

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on collective management of copyright and related rights and multi-territorial licensing
of rights in musical works for online uses in the internal market

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 50(2)(g), 53 and 62 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹³,

After consulting the European Data Protection Supervisor,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The directives which have been adopted in the area of copyright and related rights already provide a high level of protection for rightholders and thereby for a framework where the exploitation of content protected by these rights can take place. They contribute to developing and maintaining creativity. In an internal market where competition is not distorted, protecting innovation and intellectual creation also encourages investment in innovative services and products.
- (2) The dissemination of content which is protected by copyright and related rights and the linked services, including books, audiovisual productions and recorded music require the licensing of rights by different holders of copyright and related rights, such as authors, performers, producers and publishers. It is normally for the rightholders to choose between the individual or collective management of their rights. Management of copyright and related rights includes the granting of licences to users, the auditing of licensees and monitoring of the use of rights, the enforcement of copyright and related rights, the collection of rights revenue derived from the exploitation of rights and the distribution of the amounts due to rightholders. Collecting societies enable rightholders to be remunerated for uses which they would not be in a position to

¹³ OJ C...p.:

control or enforce themselves, including in non-domestic markets. Moreover, they have an important social and cultural role as promoters of the diversity of cultural expressions by enabling the smallest and less popular repertoires to access the market. Article 167 of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action, in particular in order to respect and to promote the diversity of its cultures.

- (3) When established in the Union, collecting societies – as service providers – must comply with the national requirements pursuant to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market¹⁴ which seeks to create a legal framework for ensuring the freedom of establishment and the free movement of services between the Member States. This implies that collecting societies should be free to provide their services across borders, to represent rightholders resident or established in other Member States or grant licences to users resident or established in other Member States.
- (4) There are significant differences in the national rules governing the functioning of collecting societies, in particular as regards their transparency and accountability towards their members and rightholders. Beyond the difficulties non-domestic rightholders face when exercising their rights and the too often poor financial management of the revenues collected, problems with the functioning of collecting societies lead to inefficiencies in the exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders and users alike. These difficulties do not arise in the functioning of independent rights management service providers who act as agents for rightholders for the management of their rights on a commercial basis and in which rightholders do not exercise membership rights.
- (5) The need to improve the functioning of collecting societies has already been identified in the past. Commission Recommendation 2005/737/EC of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services¹⁵ set out a number of principles, such as the freedom of rightholders to choose their collecting society, the equal treatment of categories of rightholders and the equitable distribution of royalties. It also called on collecting societies to provide users with sufficient information on tariffs and repertoire in advance of the negotiations. Finally, it contained recommendations on accountability, rightholder representation in the decision-making bodies of collecting societies and dispute resolution. Commission Recommendation 2005/737/EC was however a non-binding instrument limited in scope. Consequently, it has been unevenly followed.
- (6) The protection of the interests of the members of collecting societies, rightholders and third parties requires that the laws of the Member States related to copyright management and multi-territorial licensing for online rights in musical works be coordinated where the Member States permit such operations with a view to having equivalent safeguards throughout the Union. Accordingly, the Directive is based on Article 50(2)(g) of the Treaty.
- (7) This Directive should aim at coordinating national rules concerning the access to the activity of managing copyright and related rights by collecting societies, the modalities

¹⁴ OJ L 376, 27.12.2006, p.36.

¹⁵ OJ L 276, 21.10.2005, p. 54.

for their governance, and their supervisory framework and is also based on Article 53(1) of the Treaty. In addition, since this is a sector offering services across the Union, this Directive is also based on Article 62 of the Treaty.

- (8) In order to ensure that holders of copyright and related rights can fully benefit from the internal market when their rights are being managed collectively and that their freedom to exercise their rights is not unduly affected, it is necessary to provide for the inclusion of appropriate safeguards in the constituting documents of collecting societies. Moreover, in accordance with Directive 2006/123/EC collecting societies should not discriminate, directly or indirectly, between rightholders on the basis of their nationality, place of residence or place of establishment when providing their management services.
- (9) Having the freedom to provide and to receive collective management services across national borders entails that rightholders are able to freely choose the collecting society for the management of their rights, such as public performance or broadcasting rights, or categories of rights, such as interactive communication to the public, provided the collecting society already manages such rights or categories of rights. This implies that rightholders can easily withdraw their rights or categories of rights from a collecting society and entrust or transfer all or part of them to another collecting society or another entity irrespective of the Member State of residence or the nationality of either the collecting society or the rightholder. Collecting societies managing different types of works and other subject matter, such as literary, musical or photographic works, should also allow this flexibility to rightholders as regards the management of different types of works and other subject matter. Collecting societies should inform rightholders of this choice and allow them to exercise it as easily as possible. Finally, this Directive should not prejudice the possibilities of rightholders to manage their rights individually, including for non-commercial uses.
- (10) Membership of collecting societies should be based on objective and non-discriminatory criteria including as regards publishers who by virtue of an agreement on the exploitation of rights, are entitled to a share of the income from the rights managed by collecting societies and to collect such income from the collecting society.
- (11) Collecting societies are expected to act in the best interests of their members. It is therefore important to provide for systems which enable members of collecting societies to exercise their membership rights by participating in the societies' decision-making process. The representation of the different categories of members in the decision-making process should be fair and balanced. The effectiveness of the rules on the general meeting of members of collecting societies may be undermined if there were no provisions on how the general meeting should be run. Thus, it is necessary to ensure that the general meeting is convened regularly, and at least annually, and that the most important decisions in the collecting society are taken by the general meeting.
- (12) Members of collecting societies should be allowed to participate and vote in the general meeting; the exercise of these rights may only be subject to fair and proportionate restrictions. The exercise of voting rights should be made easy.
- (13) Members should be allowed to take part in monitoring the management of collecting societies. To this end, collecting societies should establish a supervisory function appropriate to their organisational structure and allow members to be represented in

the body that exercises this function. To avoid imposing excessive burden on smaller collecting societies and to make the obligations arising from this Directive proportionate, Member States should be able to, if they consider this to be necessary, exclude the smallest collecting societies from having to organise such a supervisory function.

- (14) For reasons of sound management, a collecting society's senior management must be independent. Managers and executive directors should be required to declare annually to the collecting society whether there are conflicts between their interests and those of the society.
- (15) Collecting societies collect, manage and distribute revenue from the exploitation of the rights entrusted to them by rightholders. This revenue is ultimately due to rightholders who may be members of that society, or another society. It is therefore important that collecting societies exercise the utmost diligence in collecting, managing and distributing that revenue. Amounts collected and due to rightholders should be managed separately from any own assets of the collecting society and, if they are invested, pending their distribution to rightholders, this should be carried out in accordance with the investment policy decided by the collecting societies' general meeting. Moreover, in order to ensure that the amounts due to rightholders are appropriately and effectively distributed, it is necessary to require collecting societies to undertake diligent and good faith reasonable measures to identify and locate the relevant rightholders. It is also appropriate to provide for the approval by members of collecting societies of the rules governing any situation where, due to the lack of identified or located rightholders, amounts collected cannot be distributed.
- (16) Since rightholders are entitled to be remunerated for the exploitation of their rights, it is important for any deduction, other than management fees or deductions required by national law, to be decided by the members of collecting societies and for the societies to be transparent towards rightholders regarding the rules governing those deductions. Any such rightholder should have access in a non-discriminatory manner to any social, cultural or educational service funded through such deductions. However, this Directive should not affect national law on any aspects that are not regulated by this Directive.
- (17) Collecting societies may manage rights and collect revenue from their exploitation ('rights revenue') under representation agreements with other societies. To protect the rights of the members of the other collecting societies, a society should not distinguish between the rights it manages under representation agreements and those it manages directly for its rightholders. Nor should the collecting society be allowed to apply deductions to the rights revenue collected on behalf of another collecting society without the other society's express consent.
- (18) Fair commercial terms in licensing are particularly important to ensure that users can license the works and other protected subject-matter for which a collecting society represents rights and to ensure the remuneration of rightholders. Collecting societies and users should therefore conduct licensing negotiations in good faith and apply tariffs determined on the basis of objective criteria.
- (19) To enhance the trust of rightholders, users and other collecting societies in the management services provided by collecting societies, each collecting society should

be required to set up specific transparency measures. Each collecting society should therefore inform individual rightholders of the amounts paid to them and the corresponding deductions made. They should also be required to provide sufficient information, including financial information, to the other collecting societies whose rights they manage through representation agreements. Each collecting society should also make public enough information to ensure that rightholders, users and other collecting societies understand how it is structured and how it carries out its activities. Collecting societies should in particular disclose to rightholders, users and other collecting societies the scope of their repertoire and their rules on fees, deductions and tariffs.

- (20) To ensure that rightholders are in a position to monitor the performance of their collecting societies and compare their respective performance, collecting societies should make public an annual transparency report comprising comparable audited financial information specific to the activities of collecting societies. Collecting societies should also make public an annual special report on the use of amounts dedicated to social, cultural and educational services. To avoid imposing excessive burden on smaller collecting societies and to make the obligations arising from this Directive proportionate, Member States should be able to, if they consider this to be necessary, exclude the smallest collecting societies from certain transparency obligations.
- (21) The providers of online services which make use of musical works, such as music services that allow consumers to download music or to listen to it in streaming mode, as well as other services providing access to films or games where music is an important element, must first obtain the right to use such works. 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 society¹⁶ requires a licence for each of the rights in the online exploitation of musical works. These rights are the exclusive right of reproduction and the exclusive right of communication to the public of musical works, which includes the right of making available. They may be managed by the individual rightholders themselves, such as authors or music publishers, or by collecting societies that provide collective management services to rightholders. Different collecting societies may manage the reproduction and the communication to the public rights of authors. Furthermore, there are instances where several rightholders have rights in the same work and may have authorised different collecting societies to license their respective shares of rights in the work. Any user wishing to provide an online service offering a wide choice of musical works to consumers, would need to aggregate rights in works from different rightholders and collecting societies.
- (22) While the Internet knows no borders, the online market for music services in the EU is still fragmented, and a single market has still not been fully achieved. The complexity and difficulty associated with the collective management of rights in Europe has, in a number of instances, exacerbated the fragmentation of the European digital market for online music services.
- (23) Commission Recommendation 2005/737/EC promoted a new regulatory environment better suited to the management, at Union level, of copyright and related rights for the

¹⁶ OJ L 167, 22.6.2001, p. 10.

provision of legitimate online music services. It recognised that in an era of online exploitation of musical works, commercial users need a licensing policy that corresponds to the ubiquity of the online environment and which is multi-territorial. However, the Recommendation, due to its voluntary nature, has not been sufficient to encourage the widespread multi-territorial licensing of online rights in musical works and to address the specific demands of multi-territorial licensing.

- (24) In the online music sector, where collective management of authors' rights on a territorial basis remains the norm, it is essential to create conditions conducive to the most effective licensing practices by collecting societies, in an increasingly cross-border context. It is therefore appropriate to provide for a set of rules coordinating basic conditions for the provision by collecting societies of multi-territorial collective licensing of authors' online rights in musical works. These provisions should ensure the necessary minimum quality of the cross-border services provided by collecting societies, notably in terms of transparency of repertoire represented and accuracy of financial flows related to the use of the rights. They should also set out a framework for facilitating the voluntary aggregation of music repertoire and thus reducing the number of licences a user needs to operate a multi-territorial service. These provisions should enable a collecting society to request another collecting society to represent its repertoire on a multi-territorial basis where it cannot fulfil the requirements itself. There should be an obligation on the requested society, provided that it aggregates repertoire and offers or grants multi-territorial licences, to accept the mandate of the requesting society. The development of legal online music services across the Union should also contribute to the fight against piracy.
- (25) The availability of accurate and comprehensive information on the musical works, rightholders and the rights that each collecting society is authorised to represent in a given Member State is of particular importance for an effective and transparent licensing process, for the subsequent monitoring of the use of licensed rights and the related invoicing of service providers as well as for the distribution of amounts due to rightholders. For this reason, collecting societies granting multi-territorial licences for musical works should be able to process such detailed data quickly and accurately. This requires the use of continually updated databases on ownership of rights that are licensed on a multi-territorial basis, containing data that allow for the identification of works, rights, rightholders and Member States which a collecting society is authorised to represent. These databases should also help to match information on works with information on phonograms or any other fixation in which the work has been incorporated. It is also important to ensure that prospective licensees and rightholders have access to the information they need to identify the repertoire that those collecting societies are representing, without prejudice to any measure these societies may be entitled to take to protect the accuracy and integrity of the data, to control its reuse and to protect personal data and commercially sensitive information.
- (26) To ensure that the data on the music repertoire they process is as accurate as possible, collecting societies granting multi-territorial licences of musical works should be required to update their databases continuously and without delay. They should establish easily accessible procedures to enable rightholders and other collecting societies whose repertoire they may represent to inform them about any inaccuracy that the collecting societies databases may contain in respect of works they own or control, including rights – in whole or in part – and Member States for which they have mandated the relevant collecting society to act. They should also have the

capacity to process electronically the registration of works and authorisations to manage rights. Given the importance of information automation for the fast and effective processing of data, collecting societies should provide for the use of electronic means for the structured communication of that information by rightholders. Collecting societies should, as far as possible, ensure that such electronic means take into account the relevant industry standards or practices developed at international level or at the level of the Union.

- (27) Digital technology allows the automated monitoring by collecting societies of the use by the licensee of the licensed musical works and facilitates invoicing. Industry standards for music usage, sales reporting and invoicing are instrumental to improve the efficiency in the exchange of data between collecting societies and users. The monitoring of the use of licences should respect fundamental rights, namely the right to respect of private and family life and data protection. To ensure that these efficiency gains result in faster financial processing and ultimately in earlier payments to rightholders, collecting societies should be required to invoice service providers and to distribute amounts due to rightholders without delay. For this requirement to be effective, it is necessary that licensees make every effort to provide collecting societies with accurate and timely reports on the use of the works. Collecting societies should not be required to accept users' reports in proprietary formats when widely used industry standards are available.
- (28) Access to and handling of large amounts of data, and a high technical capability are necessary to provide high quality management services by collecting societies granting multi-territorial collective licences. Collecting societies should not be prevented from outsourcing services relating to the granting of multi-territorial licences for online rights in musical works, provided that their liability towards rightholders, online services providers or other collecting societies is unaffected and data protection obligations as set out in Article 17 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹⁷ are respected. Sharing or consolidation of back office capabilities should help the collecting societies to improve management services and rationalise investments in data management tools.
- (29) Aggregating of different music repertoires for multi-territorial licensing facilitates the licensing process and, by making all repertoires accessible to the market for multi-territorial licensing, enhances cultural diversity and contributes to reducing the number of transactions an online service provider needs in order to offer that service. That aggregation of repertoires should facilitate the development of new online services, and should also result in a reduction of transaction costs that are passed on to consumers. Therefore, collecting societies that are not willing to or are not able to grant multi-territorial licences directly in their own music repertoire should be encouraged to mandate other collecting societies voluntarily with the task of managing their repertoire under non-discriminatory terms. Where the request to mandate takes place, the requested collecting society should be required to accept, provided that it aggregates repertoire and offers or grants multi-territorial licences. In addition, exclusivity in agreements on multi-territorial licenses would restrict the choices available to users seeking multi-territorial licenses and also restrict the choices

¹⁷ OJ L 281, 23.11.1995, p. 31.

available to collecting societies seeking administration services for their repertoire on a multi-territorial basis. Therefore, all representation agreements between collecting societies providing for multi-territorial licensing should be concluded on a non-exclusive basis.

- (30) The transparency of the conditions under which collecting societies manage the online rights they have been authorised to represent is of particular importance for rightholders. Collecting societies should therefore provide sufficient information to its rightholders on the main terms of any agreement mandating any other collecting society to represent its online music rights for the purposes of multi-territorial licensing.
- (31) It is also important to require any collecting societies that offer or grant multi-territorial licences to agree to represent the repertoire of any collecting societies that decide not to do so directly. To ensure that this requirement is not disproportionate and does not go beyond what is necessary, the requested collecting society should only be required to accept the representation if the request is limited to the online right or categories of online rights which it represents. Moreover, this requirement should apply only to collecting societies which aggregate repertoire and should not extend to collecting societies which provide multi-territorial licences for their own repertoire only. Nor should it apply to collecting societies which merely aggregate rights in the same works for the purpose of being able to license jointly both reproduction and communication to the public rights in such works. Any agreement whereby a collecting society mandates another collecting society or societies to grant multi-territorial licences in its own music repertoire for online use should not prevent that collecting society from continuing to grant licences limited to the territory of the Member State where that collecting society is established, in its own repertoire and in any other repertoire it may be authorised to represent in that Member State.
- (32) The objectives and the effectiveness of the rules on multi-territorial licensing by collecting societies would be largely jeopardised if rightholders were not able to exercise their rights by granting multi-territorial licences when the collecting society to which they have granted their rights does not grant or offer multi-territorial licences and does not want to mandate another collecting society to do so. For this reason, it is important in such circumstances, to enable rightholders to exercise the right to grant the multi-territorial licences required by online service providers themselves or through another party or parties, without having to withdraw their rights from the collecting society.
- (33) In the interest of the online market, key obligations relating to access to information, data handling, invoicing and payment capabilities must also apply to any entity owned, in whole or in part, by a collecting society and which offers or grants multi-territorial licences in online rights in musical works.
- (34) In the digital environment, collecting societies are regularly required to license their repertoire for totally new forms of exploitation and business models. In such cases and in order to foster an environment conducive to the development of such licences, and to do so as swiftly as possible, collecting societies should have the flexibility required to provide individualised and innovative licences, without the risk of their being used as a precedent for determining the terms of other different types of licences.

- (35) Broadcasting organisations generally rely on a licence from a local collecting society, for their own broadcasts of television and radio programmes which include musical works. This licence is often limited to broadcasting activities. A licence for online rights in musical works would be required in order to allow such television or radio broadcasts to be also available online. To facilitate the licensing of online music rights for the purposes of simultaneous and delayed transmission online of television and radio broadcasts, it is necessary to provide for a derogation from the rules that would otherwise apply to the multi-territorial licensing of musical works for online uses. Such derogation should be limited to what is necessary to allow access to television or radio programmes online. It should not operate so as to distort competition with other services which give consumers access to individual musical or audiovisual works online, or lead to restrictive practices, such as market or customer sharing, in breach of Articles 101 or 102 of the Treaty on the Functioning of the European Union.
- (36) It is necessary to ensure the effective enforcement of the provisions of the national law adopted pursuant to this Directive. Collecting societies should offer their members specific procedures for the handling of complaints and the resolution of disputes. These procedures should also be made available to other rightholders represented by the collecting society. It is also appropriate to ensure that Member States have independent, impartial and effective dispute resolution bodies capable of settling commercial disputes between collecting societies and users on existing or proposed licensing conditions as well as on situations in which the granting of a licence is refused. Furthermore, the effectiveness of the rules on the multi-territorial licensing of online rights in musical works could be undermined if disputes between collecting societies and their counterparts were not solved quickly and efficiently by independent and impartial bodies. As a result, it is appropriate to provide, without prejudice to the right of access to a tribunal, for an easily accessible, efficient and impartial out-of-court procedure for resolving conflicts between collecting societies, on the one hand, and online music service providers, rightholders or other collecting societies, on the other.
- (37) Moreover, Member States should establish appropriate procedures by means of which it will be possible to make complaints against collecting societies who do not comply with the law and to ensure that, where appropriate, effective, proportionate and dissuasive sanctions are imposed. Member States should determine which authorities should be responsible for administering the complaints procedures and sanctions. To ensure that the requirements for multi-territorial licensing are complied with, specific provisions on the monitoring of their implementation should be laid down. The competent authorities of the Member States and the European Commission should cooperate with each other to this end.
- (38) It is important for collecting societies to respect the rights to private life and personal data protection of any rightholder, member, user and other individual whose personal data they process. Directive 95/46/EC governs the processing of personal data carried out in the Member States in the context of this Directive and under the supervision of the Member States competent authorities, in particular the public independent authorities designated by the Member States. Rightholders should be given appropriate information about the processing of their data, the recipients of that data, time limits for retention of their data in their database, and how they can exercise their rights to access, correct or delete their personal data concerning them in accordance with Articles 10 and 11 of Directive 95/46/EC. In particular, unique identifiers which allow

for the indirect identification of a person should be treated as personal data within the meaning of point (a) of Article 2 of that Directive.

- (39) In the light of Article 12(b) of Directive 95/46/EC which grants to every data subject the right to obtain rectification, erasure or blocking of inaccurate or incomplete data, this Directive also ensures that inaccurate information regarding rightholders or other collecting societies in the case of multi-territorial licenses is to be corrected without undue delay.
- (40) Provisions on enforcement measures should be without prejudice to the competencies of independent public national authorities established by the Member States pursuant to Article 28 of Directive 95/46/EC to monitor the respect of national provisions adopted in implementation of that Directive.
- (41) This Directive respects the fundamental rights and observes the principles enshrined in the Charter of Fundamental Rights of the European Union. The requirement in the Directive that dispute resolution mechanisms should be made available to members, rightholders, users and collecting societies should not prevent the parties from exercising their right of access to a tribunal as guaranteed in the Charter of Fundamental Rights of the European Union.
- (42) Since the objective of this Directive, to improve the ability of their members to exercise control over the activities of collecting societies, to guarantee sufficient transparency by collecting societies and to improve the multi-territorial licensing of authors' rights for online use of musical works cannot be sufficiently achieved by Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that same Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (43) The provisions of this Directive are without prejudice to the application of competition law rules, and any other relevant law in other areas including confidentiality, trade secrets, privacy, access to documents, the law of contract and private international law relating to the conflict of laws and the jurisdiction of courts.
- (44) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

HAVE ADOPTED THIS DIRECTIVE:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Directive lays down requirements necessary to ensure the proper functioning of the management of copyright and related rights by collecting societies. It also lays down requirements for multi-territorial licensing by collecting societies of authors' rights in musical works for online use.

Article 2

Scope

Titles I, II and IV with the exception of Articles 36 and 40 shall apply to all collecting societies established in the Union.

Title III and Articles 36 and 40 of Title IV shall only apply to those collecting societies managing authors' rights in musical works for online use on a multi-territorial basis.

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (a) 'collecting society' means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement, by more than one rightholder, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or controlled by its members;
- (b) 'rightholder' means any natural person or legal entity other than a collecting society that holds a copyright or related right or who under an agreement for the exploitation of rights is entitled to a share of the rights revenue from any of the rights managed by the collecting society;
- (c) 'member of a collecting society' means a rightholder or an entity directly representing rightholders, including other collecting societies and associations of rightholders, fulfilling the membership requirements of the collecting society;
- (d) 'statute' means the memorandum and articles of association, the statute, the rules or document of constitution of a collecting society;
- (e) 'director' means any individual managing director, any member of the administrative board, the management or the supervisory board of a collecting society;

- (f) 'rights revenue' means income collected by a collecting society on behalf of rightholders, whether from an exclusive right, a right to remuneration or a right to compensation;
- (g) 'management fees' means the amount charged by a collecting society in order to cover the costs of its management of copyright or related rights services;
- (h) 'representation agreement' means any agreement between collecting societies whereby one collecting society mandates another collecting society to represent rights in its repertoire, including an agreement concluded under Articles 28 and 29;
- (i) 'user' means any natural person or legal entity who is carrying out acts subject to the authorisation of rightholders, the remuneration of rightholders or the payment of compensation to rightholders and who is not acting in the capacity of a consumer;
- (j) 'repertoire' means the works or other protected subject matter in which a collecting society manages rights;
- (k) 'multi-territorial licence' means a licence which covers the territory of more than one Member State;
- (l) 'online rights in musical works' means any of the rights in a musical work provided under Articles 2 and 3 of Directive 2001/29/EC which are required for the provision of an online music service;
- (m) 'online music service' means an information society service within the meaning of Article 1(2) of Directive 98/34/EC which requires the licensing of musical works.

TITLE II

COLLECTING SOCIETIES

Chapter 1

Membership and organisation of collecting societies

Article 4 *General principles*

Member States shall ensure that collecting societies act in the best interest of their members and do not impose on rightholders whose rights they manage any obligations which are not objectively necessary for the protection of the rights and interests of these rightholders.

Article 5
Rights of rightholders

1. Member States shall ensure that rightholders have the rights as laid down in paragraphs 2 to 7 and that those rights appear in the statute or the membership terms of the collecting society.
2. Rightholders shall have the right to authorise a collecting society of their choice to manage the rights, categories of rights or types of works and other subject matter of their choice, for the Member States of their choice, irrespective of the Member State of residence or of establishment or the nationality of either the collecting society or the rightholder.
3. Rightholders shall have the right to terminate the authorisation to manage rights, categories of rights or types of works and other subject matter granted to a collecting society or to withdraw from a collecting society any of the rights or categories of rights or types of works and other subject matter of their choice, for the Member States of their choice, upon serving reasonable notice not exceeding six months. The collecting society may decide that such termination or withdrawal will take effect only at the middle and at the end of the financial year, whichever is sooner after the expiry of the notice period.
4. 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 Articles 12, 16, 18 and 34 with respect to those acts of exploitation.
5. Collecting societies shall not restrict the exercise of rights provided under paragraphs 3 and 4 by requiring that the management of rights or categories of rights or type of works which are subject to the termination or the withdrawal are entrusted to another collecting society.
6. Member States shall ensure that the rightholder gives express consent specifically for each right or category of rights or type of works which that rightholder authorises the collecting society to manage and that any such consent is evidenced in documentary form.
7. A collecting society shall inform rightholders of their rights under paragraphs 1 to 6 before obtaining their consent to manage any right or category of rights or type of works.

Collecting societies shall inform their members of their rights under paragraphs 1 to 6 within six months of the transposition date of this Directive.

Article 6
Membership rules of collecting societies

1. Member States shall ensure that collecting societies comply with the rules laid down in paragraphs 2 to 5.

2. Collecting societies shall accept rightholders as members if they fulfil the membership requirements. They may only refuse a request for membership on the basis of objective criteria. These criteria shall be included in the statute or the membership terms of the collecting society and shall be made publicly available.
3. The statute of the collecting society shall provide for appropriate and effective mechanisms of participation of its members in the collecting society's decision-making process. The representation of the different categories of members in the decision-making process shall be fair and balanced.
4. Collecting societies shall allow their members to communicate by electronic means, including for the purposes of exercising members' rights. The use of electronic means shall not depend upon the member's residence or place of establishment.
5. Collecting societies shall keep records of members which are regularly updated so that members can be properly identified and located.

Article 7

General meeting of members of the collecting society

1. Member States shall ensure that the general meeting of the members of the collecting societies is organised according to the rules laid down in paragraphs 2 to 9.
2. A general meeting of the members of the collecting society shall be convened at least once a year.
3. The general meeting shall approve any amendments to the statute and the membership terms of the collecting society, where those terms are not regulated by the statute.
4. The general meeting shall have the power to decide on the appointment or dismissal of the directors and approve their remuneration and other benefits such as non-monetary benefits, pension awards, right to other awards and rights to severance pay.

The general meeting shall not decide on the appointment or dismissal of members of the management board or the individual managing director where the supervisory board has the power to appoint or dismiss them.
5. In accordance with the provisions laid down in Chapter 2 of Title II, the general meeting shall, at least, take decisions on the following issues:
 - (a) the policy on the distribution of the amounts due to rightholders, except where the general meeting decides to delegate this decision to the body exercising the supervisory function;
 - (b) the use of the amounts due to rightholders which cannot be distributed as set out in Article 12(2) except where the general meeting decides to delegate this decision to the body exercising the supervisory function;
 - (c) the general investment policy, including on granting loans or providing security or guarantee for loans, with regard to rights revenue;

- (d) the rules on deductions from rights revenue;
 - (e) whether to provide social, cultural and educational services to the members of the collecting society and if so, under what conditions.
6. Any decision taken in accordance with point (e) of paragraph 5 shall be without prejudice to the deductions prescribed by national law for the purposes of social, cultural and educational services provided by collecting societies.
 7. The general meeting shall control the activities of the collecting society by, at least, deciding on the appointment and removal of the auditor and approving the annual transparency report and the auditor's report.
 8. Any restriction on the right of the members of the collecting society to participate and to exercise voting rights at the general meeting shall be fair and proportionate and be based on the following criteria:
 - (a) duration of membership;
 - (b) amounts received or due to a member in relation to the specified financial period.

These criteria shall be included in the statute or the membership terms of the collecting society and shall be made publicly available in accordance with Articles 17 and 19.
 9. Every member of a collecting society shall have the right to appoint any other natural or legal person as a proxy holder to attend and vote at the general meeting in his name.

Article 8 *Supervisory function*

1. Member States shall ensure that the collecting society establishes a supervisory function responsible for continuously monitoring the activities and the performance of the duties of the persons entrusted with managerial responsibilities in the collecting society. There shall be fair and balanced representation of the members of the collecting society in the body exercising this function in order to ensure their effective participation.
2. The body entrusted with the supervisory function shall meet regularly and shall have at least the following powers:
 - (a) to approve any acquisition of immovable property by the collecting society;
 - (b) to approve the setting-up of subsidiaries, acquisitions of other entities, acquisitions of shares or rights in other entities, mergers and alliances;
 - (c) to approve the taking-out of loans, granting of loans and provision of security or guarantee for loans.

Chapter 2

Management of rights revenue

Article 10

Collection and use of rights revenue

1. Collecting societies shall be diligent in the collection and the management of rights revenue.
2. The collecting society shall manage and keep separate the rights revenue from its own assets, the income derived from its management services or the income derived from any other activities.
3. The collecting society shall not be allowed to use rights revenue for its own account, save that it may deduct its management fees.
4. Where, pending the distribution of the amounts due to rightholders, the collecting society invests the rights revenue, it shall do so in accordance with the general investment policy referred to in Article 7(5)(c) and the following rules:
 - (a) the assets shall be invested in the best interests of members; where there is any potential conflict of interest, the collecting society shall ensure that the investment is made in the sole interest of members;
 - (b) the assets shall be invested in order to ensure the security, quality, liquidity and profitability of the portfolio as a whole;
 - (c) the assets shall be properly diversified in order to avoid excessive reliance on any particular asset and accumulations of risks in the portfolio as a whole.

Article 11

Deductions

1. Member States shall ensure that agreements governing the relationship of the collecting society with its members and rightholders shall specify deductions applicable to the rights revenue referred to in point (e) of Article 16.
2. Member States shall ensure that, where a collecting society provides social, cultural or educational services funded through deductions from rights revenue, rightholders are entitled to the following:
 - (a) social, cultural or educational services on the basis of fair criteria, in particular in relation to the access to and the extent of those services;
 - (b) rightholders who have terminated the authorisation to manage rights or categories of rights or types of works and other subject matter or who have withdrawn their rights or categories of rights or types of works and other

subject matter from the collecting society, continue to have access to those services. The criteria in relation to the access to and the extent of those services may take into consideration the rights revenue generated by those rightholders and the duration of the authorisation to manage rights, provided that such criteria are also applicable to rightholders who have not terminated such authorisation or have not withdrawn their rights or categories of rights or types of works and other subject matter from the collecting society.

Article 12

Distribution of the amounts due to rightholders

1. Member States shall ensure that the collecting society regularly and diligently distributes and pays amounts due to all rightholders it represents. The collecting society shall carry out such distribution and payments no later than 12 months from the end of the financial year in which the rights revenue was collected, unless objective reasons related in particular to the identification of rights, rightholders or to the matching of information on works and other subject matter with rightholders prevent the collecting society from respecting this deadline. The collecting society shall carry out such distribution and payments accurately, ensuring equal treatment of all categories of rightholders.
2. Where the amounts due to rightholders cannot be distributed, after five years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the collecting society has taken all necessary measures to identify and locate the rightholders, the collecting society shall decide on the use of the amounts concerned in accordance with Article 7(5)(b), without prejudice to the right of the rightholder to claim such amounts from the collecting society.
3. For the purposes of paragraph 2, measures to identify and locate rightholders shall include verifying membership records and making available to the members of the collecting society as well as to the public a list of works and other subject matter for which one or more rightholders have not been identified or located.

Chapter 3

Management of rights on behalf of other collecting societies

Article 13

Rights managed under representation agreements

Member States shall ensure that a collecting society does not discriminate between its members and any rightholders 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 the amounts due to rightholders.

Article 14
Deductions and payments in representation agreements

1. The collecting society shall not apply deductions, other than management fees, to the rights revenue derived from the rights it manages on the basis of a representation agreement with another collecting society, unless the other collecting society expressly consents to such deductions.
2. The collecting society shall regularly, diligently and accurately distribute and pay amounts due to other collecting societies.

Chapter 4

Relations with users

Article 15
Licensing

1. Collecting societies and users shall conduct negotiations for the licensing of rights in good faith including the provision of all necessary information on their respective services.
2. Licensing terms shall be based on objective criteria, in particular in relation to tariffs. Tariffs for exclusive rights shall reflect the economic value of the rights in trade and of the service provided by the collecting society.

In the absence of any national law which establishes the amounts due to rightholders in respect of a right to remuneration and a right to compensation, the collecting society shall base its own determination of those amounts due, on the economic value of those rights in trade.
3. Collecting societies shall allow users to communicate by electronic means, including, when appropriate, for the purpose of reporting on the use of the licence.

Chapter 5

Transparency and reporting

Article 16
Information provided to rightholders on the management of their rights

Member States shall ensure that a collecting society makes available at least once a year, by electronic means, the following information to each rightholder it represents:

- (a) any personal data which the rightholder has authorised the collecting society to use including to identify and locate the rightholder;
- (b) the rights revenue collected on behalf of the rightholder;
- (c) the amounts due to the rightholder per category of rights managed, and type of use, paid by the collecting society to the rightholder in the period concerned;
- (d) the period during which the uses took place for which amounts are due to the rightholder;
- (e) the deductions made for management fees as well as for other purposes, in the period concerned;
- (f) any amounts due to the rightholder which are outstanding for the period concerned;
- (g) the available complaint handling and dispute resolution procedures pursuant to Articles 34 and 36.

Article 17

Information provided to other collecting societies on the management of rights under representation agreements

Member States shall ensure that a collecting society makes the following information available, at least once a year by electronic means, to the collecting society on whose behalf it manages rights under a representation agreement for a particular period:

- (a) the amounts due to rightholders per category of rights managed, and per type of use paid by the collecting society for the licensing of the rights it manages under the representation agreement;
- (b) the deductions made for management fees and for other purposes;
- (c) information on the licences and rights revenue pertaining to works included in the repertoire covered by the representation agreement;
- (d) resolutions of the general meeting.

Article 18

Information provided to rightholders, members, other collecting societies and users on request

1. Member States shall ensure that a collecting society makes the following information available at the request of any rightholder whose rights it represents, any collecting society on whose behalf it manages rights under a representation agreement or any user, by electronic means, without undue delay:

- (a) standard licensing contracts and applicable tariffs;
- (b) the repertoire and rights it manages and the Member States covered;

- (c) a list of representation agreements it has entered into, including information on other collecting societies involved, the repertoire represented and the territorial scope covered by any such agreement.
2. In addition, a collecting society shall make available at the request of any rightholder or any collecting society, any necessary information on works for which one or more rightholders have not been identified including, where available, the title of the work, the name of the author, the name of the publisher and any other relevant information available which could facilitate the identification of the rightholders.

Article 19 *Disclosure of information to the public*

1. Member States shall ensure that a collecting society makes public the following information:
- (a) the statute;
 - (b) the membership terms and terms of termination of the authorisation to manage rights, if not included in the statute;
 - (c) the list of the persons referred to in Article 9;
 - (d) rules on distribution of the amounts due to rightholders;
 - (e) rules on management fees;
 - (f) rules on deductions from rights revenue for purposes other than management fees, including deductions for the purposes of social, cultural and educational services;
 - (g) complaint handling and dispute resolution procedures available in accordance with Articles 34, 35 and 36.
2. The information referred to in paragraph 1 shall be published on the website of the collecting society and shall remain available to the public on that website.

The collecting society shall keep the information referred to in paragraph 1 up to date.

Article 20 *Annual transparency report*

1. Member States shall ensure that, irrespective of its legal form under national law, a collecting society draws up and make public an annual transparency report, including a special report, for each financial year no later than six months following the end of the financial year. The annual transparency report shall be signed by all directors.

The annual transparency report shall be published on the website of the collecting society and shall remain available to the public on that website for at least five years.

Article 22
Capacity to process multi-territorial licences

- 1 Member States shall ensure that a collecting society which grants multi-territorial licences for online rights in musical works has sufficient capacity to process electronically, in an efficient and transparent manner, the data needed for the administration of such licences, including for identifying the repertoire and monitoring its use, invoicing users, collecting rights revenue and distributing amounts due to rightholders.
2. For the purpose of paragraph 1, a collecting society shall comply, at least, with the following conditions:
 - (a) the ability to accurately identify the musical works, in whole or in part, which the collecting society is authorised to represent;
 - (b) the ability, to accurately identify rights, in whole or in part, and the rightholders with respect to each of the Member States to which this authorisation applies, for each musical work or share thereof which the collecting society is authorised to represent;
 - (c) use of unique identifiers to identify rightholders and musical works, taking into account, as far as possible, voluntary industry standards and practices developed at international or Union level;
 - (d) the taking into account, without undue delay, of any changes to the information described in point (a),
 - (e) the ability to identify and resolve in a timely and effective manner inconsistencies in data held by other collecting societies granting multi-territorial licences in online rights in musical works.

Article 23
Transparency of multi-territorial repertoire information

1. A collecting society which grants multi-territorial licences for online rights in musical works shall provide to online music service providers, rightholders and other collecting societies, by electronic means, up-to-date information allowing the identification of the online music repertoire it represents. This shall include the musical works represented, the rights represented, in whole or in part, and the Member States represented.
2. The collecting society may take reasonable measures to protect the accuracy and integrity of the data, to control its re-use and to protect personal data and commercially sensitive information.

Article 24
Accuracy of multi-territorial repertoire information

1. A collecting society which grants multi-territorial licences for online rights in musical works shall have procedures in place to enable rightholders and other collecting societies to object to the contents of the data referred to in Article 22(2) or to information provided under Article 23, where such rightholders and collecting societies, on the basis of reasonable evidence, believe that the data or the information are inaccurate in respect of their online rights in musical works. Where the claims are sufficiently substantiated, the collecting society shall ensure that the data or the information are corrected without undue delay.
2. The collecting society shall provide rightholders whose musical works are included in its own music repertoire with means of submitting by electronic means information on their musical works or their rights in those works. When doing so, the collecting society and the rightholders shall take into account, as far as possible, industry standards or practices regarding the exchange of data developed at international or Union level, and shall allow rightholders to specify the musical work, in whole or in part, the online rights, in whole or in part, and the Member States, for which they authorise the collecting society.

Article 25
Accurate and timely reporting and invoicing

1. A collecting society shall monitor the use of online rights in musical works which it represents, in whole or in part, by online music service providers to which it has granted a multi-territorial licence for those rights.
2. The collecting society shall offer online music service providers the possibility of reporting the actual use of online rights in musical works by electronic means. The collecting society shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or Union level for the electronic exchange of such data. The collecting society may refuse to accept reporting by the user in a proprietary format if the society allows for reporting using an industry standard for the electronic exchange of data.
3. The collecting society shall invoice the online music service provider by electronic means. The collecting society shall offer the use of a least one format which takes into account voluntary industry standards or practices developed at international or Union level. The invoice shall identify the works and rights which are licensed, in whole or in part, on the basis of the data referred to in Article 22(2), and the corresponding actual uses, to the extent this is possible on the basis of the information provided by the user and the format used to provide that information.
4. The collecting society shall invoice the online music service provider accurately and without delay after the actual use of the online rights in that musical work is reported, except where a delay is attributable to the online music service provider.
5. The collecting society shall have adequate procedures in place for the online music service provider to challenge the accuracy of the invoice, including when the online

music service provider receives invoices from one or more collecting societies for the same online rights in the same musical work.

Article 26

Accurate and timely payment to rightholders

1. Member States shall ensure that a collecting society which grants multi-territorial licences for online rights in musical works distributes amounts due to rightholders accruing from such licences accurately and without delay after the actual use of the work is reported, except where any further delay is attributable to the online music service provider.
2. The collecting society shall provide at least the following information to rightholders:
 - (a) the period during which the uses took place for which amounts are due to rightholders and the Member States in which the uses took place;
 - (b) for each online right in any musical work the rightholder has authorised the collecting society to represent in whole or in part, amounts collected, deductions made and amounts distributed by the collecting society;
 - (c) for each online music service provider, amounts collected for the rightholder, deductions made, and amounts distributed by the collecting society.
3. Where rightholders terminate their authorisation to a collecting society to manage their online rights in musical works or withdraws their online rights in musical works, in whole or in part, from a collecting society, paragraphs 1 and 2 shall apply to multi-territorial licences granted before the termination or the withdrawal and which continue to produce effect.
4. Where a collecting society mandates another collecting society to grant multi-territorial licences for the online rights in musical works under Articles 28, the authorised collecting society shall distribute the amounts referred to in paragraph 1 and provide the information referred to in paragraph 2 to the mandated collecting society, which shall be responsible for its subsequent distribution and information to rightholders, unless they agree otherwise.

Article 27

Outsourcing

A collecting society may outsource services which relate to the multi-territorial licences it grants. Such outsourcing shall not affect the liability of the collecting society towards rightholders, online services providers or other collecting societies.

Article 28

Agreements between collecting societies for multi-territorial licensing

1. Any representation agreement between collecting societies whereby a collecting society mandates another collecting society to grant multi-territorial licences for the online rights in musical works in its own music repertoire shall be of a non-exclusive nature. The mandated collecting society shall manage those online rights on non-discriminatory terms.
2. The mandating collecting society shall inform its members of the duration of the agreement, the costs of the services provided by the other collecting society and any other significant terms of the agreement.
3. The mandated collecting society shall inform the authorising society of the key terms on which its 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, accounting periods and the territories covered.

Article 29

Obligation to represent another collecting society for multi-territorial licensing

1. A collecting society which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its own music repertoire can request another collecting society that meets the requirements of this Title to enter into a representation agreement to represent those rights in accordance with Article 28.
2. The requested collecting society shall accept 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 collecting societies.

The management fee for the service provided by the requested collecting society to the requesting society shall not exceed the costs reasonably incurred by the requested collecting society in managing the repertoire of the requesting collecting society and a reasonable profit margin.

3. The requesting collecting society shall make available to the requested collecting society the information on 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 collecting society to meet the requirements of this Title, the requested collecting society shall be entitled to charge for the reasonable costs incurred in meeting such requirements or to exclude those works for which information is insufficient or cannot be used.

Article 30

Access to multi-territorial licensing

Member States shall ensure that where a collecting society does not grant or offer to grant multi-territorial licences in online rights in musical works or does not allow another collecting society to represent those rights for such purpose by one year after the transposition date of this Directive, rightholders who have authorised that collecting society to represent their

online rights in musical works can grant multi-territorial licences in their online rights in musical works themselves or through any collecting society complying with the provisions of this Title or any other party they authorise. The collecting society which does not grant or offer to grant multi-territorial licences shall continue to grant or offer to grant licences for the online rights in musical works of such rightholders for their use in the territory of the Member State where the collecting society is established, unless the rightholders terminate their authorisation to manage them.

Article 31

Multi-territorial licensing by subsidiaries of collecting societies

Articles 18(1)(a), 18(1)(c), 22, 23, 24, 25, 26, 27, 32 and 36 shall also apply to entities owned, in whole or in part, by a collecting society and which offer or grant multi-territorial licences for online rights in musical works.

Article 32

Licensing terms in online services

A collecting society providing multi-territorial licences for online rights in musical works shall not be required to use as a precedent for other types of services licensing terms agreed with an online music service provider, when the online music service provider is providing a new type of service which has been available to the public for less than three years.

Article 33

Derogation for online music rights required for radio and television programmes

The requirements under this Title shall not apply to collecting societies which grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 TFEU, a multi-territorial licence for the online rights in musical works required by a broadcaster to make available to the public its radio or television programmes simultaneously with or after their initial broadcast.

TITLE IV

ENFORCEMENT MEASURES

Article 34

Dispute resolution for members and rightholders

1. Member States shall ensure that collecting societies make available to their members and rightholders effective and timely procedures for dealing with complaints and for resolving disputes in particular 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. Collecting societies shall respond in writing to complaints by members or rightholders. Where the collecting society refuses the complaint, it shall give reasons.
3. Parties shall not be prevented from asserting and defending their rights by bringing an action before a court.

Article 35

Dispute resolution for users

1. Member States shall ensure that disputes between collecting societies and users concerning existing and proposed licensing conditions, tariffs, and any refusal to grant a licence can be submitted to a court, and if appropriate, to an independent and impartial dispute resolution body.
2. Where the obligation set out in paragraph 1 is implemented by recourse to an independent and impartial dispute resolution body, this shall not prevent the parties from asserting and defending their rights by bringing an action before a court.

Article 36

Alternative dispute resolution

1. Member States shall ensure, for the purposes of Title III, that the following disputes of a collecting society which grants or offers to grant multi-territorial licences in online rights in musical works can be submitted to an independent and impartial alternative dispute resolution bodies:
 - (a) disputes with an actual or potential online music service provider on the application of Articles 22, 23 and 25;
 - (b) disputes with one or more rightholders on the application of Articles 22, 23, 24, 25, 26, 28, 29 and 30;
 - (c) disputes with another collecting society on the application of Articles 24, 25, 26, 28 and 29.
2. Collecting societies shall inform the relevant parties of the availability of alternative dispute resolution procedures as referred to in paragraph 1.
3. The procedures referred to in paragraphs 1 to 2 shall not prevent the parties from asserting and defending their rights by bringing an action before a court.

Article 37

Complaints

1. Member States shall ensure that procedures are set up for members of a collecting society, rightholders, users and other interested parties to submit complaints to the competent authorities with regard to the activities of collecting societies which are covered by this Directive.

2. Member States shall take all the necessary measures to ensure that the complaints procedures referred to in paragraph 1 are administered by the competent authorities empowered to ensure compliance with the provisions of national law adopted pursuant to the requirements laid down in this Directive.

Article 38 *Sanctions or measures*

1. Member States shall provide that their respective competent authorities may take appropriate administrative sanctions and measures where the provisions of the national provisions adopted in the implementation of this Directive have not been complied with, and shall ensure that they are applied. The sanctions and measures shall be effective, proportionate and dissuasive.
2. Member States shall notify the Commission of the rules referred to in paragraph 1 by [date] and shall notify it without delay of any subsequent amendment affecting them.

Article 39 *Competent authorities*

Member States shall notify the Commission of the competent authorities referred to in Articles 21, 37, 38 and 40 by the [date].

The Commission shall make that information available on its website.

Article 40 *Compliance with the provisions on multi-territorial licensing*

1. Member States shall ensure that the competent authorities referred to in Article 39 continuously monitor the compliance with the requirements laid down in Title III of this Directive by collecting societies established in their territory when granting multi-territorial licences for online rights in musical works.
2. The Commission shall foster regular exchange of information between the competent authorities of the Member States and between those authorities and the Commission on the situation and development of multi-territorial licensing.
3. The Commission shall conduct regular consultations with representatives of rightholders, collecting societies, users, consumers and other interested parties on their experience with the application of the provisions of Title III of this Directive. The Commission shall provide competent authorities with all relevant information deriving from these consultations, in the framework set out in paragraph 2.
4. Member States shall ensure that, at the latest, [30 months after the entry into force of this Directive], their competent authorities provide the Commission with a report on the situation and development of multi-territorial licensing in their territory. The report shall include information, in particular, on the availability of multi-territorial licences in the relevant Member State, the compliance of collecting societies with Title III of this Directive and the evaluation of the service by users and non-

governmental organisations representing consumers, rightholders and other interested parties.

5. On the basis of the reports under paragraph 4 and the information gathered under paragraphs 2 and 3, the Commission shall assess the application of Title III of this Directive and, if necessary, take the necessary measures to address the identified problems, if any. The assessment shall cover, in particular, the following:
 - (a) the number of collecting societies meeting the requirements in Title III;
 - (b) the number of representation agreements between collecting societies under Articles 28 and 29;
 - (c) the proportion of repertoire in the Member States which is available for licensing on a multi-territorial basis.

TITLE V

REPORTING AND FINAL PROVISIONS

Article 41

Report

By [5 years after the end of the transposition period (date)], the Commission shall assess the application of this Directive and report to the European Parliament and to the Council on the application of this Directive and, if necessary, on the need to review it.

The Commission shall submit its report accompanied, if appropriate, by a legislative proposal.

Article 42

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [12 months after the entry into force of the Directive] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 43
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 44
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Annex

1. Information to be provided in the annual transparency report referred to in Article 20(2):
 - (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) a description of the legal and governance structure of the collecting society;
 - (d) information on any entities in which the collecting society holds shares;
 - (e) information on the total amount of remuneration paid to the persons referred in Article 9 in the previous year, and on other benefits granted to them;
 - (f) the financial information referred to in point 2;
 - (g) a special report on the use of the amounts deducted for the purposes of social, cultural and educational services.
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).
 - (b) Financial information on the cost of management services and other services provided by the collecting society 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 an explanation of the method used to allocate indirect costs;
 - (ii) operating and financial costs, with a breakdown per category of rights managed, only with regard to the services for the management of rights;
 - (iii) operating and financial costs with regard to services other than the management of rights, including social, cultural and educational services;
 - (iv) resources used to cover costs;
 - (v) deductions made to rights revenues, with a breakdown per category of rights managed and per type of use and the purpose of the deduction, such as costs related to the management of rights or to social, cultural or educational services;
 - (vi) the percentages that the cost of the management services and other services provided by the collecting society to rightholders represents compared to the rights revenues in the relevant financial year, per category of rights managed.

- (c) Financial information on amounts due to rightholders with a comprehensive description of at least the following items:
 - (i) total amount attributed to rightholders with a breakdown per category of rights managed and type of use;
 - (ii) total amount paid to rightholders, with a breakdown per category of rights managed and type of use;
 - (iii) frequency of payments, with a breakdown per category of rights managed and per type of use;
 - (iv) 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 these royalties were collected;
 - (v) 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 these amounts were collected.
- (d) Information on the relationships with other collecting societies with a description of at least the following items:
 - (i) financial flows, amounts received from other collecting societies and amounts paid to other collecting societies, with a breakdown per category of rights and type of use and per collecting society;
 - (ii) management fees for and other deductions from the revenue due to other collecting societies, with a breakdown per category of rights and per collecting society;
 - (iv) management fees for and other deductions from the amounts paid by other collecting societies, with a breakdown per category of rights and per collecting society;
 - (v) amount distributed to rightholders originating from other collecting societies, with a breakdown per category of rights and per collecting society.

3. Information to be provided in the special report referred to in Article 20(3):

- (a) the amounts collected for the purposes of social, cultural and educational services in the financial year, with a breakdown per category of rights managed and per type of use;
- (b) the explanation of the use of those amounts, with a breakdown per type of purpose.