

Polish Copyright Collection Societies and Their Financial Data | Abstract

Centrum Cyfrowe is a think-and-do tank focused on the digital leap that society is making due to the robust development of technology. We analyze and model ways in which citizens and their institutions fulfill their professional, civic and personal potential with opportunities provided through ICT. Our work produces qualitative research, policy and legal recommendations, roadmaps, manuals, and methodologies. We also coordinate activities of Creative Commons Poland. We are achieving better adjustment of both the system – policies and law – as well as of educational, research, civic and cultural institutions to the changing realities of the 21st century.

With outreach and advocacy founded on openness we are turning society digital.

Subject Matter

The authors of this analysis attempted to answer the question of whether the adopted mechanism of operation of copyright collection societies is efficient, as these entities are of high social importance. The role of these associations as provided for by the law and their statutes consists in representing creators and enforcing their rights in the works which they created. On behalf of these persons, CCSs collect remuneration obtained in exchange for the possibility offered to companies, institutions and private persons to play or use a work. This report attempts to answer the question of whether or not in their activities CCSs fulfill their statutory obligations.

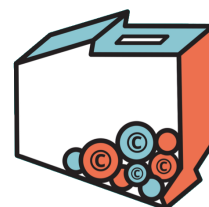
An additional task is to determine the extent to which the widely available information regarding CCSs allows the public opinion to understand the principles of their functioning. Therefore, this analysis is not meant to audit the accounting accuracy, but to exercise the societal control over the transparency of information presented in that manner.

Methods of Analysis

Due to the intermediary role of CCSs in the financial transfers upon the exercise of copyrights, we have adopted an economic perspective. The analysis includes the financial and narrative reports of Polish CCSs for the years of 2010-2013, which they were obliged to disclose at the moment of drawing up of this study. The authors also found it important to verify the transparency of the statutory and financial activity of CCSs. These organizations are privileged by the legislator through the legal opportunities granted to collect funds from citizens.

Limitations of Report

When analyzing the publicly available financial documentation of CCSs we encountered certain difficulties. The lack of uniform practices for describing particular financial entries, differences in showing the categories of income and costs, no information on the



components of such categories, or discrepancies between content-related and financial reports resulted in a situation where it is difficult to make clear-cut conclusions on the financial health of these entities.

With regard to certain issues we were able only to pose hypotheses and ask questions which cannot be answered without the participation of CCSs. Therefore, it has to be stated that in the present form the reporting practices applied by CCSs do not sufficiently serve their purpose, which is to provide transparency for the general public.

Conclusions

The analysis of the functioning of Polish CCSs through the prism of their financial statements clearly demonstrates certain practices that in our opinion do not conform to the spirit of law of collective copyright management.

1. Years may pass from collection until repartition

The period between the collection of financial funds and their transfer to rights holders may in practice amount even up to 6 years. Sometimes, these funds are held by CCSs for 10 years – until prescription. The largest CCS – ZAiKS – currently holds 645 million zlotys (EUR 154.8 million) due copyright owners, and in the course of the year 2013 this organization reported approx. PLN 10 million (EUR 2,4 million) of prescribed payments. The amount of currently accumulated financial funds of all Polish CCSs at the end of 2013 amounted approx. to PLN 1.6 billion (EUR 382,5 million).

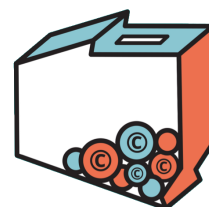
2. Capital income and economic profitability weaken the motivation for repartition

CCSs derive financial income (interest on the capital) from due funds which have not been transferred to copyright holders. The revenues of all Polish CCSs in the years of 2010-2014 totaled PLN 327 million zlotys (EUR 78 million). The mechanism of generating interest on funds is crucial for the economic profitability of collective copyrights management. It is highly probable that the profits derived from revenues are not transferred to the authorized entities, but are used to attain autonomous objectives of these organizations, which are not directly connected with copyrights collection.

The mechanism of economic incentive for CCSs results in a situation where management boards of these organizations are not motivated to exercise copyright collection efficiently. Prolonging the period between the collection of funds and their transfer to those who are entitled to receive them is reasonable from the point of view of the finances of these organizations, however, it may weaken the efficient implementation of their purposes set forth for in the applicable statutes.

3. The costs of collective copyright management are higher than it appears from their presentation in the financial statements

Copyright Collection Societies publicly announce that the cost of collective copyright management amounts approx. to 19%. That calculation, however, does not take into account many cost-related categories reported by CCSs. The costs of operation of Polish



CCSs in the year 2013 totaled PLN 183.5 million (EUR 44 million), given the collection from the market in the approximate amount of PLN 514 million (EUR 123 million). This means that the actual cost of managing the collection and repartition processes amounts approx. to 36%.

4. Only CCSs members influence the principles of repartition

CCSs do not announce publicly any detailed principles of repartition of funds obtained as a result of collection and distribution. Only a limited group of CCS members has any influence on the specified provisions. They arbitrarily decide on the rules of distribution of funds obtained from the entities using copyrights and they do not submit their decisions for inspection by other authorized individuals who are represented by CCSs.

Recommendations

1. Main goals to be achieved

The key issue is to assure that in the process of exercising statutory authorizations there is no conflict of interest between economic profitability and efficient repartition. It is no less significant to make the reporting practices more detailed so as to make it possible for the general public to become familiar with the principles of revenue streams and the actual sum of costs on the basis of publicly available documents.

2. The key role of the supervisory authority

First of all, it is necessary to postulate that the authority supervising the functioning of Copyright Collection Societies, i.e. the Ministry of Culture and National Heritage should oblige CCSs to:

- (1) implement a clear-cut and comprehensive manner of reporting on the costs of servicing copyright collection so that there are no doubts as to how expensive that system is and in order to make it possible to optimize collective copyrights management in the future;
- (2) apply any instruments available (taking into account new technologies) in order to make the system of redistribution of the funds collected from the market by CCSs clear and transparent.

Additional Information



The Document:

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Full version in Polish accessible at <http://centrumcyfrowe.pl/czytelnia/polskie-organizacje-zarzadzania-zbiorowego-i-ich-dane-finansowe/>

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