

Response to the CRM Directive consultation

To:	The Norwegian Ministry of Culture
From:	Motion Picture Licensing Company (International), Ltd
Date:	7 FEB 2020
Re:	Consultation response on the Norwegian implementation of the EU Directive on Collective Rights Management

In reference to The Norwegian Ministry of Culture's consultation paper of 6 December 2019 on the implementation of the Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market, we wish to thank the Ministry for the opportunity to respond and wishes to submit the following submission:

Who we are:

Motion Picture Licensing Company (International), Ltd., ("MPLC") either directly or through its affiliates or subsidiaries in each country provides services in over 30 countries around the globe, nine (9) of which are in the European Union. MPLC is a copyright licensing organization that grants its license holders the right to "Public Performance", or exhibition of an audio visual work or motion picture that are otherwise distributed and obtained for personal, private use only. The rights licensed by MPLC are not to be confused with the re-transmission rights also at times referred to in English as "Public Performance".

Therefore, this submission is made on behalf of MPLC and MPLC Norge AS (Norway).

MPLC was established in the United Kingdom in 1993 and commenced trading in 2001. MPLC acquires Public Performance/Exhibition rights from the major international motion picture producers and distributors, independent producers and distributors of all motion pictures, television and other audiovisual content and from producers and distributors locally in each country in which it grants licenses. MPLC offers both title-by-title licenses ("TbT License") and a combined license ("Umbrella License"), which both allow for the non-commercial public exhibition of the copyrighted content from a DVD, satellite, downloaded and streamed video or any other legally obtained source.

General Comment:

MPLC regards itself as an "independent management entity" ("IME") as defined in Article 2 (4)

of the CRM Directive and will therefore only comment on certain sections of the implementation proposal (the “Proposal”) directly relevant for IMEs.

Discrepancies between the Proposal and the directive:

MPLC finds that there are several discrepancies between the proposed § 2 (4) in the Proposal, regarding regulations that apply for IMEs, and the similar regulation in Article 2 (4) in the CRM directive. We have summarized these in the following schedule:

<i>Regulation in CRM</i>	<i>Similar regulation in the Proposal</i>	<i>Applies to IMEs cf. Art. 2 (4) in CRM Directive</i>	<i>Applies to IMEs cf. § 2 (4) in the Proposal</i>
Article 16 (1)	§ 25	X	X
Article 18	§ 30	X	X
Article 20	§ 32	X	X
Points (a), (b), (c), (f) and (g) in Article 21 (1)	Points (a), (b), (c), (e), (f) and (g) in § 33 (1)	X	X
Point (d) in Article 21 (1)	Point (d) in § 33		X
Point (h) in Article 21 (1)	Point (g) in § 33		X
Article 21 (2)	§ 33 (1)		X
Article 28	§ 40		X
Article 29	§§ 41 and 42		X

We have not found any explanations or justifications for these discrepancies in the Proposal, which suggests that they are merely a result of an inadvertency.

Specifically, § 33 in the Proposal seem to suggest, incorrectly, that IMEs would be required to “publish, and keep up to date, on its public website” (according to Article 21 (2)) the following information:

- “the list of the persons referred to in Article 10” in the CRM directive (point (d) in Article 21 (1) and
- “a list of the representation agreements it has entered into, and the names of the collective management organisations with which those representation agreements have been concluded” (point (h) in Article 21 (1).”

Furthermore, §§ 40 and 41 in the Proposal seem to incorrectly suggest that Article 28 and 29 in the directive applies to IMEs, although these articles exclusively relates to multi-territorial licensing of online rights in musical works by collective management organisations, and not to IMEs (according to Article 2 (4) in the directive).

To avoid inconsistencies between the Proposal and the CRM Directive, and possibly violations of Norway’s obligations under the directive, we propose that the wording in § 2 (4) is changed:

From:	To:
<i>“Bestemmelsene i §§ 25, 30, 32, 33 bokstav a til g, 40, 41 og 42 gjelder også for uavhengige forvaltningsorganisasjoner.”</i>	<i>“Bestemmelsene i §§ 25, 30, 32 og 33 første ledd bokstav a, b, c, e og f gjelder også for uavhengige forvaltningsorganisasjoner.”</i>

We also propose, for the same purpose, that the wording of the first part of § 33 (1) is changed:

From:	To:
<i>“En kollektiv forvaltningsorganisasjon skal på sitt nettsted offentliggjøre og oppdatere følgende informasjon [...]»</i>	<i>“En kollektiv forvaltningsorganisasjon skal minst offentliggjøre følgende informasjon [...]»</i>

Lastly, to include the regulations in Article 21 (2) in the directive for collective management organisations, we propose to add a second sub-paragraph in § 33 with the following wording:

<i>“Den kollektive forvaltningsorganisasjonen skal offentliggjøre og ajourføre de opplysningene som er nevnt i første ledd på den offentlige nettsiden sin.»</i>
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Comments regarding the proposed scope - § 2 Lovens virkeområde:

MPLC finds that the definition of the scope of the proposed legislation (*“Loven gjelder kollektiv rettighetsforvaltning og for kollektive forvaltningsorganisasjoner.”*) is broader than what is actually regulated in the legislation.

We therefore propose that the wording of § 2 (1) is changed:

From:	To:
<i>“Loven gjelder kollektiv rettighetsforvaltning og for kollektive forvaltningsorganisasjoner.»</i>	<i>«Loven gjelder for kollektive forvaltningsorganisasjoner»</i>

Comments regarding existing approval schemes- § 62 in The Copyright Act:

MPLC proposes that no changes are made to the existing approval schemes, especially such changes that would presuppose the implementation of Article 12 (1) in Directive 2019/790/EU. Of the proposed changes, MPLC regards the so-called “Alternativ II” as the preferred option.