

DRAFT

ACT AMENDING THE COPYRIGHT AND RELATED RIGHTS ACT

Article 1

Article 4(2) CRRA shall be amended to read as follows:

(2) Provisions of this Act concerning elements of a copyright work, joint authors, authors of compound works, contents of economic rights and other rights of the author, relationship between copyright and ownership, limitations to copyright, term of copyright (beginning and effect of the running) and transfer of copyright (Sections I and II of Chapter III) shall apply *mutatis mutandis* to related rights, unless otherwise provided in the Chapter on related rights.

Article 2

Article 35 CRRA shall be amended to read as follows:

Article 35 Droit de suite

(1) Where an original of a work of fine art is resold following the first transfer of the work by the author, the author has the right to be informed as well as the right to a remuneration set out in this Article.

(2) Obligations referred to in paragraph 1 shall be joint and several obligation of sellers, buyers and intermediaries who market works of art, such as art shops, art galleries and auction houses.

(3) "Original of a work of fine art" within the meaning of paragraph 1 shall be original works of graphic or plastic art such as paintings, collages, drawings, engravings, prints, photographs, sculptures, tapestries, ceramics, glassware and similar. Copies of such works shall be considered to be originals insofar as they have been made in limited numbers by the artist himself or under his authority. Such copies will normally have been numbered and signed by the artist.

(4) The remuneration referred to in paragraph 1 shall be set as a percentage of the sale price (net of tax), provided that such price exceeds EUR 2 000.

(5) The remuneration, which may not exceed EUR 12 500, shall be set at the following rates:

1. 4 % for the portion of the sale price from EUR 2 000,01 to EUR 50 000;
2. 3 % for the portion of the sale price from EUR 50 000,01 to EUR 200 000;
3. 1 % for the portion of the sale price from EUR 200 000,01 to EUR 350 000;
4. 0,5 % for the portion of the sale price from EUR 350 000,01 to EUR 500 000;
5. 0,25 % for the portion of the sale price exceeding EUR 500 000.

(6) Droit de suite may not be waived or assigned during the life of the author, and is not subject to execution.

Article 3

Article 36(2)1 CRRA shall be amended to read as follows:

1. originals or copies of library material in the national library and in school and academic libraries;

Article 4

Article 43 CRRA shall be amended to read as follows:

Article 43 Exhaustion of the right of distribution

(1) The right of distribution shall be exhausted within the Community in respect of the original or copies of the work with the first sale or other transfer of ownership in the Community of that object by the author or with his consent.

Article 5

Article 44 CRRA shall be amended to read as follows:

Article 44 Limitation to the right of transformation

(1) The owner of a work of architecture which has been executed shall be free to make reconstructions thereof.

(2) When implementing the provision of paragraph 1, the owner must respect the author's right to integrity of the work.

Article 6

The following new Article 47a shall be inserted after Article 47 CRRA:

Article 47a People with a disability

Without the assignment of a respective economic right, but on payment of equitable remuneration, it shall be lawful to reproduce or distribute works for the benefit of people with a disability, provided that the work used is not available in the desired form, that the use is directly related to the disability and limited to its extent and is not for direct or indirect economic advantage.

Article 7

The following new Article 49a shall be inserted after Article 49 CRRA:

Article 49a Temporary reproduction

Temporary acts of reproduction which are transient or incidental and an integral and essential part of a technological process and whose sole purpose is to enable:

1. a transmission in a network between third parties by an intermediary, or
2. a lawful use

of a work, and which have no independent economic significance, shall be free.

Article 8

Article 50 CRRA shall be amended to read as follows:

Article 50

Private and other internal reproduction

(1) Subject to Article 37, the reproduction of a disclosed work shall be free if made in no more than three copies and provided that the conditions of paragraphs 2 or 3 are fulfilled.

(2) A natural person shall be free to reproduce works on any medium if this is done for private use and not for direct or indirect economic advantage, and the copies are not available to the public.

(3) Publicly accessible archives and libraries, museums and educational or scientific establishments shall be free to reproduce for internal use works from their own copies:

1. on paper or any similar medium by the use of a photographic technique or by some other process having similar effects; and

2. on any other medium if this is not done for direct or indirect economic advantage.

(4) Reproduction according to the foregoing paragraphs shall not be permitted with respect to written works to the extent of the whole book, graphic editions of musical works, electronic databases and computer programs, and in the form of building of architectural structures, unless otherwise provided by this Act or by contract.

(5) Notwithstanding paragraph 4, it shall be permissible, under the conditions of paragraph 1:

1. to reproduce a written work to the extent of the whole book, if such work is out of print for a minimum of two years;

2. to reproduce a graphic edition of musical work by means of handwritten transcription.

Article 9

Article 54 CRRA shall be amended to read as follows:

Article 54

Public exhibition or sale of artistic works

(1) The organiser of a public exhibition or sale of artistic works shall be free to use such works to the extent necessary to promote the event, excluding any other commercial use.

(2) In cases referred to in paragraph 1, the source and authorship of the work shall be indicated if the latter is indicated on the work used.

Article 10

Article 56 CRRA shall be amended to read as follows:

Article 56 Official proceedings

The use of works shall be free if this is indispensable, in certain concrete cases, for the performance of tasks relating to public security or the performance of any official proceedings (parliamentary, judicial, administrative or arbitrary).

Article 11

Article 66 CRRA shall be amended to read as follows:

Article 66 Moral rights

The provision of Article 59 concerning the term of copyright shall apply also to moral rights, however:

1. the right to recognition of authorship shall run forever; and
2. the right of withdrawal shall run for the life of the author.

Article 12

Article 118 CRRA shall be amended to read as follows:

Article 118 Performers

(1) Performers are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, interpret, or otherwise perform copyright works or literary or artistic expressions of folklore.

(2) The performers within the meaning of paragraph 1 shall also be directors of theatrical presentations, conductors of orchestras, choir directors, sound editors, and variety and circus artists.

Article 13

Article 121 CRRA shall be amended to read as follows:

Article 121 Economic rights of performers

Performers shall have the exclusive right:

1. to reproduce their live performance or the fixation thereof;

2. to publicly transmit their live performance;
3. to broadcast their live performance;
4. to make available to the public the fixation of their performance;
5. to distribute the phonograms or videograms containing their performance;
6. to rent phonograms or videograms containing their performance.

Article 14

The following new paragraph (2) shall be added to Article 127 CRRA:

(2) The moral right of a performer to have his name or other designation mentioned in connection with the performance shall run forever.

Article 15

The following new Article 141g shall be inserted after Article 141f CRRA:

Article 141.g

Limitations to the right of the maker

(1) Lawful users of a published database shall be free to use a substantial part of its contents:

1. for the purposes of teaching, provided that the conditions of Article 49 are fulfilled;
2. for private or other internal use of the contents of a non-electronic database, provided that the conditions of Article 50 are fulfilled.

(2) The use of the database shall be free if this is indispensable, in particular concrete cases, for the performance of tasks relating to public security or the performance of any official proceedings (parliamentary, judicial, administrative or arbitrary).

Article 16

Article 144(2) CRRA shall be amended to read as follows:

(2) When an author administers his rights before a court or another body through an agent who is a natural or legal person, such agent is entitled to claim a fee for his services and reimbursement of expenses incurred in connection with these services according to the agent's schedule of fees, provided that he fulfils the conditions for the representation before courts and that he has five years of working experience as a lawyer or, where the agent is a legal person, that an authorized employee of such agent fulfils those conditions. Agent's schedule of fees is adopted by the agent or an association of agents and approved by the Minister of Justice.

Article 17

Article 146 CRRA shall be amended to read as follows:

Article 146
Subject of collective administration

(1) Collective administration of authors' rights is a means of enforcement of those rights for a number works of several authors at the same time, giving collecting societies the right to allow, on the basis of the author's authorisation or under this Act, under their name and for author's account, the use of works under conditions set out in the tariff agreement for the use of authors' works.

(2) Collective administration of authors' rights comprises:

1. acquisition of authors' authorisations for collective administration of their rights;
2. gathering of information on authors' rights and works, as well as formation of repertoire of authors' works with respect to which a collecting society, on the basis of this Act or the author's authorisation, administers copyright;
3. negotiations with users on the tariff for the use of authors' works and conclusion of agreements concerning such tariff;
4. conclusion of contracts with individual users concerning assignment of non-exclusive rights for the use of works on the basis of the tariff for the use of authors' works;
5. participation in proceedings before the Arbitration Board for Authors' Rights and Related Rights (Arbitration Board);
6. collection and recovery of authors' royalties and remunerations for the use of works in accordance with the tariff agreement for the use of authors' works;
7. distribution of collected royalties and remunerations among the authors in accordance with adopted rules of distribution;
8. monitoring of the use of authors' works;
9. enforcement of protection of authors' rights before courts and other bodies.

Article 18

The following new paragraph (3) shall be added to Article 147 CRRA:

(3) Rights under item 1 of paragraph 1 can exceptionally be administered personally if the performer is at the same time the holder of the author's right of public performance referred to in Article 26 in all works executed in a certain performance. The holder of such right shall inform the collecting society administering the rights in the performed works of his intention to personally administer his rights.

Article 19

Article 148(1) and (2) CRRA shall be amended to read as follows:

(1) Collecting societies shall be legal entities that have the collective administration of authors' rights as their sole purpose and have the permission of the Slovenian Intellectual Property Office (Office) to administer such rights.

(2) Collecting societies shall operate on a non-profit basis. They are entitled to claim compensation covering reasonable costs of their operation.

The following new paragraph (5) shall be added to Article 148 CRRA:

(5) The Office may issue binding instructions for the operation of collecting societies.

Article 20

Article 149 CRRA shall be amended to read as follows:

Article 149 Authorisation for collective administration of authors' rights

(1) The Office shall grant, on request, authorisation for collective administration of authors' rights to a legal entity if the following conditions are fulfilled:

1. that a considerable number of Slovenian authors expressed their interest to become members of the collecting society;
2. that the collecting society is open to all right-holders;
3. that the statute of the legal entity conforms to the provisions of this Act;
4. that it may be expected from the person who is by statute authorised to represent the legal entity to effectively conduct the collecting society;
5. that an effective and economic administration of rights on the whole territory of the state may be expected;
6. that no other collecting society administers authors' rights in the works with respect to which the authorisation for collective administration of authors' rights has been requested.

(2) In determining whether the conditions for the effective and economic administration of authors' rights, laid down under item 5 of the foregoing paragraph, are fulfilled, the Office shall consider in particular the following: the number of authors who have expressed interest in the collective administration of their rights by the legal entity, the total number of their works, the extent of the exploitation of works or the volume of potential users of such works, means and ways whereby the legal entity proposes to carry out its activity, its capability to administer the rights abroad, estimate of the anticipated amount of royalties and remunerations collected by the legal entity, as well as of its costs of operation and its compensation.

(3) The Office shall publish in the Official Gazette of the Republic of Slovenia the information on the receipt of the request for authorisation for collective administration of authors' rights. If several such requests concerning collective administration of rights in the same type of works have been submitted, the Office includes in the information the notice that the authorisation will be issued to the legal entity who ensures, in the time limit defined in the information, the most effective and economic administration of rights.

(4) If the conditions of paragraph 1 are not fulfilled, the Office shall refuse the request for authorisation for collective administration of authors' rights.

(5) In the proceeding for the grant of authorisation the Act regulating general administrative procedure shall apply. There shall be no appeal against a decision issued by the Office, however, an action in the administrative litigation proceedings may be filed. Notification of the final decision concerning the authorisation shall be published in the Official Gazette of the Republic of Slovenia.

Article 21

Article 150 CRRA shall be amended to read as follows:

Article 150 Statute

A statute of a collecting society shall define in particular:

1. the name and the seat of the collecting society;
2. the type of rights it administers;
3. the conditions governing the acquisition of membership in the society, categories of membership (full, affiliated, co-opted, honorary, associate, etc.) and categories of right holders (authors of original works, authors of adaptations, authors of translations, legal heirs, publishers, employers, etc.);
4. authors' rights which the collecting society administers by right holder's authorisation or under this Act;
5. the manner of gathering the information on authors' works and rights, which the collecting society administers under this Act, and the manner of maintenance of the repertoire of authors' works and of the inspection into the repertoire;
6. rights of members and the manner of their participation in organs of the collecting society according to the type of membership (voting rights, representation in organs of individual types of members on equal terms, appointment of joint representatives of persons who are not full members, etc.), obligation of members to provide information on authors' rights which the collecting society administers by right holder's authorisation, other obligations of members to the collecting society and disciplinary regulations governing the infringement of such obligations;
7. fundamental principles for conclusion of tariff agreements for the use of authors' works;
8. rules of distribution of collected royalties and remunerations, which shall be clear and unambiguous;
9. administrative and supervisory bodies, assembly and other bodies of the collecting society, their structure and the manner of constitution, convening and operation as well as mutual relations, competences and responsibilities;
10. persons authorised to represent the collecting society, the manner of their appointment and recall as well as their responsibility;
11. renewal and loss of membership in the collecting society;
12. the manner of disposal of the assets of the collecting society in the event of its dissolution.

Article 22

Article 151 CRRA shall be amended to read as follows:

Article 151 Bodies of the collecting society

(1) All bodies of the collecting society shall meet regularly and shall efficiently perform their tasks to the benefit of the collecting society.

(2) The Assembly shall consist of all members of the collecting society irrespective of the type of membership.

(3) The Assembly shall meet at least once every current year in ordinary session, in which it shall take decisions concerning:

1. annual accounts and annual reports of administrative and supervisory bodies on collected royalties and remunerations, operation of the collecting society and implementation of tariff agreements for the use of authors' works and agreements with foreign collecting societies;

2. the report of auditing company on the auditing of financial statements and operation of the collecting society in the preceding year, together with the opinion on regularity of the operation and its conformity with laws and other regulations;

3. the opinions of administrative and supervisory bodies on the auditor's report and opinion;

4. measures in the event of inefficient operation of the collecting society or in the event of the auditor's opinion on its irregularity;

5. the amount of all collected royalties and remunerations and their distribution in compliance with the corresponding rules;

6. the decision on the approval of the operating costs and compensation of the collecting society for the preceding year;

7. proposal for the financing plan, operating costs and compensation of the collecting society for the coming year.

(4) The collecting society shall be managed by the administrative body and shall be represented by the presidium or president of the administrative body.

(5) The work of the administrative body shall be monitored by the supervisory body of the collecting society.

Article 23

Article 152 CRRA shall be amended to read as follows:

Article 152 Revocation of authorisation

(1) The Office shall revoke authorisation for collective administration of authors' rights, if

1. so requires the collecting society itself;

2. circumstances occur which would have been a cause for the refusal of the authorisation;
 3. the collecting society does not operate in compliance with this Act, in particular with Article 146, or its statute, or it does not ensure an effective and economic administration of authors' rights on the whole territory of the state, or it repeatedly or seriously violates the provisions of this Act;
 4. the legal entity requesting authorisation for collective administration of rights in works which have been already covered by a collecting society proves that it could ensure more effective and economic administration of rights on the whole territory of the state as the existent collecting society.
- (2) Prior to revocation, the Office shall notify the collecting society of the reasons and give it the opportunity to remove the cause for revocation or present its comments within no less than three months from the receipt of the notification.
- (3) In the event of the revocation of authorisation pursuant to item 4 of paragraph 1, the Office shall at the same time grant the authorisation to another legal entity which takes over the administration of all rights that have been until then administered by the former collecting society.
- (4) Provisions of Article 149(5) shall apply *mutatis mutandis* to the proceeding for the revocation of the authorisation.

Article 24

Article 153 CRRA shall be amended to read as follows:

Article 153 Tariff

- (1) The tariff for the use of authors' works sets out the amount and calculation of royalty or remuneration that an individual user has to pay to the collecting society for the use of a work from its repertoire.
- (2) The tariff shall be established by a written agreement concluded between the collecting society and representatives of the same type of users of works from the repertoire of the collecting society that have been authorised to conclude such agreement. The collecting society shall invite into negotiations for the conclusion of the tariff agreement all the same type of users of works that are known to it and publish the invitation to negotiations in the Official Gazette of the Republic of Slovenia.
- (3) The tariff agreement may also be concluded between the collecting society and an individual user of works from its repertoire, provided that he is the only one performing an activity of national importance.
- (4) When more than one collecting society operates in the same field of the use of protected works, they shall conclude the tariff agreement with users for the same utilization of works jointly. In this case, the tariff shall be set out in a uniform manner for all the protected works and the collecting societies shall make out a joint bill to an individual user for the payment of a royalty or remuneration due pursuant to the tariff.
- (5) The tariff agreement shall define, beside the tariff itself, at least:
 1. the terms of the use of authors' works with respect to different conditions of use;

2. conditions of use owing to which a royalty or remuneration shall be raised, reduced or exempt from payment;
3. deadline for and the means of communication of data which are necessary for the calculation of a royalty or remuneration due pursuant to the tariff;
4. deadline for and the means of payment of a royalty or remuneration.

Article 25

The following new Articles 153a, 153b, 153c, 153d, 153e and 153f shall be inserted after Article 153 CRRA:

Article 153a Validity of a tariff agreement

- (1) The collecting society shall register a tariff agreement with the Arbitration Board and shall publish it, following the receipt of the certificate of registration, in the Official Gazette of the Republic of Slovenia.
- (2) The tariff agreement shall enter into force for all the same type of users of works from the repertoire of the collecting society, irrespective of the fact whether they participated in negotiations or conclusion of the agreement or not, on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.
- (3) A published tariff agreement shall be binding on the courts.
- (4) Provisions of Articles 153 and 153a shall apply *mutatis mutandis* to the amendments of agreements, new agreements and termination of agreements.

Article 153b Arbitration procedure

- (1) The collecting society or representatives of users that have been authorised to conclude a tariff agreement may, in the event of failure to conclude such agreement despite serious negotiations, require of the Arbitration Board to fix an equitable tariff and decide on other issues in dispute.
- (2) Any person who proves a legal interest may require of the Arbitration Board to decide whether the published tariff agreement conforms to the provisions of this Act and if the tariff fixed by this agreement is equitable.
- (3) The proceeding before the Arbitration Board starts with a written proposal including at least:
 1. explanation of issues in dispute;
 2. report on the course of events;
 3. report on previous and current tariff agreements;
 4. proposal for the tariff to be approved by the Arbitration Board.

(4) The Arbitration Board shall publish the notice of the beginning of the arbitration procedure in the Official Gazette of the Republic of Slovenia and send the proposal referred to in paragraph 3 to the opposing party or, in the case referred to in paragraph 2, to the collecting society and representatives of users that have concluded the challenged tariff agreement inviting them to comment on the proposal.

(5) The Arbitration Board may, in each phase of the proceeding, return the proposal or a part thereof, to the parties for additional negotiations.

(6) Each party shall state facts and propose evidence on which its proposal is based, or by which the statements and evidence of the other party are rebutted.

(7) The Arbitration Board may require from the parties to do all that is necessary to clarify the issues in dispute, namely to prepare proper reports, submit experts opinions, and the like.

(8) The Arbitration Board shall not be not bound by proposed evidence and claims of parties. The Arbitration Board shall judge, taking into account all circumstances, the effect of a party's failure to comply with the provision of paragraph 6 or 7.

(9) Unless otherwise provided by this Act, provisions of the Act regulating general administrative procedure shall apply in the proceedings before the Arbitration Board, with the exception of provisions on the reestablishment of rights and extraordinary legal remedies.

Article 153c Costs of proceeding before Arbitration Board

(1) Costs of proceeding before the Arbitration Board, including remuneration of members of the Arbitration Board, shall be covered by parties to the proceeding.

(2) The party starting the proceeding shall pay an advance on the costs of the Arbitration Board in the time limit laid down by the Arbitration Board. If the advance is not paid, the Arbitration Board shall dismiss the proposal for the proceeding.

(3) The provision of paragraph 2 shall apply *mutatis mutandis* to persons submitting any requests or proposals concerning the proceeding.

Article 153d Decision by Arbitration Board

(1) The Arbitration Board shall decide on issues in dispute, it may also fix the tariff which is equitable according to the provisions of Article 153e, and confirm, modify or cancel, in whole or in part, the challenged tariff agreement.

(2) Final decision of the Arbitration Board shall be a component part of the tariff agreement or, if the latter has not been concluded, shall replace it.

(3) Final decision of the Arbitration Board shall be published in the Official Gazette of the Republic of Slovenia.

Article 153e Equitableness of a tariff

(1) When determining the equitableness of a tariff, account shall be taken of:

1. the gross proceeds obtained from the use of an author's work or, subsidiary, gross outlays involved in the use;
2. the nature and quantity of the works used;
3. the ratio of protected to unprotected works used;
4. the ratio of collectively to personally administered rights;
5. special complexity of a collective administration of rights required a certain use of authors' works.

(2) Tariffs determined by a published tariff agreement shall be deemed equitable until another final decision of the Arbitration Board.

Article 153f

Judicial protection against decisions of Arbitration Board

(1) The action against a decision of the Arbitration Board may be filed with the Supreme Court of the Republic of Slovenia within 30 days from the service of the decision. The action shall be heard by a panel of five judges of the Supreme Court of the Republic of Slovenia (Department of Economy).

(2) The court shall test the decision of the Arbitration Board to the extent of the claim and reasons stated in the action, paying, *ex officio*, attention to essential violations of the provisions of the proceeding concerning the possibility given to the party to state the opinion on the facts and circumstances which are important for the challenged decision.

(3) The court shall decide without trial.

(4) There shall be no appeal against judgement or order of the court.

(5) The provisions of the Administrative Disputes Act shall apply *mutatis mutandis* to judicial proceeding, unless otherwise provided by this Act. The Arbitration Board shall be exempt from court fees in the administrative dispute.

Article 26

Article 154 CRRA shall be amended to read as follows:

Article 154 Mediation procedures

(1) Where right holders and users of authors' works can not reach agreement on the use of works in the case of cable retransmission of broadcasts, each of them may start the mediation procedure before the Arbitration Board.

(2) The Arbitration Board shall ensure in the mediation procedure that parties conduct negotiations in good faith and do not hinder them without valid justification.

(3) The Arbitration Board may submit proposals to parties concerning agreements or parts thereof. It shall be assumed that parties accept a proposal if none of them submits a notice of opposition within three months following the receipt of the proposal.

Article 27

The following new Article 155a shall be inserted after Article 155 CRRA:

Article 155a Obligations of collecting societies to authors

(1) Collecting societies shall administer authors' rights on habitual terms, efficiently and economically on the territory of the whole country, irrespective of whether they are authorised for that on the basis of a contract with the author or of this Act.

(2) Collecting societies shall administer at the request those rights of the author for which they have authorisation.

(3) Collecting societies shall administer authors' rights on equal terms.

(4) Collecting societies shall give to the author at his request all information concerning administration of his rights and enable him to inspect the documents referred to in Article 162.

(5) Collecting societies shall keep the repertoire of authors' works or records of authors and their works with respect to which they administer authors' rights on the basis of the author's authorisation or this Act.

(6) Collecting societies shall each year adopt annual accounts and annual reports and obtain the report of auditing company on their operation, together with the opinion on regularity of the operation and its conformity with laws and other regulations.

Article 28

Article 156(2) CRRA shall be amended to read as follows:

(2) During the period when the administration of rights is transferred to a collecting society, either by law or by contract, the author cannot personally administer those rights, except in the case referred to in Article 147(3).

The following new paragraph (4) shall be added to Article 156 CRRA:

(4) Except in cases referred to in Article 147(2), the collecting society shall allow the author to leave it if he so requires. The leaving shall take effect upon expiration of the time limit laid down in the statute, but not later than at the end of the current calendar year. The author shall share in royalties and remunerations collected up to the date when his leaving the collecting society takes effect.

Article 29

Article 158 CRRA shall be amended to read as follows:

Article 158

Mutual obligation of collecting societies to furnish information

In the case referred to in Article 153(4), the collecting society which makes out joint bills shall allow other entitled collecting societies to inspect all records and documents relating to the implementation of the joint tariff agreement.

Article 30

Article 159 CRRA shall be amended to read as follows:

Article 159 Obligation to contract and to furnish information

(1) The user of works from the repertoire of a collecting society may request, at any time, the conclusion of a contract for the non-exclusive assignment of rights for the use of authors' works in accordance with the published tariff agreement.

(2) The collecting society shall conclude contracts for the non-exclusive assignment of rights for the use of authors' works on equal terms for all the same type of users of works from its repertoire.

(3) If the parties do not conclude a contract for the non-exclusive assignment of rights for the use of authors' works, it shall be deemed that the right has been assigned if the amount as is charged by the collecting society according to the valid tariff has been deposited in the account of the collecting society or with a court by the party requesting the conclusion of the contract.

(4) The bill that the collecting society makes out to the users of works from its repertoire shall be drawn up in such a way that the tariff basis and the manner of the calculation of the required amount are evident.

(5) At the request of the users, the collecting society shall:

1. allow the inspection into its repertoire or furnish information on author' works and rights that it administers;

2. allow the inspection of contracts for the non-exclusive assignment of rights for the use of authors' works concluded with individual the same type of users of works from its repertoire;

3. give grounds for the bill made out for the use of authors' works and the manner of the calculation of the royalty or remuneration under the tariff for the use of authors' works.

Article 31

Article 160(5) CRRA shall be amended to read as follows:

(5) Sellers, buyers and intermediaries who market works of art shall submit to the collecting society the information which is necessary for the calculation of the remuneration due (type and number of sold originals, liable persons, retail price net of tax, etc.) within 30 days after the original of a work of fine art has been sold.

Article 32

The following new paragraph (2) shall be inserted in Article 162 CRRA:

(2) Each member may demand from the collecting society a proper explanation with respect to administration of his rights, in particular, with respect to the manner of the calculation of his royalty or remuneration.

Previous paragraph (2) shall become paragraph (3).

Article 33

Article 163(3) and (4) CRRA shall be amended to read as follows:

(3) Any amendment to the statute of a collecting society shall take effect on the date of its approval by the Office.

(4) Collecting societies shall without delay furnish the Office with:

1. information on their appointed and removed administrators;
2. rules governing their operation;
3. copies of decisions taken by their bodies, copies of minutes of the meetings of the bodies, annual accounts, annual report, auditors' report and of agreements concluded with foreign collecting societies;
4. information on negotiations for the conclusion of agreements concerning the tariff for the use of authors' works and the concluded tariff agreements;
5. information on the course of judicial and other proceedings to which they are party and copies of decisions issued in such proceedings;
6. at Office's request, all other documents that are necessary for the execution of the supervision.

Article 34

The following new Articles 163a and 163b shall be inserted after Article 163 CRRA:

Article 163a Arbitration Board

(1) The Arbitration Board shall be constituted at the Office as an expert, independent and impartial arbitration body.

(2) The competence of the Arbitration Board shall be:

1. to keep records relating to tariff agreements for the use of authors' works;
2. to set equitable tariff for the use of authors' works;
3. to test the published tariff agreements for the use of authors' works;
4. to mediate in the conclusion of agreements concerning cable retransmission of broadcast works;

5. to decide on issues related to tariff agreements for the use of authors' works;
 6. to decide on the implementation of limitations on the scope of author's rights pursuant to Article 166c.
- (3) If parties concluded an arbitration contract or adopted an arbitration contractual provision concerning the matters referred to in paragraph 2, such contract or provision shall be null.
- (4) In proceedings before the Arbitration Board provisions of Articles 153b, 153c, 153d, 153e and 153f shall apply *mutatis mutandis*, unless otherwise provided by this Act.

Article 163b
Organisation of Arbitration Board

- (1) The Arbitration Board shall consist of a chairman and two members and their deputies.
- (2) The chairman and his deputy must be competent to act as judges in conformity with the act governing courts, and the members and their deputies must have university legal education.
- (3) The chairman, members and their deputies shall be appointed by the Minister of Economy for the period of five years.
- (4) The Arbitration Board shall have a secretary who shall be employed in the Office. The secretary shall have university education and experiences in the field of copyright law.
- (5) The Office shall provide technical and administrative conditions for the work of the Arbitration Board.
- (6) The Minister of Economy shall adopt directive defining, in greater detail, the organisation of the Arbitration Board, its operation, the covering of its costs, the amount of money necessary for the covering of costs of its operation as well as the amount and the manner of fixing of the remuneration of its members.

Article 35

Article 166a CRRA shall be amended to read as follows:

Article 166a
Technological measures

- (1) It shall be deemed that a person infringes the exclusive rights granted by this Act, when he circumvents effective technological measures designed to protect authors' works or subject matters of related rights.
- (2) It shall be deemed that a person infringes the exclusive rights granted by this Act, when he manufactures, imports, distributes, sells, rents, advertises for sale or rental, or possesses for commercial purposes technologies, devices, products, components or computer programs or provides services which:
 1. are advertised or marketed for the purpose of the circumvention of effective technological measures, or

2. have only a limited commercially significant purpose or use other than to circumvent effective technological measures, or

3. are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures.

(3) “Technological measures” within the meaning of this Article shall mean any technology, device, product, component or computer program or other measure that, in the normal course of its operation, is designed to prevent or restrict acts which are not authorised by the holder of rights under this Act. These measures shall be deemed effective where the use of a copyright work or subject matter of related rights is controlled by the right holders through application of an access control or protection process such as encryption, scrambling or other transformation of the work, or a copy control mechanism, which achieves the protection objective.

(4) This Article shall apply *mutatis mutandis* also to any technology, device, product, component or computer program by which electronic rights-management information referred to in Article 166 is removed or altered.

(5) The acts referred to in foregoing paragraphs shall not be deemed infringements if they are carried out in certain special cases of performance of tasks relating to public security, or in order to ensure the correct execution of any official proceedings (parliamentary, judicial, administrative or arbitrary).

Article 36

The following new Articles 166b and 166c shall be inserted after Article 166a CRRA:

Article 166b Obligation to use markings

In the case of technological measures pursuant to the provisions of this Act, the right holder or importer shall be bound put a clearly visible marking on each copy of a copyright work or subject matter of related rights manufactured or imported for commercial purposes, indicating:

1. information concerning the technological measure and its effects, and
2. his firm and address in order to ensure an effective implementation of Article 166c(1).

Article 166c Enforcement of the limitations to rights

(1) The right holder who uses technological measures pursuant to this Act, shall make available to the persons having legal access to the subject matter of rights, at their request and without delay, appropriate means on the basis of which they can enforce the limitations to copyright and related rights listed in paragraph 4.

(2) If the right holder fails to secure the means referred to in paragraph 1, the persons concerned may request protection before the Arbitration Board.

(3) Contractual stipulations contrary to paragraphs 1 and 2 shall be null and void.

(4) Limitations to rights shall be enforced only under conditions laid down by this Act for each individual limitation, including eventual payment of remuneration and subject to Article 46. The limitations to rights shall be provided in the following cases:

1. reproductions on paper for private use (Articles 50(2) and 4(2));
2. reproductions by publicly accessible archives and libraries, museums and educational or scientific establishments for their internal use (Articles 50(3) and 4(2));
3. performance of official proceedings (Articles 56 and 4(2));
4. ephemeral recordings made by broadcasting organisations (Articles 77(2) and 4(2));
5. use for the purpose of teaching (Articles 49 and 4(2));
6. use for the benefit of people with a disability (Articles 47a and 4(2));
7. in respect of rights in computer programs (Articles 114 and 115);
8. in respect of rights in databases (Article 141f).

(5) Paragraphs 1, 2 and 3 shall not apply to technological measures that are used for:

1. fulfilment of a right holder's obligation under paragraph 1 and the implementation of agreements concluded for this purpose;
2. copyright works or subject matters of related rights that are used, on the basis of an appropriate contract, within the meaning of Article 32a.

Article 37

Articles 184, 185 and 186 CRRRA shall be amended to read as follows:

Article 184

(1) A fine of no less than SIT 400,000 shall be imposed for a misdemeanor on any legal entity or individual sole trader who:

1. without the assignment of the relevant economic right, when such assignment is required under this Act, reproduces, distributes, rents, publicly performs, publicly transmits, publicly communicates, publicly presents, broadcasts, rebroadcasts, secondary broadcasts, makes available to the public, transforms, audiovisually adapts or otherwise uses a work or a copy thereof (Articles 21 and 22);
2. possesses a copy of computer program for commercial purposes, knowing or having reason to believe that it is an infringing copy (Article 116, item 2);
3. without the assignment of the relevant exclusive right, when such assignment is required under this Act, fixes a live performance or reproduces, distributes, rents or makes available to the public a fixation of a performance or a phonogram or videogram with a performance, or otherwise uses a performance (Article 121);

4. without the assignment of the relevant exclusive right, when such assignment is required under this Act, reproduces, distributes, rents, makes available to the public or otherwise uses a phonogram or videogram (Articles 129 and 134);

5. without the assignment of the relevant exclusive right, when such assignment is required under this Act, retransmits, fixes, reproduces, distributes, makes available to the public or otherwise uses a broadcast or a fixation of a broadcast (Article 137);

6. without the assignment of the relevant exclusive right, when such assignment is required under this Act, reproduces, distributes, rents, makes available to the public or otherwise uses a database or a copy thereof (Article 141c);

7. removes or alters any electronic rights-management information (Article 166(1)1);

8. reproduces, distributes, imports for distribution, rents or communicates to the public a copyright work or subject matter of related rights or a copy thereof where electronic rights-management information has been removed or altered without authorization (Article 166(1)2);

9. circumvents effective technological measures or manufactures, imports for distribution, distributes, sells, rents, advertises for sale or rental or possesses for commercial purposes a technology, device, product, component or computer program, or provides a service for the purpose of circumvention of effective technological measures in the cases referred to in Article 166a(2) ((Article 166a(1) and (2));

10. manufactures, imports for distribution, distributes, sells, rents, advertises for sale or rental or possesses for commercial purposes a technology, device, product, component or computer program for the removal or alteration of electronic rights-management information (Article 166a(4)).

(2) A fine of no less than SIT 80,000 shall be imposed on the responsible person of a legal entity that commits a misdemeanor referred to in paragraph 1.

(3) A fine of no less than SIT 80,000 shall be imposed on an individual who commits a misdemeanor referred to in paragraph 1.

(4) The articles which were created by the misdemeanor shall be confiscated.

Article 185

(1) A fine of no less than SIT 200,000 shall be imposed for a misdemeanor on any legal entity or individual sole trader:

1. that does not submit to the competent collecting society, at its request and within the prescribed time limit, information about the types and number of sold or imported devices for sound or visual fixation, photocopying devices, blank audio or video carriers as well as information about sold photocopies which is necessary for the calculation of the remuneration due (Article 38 (3));

2. that does not submit to the competent collecting society, within the prescribed time limit, the list of works used (Article 160 (1), (3), and 4);

3. that does not submit to the competent collecting society, within the prescribed time limit, the information which is necessary for the calculation of the remuneration due (type and number of sold originals, liable persons, retail price without public charges, etc.) (Article 160 (5));

4. that does not make available to the entitled persons the means on the basis of which they can enforce limitations to the copyright and related rights (Article 166c(1)).

(2) A fine of no less than SIT 60,000 shall be imposed on the responsible person of a legal entity or of individual sole trader that commits a misdemeanor under paragraph 1.

(3) A fine of no less than SIT 60,000 shall be imposed on an individual who commits a misdemeanour under paragraph 1.

Article 186

(1) Supervisory control over the implementation of the provisions of items 1 to 10 of Article 184(1) and items 1 to 5 of Article 185(1) shall be the competence of the Market Inspection. The proceedings concerning these cases shall be expeditious.

(2) When the inspector learns of a misdemeanor referred to in paragraph 1 through official channels, he may:

1. seize the goods which were used or intended for the commission of a misdemeanor, or were created by such misdemeanor, and
2. order to remedy the irregularity within the prescribed time limit.

Article 38

The following new Articles 193a, 193b, 193c, 193d, 193e and 193f shall be inserted after Article 193 CRRA:

Article 193a

(1) As of the date of the accession of the Republic of Slovenia to the European Union, the terms of protection under this Act shall also be applicable to those copyright works and subject matters of related rights that are not protected under Article 193(1), (2) and (3) if they are protected on that date in at least one European Union Member State.

(2) Paragraph 2 shall be without prejudice to acts of exploitation of copyright works and subject matters of related rights started or performed before the date referred to in paragraph 1. The user may:

1. without limit and gratuitously distribute stocks that existed before that date, and
2. request a reassignment of economic rights in the original extent, but only for the period of three years following that date and against payment of an adequate remuneration.

(3) The rights which were assigned for the whole period of their duration by contract or otherwise before the date referred to in paragraph 1, shall be deemed to be assigned under present conditions also for the additional period of the revival of protection.

(4) The existence of protection of a right in a European Union Member State shall be proved by the person who invokes it.

(5) This Article shall no apply to moral rights.

Article 193b

As of the date of the accession of the Republic of Slovenia to the Economic and Monetary Union, the amounts in euros referred to in Article 35 shall be paid in the equivalent of Slovenian tolar according to the mean exchange rate of the Bank of Slovenia as in force on the date on which the original of a work of fine art was sold.

Article 193c

Provisions of this Act concerning exhaustion of the right of distribution (Article 43) shall take effect as of the date of the accession of the Republic of Slovenia to the European Union.

Article 193d

- (1) Collecting societies shall harmonize their activity with the provisions of this Act within one year following the entry into force of this Act.
- (2) Proceedings for the grant of authorisation for collective administration of copyright and related rights that have not been finished on the date of entry into force of this Act shall continue according to the provisions of this Act.
- (3) Proceeding for the approval of tariffs that have not been finished on the date of entry into force of this Act shall continue according to the provisions of this Act.
- (4) The tariffs of collecting societies applicable on the basis of current provisions shall continue to apply until entry into force of tariff agreements concluded according to the provisions of this Act.
- (5) Collecting societies shall begin to make out joint bills under Article 153(4) within one year following the entry into force of this Act. Until the conclusion of the tariff agreement according to Article 153(4), the bills shall be made out under the tariffs applicable on the basis of current provisions.

Article 193e

The Minister of Economy shall appoint the members of the Arbitration Board and adopt directive referred to in Article 163b(6) within six months following the entry into force of this Act.

Article 193f

- (1) In proceedings concerning misdemeanors, the fines defined in Articles 184 and 185 shall be imposed, until the application date of the new Misdemeanors Act (Official Gazette RS No 7/03), as monetary fines within the limits set out by the applicable Misdemeanors Act (Official Gazette SRS Nos 25/83, 36/83, 42/85, 2/86, 5/90 and Official Gazette RS Nos 10/91, 13/93, 66/93, 35/97, 73/97 – decision by Constitutional Court, 87/97, 73/98, 31/2000 and 24/2000).
- (2) Until the application date of the new Misdemeanors Act, the fine in the form of a payment order in the amount of SIT 400,000 for a legal entity or individual sole trader and SIT 80,000 for the responsible person of the legal entity or of individual sole trader or for an individual shall be imposed for misdemeanors referred to in Article 184.

(3) Until the application date of the new Misdemeanors Act, the fine in the form of a payment order in the amount of SIT 200,000 for a legal entity or a individual sole trader and SIT 60.000 for the responsible person of the legal entity or of individual sole trader or for an individual shall be imposed for misdemeanors referred to in Article 185.

Article 39

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.