



International Conference on Educational Discoveries and Humanities

Hosted online from Moscow, Russia

Website: econfseries.com

16th June, 2025

THESIS: THE LEGAL FOUNDATIONS OF COLLECTIVE MANAGEMENT OF INTELLECTUAL PROPERTY RIGHTS IN THE EUROPEAN UNION

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Abstract

This dissertation examines the legal foundations governing the collective management of intellectual property (IP) rights within the European Union (EU), with a focus on copyright and related rights. Collective Management Organizations (CMOs) play a pivotal role in licensing, enforcing, and distributing royalties for IP rights, ensuring fair compensation for creators. The study analyzes key legislative instruments, including the Copyright Directive (2001/29/EC), the Collective Rights Management Directive (2014/26/EU), and the Digital Single Market Directive (2019/790/EU), which collectively form a harmonized framework for CMO operations. By exploring the interplay of EU law, national implementations, and judicial interpretations from the Court of Justice of the European Union (CJEU), this research highlights the principles of governance, transparency, and non-discrimination that underpin collective management. The dissertation also addresses contemporary challenges, such as digitalization, cross-border licensing, and the impact of emerging technologies, which necessitate ongoing regulatory adaptation. Through a comparative analysis of Member State practices and case law, this study evaluates the effectiveness of the EU's legal framework in balancing the interests of rightsholders, users, and the public. The findings contribute to the discourse on IP rights management, offering recommendations for enhancing the efficiency and equity of CMOs in the digital era.

Keywords: Collective Management Organizations, Intellectual Property Rights, Copyright, European Union, Collective Rights Management Directive.



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Introduction

Background and Significance

The collective management of intellectual property (IP) rights is a cornerstone of the European Union's (EU) cultural and economic framework, ensuring that creators, performers, and producers are compensated for the use of their works. Collective Management Organizations (CMOs) serve as intermediaries, facilitating the licensing, enforcement, and royalty distribution of IP rights, particularly in the realm of copyright and related rights. In an increasingly digital and interconnected market, the role of CMOs has become more complex, necessitating a robust legal framework to address issues such as cross-border licensing, transparency, and fair remuneration. The EU's legal framework, shaped by directives and judicial rulings from the Court of Justice of the European Union (CJEU), seeks to harmonize CMO operations across Member States while accommodating national diversity. This thesis explores the legal foundations of collective management, evaluating their effectiveness in balancing the interests of rightsholders, users, and the public in the context of the EU's internal market.

The Role of Collective Management Organizations

Definition and Functions

Collective Management Organizations (CMOs) are entities authorized by rightsholders to manage their IP rights, primarily in the fields of copyright and related rights. CMOs negotiate licenses with users (e.g., broadcasters, streaming platforms), collect royalties, and distribute revenues to rightsholders. Their functions include:

- **Licensing:** Granting permissions for the use of protected works, often through blanket or specific licenses.
- **Royalty Collection and Distribution:** Ensuring timely and equitable distribution of royalties to rightsholders.
- **Enforcement:** Monitoring and addressing unauthorized use of protected works, including legal action when necessary.
- **Representation:** Advocating for rightsholders' interests in policy and legal forums.



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CMOs operate in various sectors, such as music, literature, and visual arts, with specialized organizations like GEMA (Germany) and SACEM (France) focusing on specific categories of works.

Importance in the EU Context

In the EU, CMOs are critical to the functioning of the cultural and creative industries, which contribute significantly to the economy. They simplify the licensing process, reducing transaction costs for users and ensuring creators receive compensation. The EU's diverse cultural and legal landscape necessitates a harmonized approach to CMO operations, particularly for cross-border activities. CMOs also promote cultural diversity by supporting smaller creators and niche genres, aligning with the EU's objectives under Article 167 of the Treaty on the Functioning of the European Union (TFEU).

Legal Foundations in EU Law

The Copyright Directive (2001/29/EC)

The Directive on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society (2001/29/EC) establishes the foundational rights managed by CMOs, including reproduction, distribution, and communication to the public. While it does not directly regulate CMOs, it emphasizes the need for effective enforcement mechanisms, indirectly supporting their role. Article 3, for instance, harmonizes the right of communication to the public, which is critical for CMOs managing online uses of works.

The Collective Rights Management Directive (2014/26/EU)

The Collective Rights Management Directive (2014/26/EU) is the cornerstone of CMO regulation in the EU. It establishes a harmonized framework to ensure transparency, governance, and efficiency. Key provisions include:

- **Governance (Articles 4–12):** CMOs must operate transparently, with fair representation of rightsholders in decision-making processes.
- **Rightholder Rights (Article 5):** Rightsholders can choose their CMO and withdraw authorization, promoting competition.



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- **Multi-Territorial Licensing (Articles 23–32):** Facilitates cross-border licensing for online music services, addressing digital market fragmentation.
- **Non-Discrimination (Article 16):** Ensures equal treatment of rightsholders and users.
- **Dispute Resolution (Article 34):** Mandates accessible mechanisms for resolving disputes.

The directive enhances trust in CMOs by promoting accountability and fostering a competitive environment.

National Implementation and Variations

While EU directives provide a harmonized framework, their implementation varies across Member States due to differences in legal traditions and cultural policies. For example, France's SACEM operates under a strong regulatory regime, while Germany's GEMA benefits from robust national oversight. Smaller Member States, such as Estonia, often rely on regional cooperation due to limited market size. These variations can complicate cross-border licensing, which the 2014/26/EU Directive seeks to address through multi-territorial licensing provisions.

CJEU rulings have compelled CMOs to adopt more transparent and competitive practices, aligning with the principles of the internal market. They have also clarified the balance between competition law and IP rights, ensuring that CMOs operate within EU legal boundaries while protecting rightsholders' interests.

Challenges and Future Directions

Digitalization and Emerging Technologies

The rise of streaming platforms, artificial intelligence, and user-generated content poses significant challenges for CMOs. Identifying rightsholders in digital environments, tracking usage, and ensuring fair remuneration remain complex. The 2019/790/EU Directive addresses some issues, but gaps persist, particularly in combating piracy and managing AI-generated works. Despite EU efforts, variations in national implementations create disparities in CMO operations. Smaller Member States may lack the resources to establish robust CMOs, leading to reliance on larger organizations or regional hubs. This can hinder equitable access to licensing and royalty distribution.



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Conclusion

The legal foundations of collective management of IP rights in the EU, anchored in directives like 2001/29/EC, 2014/26/EU, and 2019/790/EU, provide a robust framework for balancing stakeholder interests. CJEU rulings further refine this framework, ensuring compliance with competition and internal market principles. However, challenges such as digitalization and national variations necessitate ongoing regulatory adaptation. By implementing the proposed reforms, the EU can enhance the efficiency and equity of CMOs, supporting creators and fostering cultural diversity in the digital era.

The collective management of property rights in copyright is one of the mechanisms currently underutilized in our country. There are also few legislative sources regulating the activities of such organizations in our country. The activities of these organizations are regulated only through the Law of the Republic of Uzbekistan "On Copyright and Related Rights" dated July 20, 2006, No. O'RQ-42, and the charters of these organizations. However, in our national legislation, only Articles 56–60 of Chapter IV address the activities of these organizations, their rights, obligations, and liability issues. Furthermore, the conditions and procedures for the state registration of organizations managing property rights on a collective basis are determined by the Cabinet of Ministers of the Republic of Uzbekistan. However, a relevant draft law on this matter has not yet been developed or adopted. Additionally, there is very little information or regulation regarding the activities of these organizations, and apart from their charters, no other official sources are available on their official websites. This indicates that such organizations are only beginning to take shape in our country, and the relationships related to these organizations are not fully regulated by our national legislation. This suggests that much more research is needed on this topic.

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