

## Unofficial translation

### ACT ON THE SUPERVISION OF COLLECTIVE MANAGEMENT ORGANIZATIONS FOR COPYRIGHT AND RELATED RIGHTS (2003)

#### Article 1

In this Act the following expressions shall have the meanings respectively assigned to them:

- a. *Our Minister*: the Minister of Justice;
- b. *the Supervisory Commission*: the Supervisory Commission defined in Article 2;
- c. *collective management organization*: the legal entity appointed by Our Minister which, to the exclusion of others, is charged with the collection and distribution of payments due under the Copyright Act 1912, or under the Related Rights Act, or the legal entity which, with the consent of Our Minister, acts as a commercial agent in connection with music copyright under Article 30a of the Copyright Act 1912.

#### Article 2

1. There shall be a Supervisory Commission whose duty is to exercise supervision on the collection and distribution of the payments by the collective management organizations.
2. The Supervisory Commission will supervise that a collective management organization:
  - a. provides adequate awareness of its general and financial policy to right-holders and those obliged to make payments;
  - b. is adequately equipped to be able to fulfil its duties properly;
  - c. lawfully distributes the payments it has collected amongst the right-holders in accordance with the re-allocation regulations;
  - d. takes adequate account of the interests of those obliged to make payments when carrying out its work;
  - e. makes use of a reliable dispute resolution scheme for right-holders;
  - f. treats similar cases in a similar way.

#### Article 3

1. The following decisions may only be taken by a collective management organization, not being an association, after receiving written approval from the Supervisory Commission:
  - a. a decision to amend the collective management organization's Articles of Association or a decision to dissolve the collective management organization;
  - b. a decision to appoint an accountant as specified in Article 393, paragraph 1, of the Dutch Civil Code;
  - c. a decision to establish or alter model agreements with right-holders concerning the exercise and maintenance of copyright and related rights;
  - d. a decision to establish or alter other model agreements and regulations concerning the carrying out of the duties allocated to the collective management organization.
2. The Supervisory Commission may offer advice to a collective management organization on the decisions specified in paragraph 1.
3. The Supervisory Commission may only withhold its approval of a decision if, having previously received advice, the collective management organization fails to follow the

advice given to it by the Commission within such period as may be determined by the Commission.

#### **Article 4**

The Supervisory Commission will not maintain supervision over collective management organizations to the extent that such supervision is already exercised by the Netherlands Competitive Trading Authority under the Competitive Trading Act.

#### **Article 5**

1. A collective management organization shall be obliged to inform the Supervisory Commission in advance and in writing on decisions to be taken that might have a significant influence on the collective management organization's exercise of its statutory duties or its activities as a commercial agent as defined in Article 30a of the Copyright Act 1912, including:
  - a. investment in excess of such an amount as may be determined under regulations established by the Supervisory Commission;
  - b. incorporation or co-incorporation of a legal entity under private law, or participation in such a company.
2. The members of the Supervisory Commission will have access to the offices of a collective management organization and may also attend general meetings of its members, meetings of associates and meetings of the board of the collective management organization. The members of the Commission will be entitled to inspect the books, records and other data media of a collective management organization to the extent that such inspection is necessary for the exercise of its duties.
3. If a collective management organization collaborates with or has work done by a third party in connection with the collection and distribution of payments under the Copyright Act 1912 and the Related Rights Act, it will remain responsible for the exercise of those duties. In such cases it will arrange that the financial information that might be relevant to the exercise of the Supervisory Commission's duties will be available to the Commission.
4. If it appears to the Supervisory Commission that there are good grounds for doing so, it may arrange for the financial records of a collective management organization to be investigated by an accountant as defined in Article 393, paragraph 1, of the Dutch Civil Code. The costs of such an investigation will be chargeable to the collective management organization.

#### **Article 6**

1. The Supervisory Commission may offer advice to a collective management organization.
2. The Supervisory Commission may give directions to a collective management organization in relation to the exercise of its statutory duties or the activities as a commercial agent as defined in Article 30a of the Copyright Act. The collective management organization shall be obliged to act in accordance with such directions.
3. The Supervisory Commission may only give a direction if, within such period after having received the advice as may be determined by the Commission, the collective management organization has not followed that advice.

#### **Article 7**

1. The Supervisory Commission will consist of three or more members. The number of members of the Commission, including the Chairman, will always be uneven.

2. The members of the Commission may allocate duties amongst themselves. The commission will remain responsible for the carrying out of those duties.
3. The members of the Supervisory Commission will be appointed by Our Minister in consultation with the Minister of Education, Culture and Science; Our Minister will also select the Chairman
4. The members of the Supervisory Commission will be appointed for a maximum term of four years. After the expiry of that term, they may be re-appointed for one consecutive term not exceeding four years.
5. The Supervisory Commission will continue to be authorized to perform its duties even in the event of a vacancy.
6. A member who fills a vacancy will be appointed for the outstanding duration of the term of appointment of the departing member he is replacing.

### **Article 8**

A member of the Supervisory Commission will not hold any outside appointments that might be considered incompatible with the proper performance of his duties, the maintenance of his independence or confidence in that independence.

### **Article 9**

1. Membership of the Supervisory Commission shall end:
  - a. on the expiry of the term for which the member was appointed;
  - b. on dismissal by Our Minister in consultation with the Minister of Education Culture and Science, whether at the member's own request or otherwise;
  - c. on the member's death or incapacity leading to a guardianship order;
  - d. on pronouncement of the member's bankruptcy or debt rescheduling arrangement for private individuals;
  - e. on conviction for a criminal offence.
2. The members of the Supervisory Commission may be suspended by Our Minister in consultation with the minister of Education, Culture and Science. A decision on suspension will regulate the consequences of the suspension.
3. Suspension and dismissal will only be used in cases of unfitness or incompetence for the position held or for other weighty reasons related to the individual concerned.

### **Article 10**

1. If, in the opinion of Our Minister, the Supervisory Commission seriously neglects its duties, then Our Minister, in consultation with the minister for Education, Culture and Science may adopt such measures as are necessary.
2. The measures will not, except in cases of urgency, be adopted until the organization's board has been given the opportunity to revert to proper performance of its duties within a time limit to be imposed by Our Minister in consultation with the Minister of Education, Culture and Science.
3. Our Minister will draw the attention of both Houses of the States-General to any measures adopted by him as specified in paragraph 1.

### **Article 11**

1. The Supervisory Commission will have a secretary. The secretary will not be a member of the Supervisory Commission.
2. Our Minister shall appoint, suspend and dismiss the secretary, after discussion with the Chairman of the Supervisory Commission.
3. The secretary will be responsible for his work exclusively to the Commission.

## **Article 12**

1. Our Minister will establish the level of remuneration for the members of the Supervisory Commission, having considered the views of the collective management organizations.
2. The members of the Supervisory Commission and the secretary shall receive reimbursement of travel and accommodation costs for carrying out their work in accordance with rules to be established by Our Minister.
3. The general costs incurred by the Supervisory Commission for exercising supervision, including the costs mentioned in paragraphs 1 and 2, shall be charged jointly to the collective management organizations, in proportion to the payments collected by them.

## **Article 13**

1. The Supervisory Commission shall meet at least four times per annum and more frequently if thought desirable by the Chairman or at least two other members of the Commission.
2. The Supervisory Commission shall take decisions by simple majority of the votes cast. Each member shall have one vote. If the votes are tied, the Chairman shall have a casting vote.
3. The Supervisory Commission may establish more detailed rules in connection with its meetings and decision-making process. Confirmation and change of the rules shall be subject to the approval of Our Minister.

## **Article 14**

1. The Supervisory Commission will afford representatives of those obliged to make payments an opportunity to be heard at least once per annum. The Commission is also empowered to hear other right-holders.
2. Right-holders may apply to the Supervisory Commission if the dispute resolution rules have been exhausted. The Commission may issue a non-binding opinion to the parties in an attempt to settle the dispute.

## **Article 15**

1. The Supervisory Commission will prepare Annual Accounts and a Budget; these will require the approval of Our Minister after having heard the collective management organizations.
2. Every year, prior to 1 April, the Supervisory Commission will submit to Our Minister a report on the work done in the previous calendar year. The Minister will send the Report to both Chambers of the States-General and to the collective management organizations.
3. The Supervisory Commission will, on request, provide to Our Minister any information required concerning the carrying out of its duties.

## **Articles 16-17**

[These Articles contain amendments to other regulations.]

## **Article 18**

This Act shall be referred to as the Act on Supervision of Collective Management Organizations for Copyright and Related Rights.

**Article 19**

This Act will come into operation on a date to be established by Royal Decree.