

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 47 of 2024

Copyright (Collective Management Organisations) Regulations, 2024

In exercise of the power conferred by section 94(4) of the Copyright Act, No. 14 of 2024, the Minister responsible for Legal Affairs makes the following Regulations—

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**PART I
PRELIMINARY**

1. Citation

These Regulations may be cited as the Copyright (Collective Management Organisations) Regulations, 2024.

2. Interpretation

In these Regulations

“Act” means the Copyright Act, No. 14 of 2024;

“annual report” means the annual report which should contain at least the following:

- (a) a detailed financial report accounting for the assets and liabilities and income and expenditure for the fiscal year;
- (b) a report of the collective management organisation’s activities for the fiscal year; and
- (c) a statement of financial transactions conducted with partner organisations;

“collective management organisation” means a collective management organisation registered as a non-profit legal entity that is authorised, in accordance with the provisions of the Act, to represent its members comprising authors and other right holders, both national and foreign, as well as to collect and distribute rights revenue related to the exploitation of the copyright or related rights licensed to the collective management organisation;

“competent national authority” means the Intellectual Property Office of St. Kitts and Nevis;

“deduction policy” means the policy according to which collective management organisations can subtract operating expenses and any other authorised deductions from rights revenue collected;

“Distribution policy” means the policy according to which collective management organisations determine how much of the rights revenue is paid to each of its members or right holders and how such payments are made;

- “international umbrella organisation” means an international entity providing standards, support and information to collective management organisations;
- “member” means a member of a collective management society who is a right holder, whether local or foreign, that licences or assigns their copyright or related rights to a collective management organisation;
- “partner organisation” means a foreign collective management organisation or other similar entity that agrees to a representation agreement with the domestic collective management organisation for the management of their catalogue of works;
- “representation agreement” includes unilateral, bilateral and reciprocal agreements signed between collective management organisations or other similar entities, where one entity mandates the other to manage the rights it represents;
- “right holder” includes the owner of copyright or related rights, including but not limited to authors, writers, composers, painters and photographers, performers, musicians, actors, dancers, producers or publishers;
- “rights revenue” includes all income collected from contractual licences granted for the use of works vested in the catalogue of the collective management organisation and any statutory licences or levies required by relevant legislation;
- “user” means a natural or legal person who uses a copyright work or other subject matter protected by copyright or related rights, whether permitted by contractual licence, exception or limitation, or other legal or statutory requirement.

PART II

ROLE AND FUNCTION OF COLLECTIVE MANAGEMENT ORGANISATIONS

3. Role and functions

(1) In accordance with the guidelines set out in paragraph (a) of the Schedule, collective management organisations shall:

- (a) conduct their operations with integrity, transparency, efficiency and in a non-discriminatory manner;
- (b) promote, monitor, protect and enforce the use of its catalogue of rights, including pursuing litigation where required or permitted;
- (c) use its best efforts to license all uses of its catalogue of rights in accordance with the scope of its mandate as contracted between the right holder and the collective management organisation;
- (d) collect all revenue due under the licences it issues and take all reasonable steps to collect unpaid licensing revenue;
- (e) distribute revenue derived from licences to right holders;
- (f) collect relevant information about works used by its licensees where feasible;
- (g) publish relevant information in a timely manner and in accordance with regulation 14;

- (h) contribute to the development and furtherance of culture with respect to the type of subject matter administered by the collective management organisation;
- (i) promote the development of education and knowledge about the purposes of collective management organisations;
- (j) promote the development of education and knowledge about copyright and related rights and its value to society; and
- (k) comply with all applicable laws and regulations.

(2) The roles and functions specified in sub-regulation (1) do not preclude a collective management organisation from adopting further roles or functions for the interest, benefit and welfare of its members and right holders.

(3) A collective management organisation shall conduct its roles and functions in good faith.

PART III

AUTHORISATION, SUPERVISION AND MONITORING

4. Authorisation of collective management organisations

(1) In accordance with the guidelines set out in paragraph (b) of the Schedule, a collective management organisation shall demonstrate compliance with the requirements for authorisation detailed in this regulation to the competent national authority, in order to lawfully operate.

(2) The authorisation of a collective management organisation is subject to the following:

- (a) identification of the class of rights to be administered, subject matter to be administered and list of existing members;
- (b) provision of evidence substantiating that the collective management organisation has a substantial catalogue of rights;
- (c) provision of clear, objective and non-discriminatory criteria for the purpose of determining membership;
- (d) verification of company registration and any other required business licences;
- (e) demonstration that all relevant documents and procedures governing the collective management organisation comply with the relevant laws and regulations applicable to collective management organisations; and
- (f) where possible, demonstration of membership or affiliation with an international umbrella organisation that covers the same type of subject matter and rights that are being administered.
- (g) any other material deemed necessary by the competent national authority.

(3) Subject to regulation 4(2)(f), where a collective management organisation administers multiple types of subject matter or rights, it shall demonstrate membership or affiliation with an international umbrella organisation for each of the types of subject matter and rights that are being administered.

(4) Where a collective management organisation existed prior to the introduction of these Regulations, regulations 4(2)(b), 4(2)(f) and 4(3) shall not apply provided that the collective management organisation meets all the other requirements subject to these Regulations.

(5) The competent national authority shall not ordinarily authorise more than one collective management organisation to do business in respect of the same subject matter and rights to be administered.

(6) No person or association of persons shall issue or grant copyright or related rights licences unless they have obtained a certificate of authorisation from the competent national authority.

(7) Notwithstanding sub-regulation (6) and subject to obligations as a member of a collective management organisation, a right holder acting in his individual capacity shall have the right to grant licenses in respect of his own works.

5. Supervision of collective management organisations status

(1) The authorised status of a collective management organisation shall be subject to annual inspection and monitoring by the competent national authority with respect to its continued compliance with:

- (a) the authorisation criteria pursuant to regulation 4;
- (b) the fulfilment of the roles and functions pursuant to regulation 3; and
- (c) any audits conducted by an international umbrella organisation.

(2) The competent national authority will publish procedural guidelines pertaining to the operation of the annual inspection process.

(3) The competent national authority shall ensure that collective management organisations are operating in compliance with all relevant laws and regulations.

(4) Any costs involved with the compliance and monitoring process for collective management organisations shall be kept to a reasonable level to ensure effectiveness and efficiency.

6. Complaints

(1) The competent national authority shall ensure that a complaint process is available for parties to report the non-compliance of collective management organisations with regards to the respective laws and Regulations.

(2) The complaints collected as part of the complaint process under this regulation may be used to inform the annual inspection, subject to regulation 5.

(3) The competent national authority shall not be required to adjudicate or resolve complaints made under this regulation.

7. Investigations

(1) The competent national authority has the power to conduct inquiries or investigations to determine if a collective management organisation has not complied with the relevant laws and regulations.

(2) The procedure with which the competent national authority may conduct an inquiry or investigation shall be specified and made available to all collective management organisations, including:

- (a) requests for audits;
- (b) inspection of documents;
- (c) interview processes; and
- (d) hosting of confidential information.

(3) Collective management organisations that are under inquiry or investigation shall cooperate with the competent national authority and provide access to all information relevant to the inquiry, as determined by the competent national authority.

(4) Where information relevant to the inquiry or investigation is deemed confidential, such confidential information will be shared with the competent national authority under an obligation of confidence.

(5) The competent national authority has the power to intervene and make appropriate sanctions or adopt appropriate measures where the collective management organisation has not complied with the relevant laws and regulations.

(6) Where the competent national authority intervenes, prior to the imposition of sanctions or measures on a collective management organisation, the collective management organisation shall be afforded a reasonable amount of time to rectify the lack of compliance with or breach of the respective laws and regulations.

(7) Where the collective management organisation rectifies the lack of compliance with or breach of the respective laws and regulations within the designated time period, the competent national authority shall conclude its intervention.

8. Sanctions

(1) The list of available sanctions and other measures include:

- (a) written reprimands;
- (b) suspension of authorisation; or
- (c) cancellation of authorisation.

(2) The imposition of a sanction or other measure by the competent national authority on a collective management organisation shall be fair, transparent and proportionate to the nature of the acts or omissions in question.

(3) Where a collective management organisation is subjected to a sanction or measure, it shall notify all of its members and right holders, inclusive of all details of the exact nature of the sanction or measure.

(4) A collective management organisation subjected to a sanction or measure may appeal the decision of the competent national authority to the relevant domestic court or alternatively, to an international arbitration body with expertise in copyright law.

(5) Where a collective management organisation is successful in its appeal of a sanction or measure, the competent national authority shall bear the costs of the arbitration or court appeal process.

(6) The imposition of sanctions or measures shall not preclude the ability of members and right holders or users from bringing an action against the collective management organisation.

PART IV DISCLOSURE OF INFORMATION

9. Publications

In accordance with the guidelines set out in paragraph (c) of the Schedule, a collective management organisation shall regularly publish and keep up to date on at least an annual basis the following information for users:

- (a) contact information including at least a registered postal address, phone number and email address;
- (b) relevant company incorporation and operation documents including, registration certificates, international affiliation documents, or representation agreements and certified copies of licences with right holders;
- (c) by-laws, membership terms, rules on termination of membership, and any other relevant documents governing the operation of the collective management organisation, its members and right holders or users;
- (d) description of the rights and subject matter licensed by the collective management organisation;
- (e) description of the licences on offer and the standard terms for its licences;
- (f) description of tariffs for licences;
- (g) list of the persons who manage the operations of the collective management organisation and the board of directors.
- (h) list of important dates and meetings;
- (i) annual report;
- (j) membership forms; and
- (k) information on any applicable complaint and dispute resolution procedures, based on the applicable legal and regulatory framework.

10. Information about licences

(1) A collective management organisation shall make available upon request by a user, information relevant to the granting of a licence, particularly:

- (a) the scope of the licence;
- (b) the rights covered by the licence; and
- (c) whether a specific requested work is covered under a licence, where feasible.

(2) Any information provided under this regulation shall be in accordance with the regulations under Part IX on confidential information.

11. Other information

(1) A collective management organisation shall make available to each of its members and right holders on an annual basis the following:

- (a) annual report;
- (b) the distribution policy;
- (c) policy on deductions (such as any administration, social, cultural or educational deductions);
- (d) policy on tariffs and list of applicable tariffs;
- (e) information pertaining to the organisational and decision-making structure of the collective management organisation, inclusive of voting rights and voting procedures; and
- (f) any other non-confidential documents that contain information relevant to the operation of the collective management organisation that members and right holders could reasonably expect to be aware of.

(2) Where a collective management organisation administers both copyright and related rights, separate documentation should be provided in relation to sub-regulation (1)(b), (c) and (d).

12. Notification of changes to bylaws etc.

A collective management organisation shall promptly notify members or right holders of any changes to its bylaws, rules, regulations, policies, practices or any other document that is involved with the governance or operation of the collective management organisation.

13. Request for other information

Where a request is made by members and right holders for information or a document that a collective management organisation has an obligation to make available under regulations 10 or 11, said information or documents shall be communicated to the requesting party within fourteen working days.

14. Publication on website

(1) Where a collective management organisation is obligated to publish documents or share information subject to these Regulations, such disclosures shall be made easily available, where possible, on the collective management organisation's website.

(2) Where confidential information is being disclosed, this shall be done in accordance with regulation 44.

PART V MEMBERSHIP

15. Membership criteria

(1) In accordance with the guidelines set out in paragraph (d) of the Schedule, a collective management organisation shall make available their criteria for membership.

(2) The criteria for membership of a collective management organisation shall be clear, objective and non-discriminatory.

(3) A collective management organisation shall accept as members all right holders who fulfil the required criteria.

16. Separate membership agreements

Where a collective management organisation administers both copyright and related rights, separate membership agreements shall be maintained.

17. Non-discrimination

A collective management organisation shall not discriminate against actual or prospective members, either directly or indirectly, on the basis of:

- (a) nationality;
- (b) residency or place of establishment;
- (c) gender;
- (d) race;
- (e) religion;
- (f) disability;
- (g) age; or
- (h) any other characteristic governed by law.

18. Relationship with members

(1) The relationship between a collective management organisation and its members, and the rights vested in members will be guided by the relevant by-laws, direct mandates, contractual agreements or other relevant documents.

(2) A collective management organisation shall ensure that members have the opportunity for fair and balanced participation in the governance structure of the collective management organisation.

19. Non-discrimination in relation to foreign right holders

A collective management organisation shall not discriminate between its members and foreign right holders unless required or permitted by representation agreements.

20. Members of another collective management organisation

A collective management organisation shall not admit members that are also members of another collective management organisation in the same jurisdiction representing the same rights in relation to the same type of subject matter, that have not first expressly renounced their membership or limited their mandate.

21. Licensing of exclusive rights not including future works

A collective management organisation shall only require the licensing or assignment of the specific exclusive rights that are administered by the collective management organisation

and moreover, shall not require the licensing or assignment of all future works produced unless required for the purpose of providing blanket licences or as provided for by the relevant laws or regulations.

22. Modification or termination of scope of mandate

(1) A collective management organisation shall permit members to terminate or change the scope of their mandate, upon a reasonable notice period not exceeding six months.

(2) Notwithstanding sub-regulation (1), a collective management organisation may require a member's rights to continue to be included, for a reasonable period of time, in licences granted to licensees prior to termination.

(3) Notwithstanding termination or change of a mandate by a member, the right holder shall be entitled to their full share in the rights revenue collected by the collective management organisation, including, all licence deals agreed to by the collective management organisation prior to or during termination proceedings in respect of which that member is due royalties.

(4) The rights revenue due to members who terminate their mandate will be payable until such time that the member's works are no longer included in licences granted by the collective management organisation.

(5) The rules governing termination of membership and change of mandate shall be clearly articulated in the bylaws, terms of membership or other relevant document.

23. Suspension or expulsion of members

(1) Members may be suspended or expelled from a collective management organisation in accordance with its bylaws.

(2) The grounds and process for suspension or expulsion shall be clearly articulated in the bylaws, terms of membership or other relevant document.

(3) Suspension or expulsion from a collective management organisation shall be reserved for

- (a) serious breaches of the rules governing collective management organisations;
or
- (b) serious breach of any of the obligations provided for under these Regulations.

PART VI RELATIONSHIP WITH MEMBERS

24. Fair and equitable treatment

In accordance with the guidelines set out in paragraph (e) of the Schedule, a collective management organisation shall treat all of its members and right holders fairly and equitably in accordance with its bylaws, terms of membership and any other rules, agreements or laws that are binding on the collective management organisation.

25. No unreasonable, disproportionate or unnecessary obligations

A collective management organisation shall not impose obligations, requirements or restrictions on its members or right holders that are unreasonable, disproportionate or unnecessary for the effective management of the collective management organisation.

26. Role within organisational structure, vested rights etc.

A collective management organisation shall make clear in its bylaws, terms of membership or other relevant documents what role a member or right holder plays within the organisational structure of the collective management organisation, what rights are vested in the member or right holder, and any applicable rules or procedures, in particular:

- (a) disciplinary rules;
- (b) voting rights and process;
- (c) eligibility for executive positions;
- (d) responsibilities and obligations of the executive;
- (e) conflict of interest policy;
- (f) suspension or expulsion of membership;
- (g) process for change of mandate; and
- (h) process for voluntary termination of membership.

27. Electronic communication

A collective management organisation shall permit its members to communicate with it by electronic means.

PART VII RELATIONSHIP WITH USERS

28. User to be treated objectively, fairly and equitably

(1) In accordance with the guidelines set out in paragraph (f) of the Schedule, a collective management organisation shall treat users objectively, fairly and equitably, in accordance with these Regulations, its by-laws, any other binding agreements and the terms of the relevant licence signed or negotiated with the user.

(2) A collective management organisation, shall not misrepresent to users the subject matter that it administers or the nature of its licences.

(3) A collective management organisation shall licence rights to users on the basis of objective, fair and non-discriminatory criteria in accordance with the applicable laws and regulations.

(4) Collective management organisations shall not require users to provide personal information or commercially sensitive data beyond what is reasonably needed to determine the grant of the relevant licence.

29. Users to act responsibly

(1) Users shall act in a responsible manner, provide accurate and timely information, and negotiate in good faith with a collective management organisation.

(2) A user shall cooperate with a collective management organisation to ensure that the terms of the licence granted are not being breached.

30. User records

(1) A collective management organisation may require users that are granted a broadcast or communication to the public licence, to keep current and accurate records detailing the use of works subject to the grant of the licence.

(2) Subject to sub-regulation (1), the collective management organisation may detail the format for the records to be maintained and the timeframe for submitting the records.

31. Terms of user licence agreement

A collective management organisation shall make available to users the terms of the licence agreement inclusive of the grant of rights and the relevant tariffs prior to payment.

32. Access to verified catalogue database

A collective management organisation shall provide access to its verified catalogue databases via a search facility allowing potential licensees to search for copyright works or related rights, subject to a prospective licence where feasible or appropriate.

33. Information on nature of licences

A collective management organisation shall provide where requested, information on the nature of its licences and where applicable further explanation on the terms and conditions in the licences.

34. Reasons for refusal of user licence

Where a collective management organisation refuses to grant a user a licence, such refusal shall be accompanied by a written reason and the process for appeal.

PART VIII GENERAL AND FINANCIAL ADMINISTRATION

35. Annual general meeting

(1) In accordance with the guidelines set out in paragraph (g) of the Schedule, a collective management organisation shall convene a general meeting of members at least once a year.

(2) Issues that may be discussed at the general meeting of members shall include, but are not limited to:

- (a) approval of any new policies or changes to existing policies, including revenue collection and distribution policies;

- (b) appointment of external auditor to inspect annual accounts;
- (c) approval of the annual report to be published;
- (d) elections as required by the bylaws; and
- (e) approval of independently audited financial statements.

36. Administrative costs

A collective management organisation shall aim at keeping its administrative costs at a reasonable level.

37. Rights revenue kept separate

A collective management organisation shall manage and keep separate the rights revenue as apart from any income derived from its investment from its own assets, the income derived from its management services or the income derived from any other activities.

38. Annual distribution of collected rights revenue

(1) A collective management organisation shall where possible annually distribute all collected rights revenue to members and right holders in accordance with its policy on deductions, the general distribution policy and any other contractual agreements.

(2) Any undistributed rights revenue shall be held by the collective management organisation in accordance with its policy on undistributed revenue, which includes:

- (a) where the revenue is to be held;
- (b) the length of time the revenue will be held for; and
- (c) the procedure for distributing the revenue where legitimately claimed.

39. Financial reports

(1) A collective management organisation shall make available at least annually to its members and right holders the following financial documents:

- (a) financial records of the collective management organisation including the balance sheet, income and expenditure statements, budget and any other relevant accounting records;
- (b) summary of the income collected for domestic rights revenue;
- (c) summary of the income collected for international rights revenue;
- (d) statement accounting for all activities related to the exercise of all members and right holders' rights;
- (e) statement accounting for all activities related to the exercise of an individual member or right holders' rights to the respective member or right holder;
 - (i) the statement shall be categorised by subject matter, rights managed and type of use where applicable;
 - (ii) the statement shall distinguish between national activity and representation rights activity;

- (f) statement accounting for the distribution of income to individual members and right holders to the respective member or right holder;
 - (i) the statement shall be categorised by subject matter, rights managed and type of use where applicable.
 - (ii) the statement shall distinguish between national rights revenue and representation rights revenue, where feasible.
- (g) account of management expenses and deductions; and
- (h) account of deductions other than management expenses deductions.

(2) Where a collective management organisation administers both copyright and related rights, the documents subject to sub-regulation (1) shall differentiate between copyright and related rights where relevant.

(3) All financial statements subject to this regulation are to be prepared in accordance with the International Financial Reporting Standards or suitable national equivalent.

40. Notice of new documents or substantive changes to documents

A collective management organisation shall notify members and right holders when any new organisational or financial documents are made available and of any substantive changes.

41. Meeting upon request by members

A collective management organisation shall agree to convene a members' meeting where fifty percent or more of its membership requests such a meeting in writing.

42. Conflict of interest

(1) A collective management organisation shall adopt and make available to members a clear and objective policy governing conflicts of interest including:

- (a) the formation of contracts with family members of persons on the Board of Directors,
- (b) holding positions at other collective management organisations, or
- (c) any other action, agreement or employment that may reasonably compromise the objectivity of the person in question.

(2) A collective management organisation shall require its directors to declare any conflicts of interest that arise or may foreseeably arise, which may impact on the operation of the collective management organisation.

43. Data management system

A collective management organisation shall use an effective and functional data management system, which facilitates the collection, identification, storage and sharing of relevant information including catalogue of rights, usage of licensed rights, rights revenue and any other relevant information.

PART IX CONFIDENTIAL INFORMATION

44. Data protection and treatment of confidential information

(1) In accordance with the guidelines set out in paragraph (h) of the Schedule, a collective management organisation shall comply with relevant laws relating to protection of privacy and personal data and its own data privacy policy.

(2) A collective management organisation shall adopt reasonable security measures to ensure that any private or personal information collected is held with an obligation of confidence and not disclosed to third parties without authorisation or as required by national legislation or court order.

(3) Reasonable security measures include, but are not limited to:

- (a) secure physical storage;
- (b) secure methods of file transfer;
- (c) secure computer network;
- (d) password restricted access to files;
- (e) basic data security training for employees and executives; and
- (f) effective data destruction.

(4) A collective management organisation shall publish and regularly update its data privacy policy.

45. Keeping of up-to-date records

A collective management organisation shall keep and regularly update records of each member or right holder it represents.

46. Non-disclosure of confidential information

(1) Members of a collective management organisation shall keep all information provided to them by the collective management organisation under an obligation of confidence and not disclose such information to third parties without authorisation from the collective management organisation, unless required by national legislation or court order.

(2) Sub-regulation (1) does not apply to any information that has been placed into the public domain with permission from the collective management organisation.

PART X INFORMATION ON DISPUTE RESOLUTION

47. Information on dispute resolution procedures

(1) In accordance with the guidelines set out in paragraph (i) of the Schedule, a collective management organisation shall provide information on complaint and internal dispute resolution procedures for use by its members.

(2) In addition to the requirements under regulation 6, a collective management organisation shall notify their members and users about the complaints process available via the competent national authority.

(3) Where issues arising between a collective management organisation and its members cannot be resolved internally, the matter should first be referred to mediation and then arbitration, or alternatively a court of law.

(4) A collective management organisation shall ensure that disputes with users concerning licences can be submitted by either party to an independent and impartial dispute resolution body where that body has expertise in copyright law and the independent and impartial resolution body may be:

- (a) a domestic Copyright Tribunal, or other statutory equivalent; or
- (b) an international arbitration body with expertise in copyright law.

(5) The availability of alternative dispute resolution does not preclude the user, or the collective management organisation from bringing an action in court.

PART XI

CULTURAL, SOCIAL AND PROFESSIONAL DEVELOPMENT

48. Training and professional development for employees

In accordance with the guidelines set out in paragraph (j) of the Schedule, a collective management organisation shall take steps to ensure that its employees are knowledgeable of all internal procedures and policies, notably procedures and policies for the granting of licences, distribution of rights revenue, handling of complaints and dispute resolution.

49. Education for members and general public

(1) A collective management organisation shall encourage the development of appropriate skills and knowledge relating to copyright law and related rights for its members, by organising and facilitating social and cultural training and development programmes.

(2) A collective management organisation shall organise and facilitate educational outreach activities to make its members and the general public aware of copyright and related rights and moreover, the licensing of copyright and related rights.

50. Social, cultural and professional development

(1) A collective management organisation is encouraged to deduct and set aside an adequate percentage of its net proceeds, for the purpose of pursuing social, cultural and professional development outlined in regulations 48 and 49.

(2) A collective management organisation may use any undistributed rights revenue not claimed within 5 years for the purpose of pursuing social, cultural and professional development outlined in regulations 48 and 49.

(3) A collective management organisation is encouraged to enter into partnerships with third parties to pursue the social, cultural and professional development of its members.

PART XII TARIFF SETTING

51. Tariff setting by collective management organisation

(1) In accordance with the guidelines set out in paragraph (k) of the Schedule, the tariffs used by a collective management organisation shall be:

- (a) clear, objective, fair and reasonable;
- (b) made publicly accessible as soon as practical; and
- (c) published on the collective management organisation's website.

(2) The determination of tariffs should be justifiable accounting for considerations such as:

- (a) economic research;
- (b) the market value of rights being licensed;
- (c) the uses of the rights being licenced;
- (d) the nature of the domestic market;
- (e) comparisons with similar regional and international tariffs; and
- (f) any other relevant criteria as determined by the collective management organisation.

(3) Where a collective management organisation administers both copyright and related rights, a separate tariff structure shall be maintained.

PART XIII CROSS-COLLECTIVE MANAGEMENT ORGANISATION AGREEMENTS

52. Representation agreements

In accordance with the guidelines set out in paragraph (l) of the Schedule, a collective management organisation should, where possible, seek to enter into representation agreements with partner organisations that concern the same type of subject matter and rights that are being administered.

53. Rights under representation agreements

Collective management organisations shall treat the right holders of rights administered under representation agreements in the same manner as its own members or right holders, except where otherwise dictated by the relevant representation agreements.

SCHEDULE General Guidelines

(a) Part II: Role and functions of collective management organisations

The role and function of a collective management organisation should be clearly articulated. This will help clarify the obligations and responsibilities held by collective

management organisations and create legal certainty especially with regards to the relationships between collective management organisations, members/right holders and users.

(b) Part III: Authorisation, supervision and monitoring

Collective management organisations should be authorised to ensure compliance with legal and operational requirements. Authorisation facilitates increased accountability as compliance is a continuous exercise. To that extent, a fair, transparent and proportionate monitoring framework should be adopted to ensure that collective management organisations comply with the obligations placed on them.

(c) Part IV: Disclosure of information

Collective management organisations shall have a legal obligation to be accountable and transparent. Therefore, collective management organisations shall be mandated to maintain records and publish all information relevant to their operations, including: the catalogue of works, membership, and standard licence terms, tariffs, and where appropriate financial records. Where possible, the information shall be easily accessible by the public, preferably on the collective management organisation's website. In particular, information and practices pertaining to licences should be readily available to members and right holders and users.

(d) Part V: Membership

The rules for joining a collective management organisation shall be clear and non-discriminatory. Subsequently, a collective management organisation's mandate should strike a fair balance between a member's freedom to determine how their rights are managed and the legitimate need for collective management organisations to have a meaningful catalogue of rights to licence users. Collective management organisations shall also be prohibited from registering persons who already hold membership in a competing collective management organisation in the same jurisdiction for the same type or for the same class of subject matter or exclusive rights. Similarly, the rules on termination of membership shall be fair and clearly articulated.

(e) Part VI: Relationship with members

Members of a collective management organisation shall be subjected to fair treatment, informed of the financial and administrative operations of the collective management organisation and included in the decision-making process where relevant. Furthermore, obligations should not be imposed on members that are not necessary or proportional.

(f) Part VII: Relationship with users

Regulation of collective management organisations can contribute to instilling public confidence and ensuring fairness in the relationship between collective management organisations and users and licensees. To ensure that collective management organisations meet their obligations, users/licensees shall also be responsible for the accurate and timely reporting of information to facilitate the licensing process.

(g) **Part VIII: General and financial administration**

To ensure accountability and transparency, collective management organisations shall be regulated in how they manage their operations, notably, in relation to the management of finances derived from the licensing of rights on behalf of their members and right holders. This includes regulating the collection and distribution of revenue, the deductions that occur and the frequency of payments made to members and right holders.

(h) **Part IX: Confidential Information**

Given that collective management organisations shall be obligated to collect, maintain and publish information related to their members and right holders and the rights managed, the information in question shall also be securely stored and held in confidence where required. However, the information shall be accessible when required by persons who have the authority to view the information.

(i) **Part X: Information for dispute resolution**

In the interest of efficient dispute resolution, the collective management organisation should make available information on complaint and dispute resolution procedures. Collective management organisations are encouraged to adopt an approach to dispute resolution that is clearly articulated and provides an expeditious and efficient means of resolving disputes between itself and members.

(j) **Part XI: Cultural, Social and professional Development**

Collective management organisations should play an active role in the development of its employees, members and society. Collective management organisations are expected to be proactive in developing the respective industry(s) from which their catalogue of works is derived. This could include deductions to facilitate social, cultural and professional development, should its members so agree.

(k) **Part XII: Tariff setting**

The tariffs used by collective management organisations shall be clear, objective, fair and reasonable. Furthermore, the rules for the setting of tariffs should be published and accessible to users and members.

(l) **Part XIII: Cross-collective management organisation agreements**

Collective management organisations have the responsibility to enter into agreements with foreign collective management organisations operating in the same area of activity or management.

Made this 6th day of December 2024.

GARTH WILKIN
Minister responsible for Legal Affairs