

The Extended Collective License

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Basic Features of the Extended Collective License

- 1. Right-owners in a specific field are grouped together in representative organisations.
- 2. Following free negotiations, the organisation and users conclude a collective agreement on exploitation of works in a certain field.

Basic Features (cont)

- 3. The law prescribes that the terms of the agreement apply also to right-owners who are not member of the contracting organisation.
- 4. On the basis of the agreement and the provisions users are entitled to use works to which the agreement applies without risk of infringement actions.

Basic Features (cont)

- 5. Outside right-owners must be treated in exactly the same way as right-owners who are members of the contracting organisation.
- 6. In addition, outside right-owners have a right to (depending somewhat on national law)
 - a) claim individual remuneration, and
 - b) file a prohibition against the use

Rationale for the system

- In areas of mass uses individual contracts are not feasible.
- System benefits both right-owners and users

Which alternatives are there ?

- Legal presumptions (that the organisation represents also outsiders)
- Obligatory collective administration
- Legal license
- Extended effect seems to be a preferable solution
- Accepted under Preamble 18 in Infosoc

Fields of application

- Different in the different Nordic countries.
- - Use of literary/musical works in broadcasting
- - Cable re-transmission
- - Reprographic reproduction
- - Recordings of radio/TV programs for educational use
- - Library distribution of digitised material

Some specific features

- Basic agreement: all kinds of works or only certain categories
- Representativity of the contracting organisation
- The "nationality criterion"
- Authorisation by public authority

Some specific features (cont)

- Guarantees for outsiders; two elements:
 - - Right to prohibit use
 - - Right to claim individual remuneration
- (directed against whom; period of limitation of individual claims)

Some specific features (cont)

- Mechanisms in case no agreement is concluded.
- - Mediation
- - Arbitration.

Overall evaluation of the system

- 1. The system has proved to work well
- 2. The system does not conflict with international treaty obligations
- 3. The system has been accepted at the European Union level as a management matter and not as a limitation.