

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 (Text with EEA relevance)

TITLE III

**MEASURES TO IMPROVE LICENSING PRACTICES  
AND ENSURE WIDER ACCESS TO CONTENT**

CHAPTER 2

*Measures to facilitate collective licensing*

Article 12

**Collective licensing with an extended effect**

1 Member States may provide, as far as the use on their territory is concerned and subject to the safeguards provided for in this Article, that where a collective management organisation that is subject to the national rules implementing Directive 2014/26/EU, in accordance with its mandates from rightholders, enters into a licensing agreement for the exploitation of works or other subject matter:

- a such an agreement can be extended to apply to the rights of rightholders who have not authorised that collective management organisation to represent them by way of assignment, licence or any other contractual arrangement; or
- b with respect to such an agreement, the organisation has a legal mandate or is presumed to represent rightholders who have not authorised the organisation accordingly.

2 Member States shall ensure that the licensing mechanism referred to in paragraph 1 is only applied within well-defined areas of use, where obtaining authorisations from rightholders on an individual basis is typically onerous and impractical to a degree that makes the required licensing transaction unlikely, due to the nature of the use or of the types of works or other subject matter concerned, and shall ensure that such licensing mechanism safeguards the legitimate interests of rightholders.

3 For the purposes of paragraph 1, Member States shall provide for the following safeguards:

- a the collective management organisation is, on the basis of its mandates, sufficiently representative of rightholders in the relevant type of works or other subject matter and of the rights which are the subject of the licence, for the relevant Member State;
- b all rightholders are guaranteed equal treatment, including in relation to the terms of the licence;
- c rightholders who have not authorised the organisation granting the licence may at any time easily and effectively exclude their works or other subject matter from the licensing mechanism established in accordance with this Article; and
- d appropriate publicity measures are taken, starting from a reasonable period before the works or other subject matter are used under the licence, to inform rightholders about the ability of the collective management organisation to license works or other subject

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matter, about the licensing taking place in accordance with this Article and about the options available to rightholders as referred to in point (c). Publicity measures shall be effective without the need to inform each rightholder individually.

4 This Article does not affect the application of collective licensing mechanisms with an extended effect in accordance with other provisions of Union law, including provisions that allow exceptions or limitations.

This Article shall not apply to mandatory collective management of rights.

Article 7 of Directive 2014/26/EU shall apply to the licensing mechanism provided for in this Article.

5 Where a Member State provides in its national law for a licensing mechanism in accordance with this Article, that Member State shall inform the Commission about the scope of the corresponding national provisions, about the purposes and types of licences that may be introduced under those provisions, about the contact details of organisations issuing licences in accordance with that licensing mechanism, and about the means by which information on the licensing and on the options available to rightholders as referred to in point (c) of paragraph 3 can be obtained. The Commission shall publish that information.

6 Based on the information received pursuant to paragraph 5 of this Article and on the discussions within the contact committee established in Article 12(3) of Directive 2001/29/EC, the Commission shall, by 10 April 2021, submit to the European Parliament and to the Council a report on the use in the Union of the licensing mechanisms referred to in paragraph 1 of this Article, their impact on licensing and rightholders, including rightholders who are not members of the organisation granting the licences or who are nationals of, or resident in, another Member State, their effectiveness in facilitating the dissemination of cultural content, and their impact on the internal market, including the cross-border provision of services and competition. That report shall be accompanied, if appropriate, by a legislative proposal, including as regards the cross-border effect of such national mechanisms.