

Presidency of the Republic
Chief of Staff
Deputy Chief of Legal Affairs

DECREE N° 8,469, OF JUNE 22, 2015

Regulates Law No. 9,610 , of February 19, 1998, and Law No. 12,853 , of August 14, 2013, to dispose of the collective management of copyrights.

THE PRESIDENT OF THE REPUBLIC, in the use of the attributions conferred by art. 84, **caput** , item IV and item VI, letter "a", of the Constitution, and in view of the provisions of Law No. 9,610 of February 19, 1998 and Law No. 12,853 of August 14, 2013,

DECREES:

Art. 1. Regulates Law No. 9,610, of February 19, 1998, and Law No. 12,853, of August 14, 2013, to dispose of the collective management of copyrights.

CHAPTER I

The Qualification

Art. 2. The exercise of the activity of collection of copyrights referred to in art. 98 of Law 9,610 of 1998, will only be lawful for associations that obtain qualification in the Ministry of Culture, under the terms of art. 98-A of said Law, subject to the provisions of this Decree.

Art. 3 The application for the authorization of collective management associations that wish to carry out the collection activity referred to in art. 2. o must be filed with the Ministry of Culture.

§ 1 - The Ministry of Culture shall provide for the administrative procedure and the documentation of qualification for carrying out the collection activity, in the form of legislation, observing the right to the adversary and the ample defense.

§ 2 If the association wishes to carry out collection activities relating to protected intellectual works of different categories, in the form of art. 7 of Law 9,610, of 1998, or to various modalities of use described in art. 29 of the aforementioned Law, shall require authorization for each of the collection activities separately, which shall be considered independent of each other for the purposes of this Decree.

§ 3. Under the procedure referred to in § 1 , the Ministry of Culture may grant provisional authorization for the activity of collection, with conditions, for a period of one year, extendable only once for an equal period.

§ 4. Failure to comply with the conditions established in the decision granting the provisional authorization shall imply its revocation.

§ 5. Associations provisionally authorized by the Ministry of Culture, pursuant to § 3 , shall not be entitled to the unitary vote provided for in § 1 of art. 99 of Law 9,610 of 1998.

Art. 4. The request for association authorization that wishes to carry out collection activity of the same nature as that already executed by other associations will only be granted if the number of its associates or of its administered works corresponds to the minimum percentage of the total relative to the associations already qualified, in the defined in an act of the Ministry of Culture, considering the different categories and modalities of use of the intellectual works administered, according to art. 7 and art. 29 of Law 9,610 of 1998.

Sole paragraph. In the case of the associations foreseen in art. 99 of Law No. 9,610 of 1998, wishing to carry out the collection activity, the application for authorization will only be granted to those who have rights holders and repertoire of works, interpretations or performances and phonograms that generate distribution equivalent to a minimum percentage of distribution of the Central Office, in the form defined in an act of the Ministry of Culture, observing the provisions of paragraph 4 of art. 99 of said Law.

Art. 5 Collective copyright management associations that were legally constituted on the date of entry into force of Law 12.853 of 2013 and collecting and distributing the copyright of works, interpretations or executions and phonograms are authorized to carry out the economic activity of collection until February 25, 2019, provided they present the documentation referred to in § 1 of art. 3 to the Ministry of Culture until February 26, 2018. (Wording given by Decree No. 9,145, of 2017)

CHAPTER II

EXERCISE OF COLLECTION ACTIVITY

Art. 6 The prices for the use of works and phonograms shall be established by the associations at a general meeting, convened in accordance with the statutory rules and widely disseminated among the members, considering the reasonableness, good faith and uses of the place of use of the works.

Paragraph 1 In case of the associations referred to in art. 99 of Law 9.610 of 1998, prices shall be established and unified at a general meeting of the Central Office, in accordance with its bylaws, taking into account the parameters and guidelines approved annually by the general assemblies of the member associations.

Paragraph 2 The prices mentioned in the caput and in paragraph 1 serve as reference for the collection of users, observing the possibility of negotiation regarding the amounts and of contracting licenses of use according to their particularities, obeying the provisions in arts. 7 to 9.

§ 3 The collection criteria for each type of user will be taken into account in the establishment of the criteria for distribution of the charged values of the same type of user, and there should be a correlation between both.

Art. 7 The principle of efficiency and isonomy will be the collection, and there should be no discrimination between users with the same characteristics.

Art. 8 It will be considered proportional to the degree of use of the works and phonograms by the users the collection that observes criteria as:

I - time of use of protected works or phonograms;

II - number of uses of protected works or phonograms; and

III - the proportion of works and phonograms used that are not in the public domain or which are not licensed by individual rights management or under another license regime other than the collective management of the licensor association.

Art. 9 The collection will consider the importance of the use of works and phonograms in the exercise of users' activities and the particularities of each segment of users, observing criteria such as:

- I - importance or relevance of the use of works and phonograms for the end user activity;
- II - limitation of the user's power of choice, in whole or in part, on the repertoire to be used;
- III - region of use of works and phonograms;
- IV - use made by social assistance charities certified under the terms of Law no.12.101, of November 27, 2009; and
- V - use by public, state, community, educational or university television or radio stations.

Paragraph 1. In the hypothesis set forth in item V of the **caput**, the collection criteria shall consider whether the broadcaster commercially exploits in its programming grade the advertising of products or services, being prohibited the use of collection criteria that have as a parameter a percentage of budget public.

Paragraph 2. The Central Office referred to in art. 99 of Law No. 9,610 of 1998, and the associations that integrate it shall comply with the criteria set forth in this Chapter and shall classify users by segment, according to their particularities, in an objective and reasoned manner.

CHAPTER III

REGISTRATION

Art. 10. Collective copyright management associations and related associations shall keep a centralized register of all contracts, declarations or documents of any nature that attest to authorship and ownership of works, performances or phonograms, and such as the individual participations in each work, interpretation or performance and in each phonogram.

§ 1 The associations referred to in art. 99 of Law No. 9,610 of 1998, in addition to the register mentioned in the **main section**, should centralize in the Central Office a database containing all information regarding authorship and ownership of works, interpretations or performances and phonograms, as well as individual performances in each work, interpretation or performance and in each phonogram contained in the contracts, declarations or other documents of any nature, subject to the provisions of an act of the Ministry of Culture.

§ 2 The associations must prevent against the falsification of data and fraud, assuming, for all purposes, the responsibility for the data that register.

Paragraph 3 Associations that maintain reciprocal or unilateral representation agreements with similar entities with headquarters abroad must obtain and transfer to the register referred to in the **caput** information relating to authorship, ownership and individual participation in the works, interpretations or executions and phonograms produced in their countries of origin, as well as cadastral records recording the presence of performances or insertion of musical works and phonograms into audiovisual works or television programs, assuming, for all purposes, responsibility for such information.

Art. 11. Associations shall, as defined in an act of the Ministry of Culture, make freely available:

I - the public and its members information on authorship and ownership of works, interpretations or performances and phonograms; and

II - to the Ministry of Culture, for consultation purposes, additional information on the holders of the works, interpretations or performances and phonograms.

Sole paragraph. In the case of associations referred to in art. 99 of Law 9.610 of 1998, compliance with the obligations set forth in this article may be accomplished by making the information available through the Central Office.

Art. 12. The rectification of information and the measures necessary for the regularization of the register referred to in paragraphs 6 and 8 of art. 98 of Law No. 9,610 of 1998, will be the object of an act of the Ministry of Culture.

CHAPTER IV

INDIVIDUAL RIGHTS MANAGEMENT

Art. 13. Holders of copyright or related rights may personally perform the necessary acts for the judicial or extrajudicial defense of their rights, charge and set the price for the use of their works or phonograms, prior notification to the collective management association to which they are affiliated, sent up to forty-eight hours in advance of the practice of the acts, suspending the deadline on non-working days.

Paragraph 1. In case of works and phonograms with shared ownership, prior notice must be made by all holders to their respective associations.

Paragraph 2 - It is up to the collective management associations mentioned in art. 99 of Law No. 9.610 of 1998, immediately pass on to the Central Office the decision of its associate regarding the exercise of the rights set forth in the **caput**.

CHAPTER V

TRANSPARENCY

Art. 14. The associations and collecting entities authorized to carry out the collection activity shall publicize and transparency their activities, among others, by the following means:

I - annual presentation to the Ministry of Culture of documents permitting verification of the correct and continuous observance of the legal provisions;

II - disclosure, through its own electronic websites, of the calculation methods and collection and distribution criteria; and

III - provision of information system for the monitoring by the right holders of information on amounts collected and distributed regarding works, interpretations or performances or phonograms of their ownership.

Sole paragraph. Act of the Ministry of Culture will discipline the manner of compliance with the provisions of this article.

Art. 15. Subject to the provisions of §§ 10 and 11 of art. 98 of Law 9.610 of 1998, associations shall make available to their members, on a semi-annual basis, a consolidated list of titles of works, interpretations or performances and phonograms that have been used, but whose identification has not been possible due to:

I - there is no corresponding data in the register;

II - insufficient information received from users; or

III - other inconsistencies.

Paragraph 1. In case of musical works, literomusical works and phonograms that have been used, but whose identification was not possible under the terms of the **caput**, the Central Office shall make available to the associations of holders that integrate it with a system of permanent and real-time consultation for the identification of the retained credits and to provide to said associations, every six months, a consolidated list containing the titles of the works, interpretations or executions and phonograms.

Paragraph 2 The Ministry of Culture Act shall determine the information to be included in the list referred to in the **caput** and paragraph 1.

§ 3o The associations shall establish rules for the quick and efficient solution of cases of conflicts of registration information that result in retention of the distribution of values to the holders of works, interpretations or executions and phonograms.

Art. 16. It is up to the associations to provide information system for periodic communication, by the user, of the totality of works, interpretations or performances and phonograms used.

§ 1 The associations referred to in art. 5 shall have a term of three years, counted from the date of entry into force of this Decree, to make available the information system set forth in the **caput**.

Paragraph 2 In case of the collective management of public musical performance, the obligation set forth in the **caput** must be fulfilled by the Central Office within three months, counted from the date of entry into force of this Decree.

Paragraph 3. It is the responsibility of the association responsible for collection or the Central Office to verify the veracity of the information provided by the users.

Paragraph 4. In cases where a particular type of use makes it unfeasible or impossible to accurately determine the uses of works, performances or phonograms, associations responsible for collection may adopt sampling criteria based on statistical information, surveys, searches or other methods of allowing that permit the closest knowledge of reality.

Art. 17. Collective copyright management associations must account for the amounts owed to their members in the form of an act of the Ministry of Culture, in compliance with the provisions of Law No. 9,610 of 1998.

CHAPTER VI

ASSOCIATIONS AND THE CENTRAL OFFICE

Art. 18. Associations that carry out collection activities related to protected intellectual works of different categories, in the form of art. 7 of Law 9,610, of 1998, or to various modalities of use described in art. 29 of the said Law should manage and account separately the respective resources.

Art. 19. Without prejudice to the provisions of paragraphs 5 and 6 of art. 97 of Law 9,610 of 1998, the association may hire directors or maintain a board of directors formed by any of its members to manage its business.

Paragraph 1. For the purposes of the **caput**, the directors hired or the board of directors shall not exercise any decision power.

Paragraph 2. Any form and any amount of remuneration or allowance of the directors of the associations and of the Central Office, of the administrators and of members of the board of directors shall be approved at a general meeting, convened in accordance with the statutory rules and widely disseminated among the associated.

Art. 20. Associations, by decision of their maximum decision-making body and as provided for in their bylaws, may allocate up to twenty percent of all or part of the resources resulting from their activities to actions of a cultural or social nature that benefit their members collectively and based on non-discriminatory criteria such as:

I - social assistance;

II - promotion of the creation and dissemination of works; and

III - training or qualification of associates.

Art. 21. The associations of collective management of copyrights related to the public execution of musical works, literomusical and of phonograms legally constituted under the terms of art. 5, after a decision at a general meeting, may request the Ministry of Culture, within thirty days from the date of entry into force of this Decree, the recognition of the legal entity already constituted as unified collecting entity of the rights of public performance of musical works, literomusical and phonograms.

Paragraph 1. The legal entity constituted as an entity that collects rights of public execution of musical works, literomusical and phonograms that wish to carry out the collection activity, pursuant to art. 99 of Law 9,610 of 1998, must request authorization and send to the Ministry of Culture the pertinent documentation, within a maximum of thirty days from the date of the protocol of delivery of the recognition request, observing the provisions of art. 3, whichever is applicable.

§ 2. The collecting entity whose authorization is rejected, revoked, annulled, nonexistent, pending judgment by the competent authority or presents any other form of irregularity may not use such facts as an impediment to the distribution of any amounts already collected, under penalty of leaders in accordance with art. 100-A of Law 9,610 of 1998, without prejudice to applicable criminal sanctions.

CHAPTER VII

USER OBLIGATIONS

Art. 22. The user shall deliver to the entity responsible for collecting the rights related to the performance or public performance, immediately after the act of communication to the public, a complete list of the works and phonograms used, and shall make it public and freely accessible, together with the amounts paid, on its electronic website or, if this is not the case, at the place of communication and at its headquarters.

Paragraph 1 The Act of the Ministry of Culture shall establish the form of compliance with the provisions of the **caput** whenever the end user makes use of works and phonograms from an act of communication to the public made by third parties.

Paragraph 2 - The term established in § 2 of art. 16 and by agreement between the parties, the user may comply with the provisions of the **caput** by indicating the electronic address of the Central Office, where a complete list of musical works and phonograms used must be available.

Paragraph 3 The Act of the Ministry of Culture shall provide for the obligations of users with respect to the public performance of works and phonograms inserted in works and other audiovisual productions, especially as regards the provision of information identifying such works and phonograms and their holders.

Art. 23. When the user fails to provide the information due or incomplete or false, the entity responsible for recovery may submit representation to the Ministry of Culture, in order to apply the fine provided for in art. 33.

Art. 24. In the event of cancellation, revocation or rejection of the authorization, absence or dissolution of association or collecting entity, it is the responsibility of the user to discharge his obligations until the authorization of successor entity that will be responsible for setting the values of the copyright or related in relation to the period in which there was no entity authorized for collection.

CHAPTER VIII

MEDIATION AND ARBITRATION

Art. 25. Without prejudice to the assessment by the Judiciary and, where appropriate, by the organs of the Brazilian System of Defense of Competition, the Ministry of Culture may:

I - promote mediation and conciliation between users and copyright holders or their agents, in relation to non-payment, collection criteria, forms of repertory offering and collection values, and between owners and their associations, in relation to the values and criteria of distribution, according to the Regulation of Mediation, Conciliation and Arbitration; and

II - to resolve disputes between users and copyright holders or their agents and between holders and their associations submitted to it pursuant to Law No.9,307, dated September 23, 1996, and in accordance with the Mediation, Conciliation and Arbitration.

§ 1 The Act of the Ministry of Culture shall approve the Rules of Mediation, Conciliation and Arbitration referred to in items I and II of the **caput**.

Paragraph 2. The Ministry of Culture may also, with the purpose of stimulating the resolution of disputes through mediation and arbitration, publish a notice for accreditation of mediators and arbitrators with proven experience and well-known knowledge in the area of copyright, which may be chosen by the parties pursuant to Law No. 9,307 of 1996.

Paragraph 3. The use of other mediation and arbitration services other than those mentioned in the **caput** and in § 2 **is** authorized.

CHAPTER IX

STANDING COMMITTEE

Art. 26. The Ministry of Culture shall constitute, within a period of sixty days from the date of entry into force of this Decree, the Permanent Commission for the Improvement of Collective Management, which shall have the objective of promoting the continuous improvement of the collective management of copyrights in Brazil through the analysis of the performance and results obtained by the Brazilian entities and the examination of the best international practices.

Sole paragraph. The act of constitution of the Standing Committee shall provide for the deadlines for the appointment of its members and shall establish its by-laws.

Art. 27. The Standing Committee shall have the following duties:

I - to monitor compliance with the principles and rules established in Law 9,610 of 1998, and in this Decree by collective management associations, Central Office and users, and may request from the Ministry of Culture the information and documents that may be required;

II - to recommend to the Ministry of Culture the adoption of appropriate measures, such as representation to the Public Ministry or to the Administrative Council of Economic Defense - CADE, when irregularity committed by collective management associations, Central Office or users;

III - to decide, upon demand of the Ministry of Culture, on administrative procedures related to sanctions to collective management associations, to the Central Office or to users;

IV - to pronounce, upon demand of the Ministry of Culture, on the regulations of collection and distribution of collective management associations and of the Central Office;

V - to subsidize the Ministry of Culture, when requested, in the elaboration of complementary norms directed to the correct execution of Law n. 9.610, of 1998, and of this Decree;

VI - to suggest studies, opinions, reports or technical notes to the Ministry of Culture;

VII - monitor the results of mediation and arbitration promoted pursuant to art. 25;

VIII - to pronounce itself on other subjects related to the collective management of copyright, when demanded by the Ministry of Culture; and

IX - propose amendments to its bylaws.

Art. 28. The Standing Committee shall consist of:

I - three representatives from the Ministry of Culture;

II - a representative of the Ministry of Justice;

III - a representative of the Ministry of Foreign Affairs;

IV - a representative of the Ministry of Industry, Foreign Trade and Services; (Wording given by Decree No. 9,145, of 2017)

V - a CADE representative;

VI - a representative of the National Cinema Agency - Ancine;

VII - five representatives of representative associations of copyright holders; (Wording given by Decree No. 9,145, of 2017)

VIII - five representatives of representative associations of users; (Wording given by Decree No. 9,145, of 2017)

IX - a representative of the Federal Public Ministry; (Included by Decree No. 9,145, dated 2017)

X - a representative of the Chamber of Deputies; and (Included by Decree No. 9,145, dated 2017)

XI - a representative of the Federal Senate. (Included by Decree No. 9,145, dated 2017)

Paragraph 1. The coordination of the Standing Committee shall be exercised by one of the representatives of the Ministry of Culture referred to in item I of the **caput**.

Paragraph 2. The representatives referred to in items I to VI and IX to XI of the **caput** shall be indicated by the holders of the bodies and entities referred to and appointed by the Minister of State for Culture. (Wording given by Decree No. 9,145, of 2017)

Paragraph 3. The internal rules of procedure of the Permanent Commission shall provide for the appointment and designation of the titular and alternate representatives referred to in items VII and VIII of the **caput**, who shall be persons of known knowledge in the area of copyright and related rights.

Paragraph 4. The representatives referred to in items VII and VIII of the **caput** shall be appointed for a term of two years, with a renewal being permitted.

Paragraph 5. The Executive Secretariat of the Standing Committee shall be exercised by the Ministry of Culture, which shall provide the necessary technical and administrative support.

Paragraph 6 - Participation in the Standing Committee shall be considered a relevant public service, not remunerated.

CHAPTER X

THE PENALTIES

Art. 29. Failure to comply with the provisions of Title VI of Law 9.610 of 1998 will subject the associations and the Central Office to the sanctions provided for in §§ 2 and 3 of art. 98-A of said Law, without prejudice to applicable civil and criminal sanctions and the communication of fact to the Public Prosecutor's Office.

Art. 30. The following are considered administrative infractions, for the purposes of Law 9.610, of 1998, and of this Decree:

I - to fail, in the process of election or in the mandate of the leaders of the associations, the provisions of §§ 5 and 6 of art. 97 and in §§ 13 and 14 of art. 98 of Law 9.610 of 1998;

II - exercise the collection activity in disagreement with the provisions of Chapter II;

III - treat members in an unequal or discriminatory manner or offer values, profits or advantages in an individualized way, not extended to the group of holders of the same category;

IV - distribute values arbitrarily and without correlation with what is charged to the user;

V - insert data, information or documents that know, or have reason to know, to be false in the centralized registration provided for in art. 10;

VI - difficult or impede the continuous access, for consultation purposes, of the Ministry of Culture or of the interested parties to information and documents on authorship and ownership of works, interpretations or performances and phonograms, including individual participations, in accordance with arts. 10 to 12;

VII - failure to account for the amounts owed to members or to render them incomplete or fraudulent, or not to provide an updated system of information for follow-up by holders of amounts collected and distributed and credits retained;

VIII - retaining, delaying or distributing improperly amounts collected or distributing retained credits that have not been identified after the period of five years;

IX - to charge an abusive or disproportionate administration fee to the effective cost of the activities related to the collection and distribution of copyright, considering the peculiarities of each type of user and the limits established in § 4 of art. 99 of Law 9,610 of 1998, when applicable;

X - prevent, obstruct or hinder, in any way, the individual management of copyrights, under the terms of art. 13;

XI - to use resources destined to actions of a cultural or social nature for other purposes, for actions that do not benefit the collectivity of the associates or in disagreement with the status of the association;

XII - to prevent or impede the transfer of information necessary for the collection and distribution of rights, in the case of loss of authorization by an association, pursuant to § 7 of art. 99 of Law 9,610 of 1998;

XIII - prevent or impede the union or professional association from auditing, through an independent auditor, the accounts provided by the collective management association to its members, pursuant to art. 100 of Law 9,610 of 1998;

XIV - failure to present or present incompletely or fraudulently the documents and information provided for in this Decree or in its normative acts complementary to the Ministry of Culture or its associates, as well as prevent or impede their access;

XV - do not give access or publicity, as the case may be, to the updated reports, information and documents provided for in art. 98-B of Law 9,610 of 1998; and

XVI - to sign contracts, contracts or agreements with a confidentiality clause.

Sole paragraph. The collective administration associations and, where applicable, the Central Office are responsible for the practice of the administrative infractions foreseen in this article.

Art. 31. Administrative infractions, for the purposes of Law No. 9,610, of 1998, and of this Decree, regarding the performance of the Central Office are considered:

I - breach of the provisions of paragraph 1 of art. 99 of Law 9,610 of 1998, in paragraph 2 of art. 19 and in § 2 of art. 21;

II - not to provide an information system for the periodic communication by the user of all works, interpretations or performances and phonograms used, observing the provisions of § 2 of art. 16;

III - failing to account for the amounts owed to associations, or to render them incomplete or fraudulent, or failing to make available to the associations the relation and origin of the credits withheld;

VIII - retaining, delaying or distributing improperly amounts collected or distributing retained credits that have not been identified after the period of five years;

V - allow or tolerate the receipt by tax of user values, or collect or allow the collection of any amounts by means other than the bank deposit;

VI - cease to disable fiscal that has received user values, or hire or permit the performance of fiscal that has been disabled;

VII - interrupt the continuity of collection, or prevent or hinder the transition between associations, in the case of the loss of authorization by an association;

VIII - failing to present or present incomplete or fraudulent documents and information provided for in this Decree or in its normative acts complementary to the Ministry of Culture or to the associations that comprise it, or impede or hinder their access, subject to the provisions of § 1 of Art. 10 and in the sole paragraph of art. 11;

IX - prevent or hinder user access to information regarding the uses made by them; and

X - impede or hinder the admission in their association frames of copyright holders that is relevant to their area of activity and is authorized by the Ministry of Culture.

Art. 32. The practice of administrative infraction will subject the associations and the Central Office to the penalties of:

I - warning, for purposes of meeting the requirements of the Ministry of Culture within a maximum of one hundred and twenty days; or

II - cancellation of the authorization for the collection activity.

Paragraph 1. For the imposition and grading of sanctions, the following shall be observed:

I - the gravity and relevance of the fact, considering the reasons for the infraction and its consequences for users or copyright holders;

II - reoccurrence;

III - the antecedent and the good faith of the offender; and

IV - failure to comply with the condition imposed in the decision granting provisional authorization.

Paragraph 2 - Reoccurrence is deemed to be a repeat offender who commits a new administrative infraction after having passed the decision that has condemned him for any administrative infraction in the previous five years.

Paragraph 3 - It is considered a serious infraction the one involving a deviation from purpose or default of obligations towards members, such as those provided for in items III, IV, V, VII, VIII, IX and XI of the **caput** of art. 30 and in items III, IV, V, VII and X of the **caput** of art. 31.

Paragraph 4. The sanction of annulment of the authorization for the collection activity may only occur after the application of a warning sentence and failure to attend, within the period referred to in item I of the **caput**, the requirements established by the Ministry of Culture.

Paragraph 5. The association that does not fulfill the minimum requirements of representativeness established in art. 4 may have its authorization annulled, except as long as the deadline for compliance has not been exhausted, pursuant to the sole paragraph of art. 5.

Art. 33. For the purposes of applying the fine provided for in the **caput** of art. 109-A of Law 9,610 of 1998, administrative offenses are considered to be the following acts committed by copyright users:

I - Fail to deliver or deliver incompletely to the entity responsible for collecting the rights related to the execution or public exhibition, immediately after the act of communication to the public, a complete list of the works and phonograms used, except for the provisions of item II and § 1;

II - for cinematographic and broadcasting companies, fails to deliver or incomplete delivery to the entity responsible for collecting the rights relating to the performance or public display, by the tenth working day of each month, a complete list of the works and phonograms used in the month, except as provided in § 1o;

III - do not make available or make available in incomplete form to the public, in an electronic site of free access or, in the absence of the latter, at the place of communication to the public and at its headquarters, the complete list of the works and phonograms used together with the amounts paid, except as provided in § 1o; and

IV - provide false information to the entity responsible for the collection of rights relating to the execution or public display or to provide false information to the public on the use of works and phonograms and on the amounts paid.

§ 1 The application of the provisions in items I to III of the **caput** shall be subject to the provisions of paragraphs 1 and 3 of art. 22, in the disciplined form in act of the Ministry of Culture.

Paragraph 2 - The amounts of the fines shall be subject to monetary restatement from science by the decision of the judgment that applied the penalty until its actual payment, without prejudice to the application of default interest and other charges, as provided by law.

Paragraph 3. For the application of the fine, respecting the limits imposed in the **caput** of art. 109-A of Law 9,610, of 1998, shall be observed:

I - the seriousness of the fact, considering the amounts involved, the reasons for the infraction and its consequences;

II - the background of the offender, in particular any recurrence or good faith;

III - the existence of fraud;

IV - the possibility or degree of access and control by the user of the works he uses; and

VII - the economic situation of the offender.

Paragraph 4. The competent authority may exempt the user from the application of the fine in the event of a mere material error and that does not cause considerable prejudice to third parties, observing the reasonableness and the existence of reoccurrence.

Paragraph 5 - Reoccurrent is deemed to be a repeat offender who commits a new administrative infraction after having passed the decision that has condemned him for any administrative infraction in the previous five years.

Paragraph 6 The values of the fines applied will be collected from the National Treasury, according to the legislation.

CHAPTER XI

MISCELLANEOUS AND TRANSIENT PROVISIONS

Art. 34. The Ministry of Culture will issue complementary acts for the execution of this Decree, notably regarding the inspection actions and the procedures and processes for qualification, rectification and regularization of the registry, accountability to members, determination and correction of irregularities and application of sanctions.

Art. 35. The personal information passed on to the Ministry of Culture will have its restricted access in the form of art. 31 of Law 12,527 of November 18, 2011.

Art. 36. The associations referred to in art. 5 and the Central Office shall have a period of ninety days, counted from the date of entry into force of this Decree, to adapt its collection regulations to the criteria set forth in Chapter II.

Art. 37. This Decree enters into effect on the date of its publication.

Brasília, June 22, 2015; 194th of Independence and 127th of the Republic.

DILMA ROUSSEFF

João Luiz Silva Ferreira