

For the collective management of the making available right Hungary has introduced the so-called extended collective management, mentioned in Recital (18) of the Information Society Directive. Unlike *compulsory* collective management, *extended* collective management allows right owners to opt-out from the system. See herewith attached the paper of Mr Ficsor explaining the difference between the two.

Below, I am sending to you the relevant excerpts from the Copyright Act.

1. The making available right of performers

Article 73

(1) Unless otherwise provided for by this Act, the performer's consent shall be required for:

- a) the fixation of his unfixed performance;
- b) the broadcasting or the communication in another manner to the public of his unfixed performance, unless the performance broadcast or communicated in another manner to the public is itself a broadcast performance;
- c) the reproduction of his fixed performance;
- d) the distribution of his fixed performance;
- e) making his performance available to the public by cable or any other device or in any other manner in a way that the members of the public can choose the place and time of access individually.**

2. The making available right of performers shall be managed the same way as the making available right of authors

Article 74 (2)

The provisions of Article 27(3) shall also be applied mutatis mutandis in the case of performers and the collecting societies performing the management of their rights regarding the remuneration for the fixation of a performance made for the purposes of broadcasting or communication to the public [Article 26(6)] and **concerning the exercise of the right provided for in Article 73(1)e).**

Article 27 (3)

With the exception of musico-dramatic works, or scenes or overviews thereof, on behalf of composers and lyricists, **the collecting society performing the management of rights in literary and musical works shall conclude licence agreements with users on the authorisation of uses covered by Article 26 (covering also the making available right of authors)** – other than those mentioned in Paragraphs (1) and (2) – of non-stage musical works and lyrics not intended for stage or parts of such non-stage musical works that have been made public and on the remuneration due to be paid, **unless the author has made a statement defined in Article 87(3).**

3. Collective management shall not apply if the right owner has made a declaration in which he objected the collective management of his rights

Article 87 (1) and (3)

If only one collecting society has been registered to manage the same economic rights of a right holders' group, and this collecting society 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 – falling under collective

management of rights either under the provisions of this Act or as a result of the right holders' decision – of all right holders represented by the society exercising the given rights management activity while the remuneration charged for such works and the subject matter of related rights shall be paid under the same conditions (**extended collective management of rights**). If several collecting societies have been registered to manage the same economic rights of the same right holders' group, the present provision shall be applied to right holders not represented by any of them in accordance with the agreement referred to in Article 92/E(3).

Extended collective rights management shall not be exercised if a right holder – in a prior written statement addressed to the concerned collecting society – objects to the licensing of his works or subject matter of related rights by a collecting society. The collecting society shall proceed according to the statement if it is made more than three months before the end of the calendar year taking effect not earlier than the first day of the following year. The right holder, however, shall not object to licensing his works in this manner when collective rights management is prescribed by this Act as a compulsory collective rights management.
