relations between collective management organisations and licensed users

Licensing

Section 52 a. Collective management organisations and users shall conduct negotiations for the licensing of rights in good faith, and shall in this connection provide each other with all necessary information.

2. Licensing terms shall be based on objective and non- discriminatory criteria. When licensing rights, collective management organisations shall not be required to use, as a precedent for other online services, licensing terms agreed with a user where the user is providing a new type of online service which has been available to the public in the European Union for less than three years.

3. Collective management organisations shall inform the user concerned of the criteria used for the setting of tariffs for exclusive rights and right to remuneration.

4. Rightholders shall receive appropriate remuneration for the use of their rights.

5. Collective management organisations shall reply without undue delay to requests from users. Upon receipt of all relevant information, 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.

6. A collective management organisation shall allow users to communicate with it by electronic means.

7. The legislation in subsection 1 similarly applies to all independent management organisations established in Denmark.

8. Any disputes between a collective management organisation granting or offering to grant multi-territorial licenses for online rights in musical works and an actual or potential online service provider regarding the application of sections subsections 1-6 may be brought before the Copyright License Tribunal (*Ophavsretslicensnævnet*), where that dispute regards a multi-territorial license for online rights in musical works.

Users' obligations

Section 52 b. Any user must provide a collective management organisation with such relevant information at their disposal on the use of the rights represented by the collective management organisation as is necessary for the collection of rights revenue and for the distribution and payment of amounts due to rightholders.

2. Where a user and a collective management organisation fail to agree on the time to provide the information stated in subsection 1, the user must provide the collective management organisation the information without undue delay after the use of the rights.

3. Where a user and a collective management organisation fail to agree on the format, in which to make available the information stated in subsection 1, the user must use the format made available by the collective management organisation, unless the demand to use this format is unreasonable.

4. Any disputes about the extent of the user's obligations to provide information pursuant to subsections 1-3 can be brought by either party before the Copyright License Tribunal (*Ophavsretslicensnævnet*), cf. section 47.«

Section 43. This Act does not apply to the Faroe Islands nor Greenland, but may by Royal assent be enacted in full or in part for Greenland with those changes required by particular Greenlandic conditions.

Given on Fredensborg Castle, 5 April 2016

Under Our Royal Hand and Seal

MARGRETHE R.

/ Bertel Haarder

- 1) This Act contains provisions implementing parts of 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 market, Official Journal of the European Union, L 84/72.

1. Information to be provided in the annual transparency report referred to in section 23:
 - a) financial statements comprising a balance-sheet or a statement of assets and liabilities, an income and expenditure account for the financial year and a cash-flow statement;
 - b) a report on the activities in the financial year;
 - c) information on refusals to grant a licence pursuant to section 52a (5) in the Danish Act on copyright and related rights;
 - d) a description of the legal and governance structure of the collective management organisation;
 - e) information on any entities directly or indirectly owned or controlled, wholly or in part, by the collective management organisation;
 - f) information on the total amount of remuneration paid to the persons referred in sections 8 (3) and 9 in the previous year, and on other benefits granted to them;
 - g) the financial information referred to in point 2 of this Annex;
 - h) a special report on the use of any amounts deducted for the purposes of social, cultural and educational services, containing the information referred to in point 3 of this Annex.
2. Financial information to be provided in the annual transparency report:
 - a) financial information on rights revenue, per category of rights managed and per 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 other collective management organisations, or otherwise used);
 - b) financial information on the cost of rights management and other services provided by the collective management organisation to rightholders, with a comprehensive description of at least the following items:
 - i) all operating and financial costs, with a breakdown per 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;
 - ii) operating and financial costs, with a breakdown per 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 section 12 and section 14 (1-3);
 - iii) operating and financial costs with regard to services other than the management of rights, but including social, cultural and educational services;
 - iv) resources used to cover costs;
 - v) deductions made from rights revenues, with a breakdown per category of rights managed and per type of use and the purpose of the deduction, such as costs relating to the management of rights or to social, cultural or educational services;
 - vi) the percentages that the cost of the rights management and other services provided by the collective management organisation to rightholders represents compared to the rights revenue in the relevant financial year, per category of rights managed, and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;
 - c) financial information on amounts due to rightholders, with a comprehensive description of at least the following items:
 - i) the total amount attributed to rightholders, with a breakdown per category of rights managed and type of use;

- ii) the total amount paid to rightholders, with a breakdown per category of rights managed and type of use;
 - iii) the frequency of payments, with a breakdown per category of rights managed and per type of use;
 - iv) the total amount collected but not yet attributed to rightholders, with a breakdown per category of rights managed and type of use, and indicating the financial year in which those amounts were collected;
 - v) the total amount attributed to but not yet distributed to rightholders, with a breakdown per category of rights managed and type of use, and indicating the financial year in which those amounts were collected;
 - vi) where a collective management organisation has not carried out the distribution and payments within the deadline set in section 15, the reasons for the delay;
 - vii) the total non-distributable amounts, along with an explanation of the use to which those amounts have been put;
- d) information on relationships with other collective management organisations, with a description of at least the following items:
- i) amounts received from other collective management organisations and amounts paid to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;
 - ii) management fees and other deductions from the rights revenue due to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;
 - iii) management fees and other deductions from the amounts paid by other collective management organisations, with a breakdown per category of rights and per organisation;
 - iv) amounts distributed directly to rightholders originating from other collective management organisations, with a breakdown per category of rights and per organisation.
3. Information to be provided in the special report referred to in section 23 (4):
- a) the amounts deducted for the purposes of social, cultural and educational services in the financial year, with a breakdown per type of purpose and, for each type of purpose, with a breakdown per category of rights managed and per type of use;
 - b) an explanation of the use of those amounts, with a breakdown per 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.