

Disclaimer: Only the original Slovenian texts of the laws and regulations have legal effect, and the translations are to be used solely as reference materials to aid in the understanding of Slovenian laws and regulations. The Government of the Republic of Slovenia is not responsible for the accuracy, reliability or currency of the translations provided on this website, or for any consequence resulting from the use of this information. For all purposes of interpreting and applying law to any legal issue or dispute, users should consult the original Slovenian texts published in the Official Gazette of the Republic of Slovenia.

The unofficial consolidated version of the Act Regulating Collective Management of Copyright and Related Rights comprises:

- Act Regulating Collective Management of Copyright and Related Rights – ZKUASP (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 63/16 of 7 October 2016),
- Act Amending the Act Regulating Collective Management of Copyright and Related Rights – ZKUASP-A (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 130/22 of 11 October 2022).

ACT REGULATING COLLECTIVE MANAGEMENT OF COPYRIGHT AND RELATED RIGHTS (ZKUASP)

(Unofficial consolidated version No 1)

I. GENERAL PROVISIONS

Article 1 (Subject)

This Act regulates collective management of copyright and related rights, the procedure for granting permits to collectively manage such rights, the procedure for concluding common agreements and setting tariffs for the use of copyright works, the operation of the Copyright Board, the procedure for multi-territorial licensing of online rights in musical works, dispute settlement, and the supervision of the implementation of this Act.

Article 2 (Transposed EU directives)

(1) This Act shall transpose into the legislation of the Republic of Slovenia Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market (OL L 84, 20.3.2014, p. 72; hereinafter: Directive 2014/26/EU).

(2) This Act shall partly transpose the following Directives into the legislation of the Republic of Slovenia in the part relating to the collective management of rights:

- Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ L 248, 6.10.1993, p. 15), as last amended by Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17.5.2019, p. 82);

- Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ L 272, 13.10.2001, p. 32);
- Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28), as last amended by Corrigendum (OJ L 205, 30.7.2016, p. 27);
- Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights (OJ L 372, 27.12.2006, p. 12), as last amended by Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights (OJ L 265, 11.10.2011, p. 1).
- Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17.5.2019, p. 82), and
- Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92).

Article 3 (Definitions)

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

- "rights revenue" shall mean the income derived from the use of a copyright work or a subject-matter of related rights;
- "copyright", "related rights", "copyright work" and "out-of-commerce work" shall have the same meanings as in the Act governing copyright and related rights;
- "Member State" shall mean a Member State of the European Union or the European Economic Area;
- "rightholder" shall mean an author, performer, phonogram producer, film producer, broadcasting organisation, publisher, maker of a database or any other person, except a collective management organisation, to whom particular material copyrights or other rights of the author or related rights are transferred by an act, contract or other legal transaction or who is entitled to receive rights revenue under a contract or other legal transaction or an act;
- "connected person" shall have the same meaning as in the Act governing media;
- "online rights in musical works" shall have the same meaning as in the Act governing copyright and related rights and shall be acquired by a user for online use of musical works;
- "competent authority" shall be the Slovenian Intellectual Property Office;
- "register" shall have the same meaning as in the Act governing the legal form of legal persons that are collective management organisations;
- "repertoire" shall mean a list of copyright works in respect of which a collective management organisation or an independent management entity manages copyrights;
- "statute" shall mean a memorandum of association of a legal person;
- "foreign collective management organisation" shall mean a collective management organisation with no registered office or subsidiary in the Republic of Slovenia; and
- "cultural heritage institution" shall mean a publicly accessible archive, library, museum, film or audio heritage institution or public broadcasting organisation;
- "multi-territorial licence" shall mean a permit to use a copyright work covering the territory of more than one Member State.

Article 4 (Collective management organisation)

A collective management organisation shall be a legal person to whom a permit is granted by the competent authority and which is authorised by a rightholder or by this Act to manage copyright or rights related to copyright on behalf of and for the account of more than one rightholder, for the collective benefit of such rightholders, as its sole or principal activity, and shall be either or both

- owned or controlled by its members and/or
- organised on a not-for-profit basis.

Article 5 (Independent management entity)

(1) An independent management entity shall be a legal person to whom a permit is granted by the competent authority and which is authorised to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or principle gainful activity, and is neither owned nor controlled, directly or indirectly, wholly or in part, by rightholders.

(2) Film producers, phonogram producers, broadcasters, publishers, and managers and agents acting as rightholders' intermediaries shall not be deemed independent management entities.

(3) Independent management entities shall be subject to paragraphs one and three of Article 13, paragraphs two and four of Article 14, Article 38, points 2, 3, 6, 9, 10, 12 and 13 of paragraph one of Article 39, paragraph five of Article 44, and Articles 69 to 72 of this Act.

Article 6 (Related rights)

The provisions of this Act relating to copyright shall apply *mutatis mutandis* to related rights, with the exception of provisions on multi-territorial licences for online rights in musical works.

Article 7 (Individual and collective management)

(1) Copyrights shall be managed separately (individually), that is separately for each copyright work, or jointly (collectively), that is jointly for several copyright works of several authors.

(2) Rightholders shall decide themselves whether to manage copyrights personally or via a representative or whether to authorise a collective management organisation or independent management entity to manage their copyrights on published copyright works, unless otherwise provided by this Act.

(3) As long as the collective management of rights is entrusted to a collective management organisation pursuant to authorisation granted by a rightholder or this Act, the author may not personally manage those rights unless otherwise provided by this Act.

Article 8

(Management via a representative)

(1) Management of copyrights via a representative shall include:

1. representing authors in legal transactions and relationships with users or commissioning clients, including collecting rights revenues or other compensation and
2. representing authors in proceedings before courts or other public authorities to protect their copyrights.

(2) Where authors exercise their rights before courts or other public authorities via a representative – whether a natural or a legal person – the representative shall be entitled to receive payment for services rendered and to reimbursement of costs incurred in providing these services determined under the representation tariff, provided that the representative meets the conditions for representation before courts or other public authority or these conditions are met by an authorised employee of the legal person acting as representative. The representation tariff shall be adopted by the representative or an association of representatives in agreement with the minister responsible for justice.

Article 9 (Mandatory collective management)

Notwithstanding paragraph two of Article 7 of this Act, rightholders shall be bound to manage their rights on published copyright works via a collective management organisation (mandatory collective management) in the case of:

1. communication to the public of non-theatrical musical and written works, with the exception of the right to make available to the public referred to in Article 32a of the Copyright and Related Rights Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 16/07 – official consolidated version, 68/08, 110/13, 56/15, 63/16 – ZKUASP, 59/19 and 130/22; hereinafter: the ZASP);
2. resale of fine art originals (the resale right referred to in Article 35 of the ZASP);
3. reproducing copyright works for private or other non-commercial use and their photocopying beyond the scope specified in Article 50 of the ZASP;
4. cable retransmission or other rebroadcasting of copyright works, except in respect of broadcasters' own transmissions, irrespective of whether the rights concerned are their own or have been transferred to them by other rightholders; and
5. the right to additional annual compensation referred to in Article 122b of the ZASP;
6. communication to the public of audiovisual works and videograms and performances recorded thereon, with the exception of the rights of film producers referred to in Articles 29 and 30 of the ZASP;
7. the right to remuneration in the case of distance or cross-border teaching by electronic means referred to in Article 47b of the ZASP, except to the extent where such is subject to compulsory collective management in accordance with point 1 of this Article;
8. the right of the author to an appropriate share of the revenue received by the publisher of the press publication for its use pursuant to Article 139a of the ZASP.

Article 10 (Exceptions to mandatory collective management)

(1) Notwithstanding the preceding Article, the following rights may be managed individually by rightholders:

1. the rights referred to in point 1 of the preceding Article where the main performer at a particular event is the rightholder in all works performed and

2. the right to publicly perform a particular non-theatrical musical work by means of a particular phonogram (Article 28 of the ZASP) where the rightholder exclusively holds all copyright and related rights for such use.

(2) The rightholder may invoke the exemption referred to in point 1 of the preceding paragraph provided that the collective management organisation managing the rights is notified thereof not later than 15 days after the use of the copyright work.

(3) The rightholder may invoke the exemption referred to in point 2 of the preceding paragraph provided that the collective management organisation managing the rights is notified thereof not later than 15 days prior to the use of the copyright work.

Article 10a **(Extended collective management of copyright in out-of-commerce works)**

(1) Notwithstanding paragraph two of Article 7 of this Act, a rightholder shall manage his or her rights in an already disclosed copyright work which is considered to be an out-of-commerce work through a collective management organisation in the case of the reproduction, distribution, communication to the public or making available to the public of such work that is held in the permanent collection of a cultural heritage institution, on a non-commercial website, and not for direct or indirect economic advantage.

(2) Where, in the cases referred to in the preceding paragraph, a collective management organisation has been granted a permit for the same type of rights in the same type of works considered to be out-of-commerce works, that collective management organisation shall be deemed to be representative. Where several collective management organisations have been granted a permit to collectively manage the same right referred to in the preceding paragraph in the same type of works which are considered to be out-of-commerce works and are held in the permanent collection of a cultural heritage institution, the collective management organisation which has been authorised by a significant number of rightholders to manage that same right in that type of works which are considered to be out-of-commerce works and are held in the permanent collection of a cultural heritage institution shall be the representative collective management organisation. Where two collective management organisations have the same number of rightholders, the one with the greater number of agreements with foreign collective management organisations shall be the representative one.

(3) The representative collective management organisation shall also manage the rights of those rightholders who have not authorised any collective management organisation for the same type of rights in the same type of works and have not expressly excluded their works from its repertoire.

(4) The rightholder referred to in paragraph one of this Article may, at any time, exclude from use his or her work which is considered to be an out-of-commerce work, either through the publicly accessible online portal of the office of the European Union responsible for intellectual property or by notifying the cultural heritage institution or the competent collective management organisation managing his or her rights, in writing or by electronic means, of the exclusion from use of his or her work which is considered to be an out-of-commerce work. The termination of the authorisation of the rightholder referred to in Article 18 of this Act shall also be deemed to be the exclusion from use of the work considered to be an out-of-commerce work.

(5) The cultural heritage institution shall notify the competent collective management organisation, in writing or by electronic means, that the rightholder has excluded from use his

or her work which is considered to be an out-of-commerce work, no later than 15 days after receipt of the notification through the publicly accessible online portal of the office of the European Union responsible for intellectual property or after receipt of the rightholder's notification of the exclusion from use of his or her work which is considered to be an out-of-commerce work. The competent collective management organisation shall notify the cultural heritage institution in writing or by electronic means that the rightholder has excluded from use his or her work which is considered to be an out-of-commerce work no later than 15 days after receipt of the rightholder's notification.

(6) Notwithstanding paragraph six of Article 18 of this Act, the competent collective management organisation shall cease to manage the right of the rightholder in the case of any of the rights in the works referred to in paragraph one of this Article within 15 days of receipt of the rightholder's notification of the termination of the authorisation or of the rightholder's notification of the exclusion from use of his or her work which is considered to be an out-of-commerce work.

(7) The cultural heritage institution shall cease to use the out-of-commerce work no later than 15 days after receipt of the notification from the rightholder or the competent collective management organisation that the work considered to be an out-of-commerce work has been excluded from use.

(8) A representative collective management organisation may allow a cultural heritage institution to use out-of-commerce works that are in the permanent collection of that cultural heritage institution in any Member State.

(9) The provisions of this Article on out-of-commerce works shall also apply to collections of works referred to in paragraph two of Article 50f of the ZASP, provided that the collective management organisation is sufficiently representative of the holders of rights in those collections that are from a country other than a Member State.

Article 11 **(General principle of collective management)**

Collective management organisations shall act in the best interest of the rightholders whose rights they manage and shall not impose on them any obligations which are not objectively necessary for the protection of their rights and interests or for the effective management of their rights.

Article 12 **(Determining the jurisdiction of courts in particular cases)**

Disputes concerning the organisation and operation of collective management organisations shall be heard by courts of general jurisdiction and shall be governed by the rules of procedure in commercial disputes unless this Act confers jurisdiction on the Administrative Court or a court with jurisdiction to decide on intellectual property right disputes under the Act governing courts.

II. PERMITS TO COLLECTIVELY MANAGE RIGHTS

Article 13 **(Permit application)**

(1) An application for a permit to collectively manage copyright shall be filed with the competent authority. The application shall indicate the company name or the name, the registered office, and the registration number of the legal person filing the application and the copyrights, the categories of rightholders and the types of copyright works referred to in the application.

(2) The application shall be accompanied by:

1. the statute;
2. the rules on the distribution of rights revenue collected;
3. the rules on the use of undistributed amounts of rights revenue;
4. the rules on the investment policy with regard to rights revenue investment in bank deposits and the use of the income so accrued if applicable;
5. the rules on operating costs;
6. the rules on the dedicated funds if applicable;
7. the risk-management rules;
8. the repertoire;
9. the list of members and the list of rightholders that have authorised the legal person to manage their copyrights in copyright works, provided that the legal person is granted the required permit, and the list of such copyrights;
10. in the case of mandatory collective management of copyrights, signed letters of intent or representation agreements concluded with foreign collective management organisations;
11. evidence of means used for managing copyrights by the collective management organisation; and
12. a decision by persons holding management rights in accordance with laws expressing their consent to the permit application and waiving their management rights in the legal person for the duration of the collective management organisation status and for the benefit of its members.

(3) Independent management entities shall enclose with the application referred to in paragraph one of this Article:

1. evidence indicating that they are not directly or indirectly owned or controlled, wholly or in part, by the rightholders;
2. evidence indicating that this is their sole or main gainful activity; and
3. the list of rightholders that have authorised the legal person to manage their copyrights in copyright works, provided that the legal person is granted the required permit, and the list of such copyrights and works.

Article 14 **(Collective management permits)**

(1) The competent authority shall not issue a permit to collectively manage copyright to a legal person unless the application and enclosed documents referred to in the preceding Article comply with the Act governing copyright and related rights and this Act and those documents demonstrate that the legal person shall ensure efficient collective management of rights.

(2) The competent authority shall not issue a permit to collectively manage copyright to an independent management entity unless the application and enclosed documents referred to in the preceding Article comply with the Act governing copyright and related rights and this Act.

(3) Notwithstanding paragraph one of this Article, the competent authority shall not issue a permit to collectively manage copyright to a legal person in cases referred to in Article

9 of this Act where a permit to collectively manage the same type of copyright works and the same rights has already been issued to another collective management organisation.

(4) The procedure for granting a permit shall be governed by the provisions of the act regulating general administrative procedure. No appeal shall be possible against a decision of the competent authority, though an action in administrative dispute may be brought.

Article 15 (Company name or name)

(1) A company name or name of a collective management organisation shall have a k.o. designation.

(2) The collective management organisation shall apply for entry of the company name or the name in the register within 14 days of the issue of the permit.

III. TASKS OF COLLECTIVE MANAGEMENT ORGANISATIONS AND OUTSOURCED SERVICE PROVIDERS

Article 16 (Activity of collective management organisations)

(1) In the scope of its activity, a collective management organisation shall:

1. permit the use of the works in its repertoire under similar conditions for similar types of uses;
2. negotiate in good faith with representative associations of users and conclude common agreements referred to in Article 44 of this Act;
3. publish common agreements and inform users about applicable tariffs;
4. conclude representation agreements with foreign collective management organisations and publish them;
5. control the use of copyright works from its repertoire;
6. issue invoices to users for the use of copyright works from its repertoire and collect and recover rights revenue;
7. distribute collected rights revenue to entitled rightholders in accordance with predetermined rules on the distribution and payment of collected rights revenue;
8. pay allocated rights revenue to entitled rightholders; and
9. seek protection of copyrights before courts and other state authorities and submit the invoices for rights so enforced to authors.

(2) Notwithstanding the preceding paragraph, the collective management organisation may perform administrative and technical tasks related to the collective management of rights referred to in points 5 to 7 of the preceding paragraph for another collective management organisation. The collective management organisation may only use revenue so generated to reduce the operating costs referred to in Article 32 of this Act.

(3) Collective management organisations may issue joint invoices to users indicating the requests for payment of the individual collective management organisations involved. Should the payment of the invoice be refused, the user shall clearly indicate the collective management organisation whose request for payment is being denied.

Article 17 (Outsourced service providers)

(1) A collective management organisation may transfer administrative and technical tasks related to the collective management of rights referred to in points 5 to 7 of paragraph one of the preceding Article to another collective management organisation or company (hereinafter: outsourced service provider). The outsourced service provider shall not transfer those tasks to another person.

(2) The collective management organisation shall be held accountable for the performance of the tasks transferred to the outsourced service provider.

(3) An outsourced service provider other than another collective management organisation shall be controlled by the collective management organisation.

(4) A contract with an outsourced service provider shall include the tasks transferred by the collective management organisation to the outsourced service provider. The contract and any amendments thereto shall enter into force when approved by the general assembly with a majority of at least three-quarters of voting rights present. Cancellation of the contract with the outsourced service provider shall be decided on by the management.

(5) The collective management organisation shall inform the competent authority about any conclusion, amendment or cancellation of a contract with an outsourced service provider within 14 days of its enforcement.

(6) The provisions of this Act relating to the supervision of collective management organisations shall apply *mutatis mutandis* to outsourced service providers.

IV. RIGHTS OF Rightholders AND MEMBERSHIP IN COLLECTIVE MANAGEMENT ORGANISATIONS

Article 18 (Authorisation by a rightholder)

(1) A rightholder shall authorise, in writing, a collective management organisation to manage a particular copyright on a particular copyright work and specify the territories this should apply to, regardless of the Member State of his/her nationality or residence and of that of the registered office of the collective management organisation.

(2) The rightholder may only authorise one collective management organisation to manage a particular copyright on a particular copyright work for a particular territory. The collective management organisation may not manage copyright on a particular copyright work unless authorised by the rightholder.

(3) Notwithstanding the preceding paragraph, the collective management organisation may manage rights without the authorisation of the rightholder in the cases referred to in Articles 9 and 10a of this Act.

(4) Regardless of the authorisation granted to the collective management organisation, rightholders may permit non-commercial uses of their copyright work (for humanitarian, cultural, educational purposes, etc.). The rightholder shall inform the collective management organisation thereof not later than within 15 days of giving such permission.

(5) The collective management organisation shall not refuse to manage the rights referred to in paragraph one of this Article if it manages such categories of rights and types of works in a particular territory.

(6) Rightholders shall have the right to terminate the authorisation referred to in paragraph one of this Article in whole or in part. They shall inform the collective management organisation thereof one month before the termination is to take effect. The statute of the collective management organisation may provide that such termination takes effect at the beginning of the new financial year.

(7) Rightholders shall be entitled to rights revenue collected for their account by the collective management organisation for the use of their works and until the time the termination takes effect. Rightholders who are members of the collective management organisation shall have the same rights as other members of the collective management organisation until the termination takes effect.

(8) The collective management organisation may not make the termination of the authorisation conditional on entrusting the management of a copyright to another collective management organisation.

(9) The collective management organisation shall inform rightholders about their rights under this Article prior to obtaining their authorisation.

Article 19 **(Membership in collective management organisations)**

(1) Rightholders or persons representing rightholders shall have the right to become members of collective management organisations managing their copyrights. Associations of rightholders or other collective management organisations shall also be accepted to membership provided they fulfil the membership requirements.

(2) Persons referred to in the preceding paragraph shall become members of the collective management organisation to which they grant authorisation to manage their copyrights on particular works and for particular territories provided they meet the membership requirements, which shall be based on objective, transparent and non-discriminatory criteria defined in the statute of the collective management organisation.

(3) Authorisations granted to the collective management organisation by rightholders shall be deemed applications for membership in the collective management organisation unless expressly indicated otherwise by the rightholders. The collective management organisation shall decide on the rightholder application for membership within 30 days of receipt of the authorisation. Should the collective management organisation refuse to grant membership, the reasons thereof shall be given to the rightholder in writing.

(4) The collective management organisation shall charge no membership fees to its members in the cases referred to in Article 9 of this Act.

(5) The collective management organisation shall enable communication by electronic means with the rightholders whose rights are under its management, including for the purposes of exercising members' rights.

(6) Immediately after the application referred to in paragraph three of this Article is granted, the collective management organisation shall enter the rightholder into the records of membership kept for the purpose of the effective exercise of members' rights.

(7) The records of membership shall include:

1. the personal name and address or the company name and registered office of members;

2. other contact details for purposes of identifying and locating rightholders (telephone, fax, email, etc.);
3. the tax identification number;
4. the number of voting rights of a member;
5. the total number of members; and
6. the total number of voting rights.

(8) Rightholders who have granted their authorisation to collectively manage their rights to the collective management organisation but do not wish to become its members shall be entered into the records of rightholders kept for the purpose of ensuring security of legal transactions, this including the data referred to in points 1, 2 and 3 of the preceding paragraph.

(9) The records of membership and the records of rightholders shall be available on the website of the collective management organisation and shall be accessible to its members, to the rightholders whose rights are under its management and to the competent authority, with the exception of the addresses, contact details and tax identification numbers of natural persons.

(10) The collective management organisation shall regularly update such records.

Article 20

(Rights of rightholders that are not members of collective management organisations)

Collective management organisations shall manage the copyrights of rightholders that are not its members in the same way as it manages those of its members.

Article 21

(The statute)

(1) The statute of the collective management organisation shall be drawn up as a notarial deed and shall, in addition to the contents governed by other regulations and this Act, include:

1. the name or company name and the registered office of the collective management organisation and its business address;
2. the activity of the collective management organisation;
3. the bodies of the collective management organisation and their respective powers;
4. the number of management body members and the number of supervisory board members;
5. the duration of the term of office of the members of the management body and the supervisory board;
6. the types of copyright work and the categories of copyright on works under its management;
7. the method of gathering data on the copyright works and rights managed by the collective management organisation under authorisation of rightholders or under applicable law, the method of managing its repertoire, and the manner of accessing its repertoire;
8. the form and manner of publication of information important for the collective management organisation or its members;
9. the collective management organisation membership requirements, which shall lay down equal conditions for all rightholders, including other collective management organisations and associations of rightholders;
10. the rights of members and the manner of their participation in the bodies of the collective management organisation, including representation of particular categories of copyright holders in any body on an equal footing;

11. the obligations of members related to the communication of information about copyright works and rights managed by the collective management organisation and information needed for the payment of rights revenue and compensation;

12. the method of resolving disputes between the collective management organisation and its members and rightholders or a foreign collective management organisation with which it has concluded a representation agreement and between the collective management organisation and a user, where the method of dispute settlement shall ensure access to effective and timely procedures for dealing with complaints and dispute settlement and shall include the obligation of the collective management organisation to provide reasoned replies in writing;

13. the requirements for renewing or terminating membership of the collective management organisation, including early termination of membership and withdrawal of the authorisation for particular rights or particular copyright works or particular territory.

(2) The statute of a collective management organisation which manages different categories of copyright on different types of copyright work or different rights of different rightholders shall define a management method which shall ensure that each category of rightholders only decides on issues concerning collective management of copyrights on their works and on common issues concerning the collective management of copyrights.

(3) The statute may regulate individual issues governed by this Act in a different way if expressly provided for by this Act.

(4) The statute and any amendments thereto shall be adopted at the general meeting with a majority of at least three-quarters of voting rights present.

(5) The collective management organisation shall submit the statute for registration within 14 days of the issue of the permit. The collective management organisation shall submit any amendment to the statute for registration within the same time limit.

V. GOVERNANCE OF COLLECTIVE MANAGEMENT ORGANISATIONS

Article 22 (Management bodies)

(1) Notwithstanding the provisions of acts regulating the legal form of a legal person which is a collective management organisation, the governance of the latter shall be regulated by the provisions of this Act.

(2) The management bodies of the collective management organisation shall be:

- the general assembly of members;
- the management; and
- the supervisory board.

Article 23 (General assembly of members)

(1) All members of the collective management organisation shall have the right to participate in and vote at the general meeting.

(2) In principle, each member shall have one vote. However, the statute may define criteria for allotting a higher number of votes to a particular member based on the duration of their membership or the amounts of rights revenue received from the collective management

organisation or the number of copyright works, but with no member being allotted more than ten votes. The criteria for this shall be proportionate and published on the website of the collective management organisation.

(3) A member of the collective management organisation shall have the right to appoint any other person as a proxy to participate in and vote at the general meeting on his or her behalf, provided that such appointment does not result in a conflict of interest.

(4) A proxy shall have such status for a single general meeting and a proxy form shall be submitted prior to the commencement of the general meeting. At the general meeting, the proxy shall enjoy rights equal to those enjoyed by the appointing member. The proxy shall cast votes in accordance with the instructions issued by the appointing member. Such instructions shall have been clearly indicated in the appointment of the proxy.

(5) A general meeting shall be convened in cases determined by this Act or the statute or when in the best interests of the collective management organisation and in any case at least once a year.

(6) The competent authority may participate in the general meetings but shall have no right to vote.

Article 24 (Convening a general meeting)

(1) A general meeting shall be convened not later than 15 days before the meeting takes place.

(2) A general meeting shall be convened by the management of the collective management organisation.

(3) A general meeting shall be convened when so requested by members of the collective management organisation holding at least five per cent of all voting rights. A request to convene the general meeting shall be enclosed with the agenda and proposed resolutions. The statute may provide for a smaller share of voting rights required to request the convening of a general meeting.

(4) Upon a request referred to in the preceding paragraph, the general meeting shall be convened as soon as possible and not later than within two months of the submitting of the request, and if the meeting is not so convened, the members requesting the general meeting may be authorised by a court to convene it. The court shall issue such an order without taking statements from other parties. The published notice of the general meeting shall include reference to the authorisation by the court.

(5) The collective management organisation shall forward the notice of the general meeting, specifying the agenda and proposed resolutions, to every member.

(6) The notice of the general meeting shall also be published on the website of the Agency of the Republic of Slovenia for Public Legal Records and Related Services (hereinafter: AJPES) and on the website of the collective management organisation. The releases referred to in the preceding sentence shall be free of charge.

(7) All documents for the general meeting shall be published together with the relevant notice on the website of the collective management organisation.

(8) Resolutions adopted at a general meeting convened contrary to the provisions of this Article, except paragraph five of this Article, shall be null and void. An action for nullity shall be filed with the competent court within one year of the general meeting.

Article 25 (General meeting powers)

- (1) A general meeting shall decide on:
- the adoption of the statute and any amendment thereto;
 - the appointment or dismissal of or remuneration and other pecuniary and non-pecuniary benefits accorded to members of the supervisory board;
 - the rules on the distribution of collected rights revenue due to rightholders;
 - the rules on the use of undistributed amounts of rights revenue;
 - the rules on the investment policy with regard to rights revenue investment in bank deposits and the use of resulting income;
 - the rules on operating costs;
 - the use of undistributed rights revenue;
 - the rules on dedicated funds;
 - the rules on risk management, unless this power is delegated to the supervisory board by way of a resolution of the general meeting or the statute;
 - the approval of any acquisition, sale or hypothecation of immovable property, unless this power is delegated to the supervisory board by way of a resolution of the general meeting or the statute;
 - the approval of taking out loans or providing security for loans, unless this power is delegated to the supervisory board by way of a resolution of the general meeting or the statute;
 - the approval of mergers, the setting-up of subsidiaries and the acquisition of shares in an outsourced service provider;
 - the appointment of auditors;
 - the adoption of the annual report;
 - the approval of a contract with an outsourced service provider and any amendments thereto; and
 - other issues in accordance with the act regulating the legal form of a legal person.

(2) The general assembly shall adopt its resolutions by a majority of the voting rights present unless a larger majority is specified in this Act or in the statute.

(3) A list of members or their proxies present at the general meeting shall be drawn up for the purpose of the effective exercise of the members' rights and shall indicate the personal names and addresses or company names and registered offices, the number of voting rights held by individual members, and the total number of the voting rights present at the general meeting. The list shall also indicate voting rights by categories of rightholders where the collective management organisation manages different categories of copyright on different types of copyright work or different rights of different rightholder categories.

(4) Minutes of the general meeting shall be taken and these shall be signed by the chairperson of the general meeting. The minutes shall indicate the venue and date of the meeting, the total number of voting rights present, any resolutions adopted, and the outcome of any votes. The minutes shall be published on the website of the collective management organisation within seven days of the general meeting.

Article 26 (Management)

(1) The management shall direct the business operations of the collective management organisation independently and at its own liability.

(2) The management shall represent the collective management organisation and act on its behalf.

(3) In performing their tasks, the management body members shall act with the due diligence of good business practice and for the benefit of the collective management organisation, its members and the rightholders whose rights are collectively managed.

(4) The management shall report at least quarterly to the supervisory board on the operation and business activities of the collective management organisation, in particular on the total amount of collected rights revenue and operating costs, with such data being shown by categories of copyright, types of copyright work and types of use.

(5) Persons may serve as members of the management body only if they meet the requirements for management or supervisory body membership prescribed by the act regulating companies.

Article 27 (Supervisory board)

(1) The collective management organisation shall have a supervisory body composed of at least three persons. The composition of the supervisory body shall ensure fair and balanced representation of the different categories of rightholders.

(2) Persons may be appointed members of the supervisory board only if they meet the requirements for management or supervisory body membership prescribed by the act regulating companies.

(3) In performing their tasks, the supervisory board members shall act with the due diligence of good business practice and for the benefit of the collective management organisation, its members and the rightholders whose rights are collectively managed.

(4) The supervisory body shall supervise the management in the conduct of the business of the collective management organisation and monitor the implementation of resolutions adopted at general meetings. The conduct of the business itself may not be transferred to the supervisory board. The statute or the supervisory board may specify certain types of transactions which may only be performed with the consent of the latter. Where the supervisory body refuses to give such consent, the management may request the general meeting to decide thereon. A resolution granting consent shall be adopted with the majority of at least three-quarters of the voting rights present at the general meeting.

(5) The supervisory board shall decide on the appointment, dismissal, remuneration, severance pay, and other pecuniary and non-pecuniary benefits accorded to members of the management body. The chairperson of the supervisory board shall represent the collective management organisation against the management body members. The chairperson of the management body shall represent the collective management organisation against the management body members.

(6) The supervisory board may request the management to submit information necessary for supervision even if such information includes personal or other protected data.

(7) The supervisory board may convene a general meeting. The supervisory board shall submit a report on its work at the general meeting at least once a year.

(8) The members of the supervisory board shall elect a chairperson from among its members. The supervisory board shall adopt its rules of procedure by a majority vote of its members.

(9) The supervisory board shall be convened by the chairperson. The supervisory board shall be convened at least quarterly and more frequently if so stipulated in the statute.

(10) Each supervisory board member shall have one vote. The supervisory board shall be in quorum if at least half of its members are present during decision-making, unless otherwise stipulated in the statute. A resolution shall be deemed valid when adopted by a majority of the votes cast. In the case of an equal number of votes, the chairperson of the supervisory board shall have a casting vote.

(11) Minutes of supervisory board meetings shall be taken and these shall be signed by the chairperson of the supervisory board.

Article 28

(Damage liability of the management and supervisory boards)

(1) The members of the supervisory board and the management body of the collective management organisation shall be jointly and severally liable for any damage caused by a breach of their duties unless they can prove that they have discharged their duties with due care and diligence.

(2) Any claims brought under the preceding paragraph shall fall under the statute of limitations five years after the damage occurred.

Article 29

(Conflicts of interest)

(1) Members of the supervisory board and the management body shall annually provide written statements on conflicts of interest at the general meeting.

- (2) The statement on conflicts of interest shall contain information on:
- any interests the members of the management body or supervisory board have in the collective management organisation;
 - any remuneration received in the preceding business year from the collective management organisation or outsourced service provider, including payments to supplementary pension schemes, and all other types of benefits;
 - any rights revenue received in the preceding financial year from the collective management organisation; and
 - any actual or potential conflict between any personal interests and the interests of the collective management organisation or between any obligations to the collective management organisation and any duty owed to any other legal or natural person.

VI. COLLECTION AND DISTRIBUTION OF RIGHTS REVENUE

Article 30

(Collection and distribution of rights revenue)

(1) A collective management organisation shall act with diligence in collecting, managing and distributing rights revenue.

- (2) The collective management organisation shall keep separate in its accounts:
- the amounts of rights revenue collected and any income from bank deposits by categories of copyright and
 - any of its own assets and income arising from such assets and income from managing rights revenue for other collective management organisations under representation agreements by categories of copyright.

(3) The assets referred to in indent one of the preceding paragraph shall not be subject to enforcement or bankruptcy.

(4) The amounts referred to in indent one of paragraph two of this Article shall be used for no other purpose than to be distributed to the rightholders in accordance with predetermined rules on the distribution of collected rights revenue. Operating costs may be deducted from the income referred to in paragraph two of this Article.

(5) The rules on the distribution of collected rights revenue due to rightholders shall take account of the actual use of a particular copyright work whenever this is possible given the nature of use of the copyright work and economically justified in terms of the costs of monitoring the actual use.

(6) Pending distribution, the collective management organisation may only invest the collected rights revenue in bank deposits, whereby such investment shall not affect the deadlines for distribution referred to in Articles 34 and 35 of this Act.

Article 31 (Specific distribution)

(1) The amounts of compensation collected pursuant to paragraph two of Article 37 of the ZASP shall be distributed so that the authors receive 40%, the performers 30% and the producers of phonograms or film producers 30%.

(2) The amounts of compensation collected pursuant to paragraph three of Article 37 of the ZASP shall be distributed so that the authors and the publishers receive 50% each.

(3) The amounts of compensation collected pursuant to point 2 of paragraph one of Article 47 of the ZASP shall be distributed so that the authors receive 30% and the rightholders 70%. Authors may not waive the right to their share.

(4) The amount of compensation collected pursuant to paragraph seven of Article 139a of the ZASP shall be distributed so that the authors and the publishers of press publications each receive 50%.

Article 32 (Operating costs)

(1) Operating costs shall include the costs incurred by a collective management organisation through reasonable and prudent management for the benefit of rightholders and which are strictly necessary to carry out its activity.

(2) The operating costs shall be reasonable and in compliance with the rules on operating costs. The operating costs shall be justified and documented.

(3) The general meeting of the collective management organisation shall define the maximum permitted percentage of operating costs in relation to the collected rights revenue and any income from bank deposits.

(4) Before the collective management organisation starts to manage a copyright, it shall provide the rightholder with information on the rules on operating costs.

Article 33 (Dedicated funds)

(1) Notwithstanding paragraph four of Article 30 of this Act, a collective management organisation may set up dedicated funds in accordance with the statute. The collective management organisation shall be obliged to set up such dedicated funds if it holds any undistributed rights revenue.

(2) The collective management organisation shall allocate a maximum of 10% of the collected rights revenue to the dedicated funds. The amount allocated to the dedicated funds shall be determined at the general meeting, with such a vote needing to be carried by at least three-quarters of the voting rights present.

(3) The funds shall represent separate assets earmarked to promote artistic creativity and to disseminate new copyright works in areas significant for the preservation of cultural diversity, i.e. funding shall be granted to promising authors permanently residing in the Republic of Slovenia or to authors permanently residing in Republic of Slovenia for social or educational purposes.

(4) The assets of each fund shall be kept separate in the account of the collective management organisation.

(5) The rules on dedicated funds shall provide for transparency in the operation of the dedicated funds and shall define:

1. the dedicated funds of the collective management organisation;
2. the rules on payments into and disbursements from the funds;
3. the predefined rules on use of funds;
4. the definition of the term "promising author"; and
5. the rules on supervision of the use of funding granted.

Article 34 (Distribution of rights revenue collected)

(1) A collective management organisation shall regularly, diligently and accurately distribute and pay out collected rights revenue to authors in accordance with predefined rules on the distribution of collected rights revenue.

(2) The collective management organisation shall ensure that the collected rights revenue is distributed and paid out as soon as possible and no later than nine months from the end of the financial year in which the revenue was collected unless objective reasons beyond the control of the collective management organisation or outsourced service provider prevent it from so doing. Such objective reasons shall be related in particular to reporting by users, identification of rights, rightholders or matching of information on copyright works.

Article 35 (Treatment of undistributed rights revenue)

(1) Where it is not possible to distribute rights revenue, the relevant amounts shall be kept in a separate account of the collective management organisation (undistributed rights revenue).

(2) The collective management organisation shall make every effort to identify and locate rightholders concerned by examining information on rightholders, membership records, records on rightholders and other data available.

(3) The collective management organisation shall make information on the copyright works for which no rightholders have been identified or located available to the rightholders it represents and to the collective management organisations with which it has concluded representation agreements, and shall do so no later than within three months of the expiry of the deadline set in paragraph two of the preceding Article.

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

- the title of the copyright work;
- the name of the rightholder;
- the name or company name of the publisher, film producer or producer of phonograms; and
- any other relevant information available which could assist in identifying the rightholder.

(5) If it is not possible to identify or locate the rightholder after the measures referred to in paragraphs two and three of this Article have been taken, the collective management organisation shall publish the information referred to in paragraph three of this Article on its website, this not later than one year following the expiry of the three-month period referred to in paragraph three of this Article.

(6) Where it is not possible to distribute rights revenue despite all measures taken, the amounts concerned shall be deemed undistributed (undistributed rights revenue) after three years from the end of the financial year in which they were collected and subject to the conditions referred to in paragraphs two, three and five.

Article 36

(Representation agreements with foreign collective management organisations)

(1) A collective management organisation which manages a copyright under a representation agreement concluded with a foreign collective management organisation shall not treat the rightholders concerned in any way differently from its own members, in particular as regards tariffs, operating costs, the collection of rights revenue and the method of distribution.

(2) The collective management organisation may only deduct operating costs from the rights revenue collected under the representation agreement and, if so provided for therein, also make deductions for dedicated funds.

(3) The distribution of the collected rights revenue shall be governed *mutatis mutandis* by the provisions of Article 34 of this Act. Notwithstanding paragraph two of Article 34 of this Act, the represented collective management organisation shall distribute and pay out the collected rights revenue as soon as possible and no later than six months of its receipt.

VII. INFORMATION

Article 37
(Rightholders' right of access)

(1) In response to a duly justified request by a rightholder whose rights are under collective management, a collective management organisation shall forthwith allow the rightholder access to its documents and data.

(2) Prior to accessing the documents and data referred to in the preceding paragraph, the rightholder shall sign a statement to protect any business secrets of the collective management organisation.

(3) Where the collective management organisation denies access to the documents and data, the rightholder may request a court to issue a decision granting such access.

(4) The rightholder shall be held liable for any damage caused to the collective management organisation as a result of disclosure of its business secrets.

Article 38
(Provision of information to rightholders and foreign collective management organisations)

(1) At least once a year, a collective management organisation shall provide the rightholders to whom rights revenue was granted or paid the information about:

- the period to which the rights revenue payment refers;
- the rights revenue amounts granted to the rightholder, by individual rights and by type of use;
- the rights revenue amounts paid to the rightholder, by individual rights and by type of use;
- any deductions made in respect of operating costs;
- any deductions for dedicated funds, provided the rightholder gave relevant consent;
- any rights revenue granted to the rightholder but not yet paid out, by individual periods; and
- the contact details of the rightholder for identification purposes.

(2) At least once a year and by electronic means, the collective management organisation shall provide the foreign collective management organisations on whose behalf it manages rights under a representation agreement information about:

- the rights revenues collected on the basis of the representation agreement;
- any deductions made in respect of operating costs;
- any deductions for dedicated funds, provided the foreign management organisation gave relevant consent;
- the persons granted the permission to use the copyright work covered by the representation agreement; and
- the resolutions adopted at general meetings insofar as they are relevant to the management of the rights under the representation agreement.

(3) When requested, the collective management organisation shall provide information as to whether a work is protected by copyright within 15 days. The tariff for the information provided shall not exceed the actual cost of drawing up the information.

Article 39
(Informing the public)

(1) A collective management organisation shall publish on its website the following information, which shall be freely accessible to the public:

1. the permit to collectively manage copyrights;
2. its repertoire, the copyrights under its management and, in the case of multi-territorial licensing of rights in musical works for online use, the territories it covers;
3. its membership requirements, a sample authorisation form and the requirements regarding the termination of authorisation;
4. any common agreements concluded with the representative associations of users;
5. a sample of the contract with users and the tariffs for particular types of use;
6. the names of the foreign collective management organisations with which it has concluded representation agreements and a list of such agreements;
7. the information about its membership in international associations;
8. its statute;
9. the rules on distribution of collected rights revenue due to rightholders;
10. the rules on the use of undistributed amounts of rights revenue;
11. the rules on the investment policy with regard to rights revenue investment in bank deposits and the use of resulting income;
12. the rules on operating costs;
13. the rules on the dedicated funds;
14. the risk-management rules;
15. data on the persons authorised to represent it;
16. a list of members of its bodies, except the general assembly;
17. the information referred to in paragraph three of Article 35 of this Act;
18. the number of its members and the total number of voting rights;
19. provisional tariffs;
20. its adopted annual report and an audit report;
21. the criteria used for setting tariffs; and
22. the method of resolving disputes between the collective management organisation and its members, rightholders, foreign collective management organisations and users.

(2) The collective management organisation shall keep the documents and information referred to in the preceding paragraph regularly updated. The annual report, together with the audit report, shall remain published on the website of the collective management organisation for a minimum period of five years after its adoption.

VIII. ANNUAL REPORTS OF COLLECTIVE MANAGEMENT ORGANISATIONS AND AUDITS

Article 40 **(General provisions on annual reports)**

(1) An annual report of a collective management organisation shall be drawn up in a clear and transparent manner. It shall present a true and fair view of assets and liabilities, financial status, and the profits and losses of the collective management organisation.

(2) When the collective management organisation manages different rights of rightholders in different types of copyright works, the collective management of rights shall be separately presented in the annual report.

(3) The members of the management body and supervisory board shall jointly ensure that the annual reports and their components are drawn up and published in accordance with this Act, Slovene accounting standards and international financial reporting

standards. They shall act within the scope of their powers and with due care and responsibility as provided for by this Act.

(4) The annual report and its components shall be signed by all members of the management body of the collective management organisation.

(5) The annual report shall be drawn up on the basis of the closed accounts within three months of the end of each financial year.

(6) After the audit of the annual report has been completed, the supervisory board shall verify the annual report submitted by the management and draw up a written report on its findings for the general assembly. The report shall indicate the method and scope of the examination of the management of the collective management organisation during the financial year. The report shall conclude with any comments the supervisory board may have on the annual report.

(7) The general assembly shall decide on the adoption of the annual report no later than eight months after the end of the financial year.

(8) The annual report, together with the audit report, shall be submitted to AJPES for the purpose of its publication within eight months of the end of the financial year.

Article 41 (Annual report composition)

- (1) An annual report of a collective management organisation shall include at least:
- a balance sheet;
 - an income statement;
 - a cash-flow statement;
 - notes on the financial statements;
 - a report on the utilisation of dedicated funds, if applicable;
 - a report on the activities in the financial year;
 - a report on any operations with outsourced service providers;
 - information on any refusals to grant permission to use the copyright works in the repertoire of the collective management organisation;
 - a statement on any conflicts of interest as referred to in Article 29 of this Act;
 - a description of the legal form and the method of management and supervision of the collective management organisation;
 - the total amount of remuneration paid in the previous financial year by the collective management organisation to members of the management body and supervisory board, indicated separately for the two boards, including payments to supplementary pension schemes and any other types of benefits; and
 - the company names or names and registered offices of connected persons and outsourced service providers.

- (2) The notes on financial statements shall include explanations concerning:
1. the total amount of rights revenue collected by the collective management organisation with a detailed explanation and broken down by categories of copyrights, by types of use and by financial year for which it was collected;
 2. the total amount of costs incurred by the collective management organisation and their percentage of the total amount of the collected rights revenue with a detailed explanation and broken down by categories of copyrights and by types of use;

3. operating costs and their percentage of the total amount of the collected rights revenue, whereby the data shall be shown by categories of copyrights and by types of use, with a detailed explanation and broken down into at least the following items:
 - costs associated with the collection of rights revenue and compensation;
 - costs associated with the distribution of rights revenue and compensation;
 - lawyers' fees;
 - IT costs;
 - labour costs;
 - outsourced service providers' costs; and
 - other operating costs of the collective management organisation;
4. the amount of costs associated with the operation of dedicated funds and their percentage compared to the total amount of the collected rights revenue;
5. the resources used to cover the costs of the collective management organisation;
6. the amounts allocated to dedicated funds with a detailed explanation and broken down by categories of copyrights and by types of use;
7. the number of rights revenue distributions by categories of copyrights and types of use;
8. the total amount of rights revenue granted to rightholders with a detailed explanation and broken down by categories of copyrights, by types of use and by financial year for which they were collected;
9. the total amount of rights revenue paid to rightholders with a detailed explanation and broken down by categories of copyrights, by types of use and by financial year for which they were collected;
10. the total amount of rights revenue granted to rightholders but not yet paid out with a detailed explanation and broken down by categories of copyrights, by types of use and by financial year for which they were collected;
11. the total amount of rights revenue collected but not yet granted to rightholders, whereby these data shall be broken down by categories of copyrights, by types of use and by financial year for which they were collected;
12. reasons for failing to grant or pay due amounts to rightholders in the time limits referred to in Articles 34 and 35 of this Act;
13. the amount of undistributed rights revenue and an explanation as to their use;
14. the amounts received from and paid to other collective management organisations, broken down by categories of copyrights, by types of use and by individual collective management organisations;
15. the amounts of operating costs charged to other collective management organisations, broken down by categories of copyrights, by types of use and by individual collective management organisations;
16. the amounts of operating costs paid to other collective management organisations, broken down by categories of copyrights, by types of use and by individual collective management organisations;
17. the amount of rights revenue originating from other collective management organisation and directly distributed to rightholders;
18. all transactions conducted with connected persons; and
19. the average number of employees in the financial year.

(3) The special report on the utilisation of dedicated funds shall disclose information concerning the allocation of rights revenue to the dedicated funds, broken down by categories of copyrights and by types of use, and shall also include a detailed explanation of the utilisation of the dedicated funds, including data on recipients and amounts received and the total assets of each dedicated fund.

(4) The report on operations with an outsourced service provider shall disclose any legal transactions with the outsourced service provider entered into by the collective management organisation and the total amount of payments by the collective management organisation, broken down by individual legal transactions.

Article 42
(Audits)

(1) An annual report of the collective management organisation shall be audited by a certified auditor no later than six months after the end of the financial year and in the manner and under the conditions stipulated by the Act governing audits.

(2) The audit report shall, *mutatis mutandis*, be subject to the provisions of the Act regulating companies.

Article 43
(Special audits)

(1) A general meeting may appoint, by a simple majority of the voting rights present, a special auditor to carry out a special audit of the management of individual transactions in the collective management organisation. The notice of the general meeting shall indicate proposals for the certified auditor and the types of transactions to be audited as tabled by the proposers.

(2) When the appointment of a special auditor is rejected by the general meeting, the special auditor may be appointed by a court on the proposal of at least five percent of all voting rights provided there are grounds for suspecting that fraudulent acts or serious violations of the law or the statute occurred in procedures or business operations.

(3) An auditor that has conducted an audit of the annual report of the collective management organisation in the preceding five years shall not be appointed as a special auditor.

(4) The costs associated with the special audit shall be covered by the collective management organisation. The collective management organisation shall have the right to request the proposers referred to in paragraph one or two of this Article to reimburse the costs it incurred in relation to an unsubstantiated special audit in accordance with the general rules on liability for damages.

(5) The management of the collective management organisation shall publish the special audit report on the organisation's website within three days of its receipt.

IX. COMMON AGREEMENTS AND TARIFFS

Article 44
(Common agreements)

(1) A common agreement between a collective management organisation and a representative association of users of copyright works in the repertoire of the collective management organisation shall be concluded in writing. Representative associations of users shall mean those associations that represent the majority of users from a particular field of activity with regard to their number and associations recognised as representative by law. Where the users of copyright works in a particular field of activity are mainly direct or indirect budget users, the ministry responsible for that field of activity may be considered to be the representative association of users. Where a ministry is considered to be the representative association of users, the agreement shall be concluded between that ministry and the collective management organisation, and users may participate in the negotiations leading to the conclusion of the agreement.

(2) A common agreement may also be concluded between the collective management organisation and an individual user of copyright works from its repertoire when, due to the nature of the activity, this individual is the only one carrying it out. The provisions applying to representative associations of users shall also apply, *mutatis mutandis*, to the individual user under this provision.

(3) The collective management organisation shall publish its initial invitation to negotiate the common agreement on its website and on the website of AJPES.

(4) The common agreement shall include at least:

1. the tariff;
2. the terms of use of copyright works with regard to context of use;
3. contexts of use that shall give rise to an increase or decrease in the payment of rights revenue or compensation under the tariff or to exemption from such payment;
4. a remuneration adjustment mechanism, on the basis of which authors may request additional remuneration if the conditions referred to in paragraph three of Article 81 of the ZASP are fulfilled;
5. the deadline for payment of rights revenue or compensation;
6. the method of payment of rights revenue and possible back payment with regard to the provisional tariff referred to in paragraph four of Article 45 of this Act for the use of copyright works pending the conclusion of the common agreement, provided that the aforementioned agreement introduces a tariff for the particular type of use of copyright works; and
7. representatives of the collective management organisation and representative association of users of copyright works who shall monitor the implementation of the common agreement.

(5) Collective management organisations and users shall negotiate in good faith and exchange any information necessary to conclude the common agreement.

(6) The collective management organisation shall publish the common agreement in the Official Gazette of the Republic of Slovenia .

(7) The common agreement shall start to apply to any user of the same category of copyright works in the repertoire of the collective management organisation, regardless of their participation in negotiations or in the conclusion of such an agreement, on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia . Users of copyright works in the repertoire of the collective management organisation shall conclude a contract with the collective management organisation in accordance with the applicable common agreement.

(8) The applicable common agreement shall be binding on courts.

(9) The provisions of this Article shall apply, *mutatis mutandis*, to amendments to or termination of common agreements.

Article 45 (Tariffs)

(1) The tariffs for the use of copyright works shall specify the amount and the method of calculating the rights revenue payable by individual users to the collective management organisation for the use of the copyright works in the repertoire of that collective management organisation.

(2) The tariffs shall be defined in the common agreement concluded between the collective management organisation and the representative association of users or, if this is not possible, in a decision of the Copyright Board (hereinafter: the Board). The tariffs defined in the applicable common agreement shall be deemed appropriate until otherwise decided by the Board by way of a final decision.

(3) The tariffs shall reflect the economic value of the rights under the common agreement, the nature and scope of the use of the copyright works, and the economic value of the service provided by the collective management organisation and shall, in light of the circumstances of the particular case, take into account in particular:

1. the scope of the repertoire;
2. the scope of the permit;
3. the revenue generated from the use of the copyright work, or if this is not possible costs related to such use;
4. the relevance of the copyright work for the activity of the user;
5. the ratio between the protected and non-protected copyright works used;
6. the ratio between the rights managed collectively and those managed individually;
7. particular complexity of collective management of rights due to a particular use of the copyright works; and
8. comparability of the proposed tariffs and the tariffs of corresponding collective management organisations applicable to the same type of copyright works for the same type of use in the Republic of Slovenia and other Member States, taking into account the gross domestic product per capita in purchasing power units.

(4) When no tariff has ever been set for a particular type of use of the copyright works, the collective management organisation may itself set a provisional tariff, so as to:

1. exclude the three highest tariffs of the ten tariffs applicable in the Member States for the same category of copyrights, the same type of copyright works and the same type of use thereof;
2. calculate the average of the remaining seven Member State tariffs for the same category of copyrights, the same type of copyright works and the same type of use thereof; and
3. apply a correction factor to the average tariff so established by considering the scope of the repertoire it represents and the ratio between the average gross domestic product per capita in purchasing power units in the remaining seven selected Member States and in the Republic of Slovenia, all relative to the calendar year preceding the setting of the provisional tariff.

(5) The provisional tariff shall be null and void unless appropriately explained.

(6) The collective management organisation shall publish the provisional tariff, together with the explanation, and the invitation to negotiate the common agreement on its website and on the website of AJPES. The provisional tariff shall start to apply on the fifteenth day after its publication on the website of AJPES.

Article 46 **(Compensation paid for private and other non-commercial reproduction)**

(1) The amounts of compensation paid for private and other non-commercial reproduction which belong collectively to all rightholders entitled to such compensation under the Act governing copyright and related rights shall be determined jointly by the collective management organisation holding a permit to collectively manage the right to compensation under Article 37 of the ZASP and the representative association of persons liable referred to in paragraph one of Article 38 of the ZASP, applying, *mutatis mutandis*, the provisions of this

Act on the conclusion of the common agreement and the setting of tariffs, with the exception of paragraph three of the preceding Article. Act on the conclusion of the common agreement and the setting of tariffs, with the exception of paragraph three of the preceding Article.

(2) The compensation referred to in the preceding paragraph shall be set for each sound recording and each video recording device, for each unrecorded sound or image carrier depending on its recording or memory capacity, for each photocopying device depending on its performance (number of copies per minute) and option of colour copies and for each copy made for sale.

(3) The amount of compensation shall be determined by considering:

1. the anticipated extent of the use of devices and carriers referred to in the preceding paragraph for private and other non-commercial reproduction and their price bracket;
2. the decrease in authors' revenue due to permitted private and other non-commercial reproduction;
3. the extent of the use of technological measures to protect copyright works or the subject-matter of related rights referred to in Article 166a of the ZASP;
4. the comparability with the amount of compensation in other EU Member States, taking into account gross domestic product per capita in purchasing power units; and

1. the scope of free licences or rightholders' permits allowing free use of copyright works.

Article 47 (Obligation to contract)

(1) A collective management organisation shall treat all users of the same category on an equal basis and shall allow them to communicate electronically.

(2) User of works in the repertoire of the collective management organisation may at any time request that a non-exclusive contract be concluded for the transfer of rights for the use of these works in accordance with the applicable common agreement. The collective management organisation shall not reject such a request.

(3) In the absence of a non-exclusive contract for the transfer of rights for the use of protected works, the relevant right shall be deemed transferred when the amount charged by the collective management organisation under the applicable or provisional tariff is deposited into the account of the collective management organisation or with a court or notary by a user.

Article 48 (Users' obligation to provide information)

(1) Users of copyright works in the repertoire of a collective management organisation shall send information on the use of relevant copyright works required for the purposes of collecting and distributing rights revenue to the collective management organisation within the deadline set and in the manner provided for by this Act or a common agreement.

(2) Organisers of cultural and entertainment events and other users of copyright works in the repertoire of the collective management organisation shall obtain the rights of communication to the public prior to the use of such works, where so required by the Act governing copyright and related rights, and shall afterwards submit schedules of all works used or, where this is not possible, other information required for the calculation of rights revenue to the competent collective management organisation within fifteen days of their use.

(3) Broadcasting organisations shall send the competent collective management organisation, on a monthly basis, the schedules of broadcasted copyright works in the repertoire of the collective management organisation and shall also publish them on their website.

(4) Where copyright works in the repertoire of the collective management organisation are used pursuant to the Act governing copyright and related rights and on a non-exclusive basis, users of these works shall send the information regarding such use to the competent collective management organisation once a month.

(5) Persons referred to in Article 35 of the ZASP shall send to the competent collective management organisation the information required to calculate the compensation due, such as the type and number of sold originals, the persons liable, and the retail price excluding public levies, within 30 days of the sale of an original work of fine art.

(6) The persons liable referred to in paragraph one of Article 38 of the ZASP shall send, at the end of each calendar half-year, to the collective management organisation holding a permit to collectively manage the right to compensation under Article 37 of the ZASP information about the type and number of sold or imported devices and carriers referred to in paragraph two of Article 37 of the ZASP and photocopying devices referred to in point one of paragraph three of Article 37 of the ZASP and information about the sold copies required to calculate the compensation due, unless otherwise provided by the collective agreement. The collective management organisation may only use the information obtained for the purpose for which it was provided and shall not disclose it to unauthorised persons.

X. COPYRIGHT BOARD

Article 49 (The Board)

(1) The Board – an independent professional body – shall have the following competences in respect of collective management of rights:

1. to set appropriate tariffs for the use of copyright works;
2. to decide on any disputed issue regarding the conclusion of a common agreement; and
3. to verify the compliance of the published common agreement with the provisions of this Act.

(2) The Board shall decide independently; its decisions shall not be bound by any expert or other instructions.

(3) The Board shall have its seat with the competent authority. The Board shall have a secretary to provide it with administrative assistance. The secretary shall be appointed by the competent authority from among the staff.

(4) The Board shall adopt its rules of procedure and shall publish them on the website of the competent authority.

Article 50 (Organisation of the Board)

- (1) The Board shall consist of a chairperson and four members.

(2) The chairperson and members of the Board shall be appointed and dismissed by the minister responsible for the economy. Collective management organisations and representative associations of users shall each propose two members of the Board, with at least one candidate of each proposer holding at least a degree obtained in the second cycle study programme in economics in accordance with the Act governing higher education. The chairperson of the Board shall be proposed by the competent authority.

(3) On the proposal of the minister responsible for the economy, the competent authority shall publish in the Official Gazette of the Republic of Slovenia a public call inviting collective management organisations and representative associations of users to nominate, within two months, their respective two members of the Board. Within one month of the expiry of the time limit for nominating members of the Board, the competent authority shall submit to the minister responsible for the economy the applications of the candidates and the proposal for the chairperson of the Board, who shall meet the conditions referred to in paragraphs one and two of Article 51 of this Act.

(4) When collective management organisations or representative associations of users fail to act in compliance with paragraphs two and three of this Article, the competent authority shall nominate any members lacking.

(5) The chairperson and members of the Board shall be appointed by the minister responsible for the economy, who shall have the right to reject the competent authority's proposal for appointment of the chairperson or members of the Board. In such a case, the procedure referred to in paragraph three of this Article shall be repeated.

Article 51

(Terms of office and requirements for the chairperson and members of the Board)

(1) The chairperson and members of the Board shall hold at least a degree obtained in the second cycle study programme in accordance with the Act governing higher education and shall have at least three years of work experience. The chairperson of the Board shall hold a degree in law and shall have passed the state lawyers' examination. Two members of the Board shall have qualifications in economics. The chairperson and members of the Board shall have knowledge of copyright law.

(2) The chairperson or a member of the Board shall not be any of the following:

1. a member of the executive or official body of a political party;
2. a member of the management or supervisory board or an authorised representative of a collective management organisation or a representative association of users; or
3. a person having been sentenced to more than six months' imprisonment by way of a final judgment for a premeditated offence prosecuted *ex officio*. The restriction referred to in this last point shall cease when the criminal record is deleted.

(3) The term of office for the chairperson and members of the Board shall be five years. Notwithstanding the preceding sentence, the term of office shall terminate on the day of the appointment of a new chairperson or new members of the Board.

(4) In the case of the resignation of the chairperson or a member of the Board, the term of office shall terminate on the day of the appointment of a new chairperson or new member of the Board.

Article 52

(Dismissal of the chairperson and members of the Board)

(1) The minister responsible for the economy shall dismiss the chairperson or a member of the Board when the person concerned:

- so requests;
- fails to meet the statutory conditions for appointment (paragraph one of the preceding Article); or
- takes up a position incompatible with the office of chairperson or member of the Board (paragraph two of the preceding Article).

(2) No appeal shall be possible against a decision to dismiss, though an action in administrative dispute may be brought.

Article 53 (Procedures before the Board)

(1) Collective management organisations or representative associations of users may request the Board to set an appropriate tariff or decide on any disputed issue regarding a common agreement at any time after the entry into force of a provisional tariff as referred to in Article 45 of this Act or within five months of the beginning of negotiations when a common agreement fails to be concluded.

(2) Collective management organisations or representative associations of users may request the Board to decide whether the common agreement complies with the provisions of this Act and whether a tariff set by the agreement is appropriate.

(3) If the Board has already decided on the appropriateness of an applicable tariff, a new request as in the previous paragraph may be submitted provided that:

1. not less than six years have elapsed since its entry into force and
2. important circumstances that influence the appropriateness of the tariff have occurred.

(4) The procedure before the Board shall be initiated by a written request including at least:

1. the applicant's details;
2. an explanation of issues raised;
3. a report on negotiations to date; and
4. the proposal for the tariff or the settlement of the disputed issue.

(5) The Board shall send the request referred to in the preceding paragraph to the other party within 15 days of its receipt and shall invite it to comment on the matter within 30 days.

(6) Each party may state the facts and submit the evidence on which its motions are based or with which allegations and evidence of the other party are being challenged not later than at the first oral hearing to be called by the Board, this within three months of receipt of the reply or the expiry of the deadline for the other party to submit a reply to the request referred to in paragraph four of this Article.

(7) No expert witness may be appointed by the Board.

(8) The provisions of the act regulating general administrative procedure shall apply in the procedure before the Board unless otherwise provided by this Act.

Article 54 (Board decisions)

(1) The Board shall issue a decision within nine months of the conclusion of the oral hearing.

(2) The Board shall set an appropriate tariff or decide on a disputed issue by way of a decision, whereby it may approve, amend or annul, in whole or in part, a contested common agreement or tariff.

(3) A final decision of the Board shall be an integral part of the common agreement or shall substitute such an agreement when the final decision amends or annuls the contested common agreement or when such an agreement has not been concluded.

(4) The final decision of the Board shall be published in the Official Gazette of the Republic of Slovenia .

(5) The decision by the Board setting an appropriate tariff for the use of copyright works shall cease to be in force when a new tariff is set by the parties in the common agreement.

Article 55 **(Costs of procedures before the Board)**

(1) The costs of procedures before the Board shall include the costs incurred by the parties and those incurred by the Board.

(2) Each party shall bear its own costs related to procedures before the Board.

(3) The following costs incurred by the Board shall be covered by both parties in equal shares:

- the remuneration of the chairperson and members of the Board;
- travel and other reasonable expenses of the chairperson and members of the Board;
- costs incurred by necessary evidence-taking; and
- administrative costs.

(4) The party who initiates the procedure shall make an appropriate (advance) payment to cover the costs of the Board within the time limit set by the Board or else the request to initiate the procedure shall be dismissed.

(5) The remuneration of a Board member shall amount to one-third of the basic monthly salary without promotion of a district court judge and shall be paid for each started month of the procedure, while the remuneration of the chairperson of the Board shall amount to the remuneration of a Board member increased by 20%. The Board members and chairperson shall be remunerated for the duration of the procedure but not for longer than 12 months.

(6) Following the final decision referred to in the preceding Article, the Board shall issue a special decision on its costs and on potential refunding of the appropriate share of the costs of the Board to be made by either party to the other party, taking into account the advance payment, and shall make payments to its members and chairperson only after the aforementioned decision becomes final.

Article 56 **(Judicial protection against decisions of the Board)**

(1) No appeal shall be possible against a decision on the costs of the Board, though an action in administrative dispute may be brought; such an action shall be decided on by the Administrative Court at its seat.

(2) The Board shall be exempt from payment of court fees in an administrative dispute. Each party shall bear its own costs of the procedure.

XI. MULTI-TERRITORIAL LICENSING FOR ONLINE USES OF MUSICAL WORKS

Article 57 (Scope of application)

(1) This Chapter shall apply to collective management organisations holding a permit for multi-territorial collective management of copyright on musical work for online uses.

(2) This Chapter shall not apply to collective management organisations which grant, on the basis of the voluntary aggregation of the required rights, in compliance with the rules on competition, multi-territorial licences for online use of musical works applied for by a broadcaster to communicate to the public its radio or television programmes simultaneously with the original broadcast, or before or after such a broadcast, or to any online material, including previews, produced by or for the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

Article 58 (Capacity to process multi-territorial licences)

(1) Collective management organisations shall have sufficient capacity to process electronically, in an efficient and transparent manner, data needed for the administration of such licences, including for the purposes of identifying the repertoire and monitoring its use, invoicing users, collecting rights revenue, and distributing amounts due to rightholders.

(2) The collective management organisation shall be capable of accurately identifying the musical works, wholly or in part, which fall under its authorisation to collectively manage rights.

(3) The collective management organisation shall have the ability to identify accurately, wholly or in part, with respect to each relevant territory, the rights and their corresponding rightholders for each musical work or share therein which fall under its collective management authorisation.

(4) The collective management organisation shall make use of unique identifiers in order to identify rightholders and musical works, taking into account, as far as possible, voluntary industry standards and practices developed at international or European Union level.

(5) The collective management organisation shall make use of adequate means in order to identify and resolve, in a timely and effective manner, inconsistencies in data held by other collective management organisations granting multi-territorial licences for online use of musical works.

(6) In its application for authorisation, the collective management organisation shall provide information referred to in Article 13 of this Act and shall also submit evidence of fulfilling the conditions referred to in paragraphs one to five of this Article.

Article 59
(Electronic communication)

(1) A collective management organisation shall allow for electronic communication with the rightholders whose rights fall under its multi-territorial management, with internet service providers and with other collective management organisations.

(2) The collective management organisation shall enable the use of at least one method of electronic communication which shall, as far as is possible, ensure that such electronic means take into account the relevant voluntary industry standards or practices developed at international or European Union level.

Article 60
(Transparency of multi-territorial repertoire information)

(1) A collective management organisation shall enable the rightholders who authorised it to manage their online rights in musical works to submit in electronic form the data on the musical works, the rights in these works and the territories for which the rightholders authorised the collective management organisation.

(2) In response to a duly justified request, the collective management organisation shall provide up-to-date information by electronic means, enabling the identification of the online music repertoire it represents, to online music service providers, to rightholders whose rights fall under its multi-territorial collective management and to other collective management organisations.

(3) The information referred to in the preceding paragraph shall include:

- the musical works represented;
- the rights wholly or in part under its collective management; and
- the territories covered.

The collective management organisation may take reasonable steps, where necessary, to protect the accuracy and integrity of the data, to control its reuse and to protect commercially sensitive information.

Article 61
(Accuracy of multi-territorial repertoire information)

(1) Where an online service provider, a rightholder whose rights fall under the multi-territorial collective management of a collective management organisation or any collective management organisation has grounds to believe that the data or information referred to in Articles 58 and 60 of this Act concerning their online rights in musical works is inaccurate, the collective management organisation shall correct them without undue delay provided that the requests are sufficiently substantiated.

(2) The right referred to in the preceding paragraph may also be requested in relation to an authorised collective management organisation referred to in Article 64 of this Act by a rightholder whose works are part of the repertoire of the collective management organisation that granted the authorisation, unless otherwise provided by the representation agreement.

(3) The rules on the procedure for correcting data referred to in paragraphs one and two of this Article shall be published on the website of the collective management organisation.

Article 62
(Reporting by users and invoicing)

(1) A collective management organisation shall monitor the online use of the 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 online service providers shall accurately report to the collective management organisation on the actual use of the musical works. The collective management organisation may refuse to accept such reporting by an online service provider if it is submitted in a format other than as referred to in paragraph two of Article 59 of this Act and shall invite the latter to submit it in the appropriate format.

(3) After having received the report referred to in the preceding paragraph, the collective management organisation shall issue an accurate invoice not later than within two business days, except where this is not possible for reasons attributable to the online service provider.

(4) The collective management organisation shall invoice the online service provider by electronic means and shall offer the use of a least one format which takes into account voluntary industry standards or practices developed at international or European Union level. The invoice shall identify the works, the corresponding rights and the actual use of the works to the extent this is possible on the basis of the information provided by the online service provider and the format used to provide such information. The online service provider may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard or practices developed at international or European Union level.

(5) The collective management organisation shall enable the online service provider to challenge the accuracy of the invoice. The rules on such procedures shall be available on the website of the collective management organisation.

Article 63
(Payment of rights revenue)

(1) After having received the report on the actual online use of the musical works referred to in paragraph two of the preceding Article, the collective management organisation shall distribute the rights revenue not later than within two business days, except where this is not possible for reasons attributable to the online service provider.

(2) The collective management organisation shall provide at least the following information to rightholders:

- the period in respect of which the rights revenue for the online use of the musical works is being paid and the territories in which the uses took place;
- the amounts of the rights revenue collected and distributed to the rightholder for each online right in any musical work;
- deductions for the operating costs of the collective management organisation for each online right in any musical work; and
- the amounts of rights revenue collected, deductions made thereto and the amounts distributed in respect of each online service provider.

Article 64
(Agreements between collective management organisations for multi-territorial licensing)

(1) A collective management organisation ("the mandating collective management organisation") may conclude an agreement with another collective management organisation ("the mandated collective management organisation") mandating the latter to grant multi-territorial licences for the online rights in musical works in the music repertoire of the former. Such an agreement shall be of a non-exclusive nature or else it shall be deemed null and void.

(2) The mandating collective management organisation shall inform its members of the main terms of the agreement, including its duration and the costs of the services provided by the mandated collective management organisation.

(3) The mandated collective management organisation shall regularly inform the mandating collective management organisation of the main terms according to which the licenses are granted, including the type of use of the musical work, all provisions which relate to or affect the licence fee, the duration of the licence, the accounting periods, and the territories covered.

(4) The mandated collective management organisation shall accurately and within two business days distribute the rights revenue to the mandating collective management organisation in accordance with the preceding Article. The mandating collective management organisation shall be responsible for further distribution of the rights revenue and the provision of information referred to in paragraph two of the preceding Article, unless otherwise agreed by the collective management organisations.

Article 65

(Obligation to represent another collective management organisation)

(1) A collective management organisation which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its repertoire shall request another authorised collective management organisation to enter into a non-exclusive representation agreement.

(2) The authorised collective management organisation shall agree to such a request if it is already granting or offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collective management organisations.

(3) The authorised collective management organisation shall respond to the requesting collective management organisation in writing within two business days.

(4) The authorised collective management organisation shall manage the represented repertoire on the same conditions as apply to its own repertoire.

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

(6) Article 32 of this Act shall apply, *mutatis mutandis*, to the operating costs related to the represented repertoire.

(7) The represented collective management organisation shall make available to the authorised collective management organisation information relating to its own music repertoire required for the provision of multi-territorial licences for online rights in musical works. Where such information is insufficient, the authorised collective management organisation shall be

entitled to charge the represented collective management organisation additional costs or to exclude those works for which the information is insufficient.

Article 66
(Alternative dispute resolution in multi-territorial licences)

The provisions of Article 68 of this Act shall apply, *mutatis mutandis*, to disputes between collective management organisations and users or one or more rightholders or another collective management organisation.

XII. DISPUTE RESOLUTION

Article 67
(Complaint procedures)

(1) A collective management organisation shall ensure that its members, rightholders and other collective management organisations which are parties to a representation agreement have access to effective dispute resolution, in particular regarding the authorisation to manage the rights, membership terms, collection and distribution of rights revenue, and operating costs.

(2) The collective management organisation shall respond to a complaint in writing. When the complaint is not upheld, the grounds for such a decision shall be stated.

(3) An action against a final decision of the collective management organisation may be brought before a court having jurisdiction in intellectual property cases under the Act governing courts.

(4) The procedures referred to in paragraph one of this Article shall be defined in the statute of the collective management organisation.

Article 68
(Mediation)

(1) A collective management organisation, a representative association of users, a user, an organisation of authors of particular categories of copyright works and a rightholder (hereinafter: the parties) may apply to the competent authority for the assistance of a mediator in any dispute relating to copyright, in particular in the following cases:

- with regard to the transfer of an individual economic right or other right of the author referred to in paragraph two of Article 70 of the ZASP;
- with regard to royalties and remuneration as referred to in Article 81 of the ZASP;
- with regard to revenue records and reporting as referred to in Article 82 of the ZASP;
- with regard to alternative dispute resolution as referred to in Article 82a of the ZASP;
- with regard to the application of limitations of rights as referred to in paragraph two of Article 166c of the ZASP;
- with regard to alternative dispute resolution in multi-territorial licences as referred to in Article 66 of this Act;
- with regard to disputes relating to the conclusion of a contract for the non-exclusive transfer of the right to make audiovisual works available to the public in the context of video-on-demand services;

if no joint agreement is concluded between the collective management organisation and the representative association of users.

(2) Mediation shall be deemed to be a procedure in which the parties referred to in the preceding paragraph seek, on a voluntary basis, through the assistance of a mediator as a neutral third party, to reach an amicable settlement of a dispute relating to a contractual relationship or other legal relationship between them arising therefrom, such as the conclusion of joint agreements or the regulation of a legal relationship. The mediator may also assist the parties or mediate in the negotiations for the conclusion of a contract under the provisions of this Act and in accordance with the Act governing copyright and related rights.

(3) In the case of an agreement between the parties to resolve disputes by mediation, mediation shall commence on the date on which the party receives the other party's proposal to commence mediation. In cases where there is no mediation agreement, mediation shall commence on the date on which the parties agree to mediate. If one party proposes mediation to the other party and does not receive an acceptance of the proposal for mediation from the other party within 30 days from the date on which the proposal for mediation was sent, the proposal for mediation shall be deemed to have been rejected.

(4) The mediator shall act independently and impartially and shall endeavour to treat the parties equally, taking into account all the circumstances of the case. If the mediator finds that the parties are not negotiating in good faith or that they are obstructing the negotiations, the mediator may warn the parties and, if the mediator's warning is not heeded, inform the parties that he or she will no longer assist them in the settlement of the dispute.

(5) A mediator may be a person with a university degree who has completed at least a 40-hour training programme in mediation, who has at least five years of professional experience, who has knowledge of copyright law and who has knowledge of Slovenian and at least one foreign language.

(6) The mediator may submit a proposal for dispute resolution to the parties. In the case of disputes relating to rebroadcasting, the parties shall be deemed to have accepted the proposal if neither party objects to it within three months of the service thereof.

(7) The parties shall jointly choose a mediator from the list of mediators appointed by the Government of the Republic of Slovenia (hereinafter: the Government) on the proposal of the minister responsible for the economy. The list shall include the names and addresses of the mediators.

(8) Every two years, the competent authority shall publish in the Official Gazette of the Republic of Slovenia a public call for candidates for inclusion in the list of mediators. The list of mediators shall be published on the website of the ministry responsible for the economy and the competent authority. The competent authority shall keep the list of mediators up to date. The competent authority shall provide administrative assistance to the mediator.

(9) The mediator shall be remunerated by the parties for any mediation conducted.

(10) The Government, by way of a decree, shall determine in greater detail the mediation procedures, the level and type of education and other requirements to be fulfilled by the mediator, and the remuneration of the mediator.

XIII. SUPERVISION BY AND MEASURES OF THE COMPETENT AUTHORITY

Article 69

(Supervisory powers)

(1) Supervision of the implementation of this Act shall be carried out by the competent authority, excepting for the provision of paragraph eight of Article 40, which shall be supervised by AJPES, and the provisions of Article 48 of this Act, to be supervised by the Market Inspectorate of the Republic of Slovenia.

(2) The competent authority shall carry out the supervision in accordance with the annual work programme adopted pursuant to the Act governing state administration. In addition to the supervision defined in the annual work programme, the competent authority may also carry out supervision *ex officio* or on the initiative of a third party. The third party submitting the initiative for action against the collective management organisation shall not be a party to the procedure.

(3) The competent authority shall have no power to decide on a dispute between rightholders and the collective management organisation or between users and the collective management organisation.

Article 70 (Supervisory board powers)

(1) In the framework of supervision and for the purposes thereof, the competent authority may:

1. inspect the books and other documents of the collective management organisation, even if these include personal or other protected data;
2. request the collective management organisation to provide information or documents relating to the organisation or its operations, even if these include personal or other protected data; or
3. request the members of the management body or supervisory board of the collective management organisation to explain, either orally or in writing, the facts or documents relating to the operation of the collective management organisation.

(2) The collective management organisation shall submit full information and documents referred to in the preceding paragraph to the competent authority. The competent authority shall protect the submitted information and documents in accordance with regulations.

(3) The supervision by the competent authority may also cover past matters which shall not be older than five years, unless the supervision procedure had already been introduced earlier.

(4) The provisions of the Act governing general administrative procedures shall apply in the supervision procedure unless otherwise provided by this Act.

Article 71 (Obligation of collective management organisations)

Within 15 days after circumstances have occurred or a document has been created or acquired, a collective management organisation shall submit to the competent authority, as applicable:

1. invitations to general meetings and meetings of other bodies of the collective management organisation, enclosing any materials pertaining thereto;

2. information about any changes of personnel authorised to represent the collective management organisation in accordance with this Act and the statute;
3. the statute and other internal rules and amendments thereto;
4. an invitation to negotiate a common agreement with a representative association of users;
5. common agreements concluded with representative associations of users;
6. provisional tariffs;
7. agreements with foreign collective management organisations;
8. minutes of the general meeting of the collective management organisation and any materials referred to in paragraph seven of Article 24 of this Act; and/or
2. a contract referred to in paragraph one of Article 17 of this Act and any amendments thereto.

Article 72

(Measures in the case of violations committed by collective management organisations)

(1) The competent authority shall issue a decision ordering a collective management organisation to remedy any established violations of the provisions of this Act within the time limit specified.

(2) Should the collective management organisation fail to remedy the established violation referred to in the preceding paragraph, the competent authority may order members of its management body to be removed where this is justified by the gravity of the violation.

(3) The competent authority may decide to withdraw the issued permit where:

1. circumstances occur which may constitute grounds for refusal to issue a permit;
2. the collective management organisation delegates its tasks to an outsourced service provider in contravention of the provisions of this Act;
3. the collective management organisation distributes the collected revenue to rightholders in contravention of the provisions of this Act or the rules on the distribution of collected rights revenue;
4. the collective management organisation repeatedly violates the provisions of this Act and fails to remedy such violations; or
3. the collective management organisation repeats the same violations established by an enforceable decision of the competent authority.

(4) Where the competent authority issues a decision to withdraw a permit, it may, at the same time, taking into account the gravity of the violation, declare that the withdrawal of the permit is not to be effected provided that the collective management organisation remedies the established violations within the set time limit and does not commit a new violation that would constitute grounds for the withdrawal of the permit within a set period which shall not be shorter than one year and shall not exceed three years.

(5) The decision under paragraphs two or three of this Article shall only be issued after the collective management organisation is ordered by the competent authority to remedy the violations established.

(6) No appeal shall be possible against a decision of the competent authority, though an action in administrative dispute may be brought; such an action shall be decided on by the Administrative Court at its seat.

(7) The decision referred to in paragraph three of this Article shall become enforceable on the day it becomes final. The competent authority shall publish a notice on the final decision in the Official Gazette of the Republic of Slovenia .

Article 73
(Exchange of information between competent authorities)

(1) Following a duly justified request by the competent authority of another Member State, the competent authority shall provide relevant explanations or information without undue delay, in particular with regard to the activities of collective management organisations, if such is available.

(2) Where the competent authority considers that a collective management organisation established in another Member State and operating in the Republic of Slovenia does not comply with the national law of the Member State of establishment adopted on the basis of Directive 2014/26/EU, the competent authority may transmit all relevant information to the competent authority of the Member State of the collective management organisation's establishment and may also, where appropriate, request the latter to take appropriate action within its competence.

Article 74
(Informing the Commission and expert group)

(1) The competent authority shall inform the Commission without undue delay about any changes to the list of collective management organisations established in the Republic of Slovenia.

(2) The competent authority shall inform the expert group established pursuant to Article 41 of Directive 2014/26/EU about any violations referred to in paragraph two of the preceding Article.

XIV. INDIVIDUAL MANAGEMENT PENDING PERMIT ISSUANCE AND DISTRIBUTION OF ASSETS

Article 75
(Individual management pending permit issuance)

Rights that may only be managed collectively pursuant to this Act may be managed individually until such time as the competent authority issues a permit for their collective management.

Article 76
(Distribution of assets)

(1) All assets acquired by a collective management organisation while its permit was withdrawn, all collected and unpaid rights revenue and compensations, any income from bank deposits, and the assets of dedicated funds shall be deemed to be the property of the rightholders whose rights had been managed by the collective management organisation until the permit was withdrawn and shall be distributed to these rightholders not later than 12 months of the finality of the decision on withdrawal. The distribution shall be carried out according to the rules on the distribution of collected rights revenue as applicable on the date of issue of

the decision on permit withdrawal. Any assets that cannot be attached under these rules shall be distributed in equal shares based on the amounts of the rights revenue allocated to the rightholders according to the rules on distribution.

(2) A report by the legal person relating to the situation as on the day of finality of a decision on permit withdrawal shall be submitted to the competent authority within three months of the day of finality of said decision on permit withdrawal.

(3) A final report by the legal person relating to the situation as on the day of expiry of the time limit for the distribution of assets referred to in paragraph one of this Article shall be submitted, together with the audit report, to the competent authority within six months of the expiry of the time limit for the distribution of assets referred to in paragraph one of this Article. The final report shall be revised by a certified auditor in a manner and under the conditions prescribed by the Act governing audits.

(4) The reports referred to in paragraphs two and three of this Article shall be drawn up according to the provisions of Articles 40 and 41 of this Act, *mutatis mutandis*.

(5) The competent authority shall publish the reports referred to in paragraphs two and three of this Article on its website and on the website of AJPES.

(6) The provisions of this Article shall apply, *mutatis mutandis*, to other cases of permit termination.

XV. PENALTY PROVISIONS

Article 77

(Minor offences committed by collective management organisation)

(1) A collective management organisation shall be fined from EUR 3,500 to EUR 6,000 for the offences of:

- failing to submit a proposal to enter the company name or the name in the register (paragraph two of Article 15);
- failing to notify the competent authority of the conclusion, amendment or cancelation of a contract with an outsourced service provider (paragraph five of Article 17);
- failing to publish records on the website (paragraph nine of Article 19);
- failing to update data in the records (paragraph ten of Article 19);
- failing to take minutes at a general meeting or failing to publish minutes taken on the website of the collective management organisation within the prescribed time limit (paragraph four of Article 25);
- failure by members of the supervisory board or management body to annually submit their respective written statements on conflicts of interest at the general meeting or where such statements fail to include all information (Article 29);
- failing to take into account cases subject to specific distribution (Article 31);
- failing to provide information to rightholders or foreign collective management organisations at least once a year (paragraphs one and two of Article 38);
- failure to publish freely accessible information and data (Article 39);
- failure to draw up the annual report in due time (paragraph five of Article 40);
- failure to submit the annual report and the audit report to AJPES (paragraph eight of article 40); or
- failure to publish on its website the special audit report (paragraph five of Article 43).

(2) The responsible person of the collective management organisation shall also be fined from EUR 3,500 to EUR 6,000 for an offence referred to in the preceding paragraph.

(3) The collective management organisation shall be fined from EUR 4,000 to EUR 7,000 for the offences of:

- failing to notify a cultural heritage institution within the specified time limit that a rightholder has excluded from use his or her work which is considered to be an out-of-commerce work (paragraph five of Article 10a);
- failing to maintain records (paragraphs six and eight of Article 19);
- failing to keep the collected rights revenue and any income from bank deposits on separate accounts by categories of copyrights (indent one of paragraph two of Article 30);
- failing to observe the time limits with regard to the distribution of rights revenue (Articles 34, 35 and 36);
- failing to act in compliance with a request of the competent authority (paragraph one of Article 70); or
- failing to submit documents within the prescribed period (Article 71).

(4) The responsible person of the collective management organisation shall also be fined from EUR 4,000 to EUR 7,000 for an offence referred to in the preceding paragraph.

Article 78

(Minor offences committed by legal persons, individual sole traders and individuals who perform independent activities)

(1) Legal persons, individual sole traders or individuals who perform independent activities shall be fined from EUR 600 to EUR 6,000 for the offences of:

- failing to notify the representative collective management organisation within the specified time limit that the rightholder has excluded from use his or her work which is considered to be an out-of-commerce work (paragraph five of Article 10a);
- failing to send information to the collective management organisation on the use of copyright works in its repertoire within the deadline and in the manner provided for by this Act or a common agreement (paragraph one of Article 48);
- failing to send the schedules of all works used or, where that is not possible, other information required for the calculation of rights revenue to the competent collective management organisation (paragraph two of Article 48);
- failing to send the schedules of broadcasted copyright works in the repertoire of the collective management organisation to the competent collective management organisation once a month or failing to publish the aforementioned schedules on its website (paragraph three of Article 48);
- failing to send to the competent collective management organisation information on the use of copyright works from its repertoire (paragraph four of Article 48);
- failing to send, within the prescribe time limit, to the competent collective management organisation information required for the calculation of compensation due, such as the type and number of sold originals, on the persons liable, or on the retail price excluding public levies (paragraph five of Article 48); or
- failing to send, at the end of each calendar half-year, to the collective management organisation holding a permit to collectively manage the right to compensation under Article 37 of the ZASP information about the type and number of sold or imported devices for sound and visual fixation, photocopying devices, or blank audio or video carriers or information about sold copies required for the calculation of the compensation due (paragraph six of Article 48).

(2) The responsible person of the legal person, individual sole trader or individual who performs independent activities shall also be fined from EUR 600 to EUR 3,000 for an offence referred to in the preceding paragraph.

Article 79
(Other minor offences committed by legal entities)

(1) Legal persons shall be fined from EUR 1,200 to EUR 8,400 for failing to submit the report and the final report together with the audit report to the competent authority in due time (paragraphs two and three of Article 76).

(2) The responsible person of the legal person shall also be fined from EUR 1,200 and EUR 4,800 for the offence referred to in the preceding paragraph.

Article 80
(Imposition of fines)

A fine in an amount exceeding the minimum fine under this Act may be imposed in expedited proceedings for the offences referred to in this Act.

XVI. TRANSITIONAL AND FINAL PROVISIONS

Article 81
(Harmonisation with the provisions of this Act)

(1) A collective management organisation already holding a permit issued by the competent authority to collectively manage rights shall be harmonised with the provisions of this Act within one year of its entry into force.

(2) On the expiry of the time limit referred to in the preceding paragraph, the collective management organisation referred to in the preceding paragraph shall submit to the competent authority:

1. the statute;
2. the rules on the distribution of rights revenue collected;
3. the rules on the use of undistributed amounts of rights revenue;
4. the rules on the investment policy with regard to rights revenue investment in bank deposits and the use of resulting income;
5. the rules on operating costs;
6. the rules on dedicated funds;
7. the risk management rules; and
8. the repertoire.

(3) Should the collective management organisation fail to submit the documents referred to in the preceding paragraph to the competent authority or should the submitted documents fail to comply with the provisions of this Act, the competent authority shall act in accordance with Article 72 of this Act.

(4) The collective management organisation referred to in paragraph one of this Article shall conform with Articles 40, 41 and 42 of this Act in the financial year following 31 December 2016.

(5) The supervision of the collective management organisation's compliance with the Act governing copyright and related rights initiated prior to the entry into force of this Act shall be concluded according to the regulations hitherto in force.

(6) Where no final decision is issued on an application for a permit to collectively manage copyrights by the date of the entry into force of this Act, the provisions of this Act shall apply.

(7) Procedures initiated and conducted on the basis of point three of paragraph one of Article 149 of the ZASP shall be stayed on the date of the entry into force of this Act.

(8) Tariffs and common agreements applicable on the date of the entry into force of this Act shall be deemed applicable common agreements under this Act.

(9) Judicial protection proceedings against decisions of the Board in progress on the date of the entry into force of this Act under Article 157d of the ZASP shall be concluded according to the regulations hitherto in force.

Article 82 (Harmonisation of regulations)

(1) The Government shall harmonise the provisions of the Decree on Mediation in Disputes Relating to Copyright or Related Rights (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 35/05) with the provisions of this Act within six months of the latter's entry into force.

(2) The Board shall adopt its rules of procedure referred to in paragraph four of Article 49 of this Act within three months of its entry into force. Until the rules of procedure enter into force, the provisions of the Rules of Procedure of the Board (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 87/12) not in contravention of this Act shall apply.

Article 83 (Notice to rightholders)

A collective management organisation already holding a permit issued by the competent authority to collectively manage rights shall, by 10 October 2016, provide the information about the rights under Article 18 of this Act to the rightholders who authorised it to manage copyright until the entry into force of this Act.

Article 84 (Access to multi-territorial licensing)

(1) Where a collective management organisation does not hold a permit for multi-territorial collective management of copyrights in musical works or holds such a permit but does not grant licences or does not conclude a representation agreement with another collective management organisation by 10 April 2017, the rightholders of online rights in musical works may, for the purposes of multi-territorial licensing, authorise another collective management organisation holding such a permit.

(2) Where a rightholder exercises the right referred to in the preceding paragraph, the collective management organisation that does not grant multi-territorial licences for online rights in musical works shall not require the withdrawal of the online rights in musical works for the purposes of mono-territorial licensing.

Article 85
(Provisional tariff for private reproduction)

A collective management organisation holding a permit to collectively manage the right to fair compensation for private and other non-commercial reproduction under Article 37 of the ZASP may adopt a provisional tariff taking into consideration the provisions on provisional tariffs referred to in Article 45 of this Act and paragraphs two and three of Article 46 of this Act.

Article 86
(Term of office of the Board)

The term of office of the current Board shall terminate five years after the entry into force of this Act.

Article 87
(Abrogation)

- (1) On the day this Act enters into force, the following shall cease to be in force:
- point three of paragraph one of Article 1, paragraph four of Article 38, Article 39, Chapter VI, points 1, 2 and 3 of paragraph one of Article 185, and paragraphs three and four of Article 189 of the Copyright and Related Rights Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 16/07– official consolidated text, 68/08, 110/13 and 56/15) and
 - the Decree on Arbitration in Disputes Concerning Copyright and Related Rights (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 65/06).

(2) On the day this Act enters into force, the words "of this Act" shall be deleted from paragraph two of Article 72 of the Copyright and Related Rights Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 16/07 – official consolidated text, 68/08, 110/13 and 56/15).

(3) On the day this Act enters into force, the Decree on the Amounts of Compensation for Reproduction for Private or Other Non-Commercial Reproduction (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 103/06) shall cease to be in force, but shall continue to apply until the entry into force of the provisional tariff referred to in Article 85 of this Act.

Article 88
(Entry into force)

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.