

Kluwer Copyright Blog

The legal monopoly of Hungarian CMO's will be abolished

Anikó Grad-Gyenge (Károli University of Budapest) · Wednesday, December 7th, 2011



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Only the final voting is needed for passing the amendment of copyright law in Hungary, which is intended to abolish the legal monopoly of collective rights management organisations (CMOs). This amendment might seem surprising after the infringement procedure launched by the European Commission in this question against Hungary appeared to have come to a ‘standstill’ in 2009.

In the actual system only one CMO is to be registered for the same right of the same rightholder group. Therefore today composers’ rights are managed by Artisjus (collective rights management society of literary and music authors), performers’ rights by the Association of the Arts’ Unions Bureau for the Protection of Performers’ Rights, phonogram producers’ rights by the Collective Rights Management Society of Phonogram Producers (MAHASZ), film producers’ and makers’ rights by Filmjus and HUNGART is responsible for representing the rights of fine and applied artists and photo artists. Extended collective management can only be carried out by those who are registered in the state registry of collective rights management organizations (i. e. the above listed organisations). In the case of some rights, law makes it possible to leave the frames of extended administration of collective rights, thus enabling individual licensing or legal representation by an agency.

The new system will make it possible for several collective rights management societies to be registered to represent the same rights of a rightholder group provided this does not pose a threat to the efficiency and the implementation of collective rights management – either on the side of the right owners or on the side of the users or those bound to pay royalties or remunerations. If there is only one CMO left in one field, there the above mentioned principle of extended collective rights management shall prevail. If several CMOs are registered with respect to the rights of the same rightholder group, then they are to reach an agreement as for which one of them is to deal with the extended administration of rights (i. e. which one of them is to give user authorization for the works of those who are not members of any organisations), and as for the distribution of the

revenue coming from remuneration. In case of failing to reach an agreement, the Hungarian Intellectual Property Office shall make a decision instead of them.

It seems that according to the proposal, the liberalization of the market is not enough for effective operation as the state supervision of the CMOs will also become stricter, which is aimed to enhance transparency, to make procedures more transparent both for right owners and for the users. The Hungarian Intellectual Property Office will not only be endowed with a wider supervision competence, but it can also fine the CMO 1.5% of its net income at most, in case of any major infringement of law.

The amendment is a step taken towards turning copyright remuneration collected by CMO's into cultural support: if the author or other rightholder entitled to the remuneration is unknown, 10% of the dividable remuneration and 25% of the undividable remuneration can be deduced for cultural and social contributions, but 70% of this sum will not be given to the right owners represented by the rights management societies, but it shall be given to the National Cultural Foundation, which is to spend it according to its own regulations.

It seems to be clear from the debates concerning rights management in Europe that the creation of a competitive market in the field of the administration of collective rights may only bring about a more efficient implementation with great difficulties and if many requirements are met. At the same time we can express our hope that a wise implementation of supervision competences will enhance the efficiency of rights management organisations and there will be no need for registering more CMOs to the same field.

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