



## **The actual status of the EU Copyright Reform and the Digital Single Market Strategy**

**By Dr. habil. Anikó Grad-Gyenge**

### **Abstract**

Directive 2014/26/EU on the collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market was adopted in 2014. It was born after an extremely long and debateful preparatory period thanks to several other experiments of the European Commission for influencing and reshaping the CMO markets in the EU. The work has resulted in a big corpus of legislative text that gave an enormous task to the national bodies responsible for implementation. It contains 45 articles and a long part of it focuses on not strictly copyright aspects but on organizational duties, transparency obligations and provisions. The deadline of 10 April 2016 was set for the transposition of the norm, Hungary faced this challenge and implemented it in the middle of the summer 2016.

The law entered into force in June 2016 by a separate act on collective management, accompanied by a Government Decree in July and a Ministerial Decree with several further detail of the system. Currently, we are in a transitional period when more old rules shall apply but most of the new provisions are to be followed.

The Hungarian administration decided to introduce a two-level CMO-system into Hungarian law. The new act created a general category of CMOs that may initiate their operations without a license in Hungary. They are only required to notify the Hungarian IP office (HIPO), the authority responsible for the supervision of collective management, and upon this notification HIPO registers their data into the public registry of CMOs. CMOs are not required to have their tariffs approved by the administration; they only publish them according to rules set out by the directive. An upgraded level of CMO introduced by the implementing act is the so-called Representative CMO (RCMO). This CMO must represent a significant number of rightholders and shall require a license issued by HIPO as a precondition to providing extended licenses according to tariffs approved by the Ministry of Justice on an annual basis.

Since 1996 the Hungarian copyright law has enabled (and also required) collective-management organizations (CMOs) to provide so-called extended licenses to users. It is a well-known tool worldwide in this area but the Hungarian law applies it with an extremely wide scope. According to the Hungarian CA, if only one CMO is registered to manage the same economic rights of a rightholders' group, and this CMO grants a user a licence to use, or enforces claims for remuneration against the user, the user shall also be entitled to use works and subject matter of related rights of the same genre of all rightholders represented by the CMO. Neither the registration of CMOs (basically a license to operate) nor the extended nature of licensing and the approval of tariffs form part of the system detailed by the directive, or to be more precise: extended licensing is not excluded as such although there are no explicit provisions on the implementation of it.)

The implementing acts provided a solution that on one hand respected the requirements set out by the directive and on the other hand also included those main pillars of the system that had enabled proper functioning of collective management in Hungary to date.

In order to maintain the extended effect of licenses, some safeguards needed to be upheld. Such a possibility for a RCMO should require adequate representation by the given rightholders, as well as certain technical means (such as databases for the proper distribution) and special expertise that should be checked and approved before such an organization may start to operate and provide licenses with an extended effect.

By this approach, hopefully, the Hungarian legislator has found a solution that has not eroded the collective-management system dramatically, but it is in compliance with the most important requirements set out by the directive and the other EU provisions.

Since 2016 two independent rights management organizations registered in the register of the HIPO. They are active in such areas which were not covered by the former CMOs, but their activities arise a lot of practical questions. So challenges shall go on...