

The Collective Rights Management Directive: a positive assessment of the action of CMOs

5-years after the transposition deadline, the European Commission has concluded that the application of the Collective Rights Management Directive has had a positive effect on rightsholders and the licensing market. Therefore, there is no need for a review, said the Commission.

The SAA welcome the outcome of the Commission's [report](#), which shows that collective management organisations (CMOs) are fulfilling their role to the benefit of the authors, enabling them to be remunerated for uses which they would not be in position to enforce themselves. By having harmonised minimum requirements on the rights of rightsholders, governance, transparency and accountability of CMOs, the Directive has provided a benchmark for CMOs operating across the EU. The importance of CMOs' role in the European copyright market has been further emphasised by the recent Copyright Directives which confirmed the relevance of collective licensing in several fields, such as retransmission, out-of-commerce works and uses by online content-sharing service providers.

Key findings of the report:

Rights of rightsholders

- + Most **rightsholders are overall satisfied with the services provided by their CMO**. The Collective Rights Management Directive (the CRM Directive) gives rightsholders flexibility to choose the best performing CMO. Although given the choice, the study shows that the vast majority of rightsholders have not withdrawn or sought to withdraw their rights from their CMO over the past 4 years.
- + **Representative CMOs are empowered to negotiate on behalf of its members**. In some Member States, there is only one CMO that manages certain types of rights. It is also not common for rightsholders to choose a foreign CMO. However, a limited number of players on the market is often regarded positively by some stakeholders as the existence of multiple CMOs make the repertoire more fragmented and therefore reduce the negotiating power of those organisations in relation to certain large users, to the detriment of rightsholders.

Governance

- + A majority of **rightsholders agree that they can participate in the decision-making process**, and that they have sufficient information allowing them to do so. On the collection and use of right revenues they are in general satisfied with management.
- + About half are **positive about the overall perception of transparency and accountability**. Others asked to receive clearer information so they can better understand how their revenues are calculated and more detailed information about management fees and distribution policies among CMO members.
- + Almost half of the **CMOs have distributed more than 90% of the amounts due to rightsholders** within the period of 9 months from the end of the financial year in which the rights revenue was collected. In the cases when money has not been distributed, CMOs explained that it can be due to lack of necessary information from the users and difficulties with data processing and obtaining necessary documentation from foreign rightsholders.

Transparency and reporting

- + CMOs that have a representation agreement with another CMO, must provide information on the rights revenue attributed to their rightsholders. The majority of **CMOs say that they receive all or most of the information they need.**
- + National authorities consider that most **CMOs make all necessary information that they are required to publicly available** (such as statutes, membership terms, standard licensing contracts and standard applicable tariffs, etc.).

Relations between CMOs and users

- + The CRM Directive lays down several requirements concerning the reciprocal information obligations of CMOs and users concerning the licensing negotiations, the criteria used for setting tariffs, the licensing offers, and the users' use of the rights represented by CMOs. Overall, the study shows that **users broadly agree that the licensing terms follow objective and non-discriminatory criteria.**
- + Most of the **CMOs are reasonably satisfied with users' reporting** and acknowledge the positive impact of the directive. However, one-third of the CMOs reported that the accuracy and timeliness of user reporting are insufficient, resulting in difficulties when distributing royalties to their rightsholders.

Background

In 2014, the [Directive 2014/26/EU](#) on collective management of copyright and related right and multi-territorial licensing of rights in musical works for online use in the internal market was adopted. The CRM Directive put in place conditions for CMOs to be essential and reliable partners for authors to trace and remunerate the multiple exploitation of their works on different media. It regulates several areas of CMOs' operations including their distribution plans, reporting obligations to authors, governing bodies, relationships with users and the amount of information to be published. It leaves some space to different legal traditions as long as they respect the directive's objectives of good governance, accountability, and transparency.

On 19 November 2021, the European Commission delivered a [report](#) to the European Parliament and to the Council on the application of the CRM Directive. The Commission consulted with stakeholders, including CMOs, rightsholders, users, independent management entities, Member States' authorities and experts. The report concludes that the directive has proven to have a positive effect on the market, providing a benchmark for CMOs operating across the EU and beyond and that there is no need at this stage for a review of the Directive.

[SAA](#) - The Society of Audiovisual Authors is the association of European collective management organisations representing audiovisual authors. Its 33 members in 25 countries manage rights for over 160,000 film, television and multimedia European screenwriters and directors.

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