

Directive 2014/26/EU of the European Parliament and of the Council
of 26 February 2014 on collective management of copyright and
related rights and multi-territorial licensing of rights in musical works
for online use in the internal market (Text with EEA relevance)

TITLE IV

ENFORCEMENT MEASURES

Article 33

Complaints procedures

1 Member States shall ensure that collective management organisations make available to their members, and to collective management organisations on whose behalf they manage rights under a representation agreement, effective and timely procedures for dealing with complaints, particularly in relation to authorisation to manage rights and termination or withdrawal of rights, membership terms, the collection of amounts due to rightholders, deductions and distributions.

2 Collective management organisations shall respond in writing to complaints by members or by collective management organisations on whose behalf they manage rights under a representation agreement. Where the collective management organisation rejects a complaint, it shall give reasons.

Article 34

Alternative dispute resolution procedures

1 Member States may provide that disputes between collective management organisations, members of collective management organisations, rightholders or users regarding the provisions of national law adopted pursuant to the requirements of this Directive can be submitted to a rapid, independent and impartial alternative dispute resolution procedure.

2 Member States shall ensure, for the purposes of Title III, that the following disputes relating to a collective management organisation established in their territory which grants or offers to grant multi-territorial licences for online rights in musical works can be submitted to an independent and impartial alternative dispute resolution procedure:

- a disputes with an actual or potential online service provider regarding the application of Articles 16, 25, 26 and 27;
- b disputes with one or more rightholders regarding the application of Articles 25, 26, 27, 28, 29, 30 and 31;
- c disputes with another collective management organisation regarding the application of Articles 25, 26, 27, 28, 29 and 30.

Article 35

Dispute resolution

1 Member States shall ensure that disputes between collective management organisations and users concerning, in particular, existing and proposed licensing conditions or a breach of contract can be submitted to a court, or if appropriate, to another independent and impartial dispute resolution body where that body has expertise in intellectual property law.

2 Articles 33 and 34 and paragraph 1 of this Article shall be without prejudice to the right of parties to assert and defend their rights by bringing an action before a court.

Article 36

Compliance

1 Member States shall ensure that compliance by collective management organisations established in their territory with the provisions of national law adopted pursuant to the requirements laid down in this Directive is monitored by competent authorities designated for that purpose.

2 Member States shall ensure that procedures exist enabling members of a collective management organisation, rightholders, users, collective management organisations and other interested parties to notify the competent authorities designated for that purpose of activities or circumstances which, in their opinion, constitute a breach of the provisions of national law adopted pursuant to the requirements laid down in this Directive.

3 Member States shall ensure that the competent authorities designated for that purpose have the power to impose appropriate sanctions or to take appropriate measures where the provisions of national law adopted in implementation of this Directive have not been complied with. Those sanctions and measures shall be effective, proportionate and dissuasive.

Member States shall notify the Commission of the competent authorities referred to in this Article and in Articles 37 and 38 by 10 April 2016. The Commission shall publish the information received in that regard.

Article 37

Exchange of information between competent authorities

1 In order to facilitate the monitoring of the application of this Directive, each Member State shall ensure that a request for information received from a competent authority of another Member State, designated for that purpose, concerning matters relevant to the application of this Directive, in particular with regard to the activities of collective management organisations established in the territory of the requested Member State, is responded to without undue delay by the competent authority designated for that purpose, provided that the request is duly justified.

2 Where a competent authority considers that a collective management organisation established in another Member State but acting within its territory may not be complying with the provisions of the national law of the Member State in which that collective management organisation is established which have been adopted pursuant to the requirements laid down in

this Directive, it may transmit all relevant information to the competent authority of the Member State in which the collective management organisation is established, accompanied where appropriate by a request to that authority that it take appropriate action within its competence. The requested competent authority shall provide a reasoned reply within three months.

3 Matters as referred to in paragraph 2 may also be referred by the competent authority making such a request to the expert group established in accordance with Article 41.

Article 38

Cooperation for the development of multi-territorial licensing

1 The Commission shall foster a regular exchange of information between the competent authorities designated for that purpose in Member States, and between those authorities and the Commission, on the situation and development of multi-territorial licensing.

2 The Commission shall conduct regular consultations with representatives of rightholders, collective management organisations, users, consumers and other interested parties on their experience with the application of the provisions of Title III of this Directive. The Commission shall provide competent authorities with all relevant information that emerges from those consultations, within the framework of the exchange of information provided for in paragraph 1.

3 Member States shall ensure that by 10 October 2017, their competent authorities provide the Commission with a report on the situation and development of multi-territorial licensing in their territory. The report shall include information on, in particular, the availability of multi-territorial licences in the Member State concerned and compliance by collective management organisations with the provisions of national law adopted in implementation of Title III of this Directive, together with an assessment of the development of multi-territorial licensing of online rights in musical works by users, consumers, rightholders and other interested parties.

4 On the basis of the reports received pursuant to paragraph 3 and the information gathered pursuant to paragraphs 1 and 2, the Commission shall assess the application of Title III of this Directive. If necessary, and where appropriate on the basis of a specific report, it shall consider further steps to address any identified problems. That assessment shall cover, in particular, the following:

- a the number of collective management organisations meeting the requirements of Title III;
- b the application of Articles 29 and 30, including the number of representation agreements concluded by collective management organisations pursuant to those Articles;
- c the proportion of repertoire in the Member States which is available for licensing on a multi-territorial basis.