

CONSOLIDATED TEXT OF THE INTELLECTUAL PROPERTY LAW

BOOK FIRST

About copyright

TITLE I

General disposition

Article 1. Generating event.

The intellectual property of a literary, artistic or scientific work corresponds to the author for the sole fact of its creation.

Article 2. Content.

Intellectual property is made up of personal and patrimonial rights, which give the author the full disposition and the exclusive right to exploit the work, with no limitations other than those established in the Law.

Article 3. Characteristics.

Copyright is independent, compatible and cumulative with:

1. The property and other rights that have as their object the material thing to which the intellectual creation is incorporated.
2. The industrial property rights that may exist on the work.
3. The other intellectual property rights recognized in Book II of this Law.

Article 4. Disclosure and publication.

For the purposes of the provisions of this Law, disclosure of a work is understood to be any expression of the same that, with the consent of the author, makes it accessible to the public for the first time in any way; and by publication, the disclosure that is made by making a number of copies of the work available to the public that reasonably satisfies their estimated needs in accordance with the nature and purpose of the work.

TITLE II

Subject, object and content

CHAPTER I

Subjects

Article 5. Authors and other beneficiaries.

1. Author is considered to be the natural person who creates a literary, artistic or scientific work.
2. However, legal persons may benefit from the protection that this Law grants to the author in the cases expressly provided for in it.

Article 6. Presumption of authorship, anonymous or pseudonymous works.

1. The author will be presumed, unless proven otherwise, who appears as such in the work, by means of his name, signature or sign that identifies him.
2. When the work is disclosed anonymously or under a pseudonym or sign, the exercise of intellectual property rights will correspond to the natural or legal person that brings it to light with the consent of the author, as long as he does not reveal his identity.

Article 7. Work in collaboration.

1. The rights to a work that is the unitary result of the collaboration of several authors correspond to all of them.
2. To disclose and modify the work, the consent of all co-authors is required. In the absence of agreement, the Judge will resolve.

Once the work is disclosed, no co-author may unjustifiably refuse to consent to its exploitation in the way it was disclosed.

3. Subject to what is agreed between the co-authors of the work in collaboration, they may exploit their contributions separately, unless they cause damage to the common exploitation.
4. The intellectual property rights over a collaborative work correspond to all the authors in the proportion that they determine. In matters not provided for in this Law, the rules established in the Civil Code for the community of property will be applied to these works.

Article 8. Collective work.

A collective work is considered to be that created by the initiative and under the coordination of a natural or legal person who publishes and disseminates it under its name and is constituted by the meeting of contributions from different authors whose personal contribution is based on a unique and autonomous creation, for which it has been conceived without it being possible to separately attribute to any

of them a right over the whole of the work carried out.

Unless otherwise agreed, the rights over the collective work will correspond to the person who publishes and disseminates it under his or her name.

Article 9. Composed and independent work.

1. A new work that incorporates a pre-existing work without the collaboration of the latter's author will be considered a composite work, without prejudice to the corresponding rights and their necessary authorization.

2. The work that constitutes autonomous creation will be considered independent, even if it is published jointly with others.

CHAPTER II

Object

Article 10. Original works and titles.

1. All original literary, artistic or scientific creations expressed by any means or medium, tangible or intangible, currently known or invented in the future, are the object of intellectual property, including:

a) Books, brochures, printed matter, letters, writings, speeches and speeches, conferences, forensic reports, lectures, and any other works of the same nature.

b) Musical compositions, with or without lyrics.

c) Dramatic and dramatico-musical works, choreographies, pantomimes and, in general, theatrical works.

d) Cinematographic works and any other audiovisual works.

e) Sculptures and works of painting, drawing, engraving, lithography and graphic comics, comics or comics, as well as their essays or sketches and other plastic works, whether or not they are applied.

f) The projects, plans, models and designs of architectural and engineering works.

g) Graphics, maps and designs related to topography, geography and, in general, science.

h) Photographic works and those expressed by a procedure analogous to photography.

i) Computer programs.

2. The title of a work, when original, will be protected as part of it.

Article 11. Derivative works.

Without prejudice to the copyright on the original work, the following are also the subject of intellectual property:

1. Translations and adaptations.
2. The revisions, updates and annotations.
3. The compendia, summaries and extracts.
4. The musical arrangements.
5. Any transformations of a literary, artistic or scientific work.

Article 12. Collections. Databases.

1. Also subject to intellectual property, in the terms of Book I of this Law, are collections of foreign works, data or other independent elements such as anthologies and databases that, due to the selection or arrangement of their contents constitute intellectual creations, without prejudice, where appropriate, to the rights that may subsist on said content.

The protection recognized in this article for these collections refers only to their structure as a form of expression of the selection or arrangement of their contents, not being extensive to them.

2. For the purposes of this Law, and without prejudice to the provisions of the previous section, databases are the collections of works, data, or other independent elements arranged in a systematic or methodical manner and individually accessible by electronic means, or otherwise.

3. The protection granted to databases by virtue of this article shall not apply to computer programs used in the manufacture or operation of databases accessible by electronic means.

Article 13. Exclusions.

The legal or regulatory provisions and their corresponding projects, the resolutions

of the jurisdictional bodies and the acts, agreements, deliberations and opinions of the public bodies, as well as the official translations of all the previous texts, are not the object of intellectual property.

CHAPTER III

Content

Section 1 moral right

Article 14. Content and characteristics of the moral right.

The following inalienable and inalienable rights correspond to the author:

1. Decide if your work is to be disclosed and in what way.
2. Determine whether such disclosure must be made with your name, under a pseudonym or sign, or anonymously.
3. Demand recognition of their status as author of the work.
4. Demand respect for the integrity of the work and prevent any deformation, modification, alteration or attack against it that damages its legitimate interests or undermines its reputation.
5. Modify the work respecting the rights acquired by third parties and the requirements for the protection of assets of cultural interest.
- 6.⁹ Withdraw the work from the trade, due to a change in their intellectual or moral convictions, after compensation for damages to the holders of exploitation rights.

If, later, the author decides to resume the exploitation of his work, he must preferably offer the corresponding rights to the previous owner of the same and under conditions reasonably similar to the original ones.

7. Access the unique or rare copy of the work, when it is in the possession of another, in order to exercise the right of disclosure or any other that corresponds to it.

This right will not allow to demand the displacement of the work and access to it will be carried out in the place and in the way that cause the least inconvenience to the owner, who will be compensated, where appropriate, for the damages and losses incurred. .

Article 15. Cases of legitimation "mortis causa".

1. Upon the death of the author, the exercise of the rights mentioned in sections 3 and 4 of the previous article corresponds, without a time limit, to the natural or legal person to whom the author has expressly entrusted it by last will provision. Failing that, the exercise of these rights will correspond to the heirs.

2. The same persons indicated in the previous number and in the same order as indicated therein, may exercise the right provided in section 1 of article 14, in relation to the undisclosed work during the lifetime of its author and during a period of seventy years from his death or declaration of death, without prejudice to the provisions of article 40.

Article 16. Substitution in the "mortis causa" legitimation.

As long as the persons mentioned in the previous article do not exist, or their whereabouts are ignored, the State, the Autonomous Communities, local Corporations and public institutions of a cultural nature will be entitled to exercise the rights provided therein.

Section 2. Exploitation rights

Article 17. Exclusive right of exploitation and its modalities.

It corresponds to the author the exclusive exercise of the rights of exploitation of his work in any form and, especially, the rights of reproduction, distribution, public communication and transformation, which may not be carried out without his authorization, except in the cases provided for in the present Law.

Article 18. Reproduction.

Reproduction is understood to be the direct or indirect fixation, provisional or permanent, by any means and in any form, of the entire work or part of it, which allows its communication or the obtaining of copies.

Article 19. Distribution.

1. Distribution is understood to be the making available to the public of the original or copies of the work, on a tangible medium, through sale, rental, loan or in any other way.

2. When the distribution is carried out by means of sale or another title of transmission of the property, within the scope of the European Union, by the owner of the right or with his consent, this right will be exhausted with the first, although only for the successive sales and transfers of property carried out in said territorial area.

3. Rental is understood to be the making available of the originals and copies of a work for use for a limited time and with a direct or indirect economic or commercial benefit.

The rental concept is excluded from making available for exhibition purposes, public communication from phonograms or audiovisual recordings, including fragments of one and the other, and that made for on-site consultation.

4. Loan is understood to be the making available of originals and copies of a work for use for a limited time without direct or indirect economic or commercial benefit, provided that said loan is carried out through establishments accessible to the public.

It will be understood that there is no direct or indirect economic or commercial benefit when the loan made by an establishment accessible to the public gives rise to the payment of an amount that does not exceed what is necessary to cover operating expenses. This amount may not include totally or partially the amount of the right to remuneration that must be paid to the holders of intellectual property rights in accordance with the provisions of article 37.2.

The operations mentioned in the second paragraph of section 3 and those carried out between establishments accessible to the public are excluded from the concept of loan.

5. The provisions of this article regarding rent and loan shall not apply to buildings or works of applied art.

Article 20. Public communication.

1. Public communication shall be understood to be any act by which a plurality of people may have access to the work without prior distribution of copies to each of them.

Communication will not be considered public when it is held within a strictly domestic environment that is not integrated or connected to a broadcast network of any kind.

2. Especially, are acts of public communication:

a) Stage performances, recitations, lectures and public performances of dramatic, dramatico-musical, literary and musical works by any means or procedure.

b) The projection or public exhibition of cinematographic and other audiovisual works.

c) The emission of any works by radio broadcasting or by any other means that serves for the wireless diffusion of signs, sounds or images. The concept of emission includes the production of program-carrying signals to a satellite, when their reception by the public is not possible except through an entity other than the one of origin.

d) The broadcasting or communication to the public via satellite of any works, that is, the act of introducing, under the control and responsibility of the broadcasting entity, the signals carrying programs, intended for reception by the public in an uninterrupted chain communication that goes to the satellite and from it to the earth. Normal technical processes concerning program-carrying signals are not considered as interruptions in the communication chain.

When the program-carrying signals are broadcast in an encrypted manner, there will be communication to the public via satellite provided that the means of decoding are made available to the public by the broadcasting entity, or with its consent.

For the purposes of the provisions of the two preceding paragraphs, a satellite shall be understood to be anyone that operates in frequency bands reserved by telecommunications legislation for the broadcasting of signals for reception by the public or for individual non-public communication, provided that, in the latter case, the circumstances in which the individual reception of the signals is carried out are comparable to those applied in the first case.

e) The transmission of any works to the public by wire, cable, fiber optics or other analogous procedure, whether or not by subscription.

f) The retransmission, by any of the means mentioned in the previous sections and by an entity other than the originator, of the broadcast work.

Retransmission by cable is understood to be the simultaneous, unaltered and complete retransmission, by means of cable or microwave, of initial broadcasts or transmissions, including those made by satellite, of broadcast or televised programs intended to be received by the public.

g) The broadcast or transmission, in a place accessible to the public, by any suitable instrument, of the broadcast work.

h) The public exhibition of works of art or their reproductions.

i) Making works available to the public, by wired or wireless procedures, in such a way that anyone can access them from the place and at the time they choose.

j) Public access in any form to the works incorporated into a database, even if said database is not protected by the provisions of Book I of this Law.

k) Carrying out any of the above acts, with respect to a database protected by Book I of this Law.

3. Communication to the public via satellite in the territory of the European Union shall be governed by the following provisions:

a) Communication to the public via satellite will only take place in the Member State of the European Union in which, under the control and responsibility of the broadcasting entity, the program-carrying signals are introduced into the uninterrupted communication chain to which it refers paragraph d) of section 2 of this article.

b) When communication to the public via satellite takes place in the territory of a State that does not belong to the European Union where the level of protection that this section 3 establishes for said communication system to the public does not exist, the following shall be taken into account:

1. If the program carrier signal is sent to the satellite from an upstream signal station located in a Member State, the communication to the public via satellite will be considered to have taken place in that Member State. In this case, the rights that are established relative to satellite broadcasting may be exercised against the person who operates the station that broadcasts the ascending signal.

2. If an uplink station located in a Member State is not used but a broadcasting organization established in a Member State has commissioned the satellite broadcast, this act will be considered to have occurred in the Member State where the broadcaster has its main establishment. In this case, the rights established relative to satellite broadcasting may be exercised against the broadcasting entity.

4. Cable retransmission defined in the second paragraph of section 2.f) of this article, within the territory of the European Union, shall be governed by the following provisions:

a) The retransmission in Spanish territory of broadcasts, satellite broadcasts or initial broadcasts of programs from other Member States of the European Union will be carried out, with regard to copyright, in accordance with the provisions of this Law and with in accordance with the provisions of the individual or collective contractual agreements signed between the rights holders and the cable retransmission companies.

b) The right of copyright holders to authorize cable retransmission will be exercised exclusively through an intellectual property rights management entity.

c) In the case of holders who have not entrusted the management of their rights to an entity that manages intellectual property rights, they will be made effective through the entity that manages rights of the same category.

When there is more than one management entity of the rights of the aforementioned category, their holders may entrust the management of the same to any of the entities.

The holders referred to in this letter c) will enjoy the rights and will be subject to the obligations derived from the agreement entered into between the cable retransmission company and the entity to which it is considered to have delegated the management of their rights, on equal terms. conditions with the holders of rights who have entrusted the management of the same to such entity. Likewise, they may claim from the management entity referred to in the previous paragraphs of this letter c), their rights in the terms of article 177.

d) When the rights holder authorizes the broadcast, satellite broadcasting or initial transmission in Spanish territory of a protected work, it will be presumed that he consents not to exercise, individually, his rights for, where appropriate, the retransmission by cable of the same, but to exercise them in accordance with the provisions of this section 4.

e) The provisions of paragraphs b), c) and d) of this section 4 shall not apply to the rights exercised by broadcasting entities with respect to their own broadcasts, satellite broadcasts or transmissions, regardless of whether the aforementioned rights are yours or have been transferred to them by other copyright holders.

f) When, due to lack of agreement between the parties, a contract is not concluded for the authorization of cable retransmission, the parties may access, through mediation, the Mediation and Arbitration Commission for Intellectual

Property.

The provisions of article 193 and the royal decree implementing said provision shall be applicable to the mediation contemplated in the preceding paragraph.

g) When any of the parties, in abuse of their negotiating position, prevents the initiation or continuation in good faith of the negotiations for the authorization of the cable retransmission, or obstructs, without valid justification, the negotiations or the mediation to which they are The preceding paragraph refers, the provisions of Title I, Chapter I, of Law 16/1989, of July 17, on the Defense of Competition shall apply.

Article 21. Transformation.

1. The transformation of a work includes its translation, adaptation and any other modification in its form from which a different work is derived.

In the case of a database referred to in article 12 of this Law, the reorganization of the same will also be considered transformation.

2. The intellectual property rights of the work resulting from the transformation will correspond to the author of the latter, without prejudice to the right of the author of the pre-existing work to authorize, during the entire term of protection of their rights over it, the exploitation of those results in any form and especially through their reproduction, distribution, public communication or new transformation.

Article 22. Selected collections or complete works.

The transfer of the exploitation rights over his works will not prevent the author from publishing them together in a chosen or complete collection.

Article 23. Independence of rights.

The exploitation rights regulated in this section are independent of each other.

Section 3. Other rights

Article 24. Right of participation.

1. The authors of graphic or plastic works of art, such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glass objects, photographs and pieces of video art, will have the right to receive from the seller a participation in the price of any resale of the same that takes place after the first assignment made by the author. The copies of works of art object of this right that have been made by the author himself or under his

authority will be considered original works of art. Said copies will be numbered, signed or duly authorized by the author.

2. The right of participation is recognized to the author of the work and his successors in title after death or declaration of death.

3. The protection of the right of participation is recognized for Spanish authors, national authors from other Member States of the European Union, as well as third-country nationals with habitual residence in Spain. For authors who are nationals of third countries and do not have habitual residence in Spain, the right of participation will be recognized only when the legislation of the country of which the author is a national also recognizes the right of participation for authors from the Member States. of the European Union and its heirs.

4. The right shall apply to all resales in which, as sellers, buyers or intermediaries, professionals of the art market such as sales rooms, auction rooms, art galleries, art dealers and, in general, participate , any natural or legal person that habitually carries out intermediation activities in this market.

5. The right will also apply when art market professionals carry out the activities described through information society service providers, in accordance with the provisions of Law 34/2002, of July 11, of Services of the Information Society and Electronic Commerce.

6. The acts of reselling of the work that have been purchased by an art gallery directly from the author are excepted from sections 4 and 5, provided that the period elapsed between this first acquisition and the resale does not exceed three years and the price of resale does not exceed 10,000 euros excluding taxes.

7. The right of participation of the authors will arise when the resale price is equal to or greater than 800 euros, excluding taxes, per work sold or set conceived as a single unit.

8. The amount of participation that will correspond to the authors will be based on the following percentages:

a) 4% of the first 50,000 euros of the resale price.

b) 3% of the part of the resale price between 50,000.01 and 200,000 euros.

c) 1% of the part of the resale price between 200,000.01 and 350,000 euros.

d) 0.5% of the part of the resale price between 350,000.01 and 500,000 euros.

e) 0.25% of the part of the resale price that exceeds 500,000 euros.

In no case may the total amount of the right exceed 12,500 euros.

The resale prices contemplated in this section will be calculated without including the tax accrued for the resale of the work.

9. The right of participation is inalienable, inalienable, will be transmitted only by succession mortis causa and will expire after seventy years from January 1 of the year following that in which the death or declaration of death of the author occurred.

10. The participation right recognized in section 1 will be made effective through the intellectual property rights management entities, whose legitimacy will be in accordance with the provisions of article 150 of this law. The management entities must act in an efficient and transparent manner both in the collection and in the distribution of the right, and always with full respect for the obligations established by the applicable regulations.

11. The management entities shall notify the holder of the right whose management has been transferred that the payment referred to in section 15 has been made within a maximum period of one month from when it took place.

12. The management entities will settle the amount owed to the holder, by way of participation right, within a maximum period of one year from the moment of payment, unless the holder claims the settlement within said period, in which case this it will be made in the month following the claim.

13. When the participation right refers to a work created by two or more authors, its amount will be divided equally between the authors of said work, unless otherwise agreed.

14. Professionals in the art market who have intervened in a resale subject to the resale right shall be obliged to:

a) Notify the seller, the owner of the participation right and the corresponding management entity of the resale made. The notification will be made in writing or by other means that allows to record the remission and receipt of the notification

within a period of two months from the day following the date of the resale and must contain in any case:

i) The place and date on which the resale took place.

ii) The full price of the sale.

iii) The supporting documentation of the resale necessary for the verification of the data and the practice of the corresponding settlement. Said documentation must include, at least, the place and date on which the resale was carried out, the price of the same and the identifying data of the resold work, as well as the contracting parties, the intermediaries, where appropriate, and the author of the work.

b) Withhold the amount of the author's participation right in the price of the resold work.

c) Keep in free deposit, and without obligation to pay interest, the amount withheld until delivery to the holder or, where appropriate, to the corresponding management entity.

d) When more than one professional in the art market has intervened in the resale of the work, the person obliged to carry out the operation, both in terms of notification, retention, deposit and payment of the right, will be the professional of the art market who has acted as a seller and, failing that, who has acted as an intermediary.

15. Once the notification referred to in section a) of section 14 refers, the professionals of the art market will make the payment of the right to the corresponding management entity or, where appropriate, to the right holders, within a period of time maximum of two months.

16. The professionals of the art market who intervene in the resales subject to the right of participation in accordance with sections 4 to 6, will be jointly and severally liable with the seller for the payment of the right.

17. The holders of the participation right or, where appropriate, the management entities of the intellectual property rights may require any professional of the art market of those mentioned in section 4, for a period of three years from the date of resale, the information indicated in letter a) of section 14 that is necessary to calculate the amount of the participation right.

18. The holders of the right of participation or, where appropriate, the management entities must respect the principles of confidentiality or commercial privacy in relation to any information they know in the exercise of the powers provided for in this law.

19. The action of the owners to enforce the right before the professionals of the art market will prescribe three years after the notification of the resale.

20. The administration of the Fine Arts Aid Fund corresponds to a Commission attached to the Ministry of Culture and Sports, without prejudice to its functional autonomy. Said Commission is chaired by the Minister of Culture and Sports or the person to whom he delegates and will be made up of representatives of the Autonomous Communities, of the obligated subjects and of the entities that manage the right of participation in the manner in which it is determined by regulatory pathway.

21. The amounts received by the management entities as participation rights not distributed to their holders within the period established in section 12 due to lack of identification of these and on which there is no claim, must be paid into the Fund of Aid to Fine Arts within a maximum period of one year.

22. The management entities will be obliged to notify the Administrative Commission of the Fine Arts Aid Fund, in the first quarter of each year, the list of amounts received for the participation right and the distributions made, as well as the reasons that have made it impossible to distribute the amounts paid into the Fund.

23. The Administrative Commission of the Fund will publish, on an annual basis, a report on the application of the participation right.

24. The Autonomous Communities, in accordance with their exclusive competence in the matter, will directly and fully manage the resources of the Fine Arts Aid Fund in their respective territories. The distribution criteria and mechanisms must, in turn, be agreed with the Autonomous Communities.

Article 25. Equitable compensation for private copying.

1. The reproduction of works disclosed in the form of books or publications that for these purposes are assimilated by royal decree, as well as phonograms, videograms or other sound, visual or audiovisual supports, carried out by means of non-typographic technical devices or instruments, exclusively for Private,

non-professional or business use, without direct or indirect commercial purposes, in accordance with article 31, sections 2 and 3, will originate a fair and unique compensation for each of the three aforementioned reproduction modalities aimed at adequately compensating the damage caused to creditor subjects as a result of the reproductions made under the legal limit of private copying. Said compensation will be determined for each modality depending on the teams,

2. The authors of the works indicated in the previous section, publicly exploited in any of the ways mentioned in said section, jointly and, in the cases and modes of reproduction where appropriate, with the publishers, producers of phonograms and videograms, and performers whose performances have been fixed on said phonograms and videograms. This right shall be inalienable for authors and performers.

3. The manufacturers in Spain, as long as they act as commercial distributors, as well as the purchasers outside the Spanish territory, for their commercial distribution or use within it, of equipment, devices and material supports provided for will be subject to payment of the aforementioned compensation. in section 1.

Likewise, the distributors, wholesalers and retailers, who are successive purchasers of the aforementioned equipment, apparatus and material supports, will be jointly liable for the payment of the compensation, with respect to the debtors who have supplied them, unless they prove that they have effectively satisfied them. The compensation.

The distributors, wholesalers and retailers that are successive purchasers of the aforementioned equipment, devices and material supports may request the management entities, in accordance with the procedure to make effective the equitable compensation that will be developed by royal decree, the return of that in what corresponds to the sale of equipment, apparatus and material reproduction supports to excepted subjects according to section 7.

4. The determination of the equipment, apparatus and material supports subject to the payment of equitable compensation, the amounts that the debtors must pay for this concept to the creditors and the distribution of said compensation among the different modes of reproduction will be set by Order of the Ministry of the Presidency and for Territorial Administrations, at the proposal of the Ministries of Education, Culture and Sports and of Energy, Tourism and Digital Agenda, after a report to the Government Delegate Commission for Economic Affairs.

Prior to its approval, the Council of Consumers and Users will be consulted and

the First Section of the Intellectual Property Commission will issue a mandatory report.

During the procedure for the preparation of said Order, an audience will be given to the intellectual property rights management entities, the interested parties and the majority associations that represent the debtor subjects, in accordance with what is determined by the Ministry of Energy, Tourism and Agenda Digital, all of them having to provide a reasoned proposal regarding their area of interest, which will be accompanied by a supporting report.

On the part of the Directive Center promoting the Order, primary attention will be paid to the allegations of each interested party directly related to their respective specific legitimate rights.

The Order may be revised at any time depending on technological evolution and market conditions. In any case, it must be reviewed at least every three years.

5. For the purposes provided in the previous section, the following will be taken into account:

a) The determination of the amount of equitable compensation will be calculated on the basis of the damage caused to the creditor subjects as a result of the reproductions made under the limit to the right of reproduction provided for in article 31, sections 2 and 3. To do so At least the following objective criteria will be taken into account:

1. The intensity of use of the equipment, apparatus and material supports, for which the estimate of the number of copies made under the legal limit of private copying will be taken into account.

2. The storage capacity of the equipment, apparatus and material supports, as well as the importance of the reproduction function with respect to the rest of their functions.

3. The impact of the legal limit of private copy on the sale of copies of the works, taking into account the degree of actual substitution of these by the private copies made and the effect that the purchaser of a copy or original copy has the possibility of making private copies.

4. The price of the unit of each reproduced modality.

5. The digital or analog nature of the reproductions made under the legal limit of private copying, or the quality and conservation time of the reproductions.

6. The availability, degree of application and effectiveness of the technological measures referred to in article 160.3 of the revised text of the Intellectual Property Law and their impact on the reproductions made under the legal limit of private copying.

7. The amounts of equitable compensation for private copying that is applicable in other Member States of the European Union provided that there are homogeneous bases of comparison.

b) Situations in which the damage caused to the owner of the reproduction right has been minimal, which will be determined by royal decree, will not give rise to a compensation obligation.

c) The following will not be considered reproductions for private use:

1. Those made in establishments dedicated to the realization of reproductions for the public, or that have the equipment, devices and materials for their realization at the public's disposal.

2. Those made by means of digital reproduction equipment, devices and media that have not been made available by law or in fact to private users and that are manifestly reserved for uses other than making private copies.

d) Reproduction equipment, apparatus and material supports manifestly conceived for professional use and which have not been made available by law or in fact to private users for making private copies, will not be subject to the payment of equitable compensation for copying. private.

6. The obligation to pay the compensation provided for in section 1 of this article will arise in the following cases:

a) For manufacturers insofar as they act as distributors and for purchasers of equipment, apparatus and material supports outside of Spanish territory for their commercial distribution there, at the time the transfer of ownership occurs by the debtor. or, where appropriate, the assignment of the use or enjoyment of any of them.

b) For purchasers of equipment, apparatus and material supports outside of

Spanish territory for use within that territory, from the moment of acquisition.

7. The following acquisitions of reproduction equipment, apparatus and material supports will be exempted from the payment of compensation:

a) Those carried out by the entities that make up the public sector as established in the consolidated text of the Public Sector Contract Law, approved by Royal Legislative Decree 3/2011, of November 14, as well as by the Congress of Deputies, the Senate, the General Council of the Judiciary, the Court of Accounts, the Ombudsman, the Legislative Assemblies of the Autonomous Communities and autonomous institutions analogous to the Court of Accounts and the Ombudsman. This exception may be credited to debtors and, where appropriate, to jointly and severally liable:

1. Through a certification issued by the competent body of the General State Administration, the Administrations of the Autonomous Communities, the Entities that make up the Local Administration, the managing entities and the common services of Social Security, the Public Universities as well as the Congress of Deputies, the Senate, the General Council of the Judiciary, the Council of State, the Court of Accounts, the Ombudsman, the legislative Assemblies of the Autonomous Communities and the autonomous institutions analogous to the Council of State, Court of Accounts and the Ombudsman.

2. By means of a certification issued by the management and guardianship body regarding mutual collaborators with Social Security.

3. By means of a certification issued by the territorial administration on which they depend or to which the rest of the entities that make up the public sector are linked.

b) Those carried out by legal or natural persons who act as final consumers, who justify the exclusively professional use of the equipment, apparatus or material supports acquired and provided that these have not been made, in law or in fact, available to private users and that they are manifestly reserved for uses other than making private copies, which must be accredited to debtors and, where appropriate, jointly and severally liable parties through a certification issued by the legal entity provided for in section 10.

c) Those made by those who have the mandatory authorization to carry out the corresponding reproduction of works, artistic performances, phonograms or videograms, as appropriate, in the exercise of their activity, which must be

accredited to the debtors and, where appropriate , to their jointly responsible, by means of a certification issued by the legal person provided for in section 10.

d) Those made by natural persons for private use outside of Spanish territory under the passenger regime.

In the absence of certification, the beneficiaries of the exception may request the reimbursement of the compensation.

8. Those legal or natural persons not exempted from the payment of compensation may request reimbursement of the compensation when:

a) Act as end consumers, justifying the exclusively professional destination of the equipment, apparatus or material reproduction material acquired, and provided that these have not been made, in law or in fact, available to private users and that they are manifestly reserved for uses other than making private copies.

b) The equipment, apparatus or material reproductive supports acquired have been destined for export or intra-community delivery.

Reimbursement requests for amounts less than twenty-five euros will not be accepted. However, if the reimbursement request accumulates the equitable compensation paid for the acquisition of equipment, apparatus and material supports made in one year, they will be accepted even when they do not reach twenty-five euros.

The term to exercise the reimbursement action will be one year from the date recorded in the invoice for the acquisition of the equipment, apparatus or material support that gave rise to the payment of equitable compensation. In the case of accumulated annual invoices for an amount less than twenty-five euros, the term will be computed from the last invoice.

9. Equitable compensation will be made effective through the intellectual property rights management entities in accordance with the procedure determined for this purpose by royal decree, and they must guarantee the debtors and jointly responsible parties a unified communication of billing, that it corresponds to them to pay.

10. The intellectual property rights management entities will participate in the constitution, in accordance with current legislation, management and financing of a legal entity that will exercise, on behalf of all of them, the following functions:

- a) The management of exemptions from payment and reimbursements.
- b) The receipt and subsequent referral to the management entities of the periodic relations of equipment, apparatus and reproduction media with respect to which the obligation to pay compensation has arisen, prepared by the debtor subjects and, where appropriate, by the jointly and severally liable, within the framework of the procedure to make effective the compensation determined by royal decree.
- c) Unified billing communication.

11. The debtors and their joint and several responsible parties will allow the legal person that the management entities establish, in accordance with the provisions of the previous section, the control of acquisitions and sales subject to the payment of equitable compensation as well as those affected by the exceptions established in section 7. Likewise, the subjects who have obtained the exemption certification shall provide, at the request of the aforementioned legal entity, the data necessary to verify that effective compliance with the requirements to be a beneficiary of the exception is maintained.

12. For the purposes that the Ministry of Education, Culture and Sports, in the exercise of its functions of inspection, surveillance and control over the entities that manage intellectual property rights, ensure compliance with the obligations of the aforementioned person legal, this will communicate to the Secretary of State for Culture, on April 1 of each year, the following information regarding the previous year:

- a) A detailed list of the periodic relationships of reproduction equipment, apparatus and media with respect to which the obligation to pay compensation has arisen, drawn up by the debtor subjects and by jointly and severally liable parties.
- b) A detailed list of the compensations paid by the debtor subjects and the jointly and severally liable parties.
- c) The list of exemption certifications and reimbursements processed.
- d) Any additional information that the Ministry of Education, Culture and Sports deems necessary to exercise its functions.

This information will be published on the website of the Ministry of Education, Culture and Sport.

Likewise, the Ministry of Education, Culture and Sports will resolve the conflicts that arise regarding the denials, by the aforementioned legal entity, of the exemption certificates provided for in letters b) and c) of section 7 and requests for reimbursement of the payment of fair compensation for private copying provided for in section 8.

TITLE III

Duration, limits and safeguard of other legal provisions

CHAPTER I

Duration

Article 26. Duration and calculation.

The rights to exploit the work will last for the life of the author and seventy years after his death or declaration of death.

Article 27. Duration and computation in posthumous, pseudonymous and anonymous works.

1. The exploitation rights of the anonymous or pseudonymous works referred to in article 6 will last seventy years from their lawful disclosure.

When the author is known before this deadline, either because the pseudonym he has adopted leaves no doubt about his identity, or because the author himself reveals it, the provisions of the preceding article shall apply.

2. The exploitation rights of works that have not been lawfully disclosed will last seventy years from their creation, when the term of protection is not computed from the death or declaration of death of the author or authors.

Article 28. Duration and calculation of collaborative and collective works.

1. The rights to exploit collaborative works defined in article 7, including cinematographic and audiovisual works, will last for the life of the co-authors and seventy years from the death or declaration of death of the last surviving co-author.

In the case of musical compositions with lyrics, the exploitation rights will last for the lifetime of the author of the lyrics and the author of the musical composition and seventy years from the death or declaration of death of the last survivor, provided that their contributions were created. specifically for the respective musical composition with lyrics.

2. The exploitation rights over collective works defined in article 8 of this Law will last seventy years from the lawful disclosure of the protected work. However, if the natural persons who have created the work are identified as authors in the versions of the work that are made accessible to the public, the provisions of articles 26 or 28.1 will be followed, as appropriate.

The provisions of the preceding paragraph shall be understood without prejudice to the rights of the identified authors whose identifiable contributions are contained in said works, to which article 26 and section 1 of this article shall apply, as appropriate.

Article 29. Works published by parts.

In the case of works disclosed by parts, volumes, deliveries or fascicles, which are not independent and whose term of protection begins to elapse when the work has been lawfully disclosed, said term will be computed separately for each element.

Article 30. Calculation of the term of protection.

The terms of protection established in this Law will be calculated from January 1 of the year following the death or declaration of death of the author or the lawful disclosure of the work, as appropriate.

CHAPTER II

Limits

Article 31. Provisional reproductions and private copy.

1. The acts of provisional reproduction referred to in article 18 which, in addition to lacking independent economic significance by themselves, are transitory or accessory and form an integral and essential part of a technological process, shall not require authorization from the author. The sole purpose is to facilitate either a network transmission between third parties by an intermediary, or a lawful use, understood as authorized by the author or by law.

2. Without prejudice to the equitable compensation provided for in article 25, the reproduction, in any medium, without the assistance of third parties, of works already disclosed, does not need authorization from the author, when the following circumstances concur simultaneously, constituting the legal limit of private copying :

a) That it is carried out by a natural person exclusively for their private, non-professional or business use, and without direct or indirect commercial purposes.

b) That the reproduction is made from a legal source and that the conditions of access to the work or performance are not violated.

c) That the copy obtained is not the object of a collective or lucrative use, or of distribution by price.

3. The following are excluded from the provisions of the previous section:

a) The reproductions of works that have been made available to the public in accordance with article 20.2.i), in such a way that any person can access them from the place and time they choose, authorizing themselves, in accordance with what is agreed by contract, and, where appropriate, upon payment of the price, the reproduction of the work.

b) Electronic databases.

c) Computer programs, in application of letter a) of article 99.

Article 31 bis. Security and official procedures.

Author authorization will not be required when a work is reproduced, distributed or publicly communicated for public safety purposes or for the proper development of administrative, judicial or parliamentary procedures.

Article 31 ter. Accessibility for people with disabilities.

1. The acts of reproduction, distribution and public communication of works already disclosed that are carried out for the benefit of people with disabilities do not need authorization from the owner of intellectual property rights, provided that they do not have a lucrative purpose, are directly related to the disability in question, are carried out through a procedure or means adapted to the disability and are limited to what it requires.

2. In those special cases that do not conflict with the normal exploitation of the work, and that do not excessively harm the legitimate interests of the right holder, the authorized entities established in Spain that produce accessible format copies of works for exclusive use Blind people, with visual disabilities or with other difficulties in accessing printed texts, may carry out the acts of the previous section, in the manner referred to in it, for the exclusive use of said beneficiaries or of an authorized entity established in any State member of the European Union. In addition,

Visual impairment and difficulty in accessing printed works, including audio and

digital formats, for the purposes of determining the beneficiaries of this section, are understood to be those of people who:

a) are blind;

b) have a visual impairment that cannot be corrected to give them a visual function substantially equivalent to that of a person without such impairment, and who, consequently, are unable to read printed works to an extent substantially equivalent to that of a person without that type of disability;

c) have a perception or reading difficulty that consequently renders them incapable of reading printed works to an extent substantially equivalent to that of a person without such difficulty, or

d) are unable, due to a physical disability, to hold or manipulate a book or to focus their eyes or move their eyes to the extent that would normally be acceptable for reading.

Authorized entities, for the purposes of this article, shall be those entities that provide non-profit making to blind people, people with visual disabilities or other difficulties to access printed texts, education, pedagogical training, adapted reading or access to information, or that, being public institutions or non-profit organizations, have these services as one of their main activities, as one of their institutional obligations or as part of their missions of public interest.

3. The entities authorized for the purposes of this article must:

a) Distribute, communicate or make available copies in accessible format of works for the exclusive use of the beneficiaries of the previous section or of other authorized entities.

b) Take the necessary measures to discourage the reproduction, distribution, communication to the public or making available to the public, in an unauthorized manner, copies in accessible format.

c) Manage the works with due diligence, as well as their copies, in an accessible format, and keep a record of such management.

d) Publish information on the actions carried out in application of the previous letters, being sufficient, for these purposes, a biannual update on its internet portal and a referral of said information, updated biannually, to the management

center of the competent Ministry of Culture and Sports in matters of intellectual property and to the entity or entities for the management of intellectual property rights that represent the owners of the works adapted to an accessible format. The aforementioned management center of the Ministry of Culture and Sports will create and keep a register of the authorized entities and will be able to check, at any time, the actions reported by them.

e) Provide in an accessible way, upon request, the list of works and available formats as provided in the previous letter d), and the data of the authorized entities with which they have exchanged copies in accessible format, to the beneficiaries of the previous section , to other authorized entities or rights holders.

The Ministry of Culture and Sport will send the European Commission the information it has received from the authorized entities, including their name and contact details.

These obligations must be fulfilled in full compliance with current regulations regarding the processing of personal data.

4. The entities shall notify the executive center of the Ministry of Culture and Sports competent in matters of intellectual property, the fulfillment of the requirements contained in the previous sections 2 and 3, which are required from an authorized entity. In the event of non-compliance with the same and if the appropriate request for correction is not attended, the companies will be required to cease the activity regulated in this article.

5. The provisions of the previous sections 2, 3 and 4 are without prejudice to the applicability of the European Union regulations regarding cross-border exchange between it and third countries of copies in accessible format of certain works and other benefits protected by copyright and related rights in favor of people who are blind, visually impaired or have other difficulties in accessing printed texts.

Article 32. Quotes and reviews and illustration for educational or scientific research purposes.

1. The inclusion in an own work of fragments of others of a written, sound or audiovisual nature, as well as isolated works of a figurative plastic or photographic nature, is legal, provided that they are works already disclosed and their inclusion is carried out at citation title or for your analysis, comment or critical judgment. Such use may only be made for educational or research purposes, to the extent justified by the purpose of such incorporation and indicating the source and the

name of the author of the work used.

Periodic compilations made in the form of reviews or press reviews will be considered citations. However, when compilations of journalistic articles are made that basically consist of their mere reproduction and said activity is carried out for commercial purposes, the author who has not expressly objected will have the right to receive equitable remuneration. In case of express opposition from the author, said activity will not be understood to be covered by this limit.

In any case, the reproduction, distribution or public communication, in whole or in part, of isolated journalistic articles in a press dossier that takes place within any organization will require the authorization of the rights holders.

2. The making available to the public by providers of electronic content aggregation services of insignificant fragments of content, disclosed in periodical publications or on regularly updated websites and that have an informative purpose, to create public opinion or entertainment, will not require authorization, without prejudice to the right of the publisher or, where appropriate, other holders of rights to receive equitable compensation. This right will be inalienable and will be made effective through the intellectual property rights management entities. In any case, the making available to the public by third parties of any image, photographic work or mere photograph disclosed in periodical publications or on regularly updated websites will be subject to authorization.

Without prejudice to the provisions of the previous paragraph, the making available to the public by service providers that provide search tools for isolated words included in the contents referred to in the previous paragraph will not be subject to authorization or equitable compensation provided that such made available to the public is produced without its own commercial purpose and is carried out strictly circumscribed to what is essential to offer search results in response to queries previously made by a user to the search engine and provided that the making available to the public includes a link to the page of origin of the contents.

3. The teachers of regulated education taught in centers integrated in the Spanish educational system and the personnel of Universities and Public Research Bodies in their scientific research functions, will not need authorization from the author or editor to carry out acts of reproduction, distribution and communication public of small fragments of works and isolated works of a figurative or photographic plastic nature, when, not for a commercial purpose, the following conditions are met simultaneously:

a) That such acts be done solely for the illustration of their educational activities, both in face-to-face teaching and distance learning, or for scientific research purposes, and to the extent justified by the non-commercial purpose pursued.

b) That they are works already disclosed.

c) That the works do not have the status of a textbook, university manual or similar publication, except in the case of:

1. Acts of reproduction for public communication, including the act of public communication itself, that do not entail making the work or fragment available or allowing access to the recipients. In these cases, a location from which students can legally access the protected work must be expressly included.

2. Acts of distribution of copies exclusively among the collaborating research staff of each specific research project and to the extent necessary for this project.

For these purposes, a textbook, university manual or similar publication shall be understood as any publication, printed or capable of being so, edited in order to be used as a resource or material for teachers or students of regulated education to facilitate the process. of teaching or learning.

d) That the name of the author and the source are included, except in cases where it is impossible.

For these purposes, a small fragment of a work will be understood as an extract or portion that is not quantitatively relevant to the whole of it.

The authors and editors will not be entitled to any remuneration for the performance of these acts.

4. The acts of partial reproduction, distribution and public communication of works or publications, whether in print or capable of being, will not need the authorization of the author or publisher, when the following conditions concur simultaneously:

a) That such acts are carried out solely for illustration for educational and scientific research purposes.

b) That the acts are limited to a chapter of a book, article in a magazine or

equivalent extension with respect to an assimilated publication, or an extension equivalent to 10 percent of the total of the work, it being indifferent for these purposes that the copy is carried out through one or more acts of reproduction.

c) That the acts are carried out in the universities or public research centers, by their personnel and with their own means and instruments.

d) That at least one of the following conditions concur:

1. That the distribution of the partial copies be made exclusively among the students and teaching or research staff of the same center where the reproduction is made.

2. That only the students and the teaching or research staff of the center in which the partial reproduction of the work is carried out may have access to it through the acts of public communication authorized in this section, carrying out the made available through internal and closed networks that only those beneficiaries can access or within the framework of a distance education program offered by said educational center.

In the absence of prior specific agreement in this regard between the owner of the intellectual property right and the university center or research organization, and unless said center or organization is the owner of the corresponding intellectual property rights over the works reproduced, distributed and publicly communicated. partially according to section b), the authors and editors of these will have an inalienable right to receive from the user centers an equitable remuneration, which will be made effective through the management entities.

5. Musical scores, single-use works, or compilations or groupings of fragments of works, or isolated works of a plastic or figurative photographic nature shall not be understood as included in sections 3 and 4.

Article 33. Works on current affairs.

1. The works and articles on current affairs disseminated by the social communication media may be reproduced, distributed and publicly communicated by any other of the same class, citing the source and the author if the work appeared with signature and provided that it is not would have stated the reservation of rights at the source. All this without prejudice to the author's right to receive the agreed remuneration or, in the absence of agreement, the one deemed equitable.

In the case of literary collaborations, it will be necessary, in any case, the appropriate authorization of the author.

2. Likewise, conferences, speeches, reports before the Courts and other works of the same nature that have been pronounced in public may be reproduced, distributed and communicated, provided that these uses are made for the exclusive purpose of informing about current affairs. This last condition will not apply to speeches delivered in parliamentary sessions or public corporations. In any case, the right to publish such works in a collection is reserved to the author.

Article 34. Use of databases by the legitimate user and limitations on the exploitation rights of the owner of a database.

1. The legitimate user of a database protected by virtue of article 12 of this Law or of copies thereof, may carry out, without the authorization of the author of the database, all the acts that are necessary to access the content of the database and its normal use by the user himself, even if they are affected by any exclusive right of that author. Insofar as the legitimate user is authorized to use only a part of the database, this provision shall apply only to that part.

Any agreement contrary to what is established in this provision will be null and void.

2. Without prejudice to the provisions of article 31, the authorization of the author of a database protected by virtue of article 12 of this Law and that has been disclosed will not be required:

a) When, in the case of a non-electronic database, a reproduction is made for private purposes.

b) When the use is made for the purposes of illustration of teaching or scientific research provided that it is carried out to the extent justified by the non-commercial objective pursued and indicating in any case its source.

c) In the case of use for public security purposes or for the purposes of an administrative or judicial procedure.

Article 35. Use of works on the occasion of current information and those located on public roads.

1. Any work capable of being seen or heard on the occasion of information on current events may be reproduced, distributed and publicly communicated,

although only to the extent that said informative purpose justifies it.

2. Works permanently located in parks, streets, squares or other public roads may be freely reproduced, distributed and communicated by means of paintings, drawings, photographs and audiovisual procedures.

Article 36. Cable, satellite and technical recordings.

1. The authorization to broadcast a work includes the transmission by cable of the broadcast, as long as it is carried out simultaneously and entirely by the originating entity and without exceeding the geographical area provided for in said authorization.

2. Likewise, the aforementioned authorization includes its incorporation into a program directed towards a satellite that allows the reception of this work through an entity other than the one of origin, when the author or his successor in title has authorized the latter entity to communicate the work to the public, in which case, in addition, the originating station will be exempt from paying all remuneration.

3. The transfer of the right of public communication of a work, when it is carried out through radio broadcasting, will empower the broadcasting entity to register it by its own means and for its own wireless broadcasts, in order to carry out, by a only once, authorized public communication. For new broadcasts of the work thus registered, the transfer of the right of reproduction and public communication will be necessary.

4. The provisions of this article are understood without prejudice to the provisions of article 20 of this Law.

Article 37. Reproduction, loan and consultation of works through specialized terminals in certain establishments.

1. The copyright holders may not oppose the reproductions of the works, when they are made for non-profit purposes by museums, libraries, music libraries, film libraries, newspaper libraries or archives of public ownership or integrated into institutions of a cultural nature or scientific and reproduction is made exclusively for research or conservation purposes.

2. Likewise, museums, archives, libraries, newspaper libraries, sound libraries or film libraries of public ownership or that belong to non-profit entities of general interest of a cultural, scientific or educational nature, or to educational institutions integrated into the Spanish educational system, do not They will require

authorization from the holders of rights for the loans they make.

The owners of these establishments will remunerate the authors for the loans they make of their works in the amount determined by Royal Decree. The remuneration will be made effective through the intellectual property rights management entities.

When the owners of the establishments are the Municipalities, the remuneration will be paid by the Provincial Councils. Where they do not exist, the remuneration will be paid by the Administration that assumes its functions.

Publicly owned establishments that provide services in municipalities with fewer than 5,000 inhabitants, as well as libraries of educational institutions integrated into the Spanish educational system, are exempt from the obligation of remuneration.

The Royal Decree by which the amount is established will also contemplate the necessary collaboration mechanisms between the State, the Autonomous Communities and the local corporations for the fulfillment of the remuneration obligations that affect publicly owned establishments.

3. The communication of works or their making available to specific people of the public for research purposes will not need authorization from the author when it is carried out through a closed and internal network through specialized terminals installed for this purpose in the premises of the establishments mentioned in the previous section and provided that such works appear in the collections of the establishment itself and are not subject to acquisition or license conditions. All this without prejudice to the author's right to receive equitable remuneration.

Article 37 bis. Orphan works.

1. An orphan work will be considered to be the work whose rights holders are not identified or, if they are, are not located despite having carried out a prior diligent search for them.

2. If there are several holders of rights to the same work and not all of them have been identified or, despite having been identified, they have not been located after having carried out a diligent search, the work may be used in accordance with this law, without prejudice to the rights of the holders who have been identified and located and, where appropriate, the need for the corresponding authorization.

3. Any use of an orphan work will require mention of the names of the authors

and holders of intellectual property rights identified, without prejudice to the provisions of article 14.2.

4. Educational centers, museums, libraries and newspaper libraries accessible to the public, as well as public broadcasting organizations, archives, sound libraries and film libraries may reproduce, for the purposes of digitization, making available to the public, indexing, cataloging, conservation or restoration, and make available to the public, in the manner established in article 20.2.i), the following orphan works, provided that such acts are carried out non-profit and in order to achieve objectives related to its mission of public interest , in particular the conservation and restoration of the works that appear in its collection and the facilitation of access to it for cultural and educational purposes:

a) Cinematographic or audiovisual works, phonograms and published works in the form of books, newspapers, magazines or other printed material that appear in the collections of educational centers, museums, libraries and newspaper libraries accessible to the public, as well as archives, sound libraries and film libraries.

b) Cinematographic or audiovisual works and phonograms produced by public broadcasting organizations up to and including December 31, 2002, and which appear in their archives.

The provisions of this article will also apply to the works and protected services that are inserted or incorporated in the works cited in this section or form an integral part of them.

5. Orphan works may be used as long as they have been published for the first time or, in the absence of publication, have been broadcast for the first time in a Member State of the European Union. Said use may be carried out after a diligent search, in said State, of the holders of the intellectual property rights of the orphan work. In the case of cinematographic or audiovisual works whose producer has his headquarters or habitual residence in a Member State of the European Union, the search for the holders must be carried out in that State.

Likewise, the entities mentioned in the previous section that have made available to the public, with the consent of their rights holders, unpublished or broadcast orphan works, may use them, when it is reasonable to assume that their owners would not oppose the intended uses. in this article. In this case, the search referred to in the previous paragraph must be carried out in Spain.

The diligent search will be carried out in good faith, by consulting, at least, the

sources of information that are determined by regulation, without prejudice to the obligation to consult additional sources available in other countries where there are indications of the existence of relevant information on the rights holders.

6. The entities mentioned in section 4 will record the search process for the holders of rights and will forward the following information to the competent body referred to in the following section:

a) The results of the diligent searches that they have carried out and that have led to the conclusion that a work or a phonogram should be considered an orphan work.

b) The use that entities make of orphan works in accordance with this law.

c) Any change, in accordance with the following section, in the orphan work status of the works and phonograms they use.

d) The relevant contact information for the entity in question.

7. At any time, the holders of intellectual property rights of a work may request the competent body to determine by regulation the end of its status as an orphan work with regard to its rights and receive equitable compensation for the use carried out, carried out in accordance with the provisions of this article.

Article 38. Official acts and religious ceremonies.

The execution of musical works in the course of official acts of the State, public administrations and religious ceremonies will not require authorization from the holders of the rights, provided that the public can attend them free of charge and the artists who participate in them do not receive specific remuneration for their interpretation or execution in said acts.

Article 39. Parody.

The parody of the published work will not be considered a transformation that requires the consent of the author, as long as it does not imply a risk of confusion with it or damage to the original work or its author is inferred.

Article 40. Protection of the right of access to culture.

If upon the death or declaration of death of the author, his heirs in title exercise their right to non-disclosure of the work, under conditions that violate the provisions of Article 44 of the Constitution, the Judge may order the appropriate measures at the request of the State, the Autonomous Communities, local

Corporations, public institutions of a cultural nature or any other person who has a legitimate interest.

Article 40 bis. Provision common to all of this chapter.

The articles in this chapter may not be interpreted in such a way as to allow their application in such a way as to cause unjustified damage to the legitimate interests of the author or to the detriment of the normal exploitation of the works to which they refer.

CHAPTER III

Safeguarding the application of other legal provisions

Article 40 ter. Safeguarding of the application of other legal provisions.

The provisions of the articles of this Book I, on the protection of databases, shall be understood without prejudice to any other legal provisions that affect the structure or content of any of these bases, such as those relating to other rights of intellectual property, "sui generis" right, on a database, industrial property law, competition law, contract law, secrets, protection of personal data, protection of national treasures or on access to documents public.

TITLE IV

Public domain

Article 41. Conditions for the use of works in the public domain.

The extinction of the exploitation rights of the works will determine their passage into the public domain.

Works in the public domain may be used by anyone, provided that the authorship and integrity of the work is respected, in the terms provided in sections 3 and 4 of article 14.

TITLE V

Transfer of rights

CHAPTER I

General disposition

Article 42. Transmission "mortis causa".

The rights to exploit the work are transferred "mortis causa" by any of the means admitted by law.

Article 43. Transmission «inter vivos».

1. The rights of exploitation of the work may be transmitted by acts "inter vivos", the assignment being limited to the right or rights assigned, to the modes of exploitation expressly provided and to the time and territorial scope that are

determined.

2. The lack of mention of the time limits the transmission to five years and that of the territorial scope to the country in which the transfer is made. If the modalities of exploitation of the work are not specifically and concretely expressed, the assignment will be limited to that which is necessarily deduced from the contract itself and is essential to fulfill its purpose.

3. The assignment of exploitation rights with respect to all the works that the author may create in the future will be null and void.

4. The stipulations by which the author agrees not to create any work in the future will be void.

5. The transmission of exploitation rights does not reach the methods of use or means of dissemination that did not exist or were unknown at the time of the assignment.

Article 44. Minors with independent life.

Authors under the age of eighteen and over sixteen, who live independently with the consent of their parents or guardians or with the authorization of the person or institution in charge of them, have full capacity to assign exploitation rights.

Article 45. Written formalization.

All assignments must be formalized in writing. If, prior to an irrefutable requirement, the transferee fails to comply with this requirement, the author may choose to terminate the contract.

Article 46. Proportional and flat-rate remuneration.

1. The assignment granted by the author for consideration grants him a proportional participation in the exploitation income, in the amount agreed with the assignee.

2. However, a lump sum remuneration may be stipulated for the author in the following cases:

a) When, considering the type of exploitation, there is serious difficulty in determining the income or its verification is impossible or of a cost disproportionate to the eventual remuneration.

b) When the use of the work has an accessory character with respect to the

activity or material object for which it is intended.

c) When the work, used with others, does not constitute an essential element of the intellectual creation in which it is integrated.

d) In the case of the first or only edition of the following previously undisclosed works:

1. Dictionaries, anthologies and encyclopedias.
2. Prologues, annotations, introductions and presentations.
3. Scientific works.
4. Works of illustration of a work.
5. Translations.
6. Popular editions at reduced prices.

Article 47. Review action for unfair remuneration.

If, in the lump sum assignment, there is a manifest disproportion between the author's remuneration and the benefits obtained by the transferee, the transferee may request the revision of the contract and, in the absence of an agreement, go to the Judge to establish an equitable remuneration, attended the circumstances of the case. This power may be exercised within the ten years following the transfer.

Article 48. Exclusive assignment.

The exclusive assignment must be expressly granted with this character and will attribute to the assignee, within its scope, the power to exploit the work to the exclusion of another person, including the assignor himself, and, unless otherwise agreed, to grant authorizations not exclusive to third parties. Likewise, it confers legitimacy, regardless of that of the transferor owner, to prosecute violations that affect the powers that have been granted.

This assignment constitutes the assignee in the obligation to put all the necessary means for the effectiveness of the exploitation granted, according to the nature of the work and the current uses in the professional, industrial or commercial activity in question.

Article 49. Exclusive transfer of the transferee's right.

The assignee may exclusively transfer his right to another with the express consent of the assignor.

In the absence of consent, the assignees will be jointly and severally liable to the first assignor for the assignment obligations.

Consent will not be necessary when the transfer takes effect as a result of the dissolution or change of ownership of the transferee company.

Article 50. Non-exclusive assignment

1. The non-exclusive assignee will be empowered to use the work in accordance with the terms of the assignment and in concurrence with both other assignees and the assignor himself. Your right will be non-transferable, except in the cases provided for in the third paragraph of the previous article.

2. The non-exclusive authorizations granted by the management entities for the use of their repertoires will be, in any case, non-transferable.

Article 51. Transfer of the rights of the salaried author.

1. The transfer to the employer of the exploitation rights of the work created by virtue of an employment relationship will be governed by what is agreed in the contract, which must be done in writing.

2. In the absence of a written agreement, it will be presumed that the exploitation rights have been assigned exclusively and with the scope necessary for the exercise of the employer's usual activity at the time of delivery of the work carried out by virtue of said employment relationship .

3. In no case may the employer use the work or dispose of it for a meaning or purposes other than those derived from the provisions of the two previous sections.

4. The other provisions of this Law will be, as pertinent, applicable to these transmissions, as long as it derives from the purpose and object of the contract.

5. The ownership of the rights over a computer program created by a salaried worker in the exercise of his functions or following the instructions of his employer shall be governed by the provisions of section 4 of article 97 of this Law.

Article 52. Transmission of rights for periodical publications.

Unless otherwise stipulated, the authors of works reproduced in periodicals retain their right to exploit them in any way that does not harm the normal of the publication in which they have been inserted.

The author will be able to freely dispose of his work, if it is not reproduced within a month from its dispatch or acceptance in the daily publications or within six months in the rest, unless otherwise agreed.

The remuneration of the author of the aforementioned works may consist of a lump sum.

Article 53. Mortgage and seizure of copyright.

1. The exploitation rights of the works protected in this Law may be subject to a mortgage in accordance with current legislation.

2. The exploitation rights corresponding to the author are not attachable, but their fruits or products are, which will be considered as wages, both in relation to the order of priority for the embargo, as well as withholdings or unattachable part.

Article 54. Credits for the transfer of exploitation rights.

(Repealed)

Article 55. Unwaivable benefits.

Except as provided by the Law itself, the benefits granted in this Title to the authors and their successors will be inalienable.

Article 56. Transfer of rights to the owners of certain material supports.

1. The purchaser of the ownership of the medium to which the work has been incorporated will not have, by this title alone, any right to exploit the latter.

2. However, the owner of the original of a work of plastic arts or a photographic work will have the right of public exhibition of the work, even if it has not been disclosed, unless the author has expressly excluded this right in the act of alienation of the original. In any case, the author may oppose the exercise of this right, by applying, where appropriate, the precautionary measures provided for in this Law, when the exhibition is carried out under conditions that damage his honor or professional reputation.

Article 57. Preferential application of other provisions.

The transmission of copyright for its exploitation through the modes of editing, representation or execution, or of production of audiovisual works will be

governed, respectively and in any case, by the provisions of the specific provisions of this Book I, and in what is not provided for therein, due to the provisions of this chapter.

The assignments of rights for each of the different modes of exploitation must be formalized in separate documents.

CHAPTER II

Publishing contract

Article 58. Concept.

By means of the publishing contract, the author or his successors in title assign to the publisher, through financial compensation, the right to reproduce their work and to distribute it. The publisher is obliged to carry out these operations at his own risk and expense under the agreed conditions and subject to the provisions of this Law.

Article 59. Future works, commissioning of a work and collaborations in periodical publications.

1. Future works are not subject to the publishing contract regulated in this Law.
2. The order of a work is not the subject of the publishing contract, but the remuneration that could be agreed will be considered as an advance of the rights that the author will have for the edition, if it is carried out.
3. The provisions of this chapter will not be applicable to collaborations in periodical publications, unless so required, where appropriate, by the nature and purpose of the contract.

Article 60. Formalization and minimum content.

The publishing contract must be formalized in writing and express in any case:

1. If the author's assignment to the editor is exclusive.
2. Its territorial scope.
3. The maximum and minimum number of copies to be reached by the edition or each one agreed upon.
4. The form of distribution of the copies and those that are reserved for the author, the critics and the promotion of the work.

5. The remuneration of the author, established in accordance with the provisions of article 46 of this Law.

6. The deadline for putting into circulation the copies of the only or first edition, which may not exceed two years from when the author delivers the work to the publisher in adequate conditions to reproduce it.

7. The term in which the author must deliver the original of his work to the editor.

Article 61. Cases of nullity and correction of omissions.

1. The contract not formalized in writing will be void, as well as the one that does not express the points required in sections 3 and 5 of the previous article.

2. The omission of the points mentioned in sections 6 and 7 of the previous article will give action to the contracting parties to compel each other to correct the fault. In the absence of agreement, the Judge will do so taking into account the circumstances of the contract, the acts of the parties in its execution and the uses.

Article 62. Edition in book form.

1. When it comes to publishing a work in book form, the contract must also state the following points:

a) The language or languages in which the work is to be published.

b) The advance to be granted, where appropriate, by the publisher to the author on account of their rights.

c) The mode or modes of publication and, where appropriate, the collection of which they will be part.

2. The lack of expression of the language or languages in which the work is to be published will only entitle the publisher to publish it in the original language of the work.

3. When the contract establishes the publication of a work in several official Spanish languages, publication in one of them does not exempt the publisher from the obligation to publish it in the others.

If, five years after the author delivers the work, the publisher has not published it

in all the languages provided for in the contract, the author may resolve it with respect to the languages in which it has not been published.

4. The provisions of the previous section will also apply to translations of foreign works in Spain.

Article 63. Exceptions to Article 60.6.

The term limitation provided in section 6 of article 60 will not apply to the editions of the following types of works:

1. Anthologies of other people's works, dictionaries, encyclopedias and similar collections.
2. Prologues, epilogues, presentations, introductions, annotations, comments and illustrations of other people's works.

Article 64. Obligations of the editor.

The editor's obligations are:

1. Reproduce the work in the agreed manner, without introducing any modification that the author has not consented to, and stating in the copies the name, signature or sign that identifies it.
2. Submit the proofs of the print run to the author, unless otherwise agreed.
3. Proceed to distribute the work within the stipulated term and conditions.
4. Ensure continuous exploitation and commercial dissemination of the work in accordance with the usual uses in the professional publishing sector.
5. Satisfy the author with the stipulated remuneration and, when this is proportional, at least once a year, the timely settlement, of whose content he will render an account. Likewise, it must annually make available to the author a certificate in which the data relating to the manufacture, distribution and stock of copies are determined. For these purposes, if the author requests it, the editor will present the corresponding supporting documents.
6. Return to the author the original of the work, object of the edition, once the printing and printing operations of the same have been completed.

Article 65. Obligations of the author.

The author's obligations are:

1. To deliver to the editor in due form for its reproduction and within the agreed period of time the work object of the edition.
2. Respond to the publisher for the authorship and originality of the work and for the peaceful exercise of the rights assigned to it.
3. Correct the tests of the roll, unless otherwise agreed.

Article 66. Modifications in the content of the work.

The author, during the proofreading period, may introduce the modifications that he deems essential to the work, provided that they do not alter its character or purpose, or the cost of the edition is substantially increased. In any case, the publishing contract may foresee a maximum percentage of corrections on the entire work.

Article 67. Copyright in case of sale in balance and destruction of the edition.

1. The publisher may not, without the author's consent, sell the edition as a balance before two years from the initial circulation of the copies.
2. After this period, if the publisher decides to sell the remainder as a balance, he will reliably notify the author, who may choose to acquire them by testing the balance price or, in the case of proportional remuneration, receive 10 percent. of invoiced by the publisher. The option must be exercised within thirty days following receipt of the notification.
3. If, after the same period, the publisher decides to destroy the rest of the copies of an edition, he must also notify the author, who may demand that all or part of the copies be delivered free of charge, within a period of thirty days from the notification. The author may not use said copies for commercial use.

Article 68. Resolution.

1. Without prejudice to the compensation to which he is entitled, the author may terminate the publishing contract in the following cases:
 - a) If the publisher does not edit the work within the agreed term and conditions.
 - b) If the editor fails to comply with any of the obligations mentioned in sections 2, 4 and 5 of article 64, despite the express request of the author demanding compliance.

c) If the publisher proceeds to sell as a balance or to destroy the remaining copies of the edition, without complying with the requirements established in article 67 of this Law.

d) If the publisher improperly assigns his rights to a third party.

e) When, with several editions foreseen and the last one being exhausted, the publisher does not carry out the next edition within a period of one year from when it was required to do so by the author. An edition will be considered out of print for the purposes of this article when the number of unsold copies is less than 5% of the total edition and, in any case, less than 100.

f) In the event of liquidation or change of ownership of the publishing company, provided that the reproduction of the work has not started, with refund, where appropriate, of the amounts received as an advance.

2. When, due to cessation of the activity of the editor or as a result of a bankruptcy procedure, the exploitation of the work is suspended, the judicial authority, at the request of the author, may set a period for it to be resumed, the publishing contract being terminated if so it will not be done.

Article 69. Causes of extinction.

The publishing contract is terminated, in addition to the general causes of termination of the contracts, by the following:

1st By the end of the agreed term.

2. For the sale of all the copies, if this had been the destination of the edition.

3. For the course of ten years from the assignment if the remuneration had been agreed exclusively at a lump sum in accordance with the provisions of article 46, section 2.d), of this Law.

4. In any case, fifteen years after the author has put the publisher in a position to reproduce the work.

Article 70. Effects of termination.

Once the contract has expired, and unless otherwise stipulated, the publisher, within the following three years and whatever the agreed distribution method, may dispose of the copies that, if applicable, it owns. The author may acquire them for

60 percent of their sale price to the public or for the one determined expertly, or choose to exercise trial and error on the sale price.

Said disposal will be subject to the conditions established in the expired contract.

Article 71. Music publishing contract.

The contract for the publishing of musical or dramatic-musical works by which the publisher is also granted public communication rights, will be governed by the provisions of this chapter, without prejudice to the following rules:

1. The contract will be valid even if the number of copies is not stated. However, the publisher must make and distribute copies of the work in sufficient quantity to meet the normal needs of the exploitation granted, in accordance with the usual use in the professional music publishing sector.
2. For symphonic and dramatic-musical works, the time limit established in section 6. of article 60 will be five years.
3. The provisions of section 1.c) of article 68 and clauses 2., 3. and 4. of article 69 shall not apply to this contract.

Article 72. Control of circulation.

The number of copies of each edition will be subject to print control through the procedure established by regulation, after hearing the affected professional sectors.

Failure by the publisher to comply with the requirements provided for this purpose will empower the author or his successors in title to terminate the contract, without prejudice to the responsibilities that the publisher may have incurred.

Article 73. General conditions of the contract.

The authors and editors, through the management entities of their corresponding intellectual property rights or, failing that, through the associations representing one and the other, may agree on general conditions for the publishing contract within the respect of the law.

CHAPTER III

Theatrical representation and musical performance contract

Article 74. Concept.

By the contract regulated in this chapter, the author or his successors in title assign to a natural or legal person the right to publicly represent or perform a literary, dramatic, musical, dramatico-musical, pantomimic or choreographic work,

through financial compensation. The assignee undertakes to carry out the public communication of the work under the agreed conditions and subject to the provisions of this Law.

Article 75. Modalities and maximum duration of the contract.

1. The parties may contract the assignment for a certain term or for a determined number of communications to the public.

In any case, the duration of the exclusive assignment may not exceed five years.

2. The contract must stipulate the term within which the sole or first communication of the work must be carried out. Said period may not exceed two years from the date of the contract or, where appropriate, from when the author put the employer in a position to carry out the communication.

If the term is not set, it will be understood to be granted for one year. In the event that the stage representation of the work was intended, the aforementioned term will be the duration of the season corresponding to the time of the conclusion of the contract.

Article 76. Restrictive interpretation of the contract.

If the authorized modalities have not been determined in the contract, these will be limited to recitation and representation in theaters, halls or venues whose entry requires the payment of an amount of money.

Article 77. Obligations of the author.

The author's obligations are:

1. Deliver to the employer the text of the work with the score, where appropriate, fully instrumented, when it had not been published in printed form.
2. Respond to the assignee for the authorship and originality of the work and for the peaceful exercise of the rights assigned to it.

Article 78. Obligations of the transferee.

The transferee is obliged:

1. To carry out the public communication of the work within the term agreed or determined in accordance with section 2 of article 75.
2. To carry out this communication without making variations, additions, cuts or

deletions in the work not consented to by the author and under technical conditions that do not harm the moral right of the author.

3. To guarantee the author or his representatives the inspection of the public representation of the work and the attendance to it free of charge.

4. To promptly pay the author the agreed remuneration, which will be determined in accordance with the provisions of article 46 of this Law.

5. To present to the author or his representatives the exact program of the communication acts, and when the remuneration is proportional, a statement of income. Likewise, the assignee must facilitate the verification of said programs and declarations.

Article 79. Guarantee of payment of remuneration.

Entrepreneurs of public shows will be considered depositories of the remuneration corresponding to the authors for the communication of their works when it consists of a proportional participation in the income. Said remuneration must be available weekly to the authors or their representatives.

Article 80. Execution of the contract.

Unless the parties have agreed otherwise, they will be subject to the following rules in the execution of the contract:

1. The assignee shall be responsible for obtaining the copies necessary for public communication of the work. These must be endorsed by the author.

2. The author and the assignee will choose by mutual agreement the main performers and, in the case of orchestras, choirs, dance groups and similar artistic ensembles, the director.

3. The author and the assignee will agree on the wording of the publicity of the communication acts.

Article 81. Causes of resolution.

The contract may be terminated at the author's will in the following cases:

1. If the employer who has acquired exclusive rights, once the public performances of the work have begun, interrupt them for a year.

2. If the employer breaches the obligation mentioned in section 1 of article 78.

3. If the employer fails to comply with any of the obligations mentioned in sections 2., 3., 4. and 5. of the same article 78, after having been required by the author for compliance.

Article 82. Causes of extinction.

The representation contract is terminated, in addition to the general causes of termination of the contracts, when, in the case of a premiere work and its stage performance being the only communication modality contemplated in the contract, it would have been clearly rejected by the public. and so it would have been expressed in the contract.

Article 83. Public performance of musical compositions.

The representation contract whose object is the public performance of a musical composition shall be governed by the provisions of this chapter, provided that the nature of the work and the modality of the authorized communication allow it.

Article 84. Special provisions for the transfer of the right of public communication through broadcasting.

1. The transfer of the right to public communication of the works referred to in this chapter, through broadcasting, shall be governed by the provisions of the same, with the exception of the provisions of section 1 of article 81.

2. Unless otherwise agreed, it will be understood that said assignment is limited to the broadcast of the work only once, carried out by wireless means and broadcasting centers of the authorized broadcasting entity, within the territorial scope determined in the contract, without prejudice of the provisions of article 20 and sections 1 and 2 of article 36 of this Law.

Article 85. Application of the previous provisions to simple authorizations.

The authorizations that the author grants to a businessman so that he can proceed to a public communication of his work, without being obliged to carry it out, will be governed by the provisions of this chapter as applicable.

TITLE VI

Cinematographic works and other audiovisual works

Article 86. Concept.

1. The provisions contained in this Title shall apply to cinematographic works and other audiovisual works, understood as creations expressed through a series of associated images, with or without incorporated sound, which are essentially intended to be shown through projection devices or by any other means of public

communication of the image and sound, regardless of the nature of the material supports of said works.

2. All the works listed in this article will hereinafter be called audiovisual works.

Article 87. Authors

They are authors of the audiovisual work in the terms provided in article 7 of this Law:

1. The director-director.
2. The authors of the argument, the adaptation and those of the script or dialogues.
3. The authors of the musical compositions, with or without lyrics, created especially for this work.

Article 88. Presumption of exclusive assignment and limits.

1. Without prejudice to the rights that correspond to the authors, by the production contract of the audiovisual work, the rights of reproduction, distribution and public communication will be presumed exclusively assigned to the producer, with the limitations established in this Title, as well as the dubbing or subtitling of the work.

However, in cinematographic works, the express authorization of the authors will always be necessary for their exploitation, by making copies available to the public in any system or format, for use in the domestic sphere, or by public communication through of broadcasting.

2. Unless otherwise stipulated, the authors may dispose of their contribution in isolation, provided that the normal exploitation of the audiovisual work is not impaired.

Article 89. Presumption of assignment in case of transformation of pre-existing work.

1. By means of the contract for the transformation of a pre-existing work that is not in the public domain, it will be presumed that the author of the same assigns to the producer of the audiovisual work the exploitation rights over it in the terms provided in article 88.

2. Unless otherwise agreed, the author of the pre-existing work will retain their

rights to exploit it in the form of a graphic edition and stage representation and, in any case, they will be able to use it for another audiovisual work fifteen years after having made their contribution. available to the producer.

Article 90. Remuneration of the authors.

1. The remuneration of the authors of the audiovisual work for the transfer of the rights mentioned in article 88 and, where appropriate, that corresponding to the authors of pre-existing works, whether or not they have been transformed, must be determined for each of the operating modalities granted.

2. When the authors referred to in the previous section sign contracts related to the production of audiovisual recordings with a producer of the same, it will be presumed that, unless otherwise agreed in the contract and except for the inalienable right to an equitable remuneration to referred to in the following paragraph, they have transferred their rental right.

The author who has transferred or assigned to a producer of phonograms or audiovisual recordings his rental right with respect to a phonogram or an original or a copy of an audiovisual recording, shall retain the inalienable right to obtain equitable remuneration for the rental thereof. . Such remuneration will be required of those who carry out the rental operations to the public of phonograms or audiovisual recordings in their capacity as rightholders of the holders of the corresponding right to authorize said rental and will be effective as of January 1, 1997.

3. In any case, and regardless of what is agreed in the contract, when the audiovisual work is projected in public places by paying an entrance price, the authors mentioned in section 1 of this article will have the right to receive from those who publicly exhibit said work a percentage of the income from said public exhibition. The amounts paid for this concept may be deducted by the exhibitors from those that must be paid to the transferors of the audiovisual work.

In the case of export of the audiovisual work, the authors may assign the aforementioned right for a lump sum, when in the country of destination the effective exercise of the right is impossible or seriously difficult.

The employers of public halls or exhibition venues must periodically make available to the authors the amounts collected by way of said remuneration. For these purposes, the Government may establish the appropriate control procedures by regulation.

4. The projection or exhibition without demanding an entrance price, the transmission to the public by any means or procedure, wired or wireless, including, among others, the making available in the manner established in article 20.2.i) of an audiovisual work , will entitle the authors to receive the appropriate remuneration, in accordance with the general rates established by the corresponding management entity.

5. In order to facilitate the author's exercise of the rights that correspond to him for the exploitation of the audiovisual work, the producer, at least once a year, must provide the necessary documentation at the author's request.

6. The rights established in sections 3 and 4 of this article shall be inalienable and non-transferable for acts "inter vivos" and shall not apply to the authors of audiovisual works of an advertising nature.

7. The rights contemplated in sections 2, 3 and 4 of this article will be made effective through the management entities of intellectual property rights.

Article 91. Insufficient contribution of an author.

When the contribution of an author is not completed due to unjustified refusal of the same or due to force majeure, the producer may use the part already made, respecting the rights of the author over it, without prejudice, where appropriate, to the compensation that proceed.

Article 92. Final version and its modifications.

1. The audiovisual work will be considered finished when the final version has been established, in accordance with what is agreed in the contract between the director-producer and the producer.

2. Any modification of the definitive version of the audiovisual work by adding, deleting or changing any element of it, will require the prior authorization of those who have agreed to said definitive version.

However, in contracts for the production of audiovisual works intended essentially for public communication through radio broadcasting, it will be presumed granted by the authors, unless otherwise stipulated, the authorization to carry out strictly modifications in the form of broadcast of the work. required by the programming mode of the medium, without prejudice in any case to the right recognized in section 4 of article 14.

Article 93. Moral right and destruction of original support.

1. The moral right of the authors may only be exercised on the definitive version of the audiovisual work.

2. The destruction of the original support of the audiovisual work in its final version is prohibited.

Article 94. Radio works.

The provisions contained in this Title shall apply, as pertinent, to radio works.

TITLE VII

Computer programs

Article 95. Legal regime.

The copyright on computer programs will be governed by the precepts of this Title and, in what is not specifically provided for therein, by the applicable provisions of this Law.

Article 96. Object of protection.

1. For the purposes of this Law, a computer program shall be understood as any sequence of instructions or indications intended to be used, directly or indirectly, in a computer system to perform a function or a task or to obtain a specific result, whatever its form of expression and fixation.

For the same purposes, the term computer programs will also include their preparatory documentation. The technical documentation and user manuals of a program will enjoy the same protection that this Title provides for computer programs.

2. The computer program will be protected only if it is original, in the sense of being an intellectual creation of its author.

3. The protection provided for in this Law shall apply to any form of expression of a computer program. Likewise, this protection extends to any successive versions of the program as well as to derived programs, except those created with the purpose of causing harmful effects to a computer system.

When computer programs form part of a patent or a utility model, they will enjoy, without prejudice to the provisions of this Law, the protection that may correspond to them by application of the legal regime of industrial property.

4. The ideas and principles on which any of the elements of a computer program are based, including those on which its interfaces are based, will not be protected

by copyright under this Law.

Article 97. Ownership of rights.

1. The person or group of natural persons who have created it, or the legal person that is considered to be the owner of copyright in the cases expressly provided for by this Law, will be considered the author of the computer program.

2. In the case of a collective work, the natural or legal person who publishes and disseminates it under their name will be considered the author, unless otherwise agreed.

3. The copyright on a computer program that is the unitary result of collaboration between several authors will be common property and will correspond to all of them in the proportion they determine.

4. When a salaried worker creates a computer program, in the exercise of the functions entrusted to him or following the instructions of his employer, the ownership of the exploitation rights corresponding to the computer program thus created, both the source program as the target program, they will correspond exclusively to the employer, unless otherwise agreed.

5. Protection will be granted to all natural and legal persons who meet the requirements established in this Law for the protection of copyright.

Article 98. Duration of protection.

1. When the author is a natural person, the duration of the exploitation rights of a computer program will be, according to the different assumptions that may arise, that provided for in Chapter I of Title III of this Book.

2. When the author is a legal person, the duration of the rights referred to in the preceding paragraph will be seventy years, computed from January 1 of the year following the lawful disclosure of the program or its creation, if not it would have been disclosed.

Article 99. Content of exploitation rights.

Without prejudice to the provisions of article 100 of this Law, the exclusive rights of the exploitation of a computer program by whoever is its owner in accordance with article 97, will include the right to carry out or authorize:

a) The total or partial reproduction, even for personal use, of a computer program, by any means and in any form, whether permanent or transitory. When

the loading, presentation, execution, transmission or storage of a program requires such reproduction, authorization must be obtained to do so, which will be granted by the owner of the right.

b) The translation, adaptation, arrangement or any other transformation of a computer program and the reproduction of the results of such acts, without prejudice to the rights of the person who transforms the computer program.

c) Any form of public distribution including the rental of the original computer program or its copies.

For this purpose, when the right to use a computer program is transferred, it will be understood, unless proven otherwise, that said transfer is non-exclusive and non-transferable, presuming, likewise, that it is only to satisfy the needs of the user. . The first sale in the European Union of a copy of a program by the owner of the rights or with his consent, will exhaust the right to distribute said copy, except for the right to control the subsequent rental of the program or a copy thereof.

Article 100. Limits to exploitation rights.

1. The reproduction or transformation of a computer program, including the correction of errors, will not need authorization from the owner, unless otherwise provided in the contract, when such acts are necessary for the legitimate user to use it, in accordance with its purpose. proposal.

2. The making of a backup copy by whoever has the right to use the program may not be prevented by contract as long as it is necessary for such use.

3. The legitimate user of a copy of a program will be empowered to observe, study or verify its operation, without the prior authorization of the owner, in order to determine the ideas and principles implicit in any element of the program, provided that they do so during any of the loading, viewing, execution, transmission or storage operations of the program that you have the right to do.

4. The author, unless otherwise agreed, may not oppose the assignee holder of the exploitation rights to carry out or authorize the realization of successive versions of his program or of programs derived from it.

5. The authorization of the owner of the right will not be necessary when the reproduction of the code and the translation of its form in the sense of paragraphs a) and b) of article 99 of this Law, is essential to obtain the

information necessary for interoperability of a program created independently with other programs, provided the following requirements are met:

a) That such acts are carried out by the legitimate user or by any other person empowered to use a copy of the program, or, on their behalf, by a duly authorized person.

b) That the information necessary to achieve interoperability has not been previously and easily and quickly made available to the people referred to in the previous paragraph.

c) That said acts be limited to those parts of the original program that are necessary to achieve interoperability.

6. The exception contemplated in section 5 of this article will be applicable provided that the information thus obtained:

a) It is used only to achieve interoperability of the independently created program.

b) It is only communicated to third parties when it is necessary for the interoperability of the independently created program.

c) It is not used for the development, production or commercialization of a program substantially similar in its expression, or for any other act that infringes copyright.

7. The provisions contained in sections 5 and 6 of this article may not be interpreted in a way that allows their application to unjustifiably harm the legitimate interests of the rights holder or be contrary to a normal exploitation of the computer program.

Article 101. Registry protection.

The rights to computer programs, as well as to their successive versions and derived programs, may be registered in the Intellectual Property Registry.

By regulation, those elements of the registered programs that will be subject to public consultation will be determined.

Article 102. Violation of rights.

For the purposes of this Title and without prejudice to the provisions of article 100, those who, without the authorization of the copyright holder, carry out the

acts provided for in article 99 and in particular:

- a) Those who put into circulation one or more copies of a computer program knowing or being able to presume its illegitimate nature.
- b) Those who have one or more copies of a computer program for commercial purposes, knowing or being able to presume its illegitimate nature.
- c) Those who put into circulation or have for commercial purposes any instrument whose sole use is to facilitate the unauthorized suppression or neutralization of any technical device used to protect a computer program.

Article 103. Protection measures.

The owner of the rights recognized in this Title may initiate the actions and procedures that, in general, are provided in Title I, Book III of this Law and the appropriate precautionary measures, in accordance with the provisions of the Prosecution Law. Civil.

Article 104. Safeguarding the application of other legal provisions.

The provisions of this Title shall be understood without prejudice to any other legal provisions such as those relating to patent rights, trademarks, unfair competition, trade secrets, protection of semiconductor products or the right of obligations.

BOOK TWO

**On the other intellectual property rights and the "sui generis" protection of the
databases**

TITLE I
Performers' Rights

Article 105. Definition of performers.

Performer is understood to be the person who represents, sings, reads, recites, interprets or executes a work in any way. The stage director and the orchestra director will have the rights recognized to the artists in this Title.

Article 106. Fixation.

1. The performer has the exclusive right to authorize the fixation of his performances.

2. Said authorization must be granted in writing.

Article 107. Reproduction.

1. Corresponds to the performer the exclusive right to authorize the reproduction, according to the definition established in article 18, of the fixations of his performances.

2. Said authorization must be granted in writing.

3. This right may be transferred, assigned or be subject to the granting of contractual licenses.

Article 108. Public communication.

1. The performer has the exclusive right to authorize public communication:

a) Their actions, except when said action constitutes in itself an action transmitted by radio broadcasting or is carried out from a previously authorized fixation.

b) In any case, of the fixations of their actions, by making them available to the public, in the manner established in article 20.2.i).

In both cases, the authorization must be granted in writing.

When communication to the public is made via satellite or cable and in the terms provided, respectively, in sections 3 and 4 of article 20 and concordant of this law, the provisions of such precepts shall apply.

2. When the performer individually or collectively celebrates with a producer of phonograms or audiovisual recordings contracts related to the production of these, it will be presumed that, unless otherwise agreed in the contract and except for the inalienable right to equitable remuneration to referred to in the following section, has transferred its right to make it available to the public referred to in section 1.b).

3. The performer who has transferred or assigned to a producer of phonograms or audiovisual recordings his right to make available to the public referred to in section 1.b), with respect to a phonogram or an original or a copy of an audiovisual recording, will retain the inalienable right to obtain equitable remuneration from whoever makes such provision.

4. Users of a phonogram published for commercial purposes, or of a reproduction

of said phonogram that is used for any form of public communication, are obliged to pay a single and equitable remuneration to the performers and producers of phonograms, among which the distribution of the former will be carried out. In the absence of an agreement between them on said distribution, it will be made in equal parts. The making available to the public in the manner established in article 20.2.i) is excluded from said payment obligation, without prejudice to the provisions of section 3 of this article.

5. Users of audiovisual recordings used for acts of public communication provided for in article 20.2.f) and g) are obliged to pay the performers and producers of audiovisual recordings the appropriate remuneration, in accordance with the general rates established by the corresponding management entity.

Users of audiovisual recordings that are used for any act of communication to the public, other than those indicated in the previous paragraph and making them available to the public provided for in section 1.b), also have the obligation to pay equitable remuneration to performers, without prejudice to the provisions of section 3.

6. The right to remuneration referred to in sections 3, 4 and 5 will be made effective through the management entities of intellectual property rights. The effectiveness of the rights through the respective management entities will include the negotiation with the users, the determination, collection and distribution of the corresponding remuneration, as well as any other action necessary to ensure their effectiveness.

Article 109. Distribution.

1. The performer has, with respect to the setting of his performances, the exclusive right to authorize their distribution, according to the definition established by article 19.1 of this Law. This right may be transferred, assigned or be subject to the granting of licenses. contractual.

2. When the distribution is carried out by means of sale or another title of transmission of the property, within the scope of the European Union, by the owner of the right or with his consent, this right will be exhausted with the first, although only for the successive sales and transfers of property carried out in said territorial area

3. For the purposes of this Title, rental of performance fixations is understood to be making them available for use for a limited time and with a direct or indirect economic or commercial benefit.

The rental concept is excluded from making available for exhibition purposes, public communication from phonograms or audiovisual recordings, including fragments of both, and that made for consultation "in situ":

1. When the performer individually or collectively celebrates contracts related to the production of audiovisual recordings with a producer of audiovisual recordings, it will be presumed that, unless otherwise agreed in the contract and except for the inalienable right to equitable remuneration to which the following section refers to, you have transferred your rental rights.

2. The performer who has transferred or assigned to a producer of phonograms or audiovisual recordings his rental right with respect to a phonogram, or an original, or a copy of an audiovisual recording, shall retain the inalienable right to obtain a equitable remuneration for the rental of the same. Such remuneration will be required of those who carry out the rental operations of the phonograms or audiovisual recordings to the public in their capacity as rightholders of the holders of the corresponding rights to authorize said rental and will become effective as of January 1, 1997.

The right contemplated in the previous paragraph will be made effective through the management entities of intellectual property rights.

4. For the purposes of this Title, loan of the fixations of the actions is understood to be the making available of them for use for a limited time without direct or indirect economic or commercial benefit, provided that said loan is carried out to through establishments accessible to the public.

It will be understood that there is no direct or indirect economic or commercial benefit when the loan made by an establishment accessible to the public gives rise to the payment of an amount that does not exceed what is necessary to cover its operating expenses.

The operations mentioned in the second paragraph of the previous section 3 and those carried out between establishments accessible to the public are excluded from the concept of loan.

Article 110. Work contract and service lease.

If the interpretation or execution is carried out in compliance with a work contract or service lease, it will be understood, unless otherwise stipulated, that the employer or the lessee acquire over them the exclusive rights to authorize the

reproduction and public communication provided in this title and that are deduced from the nature and object of the contract.

The provisions of the preceding paragraph shall not apply to the remuneration rights recognized in sections 3, 4 and 5 of article 108.

Article 110 bis. Provisions relating to the transfer of rights to the producer of phonograms.

1. If, after fifty years have elapsed from the lawful publication of the phonogram or, if the latter has not been produced, fifty years from its lawful communication to the public, a sufficient number of copies is not put up for sale to reasonably satisfy the requirements. estimated needs of the public in accordance with the nature and purpose of the phonogram, or it is not made available to the public, in the manner established in article 20.2.i), the performer may terminate the contract by virtue of which it assigns your rights with respect to the recording of your performance to the producer of phonograms.

The right to terminate the assignment contract may be exercised if, within a period of one year from the reliable notification of the performer of his intention to terminate the assignment contract in accordance with the provisions of the preceding paragraph, the producer does not carry out both acts of exploitation mentioned in said paragraph. This possibility of resolution may not be waived by the performer.

When a phonogram contains the recording of the performances of several performers, they may only terminate the assignment contract in accordance with article 111. If the assignment contract is terminated in accordance with the provisions of this section , the rights of the producer of the phonogram on it will expire.

2. When an assignment contract grants the performer the right to a single remuneration, he will have the right to receive an additional annual remuneration for each full year once fifty years have elapsed since the lawful publication of the phonogram or, in the absence of such produced the latter, fifty years since its legal communication to the public. The right to obtain this additional annual remuneration, whose debtor will be the producer of the phonogram or, where appropriate, its exclusive assignee, may not be waived by the performer, and will be made effective through the entities management of the intellectual property rights of performers.

The total amount of funds that the debtor must allocate to pay the additional

annual remuneration mentioned in the previous paragraph will be equal to 20 percent of the gross income obtained, in the year preceding the year in which the remuneration is paid. , for the reproduction, distribution and making available to the public, in the manner established in article 20.2.i), of the phonograms in question, once fifty years have elapsed from the lawful publication of the phonogram or, in the event that no the latter, fifty years since its lawful communication to the public.

The amounts received by the debtor as equitable compensation for private copying and rental of phonograms are excluded from the calculation of income referred to in the preceding paragraph.

The debtors of the additional annual remuneration referred to in this section shall be obliged to provide annually, upon request, to the corresponding management entity, all the information that may be necessary in order to ensure the payment of said remuneration.

3. When a performer is entitled to periodic payments, no advance payment or deductions established contractually will be deducted from the amounts paid to the performer after the fifty-year anniversary of the lawful publication of the phonogram or, in the absence of produced the latter, fifty years since its legal communication to the public.

Article 111. Representative of the group.

The performers or performers who collectively participate in the same performance, such as the members of a musical group, choir, orchestra, ballet or theater company, must designate a representative from among them for the granting of the authorizations mentioned in this Title. For such designation, which must be formalized in writing, the majority agreement of the interpreters will be valid. This obligation does not apply to soloists or conductors or stage directors.

Article 112. Duration of exploitation rights.

The exploitation rights granted to performers will have a duration of fifty years, computed from January 1 of the year following that of the performance.

However, if, within said period, a recording of the performance is published or lawfully communicated to the public, by a means other than the phonogram, the aforementioned rights will expire after fifty years computed from January 1 of the year following the date of the first publication or the first public communication, whichever is earlier. If the publication or public communication of the recording of the performance or performance occurs in a phonogram, the aforementioned

rights will expire after seventy years computed from January 1 of the year following the date of the first publication or the first public communication. , if this is earlier.

Article 113. Moral rights.

1. The performer has the inalienable and inalienable right to the recognition of his name on his performances, except when the omission is dictated by the way of using them, and to oppose any deformation, modification, mutilation or any attack on his action that damages your prestige or reputation.

2. The express authorization of the artist will be necessary, throughout his life, for the dubbing of his performance in his own language.

3. Once the artist has died, the exercise of the rights mentioned in section 1 will correspond without time limit to the natural or legal person to whom the artist has expressly entrusted it by a last will or, failing that, to the heirs.

As long as the persons referred to in the preceding paragraph do not exist or their whereabouts are ignored, the State, the autonomous communities, local corporations and public institutions of a cultural nature shall be entitled to exercise the rights provided therein.

TITLE II

Phonogram producers' rights

Article 114. Definitions.

1. A phonogram is understood to be any exclusively sound fixation of the performance of a work or of other sounds.

2. The producer of a phonogram is the natural or legal person under whose initiative and responsibility the aforementioned fixation is made for the first time. If said operation is carried out within a company, the owner of the company will be considered the producer of the phonogram.

Article 115. Reproduction.

The producer of phonograms has the exclusive right to authorize their reproduction, according to the definition established in article 18.

This right may be transferred, assigned or be subject to the granting of contractual licenses.

Article 116. Public communication.

1. The producer of phonograms has the exclusive right to authorize the public communication of their phonograms and their reproductions in the manner established in article 20.2.i).

When communication to the public is carried out via satellite or cable and in the terms provided, respectively, in sections 3 and 4 of article 20, the provisions of such precepts shall apply.

2. Users of a phonogram published for commercial purposes, or of a reproduction of said phonogram used for any form of public communication, are obliged to pay a single and equitable remuneration to producers of phonograms and performers, among which the distribution of the former will be carried out. In the absence of an agreement between them on said distribution, it will be made in equal parts. The making available to the public in the manner established in article 20.2.i) is excluded from said payment obligation, without prejudice to the provisions of section 3 of article 108.

3. The right to the equitable and unique remuneration referred to in the previous section will be made effective through the intellectual property rights management entities. The effectiveness of this right through the respective management entities will include the negotiation with the users, the determination, collection and distribution of the corresponding remuneration, as well as any other action necessary to ensure its effectiveness.

Article 117. Distribution.

1. The producer of phonograms has the exclusive right to authorize the distribution, according to the definition established in article 19.1 of this Law, of phonograms and their copies. This right may be transferred, assigned or be subject to the granting of contractual licenses.

2. When the distribution is carried out by means of sale or another title of transmission of the property, within the scope of the European Union, by the owner of the right or with his consent, this right will be exhausted with the first, although only for the successive sales and transfers of property carried out in said territorial area.

3. The power to authorize the import and export of copies of the phonogram for marketing purposes is considered to be included in the distribution right.

4. For the purposes of this Title, rental of phonograms is understood as making them available for use for a limited time and with a direct or indirect economic or

commercial benefit.

The rental concept is excluded from making available for exhibition purposes, public communication from phonograms or fragments of these, and which is made for consultation "in situ".

5. For the purposes of this Title, the loan of phonograms is understood to be the making available for use, for a limited time, without direct or indirect economic or commercial benefit, provided that said loan is carried out through establishments accessible to the public.

It will be understood that there is no economic or commercial benefit, direct or indirect, when the loan made by an establishment accessible to the public gives rise to the payment of an amount that does not exceed what is necessary to cover its operating expenses.

The operations mentioned in the second paragraph of the previous section 4 and those carried out between establishments accessible to the public are excluded from the concept of loan.

Article 118. Active standing.

In cases of infringement of the rights recognized in articles 115 and 117, the exercise of the actions from both the phonographic producer and the transferee of the same will correspond.

Article 119. Duration of rights.

The rights of producers of phonograms will expire fifty years after the recording has been made. However, if the phonogram is lawfully published during that period, the rights will expire seventy years after the date of the first lawful publication. If during the aforementioned period no lawful publication is made but the phonogram is lawfully communicated to the public, the rights will expire seventy years after the date of the first lawful communication to the public.

All deadlines will be computed from January 1 of the following year at the time of recording, publication or communication to the public.

TITLE III

Rights of producers of audiovisual recordings

Article 120. Definitions.

1. Audiovisual recordings are understood to be fixations of a plane or sequence of images, with or without sound, whether or not they are creations that can be

classified as audiovisual works in the sense of article 86 of this Law.

2. Producer of an audiovisual recording is understood to be the natural or legal person that has the initiative and assumes responsibility for said audiovisual recording.

Article 121. Reproduction.

The producer of the first fixation of an audiovisual recording has the exclusive right to authorize the reproduction of the original and its copies, according to the definition established in article 18.

This right may be transferred, assigned or be subject to the granting of contractual licenses.

Article 122. Public communication.

1. The producer of audiovisual recordings has the right to authorize their public communication.

When communication to the public is carried out by cable and in the terms provided in section 4 of article 20 of this Law, the provisions of said precept shall apply.

2. Users of audiovisual recordings used for acts of public communication provided for in article 20.2.f) and g) are obliged to pay the performers and producers of audiovisual recordings the appropriate remuneration, in accordance with the general rates established by the corresponding management entity.

3. The right to the equitable and unique remuneration referred to in the previous section will be made effective through the intellectual property rights management entities. The effectiveness of this right through the respective management entities will include the negotiation with the users, the determination, collection and distribution of the corresponding remuneration, as well as any other action necessary to ensure its effectiveness.

Article 123. Distribution.

1. The producer of the first fixation of an audiovisual recording has the exclusive right to authorize the distribution, according to the definition established in article 19.1 of this Law, of the original and of the copies thereof. This right may be transferred, assigned or be subject to the granting of contractual licenses.

2. When the distribution is carried out by means of sale or another title of

transmission of the property, within the scope of the European Union, by the owner of the right or with his consent, this right will be exhausted with the first, although only for the successive sales and transfers of property carried out in said territorial area.

3. For the purposes of this Title, rental of audiovisual recordings is understood as being made available for use for a limited time and with a direct or indirect economic or commercial benefit.

The rental concept is excluded from making available for exhibition purposes, public communication from the first fixation of an audiovisual recording and its copies, including fragments of both, and that made for consultation «in situ ».

4. For the purposes of this Title, the loan of audiovisual recordings is understood to be the provision for use for a limited time without direct or indirect economic or commercial benefit, provided that said loan is carried out through accessible establishments. to the public.

It will be understood that there is no direct or indirect economic or commercial benefit when the loan made by an establishment accessible to the public gives rise to the payment of an amount that does not exceed what is necessary to cover its operating expenses.

The operations mentioned in the second paragraph of the previous section 3 and those carried out between establishments accessible to the public are excluded from the concept of loan.

Article 124. Other exploitation rights.

Likewise, the producer is entitled to the exploitation rights of the photographs that were taken in the production process of the audiovisual recording.

Article 125. Duration of exploitation rights.

The duration of the exploitation rights granted to the producers of the first fixation of an audiovisual recording will be fifty years, counted from the 1st of January of the year following that of its realization.

However, if, within said period, the recording is lawfully disclosed, the aforementioned rights will expire fifty years from the disclosure, computed from January 1 of the year following the date on which it occurs.

TITLE IV

Rights of broadcasters

Article 126. Exclusive rights.

1. Broadcasters have the exclusive right to authorize:

a) Fixing your broadcasts or transmissions on any sound or visual support. For the purposes of this section, the fixation of an isolated image broadcast in the broadcast or transmission is understood to be included.

Cable distribution companies shall not enjoy this right when they retransmit broadcasts or transmissions of broadcasting entities.

b) The reproduction of the fixations of their broadcasts or transmissions.

This right may be transferred, assigned or be subject to the granting of contractual licenses.

c) The making available to the public, by wired or wireless procedures, of the fixations of their broadcasts or transmissions, in such a way that anyone can access them from the place and at the time they choose.

d) The retransmission by any technical procedure of its broadcasts or transmissions.

e) The public communication of its broadcasts or broadcasting transmissions, when such communication is made in places that the public can access through the payment of an amount as the right of admission or entry.

When communication to the public is carried out via satellite or cable and in the terms provided in sections 3 and 4 of article 20 of this Law, the provisions of such precepts shall apply.

f) The distribution of the fixations of its emissions or transmissions.

When the distribution is carried out by means of sale or another title of transmission of the property, within the scope of the European Union, by the owner of the right or with his consent, this right will be exhausted with the first, although only for sales and Successive property transfers carried out in said territorial area.

This right may be transferred, assigned or be subject to the granting of contractual licenses.

2. The concepts of broadcasting and transmission include, respectively, the operations mentioned in paragraphs c) and e) of section 2 of article 20 of this Law, and that of retransmission, the dissemination to the public by an entity that broadcasts or disseminates broadcasts on the other, received through any one of the aforementioned satellites.

Article 127. Duration of exploitation rights.

The exploitation rights granted to broadcasting entities will last fifty years, computed from January 1 of the year following that of the first broadcast or transmission.

TITLE V

Protection of mere photographs

Article 128. On mere photographs.

Whoever takes a photograph or other reproduction obtained by a procedure analogous to that one, when neither one nor the other has the character of protected works in Book I, has the exclusive right to authorize its reproduction, distribution and public communication, in the same terms recognized in this Law to the authors of photographic works.

This right will have a duration of twenty-five years computed from January 1 of the year following the date the photograph or reproduction was made.

TITLE VI

The protection of certain editorial productions

Article 129. Unpublished works in the public domain and unprotected works.

1. Any person who lawfully discloses an unpublished work that is in the public domain will have the same exploitation rights over it as would have been the responsibility of its author.

2. In the same way, the publishers of works not protected by the provisions of Book I of this Law, will enjoy the exclusive right to authorize the reproduction, distribution and public communication of said editions provided that they can be individualized by their typographic composition, presentation and other editorial characteristics.

Article 130. Duration of rights.

1. The rights recognized in section 1 of the previous article will last twenty-five years, counted from January 1 of the year following the lawful disclosure of the work.

2. The rights recognized in section 2 of the preceding article will last for twenty-five years, counted from January 1 of the year following that of publication.

TITLE VII

Provisions common to other intellectual property rights

Article 131. Clause for the safeguarding of copyright.

The other intellectual property rights recognized in this Book II shall be understood without prejudice to those that correspond to the authors.

Article 132. Subsidiary application of the provisions of Book I

The provisions contained in article 6.1, in section 2 of chapter III, of Title II and in chapter II of Title III, except as established in the second paragraph of the second section of article 37, both of Book I of the This Law will be applied, in a subsidiary manner and as pertinent, to the other intellectual property rights regulated in this Book.

TITLE VIII

"Sui generis" right on databases

Article 133. Object of protection.

1. The "sui generis" right on a database protects the substantial investment, evaluated qualitatively or quantitatively, made by its manufacturer, whether of financial means, use of time, effort, energy or others of a similar nature, to obtain, verification or presentation of its content.

Through the right referred to in the previous paragraph, the manufacturer of a database, defined in article 12.2 of this consolidated text of the Intellectual Property Law, may prohibit the extraction and / or reuse of all or part substantial content of it, evaluated qualitatively or quantitatively, provided that obtaining, verifying or presenting said content represents a substantial investment from a quantitative or qualitative point of view. This right may be transferred, assigned or given in contractual license.

2. Notwithstanding the provisions of the second paragraph of the previous section, the repeated or systematic extraction and / or reuse of non-substantial parts of the content of a database that involve acts contrary to a normal exploitation of said database or that cause unjustified prejudice to the legitimate interests of the base manufacturer.

3. For the purposes of this Title, it shall be understood as:

a) Manufacturer of the database, the natural or legal person that takes the initiative and assumes the risk of making substantial investments aimed at obtaining, verifying or presenting its content.

b) Extraction, the permanent or temporary transfer of all or a substantial part of the content of a database to another medium, whatever the medium used or the way it is carried out.

c) Reuse, any form of making available to the public all or a substantial part of the content of the database through the distribution of copies in the form of sale or other transfer of ownership or rental, or through online transmission or in other ways. The provisions of section 2 of article 19 of this Law shall apply to the distribution of copies in the form of sale within the scope of the European Union.

4. The right contemplated in the second paragraph of the previous section 1 shall apply regardless of the possibility that said database or its content is protected by copyright or other rights. The protection of databases by the right contemplated in the second paragraph of the previous section 1 shall be understood without prejudice to the existing rights over their content.

Article 134. Rights and obligations of the legitimate user.

1. The manufacturer of a database, regardless of the way in which it has been made available to the public, may not prevent the legitimate user of said database from extracting and / or reusing non-substantial parts of its content, evaluated in a qualitative way. or quantitative, regardless of the purpose for which it is intended.

In the cases in which the legitimate user is authorized to extract and / or reuse only part of the database, the provisions of the previous paragraph will apply only to that part.

2. The legitimate user of a database, regardless of the way in which it has been made available to the public, may not carry out the following acts:

a) Those that are contrary to a normal exploitation of said base or unjustifiably harm the legitimate interests of the manufacturer of the base.

b) Those that harm the owner of a copyright or any of the rights recognized in Titles I to VI of Book II of this Law that affect works or services contained in said base.

3. Any agreement contrary to what is established in this provision will be null and void.

Article 135. Exceptions to the "sui generis" right.

1. The legitimate user of a database, regardless of the way in which it has been made available to the public, may, without the authorization of the manufacturer of the database, extract and / or reuse a substantial part of its content , in the following cases:

a) In the case of an extraction for private purposes of the content of a non-electronic database.

b) In the case of an extraction for illustrative teaching or scientific research purposes to the extent justified by the non-commercial objective pursued and provided that the source is indicated.

c) In the case of extraction and / or reuse for public security purposes or for the purposes of an administrative or judicial procedure.

2. The provisions of the preceding section may not be interpreted in such a way as to allow their application in a way that causes unjustified damage to the legitimate interests of the right holder or that is detrimental to the normal exploitation of the protected object.

Article 136. Term of protection.

1. The right contemplated in article 133 will be born at the same time that the database manufacturing process is terminated, and will expire fifteen years after January 1 of the year following the date on which said database has ended. process.

2. In the cases of databases made available to the public before the expiration of the period provided for in the previous section, the term of protection will expire after fifteen years, counted from January 1 following the date on which the database data would have been made available to the public for the first time.

3. Any substantial modification, evaluated quantitatively or qualitatively, of the content of a database and, in particular, any substantial modification that results from the accumulation of additions, deletions or successive changes that lead to consider that it is a new investment Substantial, evaluated from a quantitative or qualitative point of view, will make it possible to attribute to the base resulting from said investment its own term of protection.

Article 137. Safeguarding the application of other provisions.

The provisions of this Title shall be understood without prejudice to any other legal provisions that affect the structure or content of a database, such as those relating to copyright or other intellectual property rights, industrial property law, right competition, contractual law, secrets, protection of personal data, protection of national treasures or access to public documents.

BOOK THREE

Of the protection of the rights recognized in this Law

TITLE I

Actions and procedures

Article 138. Urgent precautionary actions and measures.

The owner of the rights recognized in this law, without prejudice to other actions that correspond to him, may urge the cessation of the illicit activity of the offender and demand compensation for the material and moral damages caused, in the terms provided in articles 139 and 140. It may also urge the publication or dissemination, in whole or in part, of the judicial or arbitration resolution in the media at the expense of the offender.

Anyone who knowingly induces the offending conduct will also be considered responsible for the offense; who cooperates with it, knowing the offending conduct or having reasonable indications to know it; and who, having a direct economic interest in the results of the offending conduct, has a capacity to control the offending conduct. The foregoing does not affect the specific liability limitations established in articles 14 to 17 of Law 34/2002, of July 11, on information society services and electronic commerce, to the extent that the legal requirements established in said law for its application.

Likewise, you may request in advance the adoption of the urgent protective measures regulated in article 141.

Both the specific cessation measures contemplated in article 139.1.h) and the precautionary measures provided for in article 141.6 may also be requested, when appropriate, against intermediaries whose services a third party uses to infringe intellectual property rights recognized in this law. , although the acts of said intermediaries do not in themselves constitute an infringement, without prejudice to the provisions of Law 34/2002, of July 11, on information society services and

electronic commerce. These measures must be objective, proportionate and non-discriminatory.

Article 139. Cessation of illegal activity.

1. The cessation of the illegal activity may include:

a) The suspension of the exploitation or infringing activity, including all those acts or activities referred to in articles 196 and 198.

b) The prohibition of the offender to resume the offending exploitation or activity.

c) The withdrawal from the trade of illegal copies and their destruction, including those in which the information for the electronic management of rights has been suppressed or altered without authorization or whose technological protection has been circumvented. This measure will be executed at the expense of the offender, unless good reasons are alleged not to be the case.

d) The withdrawal of the commercial circuits, the disablement, and, if necessary, the destruction of the molds, plates, matrices, negatives and other material elements, equipment or instruments intended mainly for the reproduction, creation or manufacture of copies illicit. This measure will be executed at the expense of the offender, unless good reasons are alleged not to be the case.

e) The removal or sealing of the devices used in the unauthorized public communication of works or services, as well as those in which the information for the electronic management of rights has been suppressed or altered without authorization, in the terms provided in Article 198, or those that have been accessed while evading its technological protection, in the terms provided in Article 196.

f) The confiscation, disablement and, if necessary, destruction of the instruments, at the expense of the offender, whose sole use is to facilitate the unauthorized deletion or neutralization of any technical device used to protect a computer program. The same measures may be adopted in relation to the devices, products or components for the circumvention of technological measures referred to in article 196 and to suppress or alter the information for the electronic management of rights referred to in article 198.

g) The removal or sealing of the instruments used to facilitate the unauthorized suppression or neutralization of any technical device used to protect works or performances, even if that was not their only use.

h) The suspension of the services provided by intermediaries to third parties who use them to infringe intellectual property rights, without prejudice to the provisions of Law 34/2002, of July 11, on information society services and e-commerce.

2. The offender may request that the destruction or disablement of the aforementioned copies and material, when they are susceptible to other uses, be carried out to the extent necessary to prevent illicit exploitation.

3. The owner of the infringed right may request the delivery of said copies and material at cost price and on account of the corresponding compensation for damages.

4. The provisions of this article will not apply to copies acquired in good faith for personal use.

Article 140. Indemnification.

1. Compensation for damages due to the owner of the infringed right shall include not only the value of the loss that he has suffered, but also that of the gain that he has ceased to obtain due to the violation of his right. The compensation amount may include, where appropriate, the investigation expenses incurred to obtain reasonable evidence of the commission of the offense that is the subject of the judicial proceeding.

2. Compensation for damages will be set, at the choice of the injured party, according to one of the following criteria:

a) The negative economic consequences, including the loss of benefits suffered by the injured party and the benefits that the offender has obtained from the illicit use.

In the case of moral damage, compensation will proceed, even if the existence of economic damage has not been proven. For its evaluation, the circumstances of the infringement, the seriousness of the injury and the degree of illicit dissemination of the work will be taken into account.

b) The amount that the injured party would have received as remuneration, if the offender had requested authorization to use the intellectual property right in question.

3. The action to claim the damages and losses referred to in this article will prescribe five years from when the legitimized person could exercise it.

Article 141. Precautionary measures.

In the event of an infringement or when there is a rational and well-founded fear that it is going to occur imminently, the judicial authority may order, at the request of the holders of the rights recognized in this Law, the precautionary measures that, depending on the circumstances, may be necessary for the urgent protection of such rights, and especially:

1. The intervention and deposit of the income obtained from the illicit activity in question or, where appropriate, the consignment or deposit of the amounts due as remuneration.

2. The suspension of the activity of reproduction, distribution and public communication, as appropriate, or of any other activity that constitutes an infringement for the purposes of this Law, as well as the prohibition of these activities if they have not yet been put into practice.

3. The seizure of the copies produced or used and that of the material used mainly for reproduction or public communication.

4. The seizure of the instruments, devices, products and components referred to in articles 102.c) and 196.2 and of those used for the suppression or alteration of the information for the electronic management of the rights referred to in article 198.2.

5. The seizure of the equipment, apparatus and material supports referred to in article 25, which will be subject to the payment of the compensation claimed and the timely compensation for damages.

6. The suspension of the services provided by intermediaries to third parties that use them to infringe intellectual property rights, without prejudice to the provisions of Law 34/2002, of July 11, on information society services and of electronic commerce.

The adoption of the precautionary measures will be without effect if the corresponding demand is not presented in the terms provided in Law 1/2000, of January 7, on Civil Procedure.

Article 142. Procedure.

(Repealed)

Article 143. Criminal causes.

In criminal cases that are followed for infringement of the rights recognized in this Law, precautionary measures may be adopted in civil proceedings, in accordance with the provisions of the Civil Procedure Law. These measures will not prevent the adoption of any others established in the criminal procedural legislation.

TITLE II

The Intellectual Property Registry

Article 144. Organization and operation.

1. The General Registry of Intellectual Property will have a unique character throughout the national territory. Regulations will regulate its management, which will include, in any case, the organization and functions of the Central Registry dependent on the Ministry of Culture and the common rules on registration procedure and coordination and information measures between all the competent public administrations.

2. The Autonomous Communities will determine the structure and operation of the Registry in their respective territories, and will assume its maintenance, in all cases complying with the common rules referred to in the previous section.

Article 145. Regime of the inscriptions.

1. The intellectual property rights relating to the works and other productions protected by this Law may be the object of registration in the Registry.

2. The Registrar will qualify the applications submitted and the legality of the acts and contracts related to the registrable rights, being able to deny or suspend the practice of the corresponding entries. Against the agreement of the Registrar, the corresponding actions may be exercised directly before the civil jurisdiction.

3. It will be presumed, unless proven otherwise, that the registered rights exist and belong to their owner in the manner determined in the respective entry.

4. The Registry will be public, without prejudice to the limitations that may be established under the provisions of article 101 of this Law.

TITLE III

Symbols or indications of the reservation of rights

Article 146. Symbols or indications.

The owner or exclusive assignee of a right to exploit a work or production

protected by this Law may put the symbol © in front of their name, with the exact place and year of their disclosure.

Likewise, in the copies of the phonograms or on their envelopes, the symbol (p) may be placed before the name of the producer or his assignee, indicating the year of publication.

The aforementioned symbols and references must be stated in such a way and placement as to clearly show that the exploitation rights are reserved.

TITLE IV

Collective management of the rights recognized in the law

CHAPTER I

Requirements for collective management

Article 147. Requirements of the management entities.

Legally constituted entities that have an establishment in Spanish territory and intend to dedicate themselves, on their own behalf or on behalf of someone else, to the management of exploitation rights or others of a patrimonial nature, on behalf and in the interest of several authors or other holders of intellectual property rights, They must obtain the appropriate authorization from the Ministry of Culture and Sports, in order to guarantee adequate protection of intellectual property. This authorization must be published in the "Official State Gazette".

Collective management entities are owned by their partners and will be subject to their control, they may not be for profit and, by virtue of the authorization, they may exercise the intellectual property rights entrusted to their management by their owners by means of a contract of management and will have the rights and obligations established in this title and, in particular, make effective the rights to equitable remuneration and compensation in the different cases provided for in this law and to exercise the right to authorize cable distribution.

Article 148. Conditions of the authorization.

1. The authorization provided for in the previous article will only be granted if, once the appropriate request has been made, it is accompanied by the documentation that allows verifying the concurrence of the following conditions:

a) That the statutes of the applicant entity meet the requirements established in this title.

b) That from the data provided and the information practiced, it appears that the requesting entity meets the necessary conditions to ensure the effective administration of the rights, whose management will be entrusted to it, throughout the Spanish territory.

c) That the authorization favors the general interests of the protection of intellectual property.

2. To assess the concurrence of the conditions established in letters b) and c) of the previous section, the capacity for a viable management of the entrusted rights, the suitability of its statutes and its means will be taken into account particularly as evaluation criteria. materials for the fulfillment of its purposes, and the possible effectiveness of its management abroad, paying special attention to the overriding reasons of general interest that constitute the protection of intellectual property.

3. The authorization will be understood to be granted, if no resolution to the contrary is notified, within a period of three months from the presentation of the application.

Article 149. Revocation of the authorization.

The authorization may be revoked by the Ministry of Culture and Sports if any event occurs or becomes apparent that could have led to the denial of the authorization, or if the management entity seriously breaches the obligations established in this title. In the three cases, a prior warning from the Ministry of Culture and Sports must be mediated, which will set a period of no less than three months for the rectification or correction of the aforementioned facts.

The revocation will take effect three months after its publication in the "Official State Gazette".

Article 150. Legitimation.

The management entities, once authorized in accordance with the provisions of this title, will be entitled in the terms that result from their own statutes, to exercise the rights entrusted to their management and enforce them in all kinds of administrative or judicial procedures.

To prove said legitimacy, the management entity will only have to provide at the beginning of the process a copy of its statutes and a certification accrediting its administrative authorization. The defendant may only base his opposition on the lack of representation of the plaintiff, the authorization of the holder of the

exclusive right or the payment of the corresponding remuneration.

Article 151. Requirements of management entities without establishment in Spain.

1. Legally constituted management entities that do not have an establishment in Spanish territory but intend to provide services in Spain in accordance with the provisions of this law, must notify the Ministry of Culture and Sports of the start of their activities in Spain.

The communication must contain, at least, your contact information, including your tax identification data, the characteristics of the services to be provided, the documents proving compliance with the requirements established in your country of establishment to operate as a management entity. and a Spanish version of its current statutes. Likewise, they must communicate any variation with respect to the data contained in the communication within the month following the one they take place.

2. The management entities referred to in section 1 that are established in another State of the European Union must comply, in relation to the services they provide in Spain and under the same terms as the management entities authorized by the Ministry of Culture and Sports, with the obligations provided for in articles 163 to 166; 176.2; 177; sections 1, except the fourth paragraph, 2 to 5; 185 and 186 letters c) to f).

3. The management entities referred to in section 1 that are established outside the European Union must comply, in relation to the services they provide in Spain and in the same terms as the management entities authorized by the Ministry of Culture and Sports, with the obligations provided for in articles 163 to 166; 170 to 174; 177, paragraphs 1, except the fourth paragraph; 2 to 5; 179 to 184; 185, except the obligation to publish the annual transparency report; and 186, letters c) to f).

4. The management entities referred to in this article may exercise the intellectual property rights conferred on their management by their owners through a management contract and on behalf and for the collective benefit of all of them. In order to make effective the rights to equitable remuneration and compensation in the different cases provided for in this law and to exercise the right to authorize cable distribution, they must request the authorization provided for in article 147.

5. The management entities referred to in this article shall be subject to the supervisory powers of the competent administrations and to the fulfillment of the

obligations provided for in article 154.

Article 152. Requirements of the entities dependent on a management entity.

1. When an entity dependent on a management entity develops in Spain an activity regulated in this title that is typical of the management entity on which it depends, it will be subject to compliance with that regulation in the same terms as the entity itself would be. management.

A dependent entity of a management entity shall be understood as the legally constituted entity that, directly or indirectly, in whole or in part, is owned or controlled by a management entity.

2. Without prejudice to the provisions of sections 4 and 5 of article 178 and the regulations regarding the control of the statutes of the legal person provided for in article 25.10 and the one that manages the single billing and payment window of article 168, The management entities will notify the Ministry of Culture and Sports of the constitution of a dependent entity or the integration into an existing entity.

Article 153. Requirements of independent management operators.

1. Independent management operators that intend to provide services in Spain in accordance with the provisions of this law, must notify the Ministry of Culture and Sports of the start of their activities in Spain. The communication must contain, at least, your contact information, including your tax identification data, the characteristics of the services to be provided and the documentation necessary to verify compliance with the requirements set forth in letters a) and b) of section 2. Likewise, they must communicate any variation with respect to the data contained in the initiation communication within the month following the one they take place.

These operators may only exercise the intellectual property rights conferred on their management by their owners through a management contract and for the collective benefit of all of them.

2. Independent management operator shall be understood to be any entity legally constituted and authorized by a management contract to manage exploitation rights or others of a patrimonial nature in the name and collective benefit of several holders of rights, as the sole or main object, and always that:

a) It is not owned or controlled, directly or indirectly, in whole or in part, by rights holders. For this purpose, the titles accrediting the property of the independent management operator must be nominative. Identical requirements will be required of entities that have direct or indirect ownership or control, total or

partial, of the independent management operator, and entities in which the independent management operator holds direct or indirect ownership or control, total or partial.

b) Have a profit motive.

In no case may the producers of audiovisual recordings, producers of phonograms, broadcasting entities, publishers, managers of authors or performers, or agents representing the owners of audiovisual recordings be considered as independent management operator. rights in their relationships with management entities.

3. Independent management operators must comply, in the same terms as management entities authorized by the Ministry of Culture and Sports, with the obligations set forth in articles 163.1, 165, 166, 181, 183, section 1, letters a) and b), and 186, letters c) and e). Likewise, they must include in their name the reference "Independent Management Operator" or, failing that, the abbreviation "OGI".

4. Independent management operators must publish on their website in an easily accessible way and keep the following information updated:

a) Its statutes.

b) The conditions for a holder of intellectual property rights to enter into a management contract with them.

c) The repertoire that it manages and all its updates.

d) Their rates for the use of the rights conferred on their management, discounts included.

e) The general contracts that they have signed with user associations and the contract models that are usually used for each mode of use of their repertoire.

f) The rules for the distribution of the amounts to be paid to the holders of rights.

g) Your management discounts and other deductions applied to the rights collected.

Article 154. Supervisory powers of the Public Administrations.

1. The Administrations that are competent in accordance with article 155 shall ensure compliance with the obligations incumbent on the management entities, the entities dependent on them and the independent management operators that all provide their services in Spain.

To this end, the competent Administrations may carry out the inspection and control activities that they deem appropriate, seeking, when necessary, the collaboration of other public or private entities.

Likewise, the competent Administrations may formulate to the competent authority of another Member State of the European Union duly reasoned requests for information in relation to the application of its regulations governing the collective management of intellectual property rights, in particular, regarding activities of the management entities or independent management operators established in that Member State that provide services in Spain.

2. The management entities, the entities dependent on them and the independent management operators shall be obliged to collaborate with the competent Administrations and diligently attend to their information and documentation requirements.

Article 155. Competences of the Public Administrations.

1. The following functions shall correspond, in any case, to the Ministry of Culture and Sports:

a) Verification of compliance with the legal requirements at the beginning of the activity and the legal disqualification of the management entities and independent management operators from operating, in accordance with the provisions of this law.

b) The approval of the statutory modifications presented by the management entities that have the authorization provided for in article 147, once they have been approved by the respective general assembly and without prejudice to the provisions of other applicable regulations. The management entities must submit this request for approval by the Ministry of Culture and Sports within the month following the approval of the statutory modification by the corresponding general assembly. Administrative approval will be understood to be granted if no resolution to the contrary is notified within a period of three months from the presentation of the application.

c) The receipt of the business start-up communications sent by management

entities established outside of Spain and by independent management operators that all provide services in Spanish territory; and the communications of variation of the data contained therein. The Ministry of Culture and Sports will maintain on its internet portal an updated list of the management entities established outside of Spain and of the independent management operators that have communicated the start of their activities in Spain.

2. The inspection, surveillance and control functions of intellectual property rights management entities and independent management operators, including the exercise of sanctioning powers, shall correspond to the Autonomous Community in whose territory it mainly carries out its ordinary activity.

An intellectual property rights management entity or an independent management operator shall be considered to act mainly in an Autonomous Community when its registered office and the tax domicile of at least 50 percent of its members or of its constituents, in the case of an independent management operator, are in the territory of said Autonomous Community, and the main scope of collection of the remuneration of the rights entrusted to their management is limited to said territory. The main collection area shall be understood to be that from which more than 60 percent of this comes, and compliance with this condition can be reviewed biennially.

The Government, at the proposal of the Minister of Culture and Sports, will establish by regulation the mechanisms and obligations of information necessary to guarantee the coordinated and effective exercise of these functions.

3. The Ministry of Culture and Sports shall be responsible for the inspection, surveillance and control functions, including the exercise of sanctioning powers, over the intellectual property rights management entities, the entities that depend on them and the independent management operators, when, in accordance with the provisions of the previous section, the exercise of these functions does not correspond to an Autonomous Community.

CHAPTER II

Rights holders

Article 156. General principles of representation of the holders of rights.

1. For the purposes of this title, any person or entity, other than a management entity, who is the owner of copyright or other intellectual property rights or who, by virtue of an agreement of exploitation of rights or by law, is entitled to receive a part of the amounts generated by such rights.

2. Management entities are obliged to accept the administration of the rights that are contractually or legally entrusted to them in accordance with their object or purposes and in accordance with the admission criteria provided in their statutes, provided that their management is included within their scope of activity and unless there are objectively justified reasons for its rejection that must be adequately motivated. Said commission will be carried out in accordance with its statutes and other applicable regulations for this purpose.

3. The management of the rights will be entrusted by their holders to the management entity by signing a management contract without prejudice to the rights contemplated in this law whose management must be exercised exclusively through the management entities.

The rights holder may not grant, directly or indirectly, any participation in their collected rights to users who have entered into non-exclusive authorization contracts with the entity or with other management entities, when said users, when using the entity's repertoire management, unjustifiably favor the preferential exploitation of one or more works of the right holder himself.

4. Management entities may not impose obligations on the holders of rights that are not objectively necessary for the protection of their rights and interests or for the effective management of their rights.

5. The management entities will not discriminate against the holders whose rights they manage by virtue of a representation agreement, in particular, with respect to the applicable rates, management discounts and the conditions for collecting rights and for the distribution and payment of their amounts.

6. The management entities will recognize the right holders who, without being members, have a legal relationship with them by virtue of the law or by contract, the right to communicate electronically with them; the information rights provided for in articles 172.2 and 183.1, letters a) and b); and the right to file a claim or complaint in accordance with the procedure established in its statutes.

7. Management entities will keep a register of their members and will update it periodically.

Article 157. Management contract.

1. In the management contract, the rights holder must give explicit consent, in writing, for each right, category of rights or type of work or provision whose management entrusts to the entity and with respect to the territories of their

choice, regardless of their nationality or place of residence or establishment of the management entity. Said contract may not impose as mandatory the management of all the modalities of use nor that of the entire work or future production.

2. The management entity will inform the owner of the rights, prior to the signing of the management contract, of all the rights recognized in this title; of the conditions inherent to the right recognized in article 169; and of the management discounts and other deductions that apply to the rights that it collects and the returns derived from the eventual investment of the same.

Article 158. Total or partial revocation of the management contract.

1. The duration of the management contract may not exceed three years, renewable for periods of one year.

2. The owner will have the right, with a reasonable notice of no more than six months that will be specified in the statutes of the management entity, to revoke all or part of his management contract, with a withdrawal of the rights, categories of rights or types of works or services of your choice in the territories of your choice.

3. The management entity may determine that the revocation will be effective as of the end of the fiscal year in which the notice period expires and may not condition it to the fact that the rights of the holder are entrusted to another management entity except in relation to the rights contemplated in this law whose management must be carried out through the management entities.

4. In the event that amounts are owed to the owner for rights collected at the time of the revocation, total or partial, the owner will retain the right to receive information on:

a) The management discounts and other deductions that the management entity will apply to those rights pending payment.

b) The rights related to the distribution and payment of rights provided for in articles 177 and 180.

c) The information rights provided for in articles 181 and 183, letters a) and b).

d) The right to file a claim or complaint in accordance with the procedure provided for in the statutes of the management entity.

5. In the event that the holder owes amounts to the management entity by virtue of advances on account of future distributions of rights, provided for in article 177, paragraph 9, the management entity will not retain the management of the rights, categories of rights, types of works or services and territories subject to total or partial revocation even if the debt has not been canceled. The effects of the revocation will occur in accordance with the provisions of section 2.

The parties will agree on the terms of the total or partial amortization of the outstanding balances of the advances that are documentary accredited.

In the event that an agreement is not reached, the fruits of the exploitation of the rights subject to the total or partial revocation will be considered a guarantee of the payment of the outstanding balances of documentary accredited advances.

6. Management entities that do not grant or offer to grant non-exclusive multi-territorial authorizations of online rights to musical works or do not allow another management entity to represent those rights for this purpose, must allow their members to partially revoke their management contract with regard to such rights in order to grant such authorizations. Such revocation will not affect the rest of the online rights for the purposes of granting non-exclusive and non-multi-territorial authorizations.

CHAPTER III

Organization of management entities

Article 159. Statutes.

Notwithstanding the provisions of other applicable regulations, the statutes of the management entities shall state:

a) The name, which may not be identical to that of other entities, nor so similar that it may lead to confusion. In case the name does not include the reference "Intellectual Property Rights Management Entity", this, or its abbreviation "EGDPI", must be stated after the corresponding name.

b) The object and purposes, which will be the management of the rights or categories of intellectual property rights, specifying those to be administered.

Likewise, they may carry out activities other than the management of intellectual property rights as long as they are linked to the cultural sphere of the entity and the non-profit requirement established in article 147 is met.

c) The classes of holders of rights included in the management and, where

appropriate, the different categories of those for the purposes of their participation in the administration and internal control of the entity.

d) The criteria for the acquisition and loss of the quality of member of the management entity that must be objective, transparent and non-discriminatory. In any case, the members, who may be holders of rights or entities that represent them, including management entities and associations of holders of rights, must be holders of rights to be managed by the entity and the number of them may not be less than ten.

e) The rights of the members and, in particular:

1. The conditions for the exercise of the member's right to grant non-exclusive authorizations for the non-commercial exercise of the rights entrusted to the management entity, provided for in article 169.

2. The right to communicate electronically with the entity, including for the purpose of exercising their rights.

3. The conditions for the exercise of the right of total or partial revocation of the management contract, provided for in article 158, which must maintain a balance between this right of the member and the capacity of the management entity to effectively manage the rights that they have been entrusted to him.

f) The right of all members to be summoned in due time and form to the meetings of the general assembly, as well as to attend and participate in them, having in any case, at least one vote. As well as the voting regime of the members in the general assembly, which may be established taking into account weighting criteria that reasonably limit plural voting, guaranteeing, in any case, an equitable and proportionate representation of all the members. Said weighting criteria may be based solely on the duration of the membership in the management entity, on the amounts received by virtue of said condition, or on both. With regard to sanctions for the exclusion of a member, the voting system will be equal. Nevertheless,

g) The duties of the members and their disciplinary regime.

h) The rules governing the convening of the general assembly of the management entity.

i) The governing and representation bodies of the management entity, the internal control body and the respective competencies of all of them, as well as the rules

relating to the convocation, constitution and operation of those of a collegiate nature, with an express prohibition to adopt agreements regarding matters that do not appear on the agenda.

j) The procedure for the election and removal by the general assembly of the members who form part of the governing and representative bodies and the internal control body of the management entity. These provisions must ensure that the composition of said bodies elected by the general assembly and the internal control body of the management entity abides by the principle of balanced representation of women and men in the appointment of the heads of said bodies.

k) The initial patrimony and the anticipated economic resources.

l) The general principles according to which the governing and representation bodies of the management entity will draw up the regulations for the distribution of the rights collected, which must subsequently be ratified by the general assembly. In any case, as part of these general principles, arbitrariness in the distribution must be excluded and it must be guaranteed that the participation of the owners in the distribution is proportional to the use of their works and protected services and, consequently, to the collection that contributes to generate for the management entity.

The management entities will adopt the necessary measures, including the setting of distribution caps when appropriate, to prevent works or services from receiving disproportionate amounts in relation to the commercial or audience returns that occur during their exploitation. In particular, in those cases of broadcasting in which the commercial value for the use of the protected works and services is testimonial due to the absence of a significant audience, a lump sum will apply that in no case will exceed twenty percent of the total collected from each user for intensive or maximum quantitative use of the works, said percentage being prorated proportionally to the intensive use that occurs at any given time.

m) The control regime of the economic and financial management of the entity.

n) The destination of the net worth or assets resulting in the event of liquidation of the entity that, in no case, may be distributed among the members.

ñ) The adequate provisions to ensure a management free of influences from the users of its repertoire. These provisions must ensure that those rights holders who belong to user companies do not occupy more than fifty percent of the positions in the governing bodies and do not participate in decision-making in which there

may be a conflict of interest. In any case, the management entity will adopt measures to avoid an unfair preferential use of the protected works and services, in particular by those holders of rights, and may even establish restrictions on distribution.

o) The procedure for processing and resolving claims and complaints raised by members and by management entities on whose behalf rights are managed under a representation agreement, in relation to the scope of activity of the management entity and, in particular, the conditions of acquisition and loss of membership; any aspect related to the management contract; and the collection and distribution of rights. The answers to the claims will be made in writing and, when they are rejected, they must be sufficiently motivated.

Article 160. General Assembly.

1. The general assembly of the members of the management entity, which will be convened at least once a year, will have at least the following powers:

a) Approve the modifications of the bylaws of the entity.

b) Ratify the regulations for the distribution of the rights collected prepared by the governing and representative bodies in accordance with the general principles regulated in the statutes of the management entity.

c) Regarding the people who make up the governing and representation bodies of the entity and the internal control body, approve their appointments and dismissals, examine their performance and approve their remuneration and other benefits such as monetary and non-monetary earnings, pensions and subsidies , rights to other bonuses and the right to severance pay.

d) Approve the general policy for the use of amounts that cannot be distributed under the terms provided in article 177.6.

e) Approve the general investment policy of the rights collected and of any other yield derived from the investment thereof, which must in any case observe the principles and recommendations established in the codes of conduct regulated according to the fifth additional provision of the consolidated text. of the Securities Market Law and its implementing regulations, approved by Royal Legislative Decree 4/2015, of October 23.

f) Approve the general policy of deductions made on the rights collected and on any other income derived from their investment.

g) Approve the risk management policy.

h) Approve any acquisition, sale or mortgage of real estate.

i) Approve mergers and alliances, the creation of subsidiaries, and the acquisition of other entities, interests or rights in other entities in accordance with the provisions of the legal system, except in cases where such operations are directly imposed by said legal system .

j) Approve the proposals for loan and loan operations or the constitution of guarantees or loan guarantees, in accordance with article 177.8, except in the cases specifically provided for in said section and in article 177.9.

k) Adopt the accounting and auditing decisions of the entity provided for in article 187.

l) Approve the annual transparency report provided for in article 189.

m) Controlling the activities of the entity and its management by its governing and representative bodies.

2. The general assembly may not delegate the exercise of its powers to another body of the entity except in the case of those contemplated in letters g) to j) of the previous section, the exercise of which may be delegated, where appropriate, to the body of internal control of the entity. Said delegation will be carried out through the approval of a resolution of the general assembly or by including a provision in the statutes.

3. The members of the management entities may delegate their right to participate and vote in the general assembly to any other member of the entity, provided that such appointment does not give rise to a conflict of interest. In any case, it will be considered that a conflict of interest occurs when the represented person and the representative belong to different categories of rights holders within the management entity.

The power of representation necessary for such a delegation will only be valid for a single general assembly. The representative will enjoy the same rights in the general assembly and will cast his votes in accordance with the instructions of the member of the entity he represents.

Article 161. Administration.

1. The governing and representation bodies of the management entities shall be governed in accordance with the provisions of this law, in the regulations governing the legal form of the entity and in its statutes.

2. The management entities shall determine and apply procedures to avoid conflicts of interest and, when said conflicts cannot be avoided, procedures aimed at detecting, managing, controlling and declaring actual or potential conflicts of interest.

3. Before assuming their positions and, subsequently, annually, the members of the governing and representative bodies shall make a declaration on conflicts of interest to the general assembly, for its examination and consideration, with the following information:

a) Any interests in the management entity.

b) Any remuneration received during the previous year from the management entity, including in the form of pension plans, remuneration in kind and other types of benefits.

c) Any amount received during the previous year of the management entity as the holder of rights.

d) Any real or potential conflict between personal interests and those of the management entity or between the obligations with respect to the management entity and any obligation with respect to any other natural or legal person.

When the member of the governing and representative body is a natural person acting on behalf of a legal person, the declaration on conflicts of interest will include their own and those of the represented legal person.

After the meeting is held, the management entity will send a copy of said annual individual statements to the competent Administration for the exercise of supervisory powers over the entity, in accordance with the provisions of article 186.b).

The management entity and its members must respect the confidential nature of the information they access through these statements, the treatment of which, in any case, will be subject to compliance with the antitrust and data protection regulations.

4. When the representative bodies of management entities with collections in excess of one hundred million euros are chosen by the partners by sections or colleges, these groups must include representatives of each of the collection lines of the entity of which they are beneficiaries. .

Article 162. Internal control body.

1. A body of the management entity will assume, in accordance with the provisions of its statutes, the function of internal control of the management entrusted to the governing and representative bodies of the entity. Said body may not exercise the power of management or representation of the entity by itself without prejudice to the provisions of this article and article 160.2.

2. The statutes of the management entity will determine the composition of the internal control body and the form of election of its members by the general assembly, respecting, in any case, the following criteria:

a) The body must be composed of three or more members of the management entity, ensuring that the different categories of members are represented in a fair and balanced manner. None of its members may have a direct or indirect de facto or legal relationship with the natural or legal persons that form part of or are represented in the governing and representative bodies of the management entity.

b) Independent third parties, not members of the management entity, who must have the relevant technical knowledge for the development of their functions, may be appointed as members of this body. None of these third parties that are not members of the management entity may have a direct or indirect de facto or legal relationship, either with the management entity or with any of its members. In the case of management entities that annually collect a figure equal to or greater than one hundred million euros in the previous year, it will be mandatory to appoint as members of the internal control body a number of independent third parties equal to the number of members of the entity of management that make up said body.

For the purposes of letters a) and b) above, a direct or indirect relationship of fact or law, in any case, will be understood as a personal relationship of kinship by consanguinity or affinity up to and including the second degree, or an employment relationship or company that is maintained or has been maintained in the last five years prior to the appointment.

3. The members of the internal control body will be appointed by the general assembly for a period of four years, renewable once for the same period.

4. Before assuming their positions and, subsequently, on an annual basis, the members of the internal control body shall make a declaration to the general assembly regarding conflicts of interest, for their examination and consideration, in the same terms provided in section 3 from the previous article.

The management entity shall send a copy of said statements to the competent Administration for the exercise of supervisory powers over the entity, in accordance with the provisions of article 186.b).

5. The internal control body will have, at least, the following powers:

a) Supervise, in general, the activities and performance of their functions by the governing and representative bodies of the entity.

b) Supervise the execution of the decisions and general policies approved by the general assembly and, in particular, those adopted by virtue of letters d) to f) of article 160.1.

c) To exercise the functions that, where appropriate, are delegated by the general assembly in accordance with article 160.2.

d) Execute the mandates that, where appropriate, the general assembly agrees to entrust to it.

6. The internal control body may summon the members of the governing and representative bodies of the management entity and the management and technical staff of the entity to attend its meetings with voice but without vote.

7. The governing and representation bodies of the management entity must submit, at least on a quarterly basis, to the internal control body all the information on the management of the entity that is necessary for the exercise of their control powers. Likewise, they will send any other information on events that may have a significant impact on the situation of the management entity. Each member of the control body will have access to all the information communicated to said body.

8. Without prejudice to the obligation regulated in the previous section, the internal control body may request from the governing and representation bodies of the management entity and the entity's managerial and technical personnel any information that is necessary for the exercise of their competencies. Likewise, it may carry out or require that the necessary checks be carried out for the

exercise of its powers.

9. The internal control body will report annually to the general assembly on the exercise of its powers in a report that it will present to it.

The management entity shall send a copy of said report to the competent Administration for the exercise of supervisory powers over the entity, in accordance with the provisions of article 186.i).

10. The internal control body may convene the general meeting in an extraordinary manner in accordance with the statutory provisions when it deems it appropriate for the interest of the management entity.

11. In the case of management entities that annually collect a figure equal to or greater than 100 million euros in the previous year, the internal control body, in addition to exercising the powers provided for in section 5, must supervise the following actions of the governing and representative bodies of the entity:

- a) The application of the regulations for the distribution of the rights collected.
- b) The processing and resolution of disciplinary procedures against members of the entity.
- c) The processing and resolution of claims and complaints.
- d) Execution of the annual budget for the collection and distribution of rights managed and the entity's income and expenses.

12. In the case of management entities that annually collect a figure equal to or greater than 100 million euros in the previous year, the following operating rules will apply to the internal control body:

- a) It will meet at least every six months.
- b) For each session held, minutes will be drawn up that will necessarily specify the following aspects:
 - 1. The assistants.
 - 2. The meeting agenda.

3. The circumstances of the place and time in which it was held.
4. The main points of the deliberations, as well as the content of the resolutions adopted and the individual votes.

The minutes of each session may be approved at the same meeting or the one immediately following and a copy of the same must be made available to all members of the management entity electronically within a period of one month from its approval.

c) For the performance of its functions, and without prejudice to the provisions of sections 7 and 8, the internal control body will be assisted by an auditor. This auditor, who will be different from the one who audits the entity's annual accounts, will be appointed by the general assembly, however, in accordance with the procedure provided for in article 187.2.

CHAPTER IV

Non-exclusive authorizations for the use of the repertoire of the management entities and general rates

Section 1. General legal regime

Article 163. Granting of non-exclusive authorizations.

1. The management entities are obliged to negotiate and contract under remuneration with the users who request it, except for justified reasons, the granting of non-exclusive authorizations of the managed rights, both parties acting under the principles of good faith and transparency, for that which will exchange all the information that is necessary.

For the purposes of this title, a user shall be considered to be any person or entity that carries out acts subject to the authorization of the rights holders or the obligation of remuneration or payment of compensation to the rights holders.

2. The granting of non-exclusive authorizations will be based on equitable and non-discriminatory conditions. For this purpose, the management entities must inform users about the commercial conditions granted to other users who carry out similar economic activities. However, for the granting of authorizations to online services, the management entities will not be obliged to rely on the conditions previously offered to another user who provides an online service that has been available to the public in the European Union for less than three years. .

3. The management entities will respond without undue delay to the requests of the users, indicating, among other things, the information necessary to offer a non-exclusive authorization.

Once all the pertinent information has been received, the managing entity, without undue delay, will offer a non-exclusive authorization or issue a reasoned denial for each specific service that is not authorized.

4. As long as the parties do not reach an agreement, the corresponding authorization will be understood to be granted if the applicant makes effective under reserve or judicial consignment the amount demanded by the management entity in accordance with its general rates.

5. The management entities will allow users to communicate with them by electronic means to report on the use of the non-exclusive authorization.

Article 164. General rates.

1. Management entities are obliged to establish general, simple and clear rates that determine the remuneration required for the use of their repertoire. Said general rates will be accompanied by an economic report, the content of which will be determined by regulation, which will provide a detailed explanation by rate modality for each category of user.

2. The general rates must provide reductions for cultural entities that lack profit-making purposes.

3. The amount of the general rates will be established under reasonable conditions, taking into account the economic value of the use of the rights over the protected work or service in the user's activity, and seeking the right balance between both parties, for which they will have consider at least the following criteria:

a) The degree of effective use of the repertoire in the whole of the user's activity.

b) The intensity and relevance of the use of the repertoire in the whole of the user's activity.

c) The breadth of the repertoire of the management entity. For these purposes, repertoire will be understood to be the works and services whose rights are managed by a management entity.

d) The economic income obtained by the user from the commercial exploitation of the repertoire.

e) The economic value of the service provided by the management entity to enforce the application of rates.

f) The rates established by the management entity with other users for the same mode of use.

g) The rates established by homologous management entities in other Member States of the European Union for the same mode of use, provided that there are homogeneous bases of comparison.

4. The methodology for determining the general rates will be approved by order of the Ministry of Culture and Sports, following a report from the National Commission of Markets and Competition and prior agreement of the Government Delegate Commission for Economic Affairs.

5. If a user of intellectual property rights, who for said use must pay the general rate determined for exclusive rights and / or remuneration by the corresponding management entity, questions it in any way or in any way, including the mere negative To pay it, you must, at least and in any case, pay on account 100% of the last agreed rate, or, in the absence of a prior agreement, 50% of the current general rate. Until the conflict is resolved, it will be understood, provisionally, that the payment obligation has been fulfilled and, with regard to the exclusive right that could concur with the right to remuneration, the authorization for the use of that exclusive right has been granted.

6. If the rate in question referred to in the previous section is null and void, or if any circumstance arises that makes it inapplicable for the purposes of payment on account, the user of intellectual property rights will proceed to pay. on account of 100% of the last agreed rate, or, in the absence of a prior agreement, 50% of the last general rate in force.

7. If the general rate is questioned by a user association, the payment on account must be made by each of the members that comprise it.

8. The payment on account indicated in the two previous sections will constitute a necessary prerequisite for the user or the association of users to be able to initiate the procedure for determining the rates provided for in article 194.3 of this

law.

User associations with less than a thousand members may initiate the procedure when, at least, they are aware of the payment on account with the entity in relation to which they intend to initiate the procedure for determining member rates that represent, at least, the 85% of the income of all the members of the association.

Article 165. Sectorial agreements.

Management entities are obliged to negotiate and enter into general contracts with user associations from their repertoire, provided that they request it and are representative of the corresponding sector.

Article 166. Exceptions.

The provisions of the previous articles on the granting of non-exclusive authorizations, general rates and sectorial agreements will not be applicable to the management of rights related to literary, dramatic, dramatic-musical, choreographic or pantomime works, or regarding the singular use of one or more works of any kind that require the individualized authorization of the owner.

Article 167. Obligations of the users.

1. Unless otherwise agreed between the parties, users must provide the management entity, within ninety days following the use of the right and in a previously agreed or established format, the detailed and pertinent information that is available to them on the use of the rights represented by the management entity and that is necessary for the collection of the rights and the distribution and payment of their amounts due to the rights holders.
2. The term agreed by the parties, in the absence of that provided for in the previous section, shall allow the management entity, in any case, to comply with the term established in article 177.1.
3. The agreed period and format of the information may be determined for an entire user sector by agreement between the management entity and the nationally representative user associations of the corresponding sector.
4. To determine the format to communicate the information, the collective management entities and the users or the associations representing them will take into account, as far as possible, the voluntary sectoral standards.
5. When the user does not have the necessary information to comply with the

obligation set forth in section 1, he may request it from the management entity in accordance with the provisions of article 183.1. In this case, the period for the user to submit the information to the management entity will be suspended until the management entity gives an adequate response to the user.

6. The contract that regulates the granting of the non-exclusive authorization must include a penalty clause that will apply in the event that the user does not comply with the obligation to send information in due time and form.

Article 168. Single window for billing and payment.

The management entities authorized by the Ministry of Culture and Sports are obliged to participate in the management, financing and maintenance of the single billing and payment window, accessible through the internet, within the terms and conditions determined in the regulations in force, and in which the users of the repertoire managed by them can know in an updated way the individual and total cost to be satisfied by all said entities and operators, as a result of the application of the rates to their activity, and make the corresponding payment.

Article 169. Granting of authorizations for the non-commercial exercise of rights.

The management of rights entrusted to a management entity shall not prevent its holder from granting non-exclusive authorizations for the non-commercial exercise of the same in the terms provided in the statutes of the entity.

Section 2. Legal regime of non-exclusive multi-territorial authorizations of online rights over musical works

Article 170. General provisions.

1. A non-exclusive multi-territorial authorization of online rights over musical works constitutes that which is necessary to confer on the provider of an online music service the power to exploit a right of reproduction and public communication, including making available, of a musical work in the territory of several Member States of the European Union.

2. The provisions contained in this section and in section 2 of chapter V of this title shall not apply to management entities when, based on the voluntary aggregation of the required rights, they grant a non-exclusive multi-territorial authorization to:

a) Online rights to musical works required by a broadcasting organization to communicate to the public or make its radio or television programs available to them at the time of their first broadcast or later.

b) Any online material, including previews, produced by or for the broadcaster that complements the initial broadcast of your radio or television program.

The application of these exceptions shall be limited to what is necessary to allow access to online radio or television programs and material that has a clear and subordinate relationship to the original broadcast and has been produced for the purpose of completing, previewing or re-viewing, watch the radio or television program in question.

Article 171. Ability to process non-exclusive multi-territorial authorizations for online rights to musical works.

1. The management entities that grant multi-territorial non-exclusive authorizations of online rights over musical works will have sufficient capacity to process electronically, efficiently and transparently, the data necessary for the administration of such authorizations, in particular for the purposes of to identify the repertoire and control its use, proceed to bill the users, collect the rights and distribute and pay the corresponding amounts to the holders of the rights.

2. For the purposes of section 1, management entities must meet, at least, the following conditions:

a) To be able to accurately determine the musical works, in whole or in part, that they are authorized to represent.

b) To be able to determine with precision, in whole or in part, in each territory in question, the rights and their corresponding owners, with respect to each musical work or part of it that they are authorized to represent.

c) Use unique identifiers to identify the holders of rights and musical works, taking into account, as far as possible, the standards and voluntary sectoral practices developed at the international or European Union level.

d) Use appropriate means to detect and resolve, quickly and efficiently, inconsistencies in the data held by other management entities that grant multi-territorial, non-exclusive authorizations of online rights to musical works.

Article 172. Representation agreements with another management entity.

1. Any representation agreement by virtue of which one management entity entrusts another with the granting of non-exclusive multi-territorial authorizations of online rights to musical works will be of a non-exclusive nature. The mandatory

management entity will manage the entrusted rights under non-discriminatory conditions.

2. The mandating entity shall inform its members of the main conditions of the agreement, including its duration, and of the costs of the services provided by the mandated management entity.

3. The mandated management entity will inform the mandating entity of the main conditions under which authorizations will be granted, including the nature of the exploitation, all the provisions that refer to or affect authorization payments, the duration of the authorization. itself, the accounting years and the territories they cover.

Article 173. Obligation of representation.

1. The management entities that grant or offer the granting of non-exclusive multi-territorial authorizations of online rights over musical works of the repertoire of one or more other management entities will be obliged to sign the representation agreements on these rights which, where appropriate, They may be asked by other management entities that do not grant or offer the granting of such authorizations on the musical works of their own repertoire.

2. The mandating entity will respond to the mandating entity in writing and without undue delay.

3. The mandating entity will manage the represented repertoire of the mandating entity in accordance with the same conditions that apply to the management of its own repertoire and including it in all the offers that it addresses to online service providers.

4. Management discounts for the service provided by the mandating entity to the mandating entity shall not exceed the costs reasonably incurred by the mandating entity.

5. The mandating entity shall make available to the mandating entity the information on its own repertoire that is necessary for the granting of the authorization. When this information is insufficient or is provided in a way that does not allow the mandatory entity to comply with the requirements of this title, it will have the right to invoice the expenses that it has reasonably incurred to satisfy such requirements or to exclude the works with respect to which the information is insufficient or unusable.

Article 174. Rates.

1. Articles 163.4, 164 and 165 will not apply to the granting of non-exclusive multi-territorial authorizations for online rights.

2. Management entities granting non-exclusive multi-territorial authorizations of online rights are obliged to negotiate and agree with online music service providers rates that determine the remuneration required for the use of their repertoire. These rates, negotiated under the principles of good faith and transparency, will be reasonable and equitable in relation to, among other factors, the economic value of the use of the negotiated rights, taking into account the nature and scope of use of the works and the economic value of the service provided by the management entity. The management entity will inform the user of the criteria used to set these rates.

CHAPTER V**Management of rights collected by management entities****Section 1. General legal regime****Article 175. Collection and use of the rights collected.**

1. The management entities shall act diligently in the collection and management of the rights collected.

Rights collected shall be understood as the amounts collected by a management entity on behalf of the holders of rights and derived from an exclusive right, a right to remuneration or a right to compensation.

2. The management entities that administer copyrights over works of different categories must guarantee the traceability of the collection process and distribution of rights, in such a way that it is possible to identify all its stages, from the origin of collection to distribution. to the holders of rights over the works whose use generates the rights.

3. The management entities, provided that the user has complied with the information obligation provided for in article 167.1, will keep separate in their accounts:

a) The rights collected and any income derived from the investment thereof. To this end, the management entities that administer copyright over works of different categories must maintain due separation between the rights collected by reason of the origin or source of the collection.

b) All their own assets that they may have and the income derived from those assets, from their management discounts, from other deductions or from other activities.

4. The management entities will not be authorized to use the rights collected or any return derived from the investment thereof for purposes other than the distribution to the holders of the rights, except to deduct or offset their management discounts and the amount allocated to finance the activities and services provided for in article 178 in accordance with the decisions taken at its general assembly.

5. When a management entity invests rights collected or any return derived from that investment, it must do so in the best interest of the holders whose rights it represents in accordance with the general investment and risk management policies approved by the general meeting, and taking into account the following rules:

a) When there is a possible risk of conflict of interest, the management entity will ensure that the investment is made solely seeking the interest of those right holders.

b) Assets will be invested in compliance with the security, quality, liquidity and profitability requirements of the portfolio as a whole.

c) Assets will be properly diversified, in order to avoid excessive dependence on a specific asset and the accumulation of risks in the portfolio as a whole.

6. The governing bodies and representation of the management entities must behave with informative transparency regarding the monitoring of the general investment policy approved by the general assembly and, for this purpose, will present to the general assembly, for its examination and consideration, an annual report on the degree of compliance, with special mention of the operations in which they have been separated from it, explaining the reasons that serve as their basis. Said annual report will be made available to the members of the entity electronically.

Article 176. Discounts.

1. Management discounts and other deductions on the rights collected will be reasonable in relation to the services provided by the management entity to the holders of rights and will be established in accordance with objective criteria.

2. The management discounts will not exceed the justified and documented costs incurred by the management entity in the management of exploitation rights and others of a patrimonial nature. For these purposes, the management entity must keep an analytical accounting that meets the following purposes:

- a) Know the real cost of the services provided.
- b) Check the proper management of the service provided.

3. The management entities will not apply deductions, apart from the management discounts and the one destined to finance the activities and services provided for in article 178 in accordance with the decisions adopted in their general assembly, on the income derived from the rights they manage, by virtue of a representation agreement, or any return derived from the investment of said income, unless the other management entity that is part of the representation agreement expressly authorizes said deductions.

Article 177. Distribution, payment and prescription of rights.

1. The distribution of the collected rights will be made equitably by the management entities to the owners of the works or services used and to other management entities with which they have signed representation agreements, in accordance with the provisions of their distribution regulations. In any case, there must be traceability between the rights collected and those distributed and paid.

For the management entities that administer rights to protected works or services of different categories, the distribution must be made separately, for each type of work or protected provision, not being able to assign amounts for distribution by rights to works other than those of which the rights to distribute proceed, and in accordance with the provisions of article 175.3 of this law.

The distribution and payment of rights will be made periodically, with diligence and accuracy, as soon as possible and, in any case, within a maximum period of nine months from January 1 of the year following their collection. However, this period may be breached when there are objective reasons that justify it and related, in particular, to the following points:

- a) The communication of information by users.
- b) The identification of the rights or the holders of rights.

c) The collation of information on works and other benefits with the holders of rights.

The settlements necessary to make the payment must contain at least the following information:

a) Right and modality to which it refers.

b) Accrual period.

c) Origin or provenance of the collection.

d) Deductions applied.

The provisions of this section will also be applicable to the holders of rights that are not members of the management entity that administers the same category of rights that belong to the holder in relation to the rights of compulsory collective management.

2. The distribution and payment of rights collected by another mandatory management entity within the framework of a representation agreement will be made by the mandating management entity to the owners of the works or services used within a maximum period of six months from receipt. . However, this period may be breached when there are objective reasons that justify it and related, in particular, to the same points provided in the previous section.

3. The general assembly of the management entity may adopt certain rules regarding distribution that take into account culturally relevant protected works and services, their nature, their first or any other objectively reasonable aspect, as well as the international agreements reached.

4. The action to claim from the management entities the payment of amounts assigned in the distribution to a holder, prescribes five years from January 1 of the year following the provision to the holder of the amounts given to him correspond.

5. The action to claim from the management entities the payment of amounts collected that are pending allocation when, after the distribution procedure, the owner or the protected work or benefit have not been identified, prescribes five years from the January 1 of the year following its collection.

The amounts referred to in the previous paragraph will be kept separate in the accounts of the management entity.

In the distribution procedure, the management entities will execute the necessary measures to identify and locate the rights holders. In particular, these measures will include:

a) Verification of updated registration data of the members of the entity, as well as standardized registers of protected works and services, and other readily available registers.

b) Within a maximum period of three months after the expiration of the period provided for in section 1, the making available to both the members of the entity and other management entities with which it has entered into agreements to represent a list of works and benefits whose right holders have not been identified or located, together with any other relevant information available that may help to identify or locate the right holder.

6. The amounts collected and not claimed by the owner within the period provided for in sections 4 and 5 of this article will be used in their entirety by the management entities for the following purposes:

a) To carry out welfare activities in favor of the members of the entity and / or training and promotion activities for authors and performers.

b) To promote the legal digital offer of protected works and services whose rights they manage, under the terms provided in article 178.1.c) 1st and 3rd

c) To proportionally increase the distribution in favor of the rest of the works and protected services that were duly identified in the distribution process from which said amounts come.

d) The financing of the single billing and payment window referred to in article 168.

e) To the financing of the legal person referred to in article 25.10.

The general assembly of each management entity must agree annually on the minimum percentages of the amounts collected and not claimed that will be used for each of the aforementioned purposes and that, in no case, except in the cases of the previous letters d) and e), may be less than fifteen percent for each of

these.

In the event that the management entities present negative surpluses in their annual accounts or do not prove that they are up to date with their tax and social security obligations, or both, they must allocate the amounts indicated in the first paragraph of this section, and up to the amount that is necessary, to compensate the negative surpluses presented in its annual accounts or to comply with the aforementioned obligations, or both.

Keep in mind that, for a period of two years from May 7, 2020, the minimum percentages provided for in section 6 will not apply and, during that period of time, the general meeting of a rights management entity. of intellectual property may modify said percentages in order to increase those intended to carry out assistance activities in favor of the members of the entity, as established in additional provision 7 of Royal Decree-Law 17/2020, of May 5. Ref. BOE-A-2020-4832

7. After three years from January 1 of the year following the provision to the holder of the corresponding amounts or collection, the management entities may dispose, annually and in advance, of up to half of the amounts pending prescription, for the same purposes set forth in the previous section, without prejudice to the claims of the owners regarding said non-prescribed amounts. For these purposes, the management entities will constitute a guarantee deposit with ten percent of the amounts arranged.

8. Management entities may not grant credits or loans, directly or indirectly, or secure, endorse or guarantee third-party obligations in any way, unless expressly and specifically authorized by the competent Administration in accordance with article 155 and as long as they are directly related with assistance and / or promotional activities that benefit the represented rights holders.

9. The management entities may only grant advances to the members of the entity, on account of the future distributions of rights collected, when their concession is based on non-discriminatory rules and does not compromise the final result of the distributions of rights.

Article 178. Social function and development of the legal digital offer.

1. Management entities, directly or through other entities, will promote:

a) The promotion of healthcare activities or services for the benefit of its members,

b) carrying out training and promotion activities for authors and artists, performers and performers, and

c) the legal digital offer of the protected works and services whose rights they manage, within which the following shall be understood to include:

1. Training, education or awareness campaigns on the legal supply and consumption of protected content, as well as campaigns to combat the infringement of intellectual property rights.

2. The direct promotion of protected works and services whose rights it manages through its own technological platforms or those shared with third parties.

3. Activities to promote the integration of authors and artists with disabilities in their respective creative or artistic field, or both, as well as the promotion of the digital offer of their works, creations and services, and access for disabled people to them in the digital field.

The activities or services mentioned in letters a) and b) will be provided on the basis of fair criteria, in particular with respect to access and scope thereof.

2. The management entities must dedicate to the activities and services referred to in letters a) and b) of the previous section, in equal parts, the percentage of the compensation provided for in article 25, which is determined by regulation.

3. At the request of the competent Administration, the management entities must prove the assistance, training, promotional and legal digital offer nature of the activities and services referred to in this article.

4. In order to carry out the activities of section 1, the management entities may constitute non-profit legal persons as established in the current legislation, prior communication to the competent Administration. In the event of dissolution of the legal entity thus constituted, the management entity must communicate said dissolution and the terms thereof to the body to which it communicated its constitution at the time.

5. Exceptionally and in a justified manner, in order to carry out the activities contemplated in letters a) and b) of section 1, or others of manifest interest, the management entities may, by express and singular authorization of the Administration competent, constitute or form part of legal entities for profit. In the

event of dissolution of said legal persons, the management entity must immediately notify said dissolution and the terms thereof to the body that at the time authorized their constitution or association.

Section 2. Legal regime for the management of rights collected by non-exclusive multi-territorial authorizations of online rights over musical works

Article 179. Collection and billing.

1. The management entities that grant multi-territorial, non-exclusive authorizations of online rights to musical works must control the use of such rights by the providers of online music services to which they have granted said authorizations.

2. Management entities must offer online service providers that have a non-exclusive multi-territorial authorization of online rights to musical works the possibility of electronically declaring the effective use of authorized rights, being obliged to inform with precision on the actual uses of said works.

Management entities shall offer, at least, one information method that takes into account voluntary sectoral standards or practices developed at the international or Union level for the electronic exchange of such data. In this case, the management entities may refuse to accept the statements of the online service providers presented in their own format.

Management entities may supervise the effective use of the rights authorized by online music service providers that have a non-exclusive multi-territorial authorization of online rights over musical works.

Management entities must respect the confidential nature of the information they access through this supervision, the treatment of which, in any case, will be subject to compliance with the competition and data protection regulations.

3. Management entities will send their invoices to online service providers by electronic means. Said invoice will indicate the works and rights subject to authorization based on the data contemplated in the list of conditions under article 171.2 to the extent possible on the basis of the information provided by said provider in accordance with the previous section.

The management entities shall offer, at least, an electronic invoicing format that takes into account voluntary sectoral standards or practices developed at the international or Union level for the electronic exchange of such data. In this case,

the online service provider will not be able to refuse to accept the invoice due to its format.

4. Management entities will bill the online service provider accurately and without delay after notification of the effective use of the online rights to that musical work, except when this is not possible for reasons attributable to the provider.

5. Management entities shall have appropriate procedures in place that allow the online service provider to challenge the accuracy of the invoice, in particular in cases where this provider receives invoices from one or more management entities for the same online rights over the same musical work.

Article 180. Distribution and payment.

1. The management entities that grant multi-territorial non-exclusive authorizations of online rights over musical works must distribute exactly and without delay the rights they collect by virtue of said authorizations, after notification of the effective use of the works, except when this not possible for reasons attributable to the online service provider.

2. The management entities shall provide, as a minimum, the following information to the holders of rights together with each payment they make in accordance with section 1:

a) The period during which the use has taken place for which amounts are owed to the right holders and the territories in which such use has taken place.

b) The rights collected, the deductions made and the amounts distributed by the managing entity in relation to each online right over the musical works that the right holders have authorized the managing entity to represent, in whole or in part. .

c) The fees collected on behalf of the rights holders, the deductions made and the amounts distributed by the managing entity in relation to each online service provider.

3. The provisions of this article will be applicable when the management entity grants these authorizations by virtue of the order made by another management entity. The mandating management entity will be responsible for the subsequent distribution of these amounts and for the communication of that information to the right holders, unless the management entities reach another agreement.

CHAPTER VI

Information, transparency and accounting obligations of management entities

Article 181. Information provided to the holders of rights on the management of their rights.

1. The management entities will annually make available to each rights holder to whom they have attributed rights collected or made payments, including those non-member rights holders whose rights are managed by the entities as they are compulsory collective management rights as provided for in this law , in the period to which, at least, the following information refers:

- a) Any contact information that the rights holder has authorized the management entity to use in order to identify and locate it.
- b) The collected rights attributed to the rights holder.
- c) The amounts paid by the managing entity to the rights holder, by category of rights managed and by type of use.
- d) The period during which the use has taken place for which amounts are attributed and paid to the owner of the rights, except when objective reasons related to the declarations of the users prevent the management entity from providing this information.
- e) Deductions applied for management discounts or for any other concept.
- f) The collected rights attributed to the owner of rights that are pending payment for any period.

2. When a management entity attributes rights collected and its members include entities that are responsible for the distribution of rights collected to holders of rights, the management entity will provide the information indicated in section 1 to those entities provided that they do not have that information. These entities must make said information, at least once a year, available to all rights holders to whom they have attributed rights collected or made payments in the period to which the information refers.

Article 182. Information provided to other management entities on the management of rights under representation agreements.

The management entities, annually and by electronic means, will make available to the management entities on whose behalf they manage rights under a

representation agreement during the period to which the following information refers:

a) The rights collected, the amounts paid by the management entity by category of rights managed and by type of use of the rights they manage under the representation agreement, and all rights collected that are pending payment for any period.

b) Deductions applied for management discounts or for any other purpose.

c) Information on the non-exclusive authorizations granted or denied in relation to the works and other services referred to in the representation agreement.

d) The resolutions adopted by its general assembly insofar as these resolutions are pertinent for the management of the rights included in the representation agreement.

Article 183. Information provided upon request.

1. Notwithstanding the obligation set forth in article 185, management entities must provide, in response to a duly reasoned written request, at least the following information to any management entity on whose behalf they manage rights under a representation agreement, to all rights holders or to all users:

a) The works or other services they represent, the rights they manage directly or by virtue of representation agreements, and the territories they cover.

b) When the works or other benefits of letter a) cannot be determined due to the scope of the activity of the managing entity, the categories of works or other benefits they represent, the rights they manage and the territories they cover.

2. The management entities must inform, upon written request, regarding the following points to their members and to the holders of rights who are not members but with respect to which they administer the same category of rights in relation to management rights. mandatory collective:

a) The people who are part of the senior management and the governing and representative bodies of the entity, as well as the committees and working groups in which they participate.

b) Remuneration and other perceptions attributed to the persons indicated in the previous letter due to their status as members of the governing and representative

bodies and members of the committees and working groups. This information may be given globally for remuneration, separately collecting those corresponding to senior management personnel from the rest of the members or members of the bodies and commissions mentioned above that do not have said status.

c) The conditions of the contracts signed by the entity with users of its repertoire, with its associations and with other management entities, when they prove that they have a legitimate and direct interest.

d) The minutes of the meetings of the general assembly, which must state, as a minimum, the number of concurrent members, between those present and those represented, and the number of votes that correspond to each one, as well as a summary of the matters treated, the agreements adopted and the results of the voting.

3. The information requested under paragraphs 1 and 2 shall be provided free of charge, by electronic means and without undue delay.

4. The management entities that grant multiterritorial non-exclusive authorizations of online rights over musical works will provide, by electronic means, to the providers of online music services, to the holders whose rights they represent and to other management entities, in response to a duly reasoned written request, the following updated information that allows the identification of the online music repertoire they represent:

a) The musical works represented.

b) The rights represented, in whole or in part.

c) The territories covered.

Management entities may adopt reasonable measures to protect, when necessary, the accuracy and integrity of the data, control its reuse and protect sensitive information from a commercial point of view.

Article 184. Accuracy of information on multiterritorial repertoires.

1. The management entities that grant multi-territorial non-exclusive authorizations of online rights over musical works will have internal procedures that allow rights holders, other management entities and online service providers to request a correction of the data referred to in article 171.2 and the information provided in accordance with article 183.4.

2. When the request is justified, the managing entity must correct the data or information without undue delay.

3. Management entities must provide rights holders with the means for them to present in electronic format information about their musical works, their rights over said works and the territories with respect to which the rights holders authorize the entity. In doing so, management entities and rights holders will take into account, as far as possible, voluntary sectoral standards or practices relating to data exchange developed at the international or European Union level.

4. The previous section will be applicable to those holders whose rights are managed by the management entity by virtue of a representation agreement of those provided for in articles 172 and 173 unless both management entities reach another agreement.

Article 185. Information that must be made public.

Management entities must publish on their website in an easily accessible way and keep the following information updated:

a) The statutes of the entity.

b) The annual accounts and the management report, with the corresponding audit report, and the annual transparency report. The latter will be available on the website for five years.

c) The members of the entity's governing and representative bodies.

d) The general contracts that they have signed with user associations and the contract models that are usually used for each mode of use of their repertoire.

e) The current general rates, together with the supporting financial report, for each of the modes of use of its repertoire, including discounts and the circumstances in which they should be applied. All of this must be published within ten days from its establishment or last modification.

f) A list of management entities with which representation agreements have been signed. For each agreement, its duration and its subjective and objective scope must be indicated for each of the contracting parties.

g) The repertoire that the entity manages, and must include in it those works and

protected services that they manage by virtue of the current representation agreements signed with foreign management organizations.

h) The regulations for the distribution of the rights collected and the amount or percentage of the management and other discounts that are applied to each right and method of use administered and to the income from the investments of the latter.

i) The list of works and protected services that they administer whose owners, after the procedure of distribution and payment of rights, are partially or totally unidentified or located. This list must be published within a maximum period of one year as of the expiration of the three-month period provided for in article 177.5.b).

j) The general policy on the use of amounts that cannot be distributed.

k) The procedure for the treatment and resolution of claims and complaints raised by the members of the entity and by management entities on whose behalf rights are managed by virtue of a representation agreement, without prejudice to their mandatory inclusion in the statutes of the company. entity.

Article 186. Obligation to notify the competent Administration.

Management entities are obliged to notify the competent Administration in a diligent manner in accordance with article 155:

a) The documents that contain complete information on the appointments and dismissals of its administrators, attorneys-in-fact and the people who make up the entity's internal control body.

b) The annual declarations on conflicts of interest to the general assembly of the members of the governing and representation bodies and internal control of the entity.

c) The models of management contracts and their modifications.

d) The general rates and their modifications, together with the supporting economic report provided for in the regulatory development regulations.

e) General contracts entered into with user associations.

f) Contracts with national and foreign collective management organizations.

g) The documents on accounting and auditing mentioned in article 187 and the annual transparency report.

h) The annual report on compliance with the general investment policy.

i) The annual report prepared by the internal control body to report on the exercise of its powers to the general assembly.

Article 187. Accounting and auditing.

1. The management entities must present their annual accounts prepared in accordance with the Accounting Plan of non-profit entities and will formulate them exclusively according to the normal models provided therein. Likewise, they must present the management report that accompanies said annual accounts with the content established in article 262 of the revised text of the Capital Companies Law, approved by Royal Legislative Decree 1/2010, of July 2.

The management entities that participate in mercantile companies and are in any of the cases provided for the parent company in articles 42 and 43 of the Commercial Code, must prepare consolidated annual accounts and management report in the terms provided in said Code and in Royal Decree 1159/2010, of September 17, which approves the Rules for the Formulation of Consolidated Annual Accounts and modifies the General Accounting Plan approved by Royal Decree 1514/2007, of November 16, and the General Accounting Plan for Small and Medium Enterprises approved by Royal Decree 1515/2007, of November 16.

2. All management entities will submit their annual accounts to an audit. The audit will be contracted and carried out in accordance with the provisions of Law 22/2015, of July 20, on Auditing of Accounts, with the auditors having a minimum period of one month, from the moment the annual accounts were delivered to them. formulated, to make the audit report.

Compliance with the obligations established in sections 3 and 5 of article 175 and in the second paragraph of article 177.5 will be reviewed annually by the auditors mentioned in the previous paragraph, in order to verify that the legally required is fulfilled. The auditors must issue a report, which will accompany their audit report on the annual accounts, in which the result of their review and, where appropriate, the errors detected, are made manifest.

The auditors will be appointed by the general assembly of the entity held before the end of the year to be audited. The general assembly may not revoke the

auditors before the end of the period for which they were appointed, unless there is just cause.

When the general assembly has not appointed the auditor before the end of the fiscal year to be audited or the person named does not accept the assignment or cannot fulfill its functions, the highest executive body of the entity must request the appointment of the company from the commercial registrar of the registered office. person or persons who must carry out the audit, in accordance with the provisions of the Mercantile Registry Regulations for commercial companies. In these cases, said request to the Mercantile Registrar may also be made by any member of the entity.

3. The highest executive body of the management entity will prepare the annual accounts and the management report within the first three months following the end of each financial year.

The annual accounts and management report, the annual transparency report and the various reports that auditors must make, in accordance with the provisions of section 2 and article 189.2, will be made available to the members of the entity electronically or at its registered office and at that of the territorial delegations, free of charge in both cases, with a minimum notice of fifteen days before the holding of the general assembly in which they are to be approved. In the call for the general assembly, which will also be announced on the entity's website, mention of this right will be made.

The annual accounts must be approved by the general assembly within six months from the close of each fiscal year.

4. Within the month following the approval of the annual accounts, or, where appropriate, of the consolidated accounts, a certification of the agreements of the general assembly for the approval of the accounts will be presented for deposit in the Mercantile Registry of the registered office. annual, to which a copy of each of said normal or consolidated accounts, the management report and the auditors' report will be attached. A copy of the annual transparency report will also be attached.

To this deposit obligation, the rules established in the Consolidated Text of the Capital Companies Act and in the Regulations of the Mercantile Registry will be applicable, as appropriate.

Article 188. Annual budget for collection and distribution.

Management entities must prepare an annual budget for the collection and distribution of rights managed and the entity's income and expenses, which will be approved prior to the beginning of the financial year to which it refers. The corresponding proposal will be made available to the members electronically and at the registered office and at the territorial delegations of the entity, free of charge in both cases, with a minimum notice of fifteen days before the session of the body is held. that has the competence attributed for its approval. In the convocation of said body, which will be announced on the entity's website, mention will be made of this right.

Article 189. Annual transparency report.

1. The governing bodies and representation of the management entities must prepare an annual transparency report within the three months following the end of the previous year.

The annual transparency report will have, as a minimum, the content specified in the annex. Likewise, it will include a special report giving an account of the use of the amounts deducted for healthcare services for the benefit of the entity's members, the training and promotion activities of authors, artists, performers and performers and the promotion of the legal digital offer of the protected works and services whose rights are managed by the entity.

2. The annual transparency report prepared by the governing and representative bodies will be reviewed by the auditors appointed in accordance with article 187.2 to audit the annual accounts, in order to verify that the accounting information contained therein corresponds to the accounting of the management entity. The auditors must issue a report stating the result of their review and, where appropriate, the errors detected. Said review report will be reproduced in its entirety in the annual transparency report.

3. The general assembly must approve the annual transparency report within the six months following the end of the previous fiscal year.

CHAPTER VII

Sanctions regime

Article 190. Administrative responsibility, competent sanctioning bodies and sanctioning procedure.

1. The management entities, the entities that depend on them and the independent management operators will incur administrative responsibility for the infractions they commit in the exercise of their functions in accordance with the provisions of this law.

2. The exercise of the sanctioning power corresponds to the competent Administration in accordance with article 155. The legal disqualification to operate corresponds, in any case, to the Ministry of Culture and Sports.

3. When the exercise of the sanctioning power corresponds to the Ministry of Culture and Sports, the imposition of the sanctions provided for in this chapter will correspond, in the case of very serious infractions, to the Minister of Culture and Sport and, in the case of serious infractions and light, to the Undersecretary of Culture and Sports. The instruction of the corresponding sanctioning procedures will correspond, in all cases, to the Deputy Director General of Intellectual Property.

4. The exercise of the sanctioning power will be governed by the procedure established in Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations and in accordance with the principles provided in Law 40/2015, of October 1 October, of the Legal Regime of the Public Sector. However, the maximum period within which the express resolution must be notified in proceedings initiated for very serious offenses will be eighteen months and in proceedings initiated for serious offenses, twelve months.

5. When a management entity or an independent management operator that has an establishment in another State of the European Union infringes in Spanish territory the regulations of its State of establishment regulating the collective management of intellectual property rights, the competent Administration in accordance with Article 155 may send all pertinent information to the competent authority of that State. Likewise, it may request that this authority adopt the appropriate measures within the framework of its powers.

6. Management entities and independent management operators that have an establishment outside the European Union but provide services in Spain in accordance with the provisions of this title will incur administrative responsibility for the offenses they commit due to the breach of their obligations under this law in the same terms as management entities and independent management operators established in Spain.

Article 191. Classification of offenses.

1. Infringements committed by entities for the collective management of intellectual property rights, by entities that depend on them and by independent management operators will be classified as very serious, serious and minor.

2. The following acts constitute very serious offenses:

- a) The manifest and notorious inefficiency in the administration of the rights entrusted to the management entity, an entity on which it depends or the independent management operator, a circumstance that will have to be appreciated with respect to all the users and the owners of these rights and not in isolation or individually.
- b) The serious and repeated breach of the object and purposes indicated in the statutes of the management entity, when they carry out, directly or indirectly, activities that are not of protection or management of the intellectual property rights entrusted to them, without detriment to the social function and the development of the legal digital offer that must be fulfilled and of the non-profit activities related to the cultural sphere of the entity referred to in article 159 letter b) of this law, provided that they are provided for in its statutes.
- c) Serious and repeated breach of the obligation established in article 156.2 to administer the intellectual property rights conferred by the management entity.
- d) The provision of collective management services of intellectual property rights without having previously obtained the authorization provided for in article 147 when this is necessary.
- e) The disclosure of any fact that implies a very serious breach of the obligations of title IV.

3. The following acts constitute serious offenses:

- a) Failure to comply with the conditions established in article 157 regarding the management contract.
- b) The application of systems, norms and procedures for the distribution of the amounts collected in an arbitrary and unfair manner.
- c) Failure to comply with the obligations established in articles 163, sections 1 and 2; 165; 168; 173; 175, paragraphs 2 and 3; 177 and 178; 180; 183; and 186 to 187; 189 and to make effective the rights to equitable remuneration and compensation in the different cases provided for in this law and to exercise the right to authorize cable distribution.
- d) The resistance, excuse or refusal, by the entities of collective management of

intellectual property rights, the entities that depend on them or the operators of independent management to the inspection action of the competent Administrations as provided for in this law.

e) Significant non-observance of the procedure for the treatment and resolution of claims and complaints established by the statute in accordance with article 159 letter o).

f) Failure to comply with the obligation to communicate the start of activities established in articles 151.1 and 153.1.

4. The following acts constitute minor offenses:

a) The lack of attention to the requirements of the Public Administrations carried out under the provisions of article 154. It is understood that there is a lack of attention to the requirement when the management entity, an entity that depends on it or the operator of Independent management does not respond within the term set by the Public Administration in its request, does not provide the required information or provides incomplete or incorrect information.

b) The non-compliance by the management entities, the entities that depend on them and the independent management operators of mandatory precepts included in this title and in any other regulatory regulation of the collective management of intellectual property rights, which does not constitute serious or very serious offense in accordance with the provisions of the two previous sections.

Article 192. Sanctions.

1. For the commission of very serious infringements, any of the following sanctions will be imposed on the management entities or independent management operators:

a) Disqualification from operating as a management entity or as an independent management operator. Said disqualification will take effect three months after the publication provided for in section 2 and will last for a maximum of five years.

b) A fine of between 1 and 2 percent of the total collection obtained by the offender in the year prior to the date of imposition of the fine. In the absence of collection in the year prior to the date of imposition of the fine, a fine not exceeding 800,000 nor less than 400,001 euros will be imposed.

2. Sanctioning resolutions for very serious offenses must be published in the

"Official State Gazette" and, where appropriate, in that of the corresponding Autonomous Community, once they are final administratively, and after dissociation of personal data that contains.

3. For the commission of serious infractions, a fine not exceeding 1 percent of its total collection corresponding to the year prior to the date of imposition of the fine will be imposed on the offender. In the absence of collection in the year prior to the date of imposition of the fine, a fine of not more than 400,000 nor less than 200,001 euros will be imposed.

4. Sanctioning resolutions for serious offenses may be published in the "Official State Gazette" and, where appropriate, in that of the corresponding Autonomous Community, once they are final administratively, and prior dissociation of the personal data that contain.

5. For the commission of minor infringements, the offending subject will be fined for an amount not exceeding 200,000 euros or 0.5 percent of its total collection corresponding to the year prior to the date of imposition of the fine.

6. When the offender is an entity dependent on a management entity, the collection of the management entity on which it depends will be taken into consideration for the purposes of determining the fine.

7. For the graduation of the sanctions, the criteria established in article 29 of Law 40/2015, of October 1, will be followed.

8. When the pecuniary sanctions have been imposed by the Ministry of Culture and Sports, the bodies and procedures for collection will be those established in the General Collection Regulations, approved by Royal Decree 939/2005, of July 29, and other regulations of application. In other cases, the bodies will be those established in the applicable legislation by the Public Administrations that have imposed them. The provisions of article 85 of Law 39/2015, of October 1, will apply with respect to those sanctions in which the offender acknowledges his responsibility.

9. Once the sanctioning procedure has been initiated for the commission of a very serious infringement or a management entity is alerted in accordance with article 149 and provided that, in both cases, there are justified urgency reasons in objective difficulty or impediment to reinstate compliance of legality, the competent authority may reasonably agree, with the prior authorization of the judge corresponding to the entity's registered office, the removal of the entity's

representative bodies and their temporary intervention, by appointing an interim manager who will assume the legal functions and bylaws of the entity's representative bodies, under the following conditions:

- a) The intervention will be carried out for a period of six months, extendable for the same period.
- b) The expenses derived from the temporary intervention will be borne by the intervened entity.
- c) The purpose of the intervention will be to regularize the institutional functioning of the entity, clarify its management and adopt and implement whatever measures are necessary to comply with the legal obligations in this matter.

TITLE V

Intellectual Property Commission

Article 193. Intellectual Property Commission: composition and functions.

1. The Intellectual Property Commission is created attached to the Ministry of Culture and Sports, as a national collegiate body, for the exercise of the functions of mediation, arbitration, determination of rates and control in the cases provided for in this title, and of safeguarding the intellectual property rights attributed to it by this law. It will also exercise advisory functions on all matters within its competence that are consulted by the Ministry of Culture and Sports.

2. The Commission will act through two Sections:

a) The First Section shall exercise the functions of mediation, arbitration, rate determination and control in the terms provided in this title.

b) The Second Section shall ensure, within the scope of the competences of the Ministry of Culture and Sports, for the safeguarding of intellectual property rights against their infringement by those responsible for services of the information society in the terms provided in the articles 8 and concordant of Law 34/2002, of July 11, services of the information society and electronic commerce.

3. The First Section will be made up of five regular members, who may delegate their functions to their respective alternates, all of them chosen from experts of recognized competence in intellectual property matters and in the defense of competition, among which the Ministry of Culture and Sports will designate the president of the Section, a position that must fall to one of the members appointed by this Ministry. The members of the Section will be appointed by the Government,

by royal decree, at the proposal of the heads of the Ministries of Culture and Sports, who will designate two members; from the Ministry of Economy and Business, which will appoint two members, one from the Digital Advancement area and the other from the Economy and Business Support area; and the Ministry of Justice, which will designate a member,

The composition, operation and performance of the First Section will be governed by the provisions of this law and the regulatory standards that develop it and additionally by the provisions of Law 40/2015, of October 1, and Law 60/2003, of December 23, of Arbitration, and of Law 5/2012, of July 6, of mediation in civil and commercial matters. The Government may by regulation modify the composition of the First Section.

4. The Second Section, under the presidency of the Minister of Culture and Sports or person delegated by him, will be made up of two members of the Ministry of Culture and Sports, two members of the Ministry of Economy and Business, one from the Digital Advancement area. and another from the area of Economy and Business Support, a member of the Ministry of Justice and a member of the Ministry of the Presidency, Relations with the Courts and Equality, designated by said departments, among the personnel of the Public Administrations, belonging to groups or categories for which a higher degree is required, and which meet specific accredited knowledge in the field of intellectual property. Without prejudice to the fulfillment of the previous requirement, In the designation made by each department, legal training in the areas of procedural law, contentious-administrative jurisdiction and electronic communications will also be assessed. The aforementioned departments will appoint, in the same act, according to the requirements indicated in the previous section, an alternate for each of the members, for the purposes legally provided in the cases of vacancy, absence or illness and, in general, when there is any just cause.

Regulations will determine the operation of the Second Section and the procedure for the exercise of the functions attributed to it.

Article 194. Functions of mediation, arbitration, rate determination and control.

1. The First Section of the Intellectual Property Commission shall exercise its mediation function in the following terms:

a) Collaborating in the negotiations, prior voluntary submission of the parties due to lack of agreement, regarding those matters directly related to the collective management of intellectual property rights and for the authorization of the distribution by cable of a radio broadcast between the holders of intellectual

property rights and cable distribution companies.

b) Presenting, where appropriate, proposals to the parties.

All parties shall be deemed to accept the proposal referred to in the preceding paragraph, if none of them expresses its opposition within a period of three months. In this case, the resolution of the Commission will have the effects provided in Law 60/2003, of December 23, on Arbitration, and will be reviewable before the civil jurisdictional order. The proposal and any opposition to it will be notified to the parties, in accordance with the provisions of Chapter II of Title III of Law 39/2015, of October 1.

2. The First Section of the Intellectual Property Commission will act in its arbitration function:

a) Giving a solution, prior voluntary submission of the parties, to conflicts over matters directly related to the collective management of intellectual property rights.

b) Setting, at the request of the affected management entity itself, a user association, a broadcasting entity or a particularly significant affected user, in the opinion of the Commission, and prior acceptance by the other party, substitute amounts of the general rates, for the purposes indicated in section 4 of article 163, for which it must take into account at least the minimum criteria for determining these, provided for in article 164.3.

What is determined in this section shall be understood without prejudice to the actions that may be exercised before the competent jurisdiction. However, the presentation of the controversy submitted to an arbitration decision before the Section will prevent the Judges and Tribunals from knowing about it, until the resolution has been issued and provided that the interested party invokes it by exception.

3. The First Section of the Intellectual Property Commission shall exercise its function of determining the rates for the exploitation of the compulsory collective management rights, and for the voluntary collective management rights that, with respect to the same category of holders, concur with a right to remuneration on the same work or performance.

The Section will establish the amount of the remuneration required for the use of works and other benefits of the repertoire of the management entities, the form of

payment and other conditions necessary to make effective the rights indicated in the previous paragraph, at the request of the entity itself of management affected, a user association, a broadcasting entity or a particularly significant user, in the opinion of the Section, when there is no agreement between the two, within a period of six months from the formal start of the negotiation. In the exercise of this function,

In determining these rates, the First Section will observe, at least, the criteria established in article 164.3. Likewise, these decisions will be published in the "Official State Gazette", they will be applicable from the day following publication, with a general scope for all owners and obligated parties, with respect to the same modality of use of works and services and identical user sector, and may be appealed before the contentious-administrative jurisdiction.

Likewise, the First Section may issue resolutions updating or developing the methodology for determining the general rates referred to in article 164.3, following a report from the National Markets and Competition Commission.

4. The First Section of the Intellectual Property Commission will exercise its control function ensuring that the general rates established by the management entities in compliance with their obligations are equitable and non-discriminatory, for which it must assess, among other aspects, the application of the minimum criteria provided for in article 164.3 in its determination. In the event of a breach of these obligations, this circumstance will be communicated to the National Markets and Competition Commission, for the appropriate purposes.

5. Regulations shall determine the procedure for the exercise of the functions that the First Section will develop in accordance with the provisions of the preceding paragraphs.

Article 195. Function to safeguard rights in the digital environment.

1. The Second Section of the Intellectual Property Commission will exercise the functions of safeguarding intellectual property rights against their violation by those responsible for the services of the information society through a procedure whose purpose will be to restore legality.

2. The procedure for restoring legality will be directed against:

a) Information society service providers that violate intellectual property rights, following Section Two to agree or not to start the procedure at their audience level in Spain, and to the number of incidentally unauthorized protected works and

services which can be accessed through the service or its business model.

b) Information society service providers that violate intellectual property rights in the manner referred to in the previous paragraph, facilitating the description or location of works and services that are indirectly offered without authorization, developing a task for this purpose, active and not neutral, and not limited to mere technical intermediation activities. In particular, those who offer ordered and classified lists of links to the aforementioned works and services will be included, regardless of whether said links may be initially provided by the recipients of the service.

3. The procedure will be initiated ex officio, after a complaint by the owner of the intellectual property rights that are considered violated or by the person who was entrusted with their exercise, who must provide, together with the same, reasonable proof of the previous attempt to request withdrawal, unsuccessful at the service of the information society allegedly infringing requesting the withdrawal of the specific content offered without authorization, being sufficient to direct said request to the electronic address that the provider provides to the public in order to communicate with it. This prior requirement may be considered when appropriate, for the purposes of generating effective knowledge in the terms established in articles 16 and 17 of Law 34/2002, of July 11, as long as it exactly identifies the work or provision, the owner of the corresponding rights and, at least, a location where the work or provision is offered in the information society service. In the event that the service provider does not provide a valid email address for communication with it, the attempted request provided for in this paragraph will not be enforceable. The attempted request will be considered unsuccessful if the requested provider does not answer or, even answering, does not withdraw or disable access to the corresponding content within a period of three days from the issuance of the corresponding request. In the event that the service provider does not provide a valid email address for communication with it, the attempted request provided for in this paragraph will not be enforceable. The attempted request will be considered unsuccessful if the requested provider does not answer or, even answering, does not withdraw or disable access to the corresponding content within a period of three days from the issuance of the corresponding request. In the event that the service provider does not provide a valid email address for communication with it, the attempted request provided for in this paragraph will not be enforceable. The attempted request will be considered unsuccessful if the requested provider does not answer or, even answering, does not withdraw or disable access to the corresponding content within a period of three days from the issuance of the corresponding request.

The management entities will be entitled to initiate this procedure in the terms of the provisions of article 150.

This procedure, which will be developed by regulation, will be based on the principles of speed and proportionality and the defense rights provided for in article 53.2 of Law 39/2015, of October 1, will apply.

Failure to resolve within the established period will cause the procedure to lapse.

For the purposes of specifying the provision of article 4 of Law 39/2015, of October 1, of the Common Administrative Procedure of Public Administrations, for the specific scope of the procedure regulated in this article, they will be considered as interested parties, exclusively, the complainant mentioned in the first paragraph of this section and the information society service provider against whom the complaint and the request provided for in this section have been directed. Notwithstanding the foregoing, the Second Section may communicate the existence of the procedure to the providers of intermediation services, electronic payment services and advertising referred to in the following sections. Said communication will be informative in nature,

The resolutions issued by the Second Section in this procedure put an end to the administrative procedure.

4. The Second Section may adopt measures to interrupt the provision of an information society service that violates intellectual property rights or to withdraw the contents that violate the aforementioned rights provided that the provider has caused or is susceptible to cause property damage. Said measures may include technical measures and specific diligence duties required of the offending provider whose purpose is to ensure the cessation of the violation and prevent its resumption.

The Second Section may extend the withdrawal or interruption measures to other sufficiently identified protected works or services whose rights are represented by the persons who participate as interested in the procedure, who correspond to the same rights holder or who are part of the same type of works. or services, provided that facts or circumstances concur that reveal that the aforementioned works or services are also offered illegally.

Before proceeding with the adoption of these measures, the information society service provider must be required so that within a period of no more than 48 hours they can proceed to the voluntary withdrawal of the content declared

infringing or, in where appropriate, make the allegations and propose the evidence that you deem appropriate regarding the authorization of use or the applicability of a limit to intellectual property rights. Once the previous period has elapsed, if applicable, a test will be carried out in two days and the interested parties will be sent for conclusions within a maximum period of five days. The Section will issue a resolution within a maximum period of three days.

The interruption of the provision of the service or the voluntary withdrawal of the unauthorized works and services will have the value of implicit recognition of the aforementioned infringement of intellectual property rights and will put an end to the procedure.

The measures provided for in this section will be adopted, prior to the start of the procedure, when the owner of the information society service allegedly infringing does not comply with the obligation established in article 10 of Law 34/2002, of 11 July, services of the information society and electronic commerce. The execution of the agreed measures in accordance with this paragraph will be carried out in accordance with the provisions of the following section.

5. In case of lack of voluntary withdrawal and in order to guarantee the effectiveness of the resolution issued, the Second Section may require the necessary collaboration of the providers of intermediation services, electronic payment services and advertising, requiring them to suspend the corresponding service provided to the offending provider.

In the adoption of the collaboration measures, the Second Section will assess the possible effectiveness of those aimed at blocking the financing of the information society service provider declared infringer.

The blocking of the information society service by Internet access providers must be adequately motivated in consideration of its proportionality, taking into account the possible effectiveness of the other measures available.

In the case of providing the service using a domain name under the country code corresponding to Spain (.es) or another top-level domain whose registration is established in Spain, the Second Section will notify the facts to the registration authority for the purpose. cancellation of the domain name, which cannot be reassigned for a period of at least six months.

The lack of collaboration by the providers of intermediation services, electronic payment services or advertising will be considered as an infringement of the

provisions of article 11 of Law 34/2002, of July 11.

In any case, the execution of the collaboration measure directed to the corresponding intermediation service provider, in the event of non-compliance with the withdrawal or interruption requirement, issued in accordance with the previous section, by the information society service provider responsible for The violation will require prior judicial authorization, in accordance with the procedure regulated in the second paragraph of article 122 bis of Law 29/1998, of July 13, regulating the Contentious-Administrative Jurisdiction.

6. Failure to comply with requirements to remove content declared infringing, resulting from final resolutions adopted in accordance with the provisions of section 4 above, by the same information society service provider as described in section 2 above, will constitute, from the second time that said breach takes place, inclusive, a very serious administrative infraction sanctioned with a fine of between 150,001 and 600,000 euros. The resumption of illegal activities two or more times by the same information society service provider will also be considered repeated non-compliance for the purposes of this section. Resumption of the illegal activity will be understood as the fact that the same person in charge against whom the procedure was initiated exploits works or services of the same owner again, although they are not exactly those that he used on the first occasion, prior to the withdrawal. voluntary content. Providers who, even using interposed natural or legal persons, resume the infringing activity will incur these offenses.

When justified by the seriousness and social repercussions of the offending conduct, the commission of the offense may carry the following consequences:

a) The publication of the sanctioning resolution, at the expense of the sanctioned person, in the "Official State Gazette", in two national newspapers or on the home page of the provider's Internet site for a period of one year from the notification of the sanction, once it has a firm character, taking into account the social repercussion of the offense committed and the seriousness of the offense.

b) The cessation of the infringing activities of the service provider for a maximum period of one year. To guarantee the effectiveness of this measure, the competent body may require the necessary collaboration of the providers of intermediation services, electronic payment services and advertising, ordering them to suspend the corresponding service that they provide to the offending provider. In the adoption of collaboration measures, the possible effectiveness of those aimed at blocking the financing of the information society service provider declared infringer will be assessed. The blocking of the information society service by

Internet access providers must be specifically motivated, in consideration of its proportionality and its estimated effectiveness, taking into account the possible effectiveness of the other measures available. The lack of collaboration will be considered as an infringement of the provisions of article 11 of Law 34/2002, of July 11. The execution of the collaboration measure directed to the service provider, regardless of its nature, will not require the judicial authorization provided for in article 122 bis of Law 29/1998, of July 13, regulating the Contentious Jurisdiction- administrative.

When the infractions have been committed by service providers established in States that are not members of the European Union or the European Economic Area but whose services are specifically directed to Spanish territory, the body that has imposed the corresponding sanction may order the service providers intermediation services that take the necessary measures to prevent access from Spain to the services offered by them for a maximum period of one year.

The exercise of the sanctioning power will be governed by the procedure established in Title IV of Law 39/2015, of October 1, in Law 40/2015, of October 1 and in its implementing regulations.

The imposition of sanctions will correspond to the Minister of Culture and Sports, competent body for the purposes of the provisions of articles 35, 36 and concordant of Law 34/2002, of July 11.

The instructor of the sanctioning procedure may incorporate into the file the actions that form part of the related procedures processed by the Second Section in exercise of its functions of safeguarding the intellectual property rights established in the previous section.

7. The provisions of this article are understood without prejudice to civil, criminal and contentious-administrative actions that, where appropriate, may be appropriate.

8. Voluntary codes of conduct may be developed in relation to the collaboration measures of intermediation services, electronic payment services or advertising provided for in this article. The Administration may promote the elaboration of said codes.

9. The treatment carried out by the Second Section of the data related to the details and information derived from the actions carried out in the scope of its functions, will be carried out in accordance with the provisions of Organic Law

15/1999, of 13 of December, Protection of Personal Data and, in particular, in article 7.5 if they refer to the commission of criminal or administrative offenses.

TITLE VI

Protection of technological measures and information for the management of rights

Article 196. Technological measures: circumvention acts and preparatory acts.

1. Holders of intellectual property rights recognized in this law may exercise the actions provided for in title I of its third book against those who, knowingly or having reasonable grounds to know, circumvent any effective technological measure.

2. The same actions may be exercised against those who manufacture, import, distribute, sell, rent, advertise for sale or rent or possess for commercial purposes any device, product or component, as well as against those who provide any service that, with respect to any effective technological measure:

a) Is the object of promotion, publicity or commercialization in order to evade protection, or

b) It only has a limited commercial purpose or use beyond the circumvention of protection, or

c) It is mainly conceived, produced, adapted or made with the purpose of allowing or facilitating the circumvention of protection.

3. A technological measure is understood to be any technique, device or component that, in its normal operation, is intended to prevent or restrict acts, referring to protected works or services, that do not have the authorization of the holders of the corresponding property rights intellectual.

Technological measures are considered effective when the use of the work or the protected provision is controlled by the rights holders through the application of access control or a protection procedure such as encryption, randomization or other transformation of the work or performance or a copying control mechanism that achieves this protection objective.

4. The provisions of the previous sections do not apply to the technological measures used to protect computer programs, which will be subject to their own regulations.

Article 197. Limits to intellectual property and technological measures.

1. The holders of rights over works or services protected with effective technological measures must provide the beneficiaries of the limits mentioned below with the appropriate means to enjoy them, in accordance with their purpose, as long as such beneficiaries have legally access to the work or provision in question. Such limits are as follows:

- a) Limit of private copying in the terms provided in article 31.2.
- b) Limit relative to public security purposes, official procedures or for the benefit of people with disabilities in the terms provided in articles 31 bis and 31 ter.
- c) Limit relative to the citation and illustration for educational or scientific research purposes in the terms provided in article 32.2, 3 and 4.
- d) Limit relative to the illustration of teaching or scientific research or for public security purposes or for the purposes of an administrative or judicial procedure, all in relation to databases and in the terms provided in article 34.2.b) and c).
- e) Limit relative to the registration of works by broadcasters in the terms provided in article 36.3.
- f) Limit relative to the reproductions of works for research or conservation purposes carried out by certain institutions under the terms provided in article 37.1.
- g) Limit relative to the extraction for illustrative purposes of teaching or scientific research of a substantial part of the content of a database and of an extraction or reuse for public security purposes or for the purposes of an administrative or judicial procedure of the content of a database protected by the "sui generis" right in the terms provided in article 135.1.b) and c).

2. When the holders of intellectual property rights have not adopted voluntary measures, including agreements with other interested parties, to fulfill the duty provided for in the previous section, the beneficiaries of said limits may go before the civil jurisdiction.

When the beneficiaries of said limits are consumers or users, in the terms defined in article 3 of the consolidated text of the General Law for the Defense of Consumers and Users and other complementary laws, approved by Royal Legislative Decree 1/2007, of 16 of November, in his defense the entities

legitimized in article 11.2 and 3 of Law 1/2000, of January 7, of Civil Procedure will be able to act.

3. The technological measures adopted voluntarily by the holders of intellectual property rights, including those derived from agreements with other interested parties, as well as, where appropriate, those included in the corresponding judicial resolution shall enjoy the legal protection provided for in article 196.1. .

4. The provisions of the preceding sections shall not prevent the holders of rights over works or services from adopting the solutions they deem appropriate, including, among others, technological measures, regarding the number of reproductions for private copying. In these cases, the beneficiaries of the provisions of article 31.2 may not demand the lifting of the technological measures that, where appropriate, have been adopted by the holders of rights by virtue of this section.

5. The provisions of the previous sections of this article will not apply to works or services that have been made available to the public in accordance with what was agreed by contract, in such a way that anyone can access them from the place and time That you choose.

Article 198. Protection of information for the management of rights.

1. Holders of intellectual property rights may exercise the actions provided for in title I of the third book against those who, knowingly and without authorization, carry out any of the acts that are detailed below, and who know or have reasonable reasons to know that, by doing so, they induce, allow, facilitate or conceal the infringement of any of those rights:

a) Suppression or alteration of all information for the electronic management of rights.

b) Distribution, import for distribution, broadcast by radio broadcasting, communication or making available to the public of works or protected services in which the information for the electronic management of rights has been suppressed or altered without authorization.

2. For the purposes of the previous section, information for the management of rights shall be understood as all information provided by the owners that identifies the work or protected provision, the author or any other right holder, or that indicates the conditions of use of the work or protected provision, as well as any numbers or codes that represent said information, as long as these information

elements are associated with a copy of a protected work or provision or appear in connection with its communication to the public.

BOOK FOUR

The scope of the law

Article 199. Authors.

1. In accordance with this law, the intellectual property rights of Spanish authors, as well as national authors of other Member States of the European Union, will be protected.

They will also enjoy these rights:

a) Nationals of third countries with habitual residence in Spain.

b) Nationals of third countries who do not have their habitual residence in Spain, with respect to their works published for the first time in Spanish territory or within thirty days after they have been published in another country. However, the Government may restrict the scope of this principle in the case of foreigners who are nationals of States that do not sufficiently protect the works of Spanish authors in similar cases.

2. All authors of audiovisual works, regardless of their nationality, have the right to receive a proportional remuneration for the projection of their works in the terms of article 90, paragraphs 3 and 4. However, in the case of nationals of States that do not guarantee an equivalent right to Spanish authors, the Government may determine that the amounts paid by the exhibitors to the management entities for this concept are destined for the purposes of cultural interest that are established by regulation.

3. In any case, third-country nationals will enjoy the protection that corresponds to them by virtue of the international Conventions and Treaties to which Spain is a party and, failing that, they will be equated with Spanish authors when they, in turn, are it to the nationals in the respective country.

4. For works whose country of origin is a third country according to the Berne Convention and whose author is not a national of a Member State of the European Union, the term of protection will be the same as that granted in the country of origin of the work without in any case exceeding that provided for in this law for the works of the authors.

5. The moral right of the author is recognized, whatever his nationality.

Article 200. Performers or performers.

1. The rights recognized in this law will be protected for Spanish performers regardless of the place of their performance, as well as those corresponding to national performers from other Member States of the European Union.

2. National performers of third countries shall enjoy the same rights recognized in this law in any of the following cases:

a) When they have their habitual residence in Spain.

b) When the interpretation or execution is carried out in Spanish territory.

c) When the performance is recorded on a phonogram or on an audiovisual support protected in accordance with the provisions of this law.

d) When the performance, even if it has not been recorded, is incorporated into a protected broadcasting in accordance with the provisions of this law.

3. In any case, third-country national performers or performers will enjoy the corresponding protection under the international Conventions and Treaties to which Spain is a party and, failing that, they will be equated with Spanish performers. when these, in turn, are to the nationals in the respective country.

4. The terms of protection provided for in article 112 will also be applicable to the aforementioned holders who are not nationals of the European Union, provided that their protection in Spain is guaranteed by means of an international agreement. However, without prejudice to the corresponding international obligations, the term of protection will expire on the date set in the country of which the holder is a national without, in any case, the duration being able to exceed that established in the aforementioned article.

Article 201. Producers, makers of mere photographs and editors.

1. Producers of phonograms and those of audiovisual works or recordings, producers of mere photographs and editors of the works mentioned in article 129 shall be protected in accordance with this law in the following cases:

a) When they are Spanish citizens or companies domiciled in Spain, as well as when they are citizens of another Member State of the European Union or companies domiciled in another Member State of the European Union.

b) When they are nationals of third countries and publish in Spain for the first time or, within thirty days after they have been published in another country, the aforementioned works. However, the Government may restrict the scope of this principle, in the case of nationals of States that do not sufficiently protect the works or publications of Spaniards in analogous cases.

2. In any case, the holders referred to in paragraph b) of the previous section will enjoy the protection that corresponds to them by virtue of the international Conventions and Treaties to which Spain is a party and, failing that, they will be equated with the producers of phonograms and those of audiovisual works or recordings, to the producers of mere photographs and to the editors of the works mentioned in article 129, when these, in turn, are to the nationals in the respective country.

3. The terms of protection provided for in articles 119 and 125 will also be applicable to the aforementioned holders who are not nationals of the European Union provided that their protection in Spain is guaranteed by means of an international agreement. However, without prejudice to the corresponding international obligations, the term of protection will expire on the date set in the country of which the holder is a national without, in any case, the duration being able to exceed that established in the aforementioned articles.

Article 202. Broadcasting entities.

1. Broadcasting entities domiciled in Spain, or in another Member State of the European Union, will enjoy the protection established in this law with respect to their broadcasts and transmissions.

2. In any case, broadcasting entities domiciled in third countries will enjoy the protection that corresponds to them by virtue of the international Conventions and Treaties to which Spain is a party.

3. The terms of protection provided for in article 127 will also be applicable to the aforementioned holders who are not nationals of the European Union provided that their protection in Spain is guaranteed by an international agreement. However, without prejudice to the corresponding international obligations, the term of protection will expire on the date set in the country of which the holder is a national without, in any case, the duration being able to exceed that established in the aforementioned article.

Article 203. Beneficiaries of the protection of the “sui generis” right.

1. The right contemplated in article 133 shall apply to databases whose manufacturers or beneficiaries are nationals of a Member State or have their habitual residence in the territory of the European Union.

2. Paragraph 1 of this article shall also apply to companies and companies incorporated under the legislation of a Member State and which have their official headquarters, central administration or main center of activities in the European Union; However, if the company or company has only its registered office in the aforementioned territory, its operations must be effectively and continuously linked to the economy of a Member State.

First additional provision. Legal deposit.

The legal deposit of works of creation traditionally recognized in Spain will be governed by the regulations in force or that will be dictated in the future by the Government, without prejudice to the powers that, where appropriate, correspond to the Autonomous Communities.

Second additional provision. Exchange of information between competent European authorities.

1. The competent Administration pursuant to article 155 shall respond, without undue delay, to duly reasoned requests for information made by a competent authority of another Member State in relation to the application of this law, in particular with the activities of the entities. management or independent management operators established in Spain.

2. The competent Administration in accordance with article 155 will give a reasoned response within three months to requests made by competent authorities of other Member States of the European Union to adopt, within the framework of its powers, appropriate measures against a management entity who has an establishment in Spain for the infractions of this law that he has committed in the development of his activities in the requesting Member State.

Third additional provision. Review of the amounts of article 25.5.

(Repealed)

Fourth additional provision. Periodicity of the remuneration of article 90.3 and de-legalization.

The amounts collected as remuneration proportional to income, which is established in article 90.3, will be made available to the authors on a weekly basis.

The Government, at the proposal of the Ministry of Culture, may modify said term.

Fifth additional provision. Notifications in the procedure for safeguarding intellectual property rights.

1. The Ministry of Education, Culture and Sports, within the scope of its powers, will ensure the safeguarding of intellectual property rights against their violation by those responsible for services of the information society in the terms provided for in articles 8 and concordant of Law 34/2002, of July 11, services of the information society and electronic commerce.

2. In the procedures for safeguarding intellectual property rights against their violation by those responsible for services of the information society, whose competence is attributed to the Ministry of Education, Culture and Sports, when the cases provided for in article 59.5 of Law 30/1992, of November 26, or the known address of the interested party or place indicated for the purposes of notifications is outside the territory of the European Union, the practice of notification will be made exclusively through an announcement published in the "Official State Gazette", in the terms established in said article.

3. However, in the cases provided for in section 6 of article 59 of Law 30/1992, of November 26, the notification of the act may be replaced by its publication in the "Official State Gazette", in particular, when have as addressees to providers of intermediation services of the information society that must collaborate for the effective fulfillment of the resolutions that are adopted.

4. In the cases contemplated in the two preceding sections, the publication in the "Official State Gazette" will be accompanied by a message that warns of this circumstance, addressed to the email address provided by the information society service provider. for the purposes of communication with the same, in accordance with the provisions of letter a) of section 1 of article 10 of Law 34/2002, of July 11, services of the information society and electronic commerce or applicable foreign standard, provided that said email address is provided by electronic means permanently, easily, directly and free of charge. If such email address is not provided under the conditions described, the provisions of this paragraph will not be enforceable.

After ten calendar days from the publication in the "Official State Gazette", it will be understood that the notification has been carried out, considering that said procedure has been completed and continuing with the procedure.

5. When an information society service provider, to which Law 34/2002, of July 11, is applicable, in accordance with the provisions of its articles 2 to 4, must be

considered interested in a procedure processed under the protection of article 195, it was not identified in the terms established in article 10 of Law 34/2002, of July 11, and, once the reasonable identification actions within the scope of the Second Section had been carried out, these would not have As a result of sufficient identification, the procedure may be started considering the interested party, until the information society service provided by the unidentified provider is identified and person in the procedure. This circumstance will thus be recorded in the file,

Sixth additional provision. Works considered orphan under the legislation of another Member State of the European Union.

Works considered orphan under the legislation of another Member State of the European Union, issued in transposition of the provisions of Directive 2012/28 / EU of the European Parliament and of the Council, of October 25, 2012, on certain authorized uses of orphan works will also have such a nature recognized in Spain for the purposes of the provisions of article 37 bis.

First transitory provision. Acquired rights.

The modifications introduced by this Law, which harm rights acquired according to the previous legislation, will not have retroactive effect, except for what is established in the following provisions.

Second transitory provision. Rights of legal persons protected by the Law of January 10, 1879 on Intellectual Property.

Legal persons who by virtue of the Law of January 10, 1879 on Intellectual Property have acquired the intellectual property of a work by virtue of their original title, shall exercise the exploitation rights for a period of eighty years from its publication.

Third transitory provision. Acts and contracts entered into according to the Law of January 10, 1879 on Intellectual Property.

The acts and contracts concluded under the regime of the Law of January 10, 1879 on Intellectual Property will have all its effects in accordance with the same, but the clauses of those by which the transfer of exploitation rights with respect to the set of works that the author may create in the future, as well as for which the author agrees not to create any work in the future.

Fourth transitory provision. Authors who died before December 7, 1987.

The exploitation rights of the works created by authors who died before December 7, 1987 will have the duration established in the Law of January 10, 1879 on Intellectual Property.

Fifth transitory provision. Application of articles 38 and 39 of the Law of January 10, 1879 on Intellectual Property.

Without prejudice to the provisions of the previous provision to authors whose works are in the public domain, provisionally or definitively, in accordance with the provisions of articles 38 and 39 of the Law of January 10, 1879 on Intellectual Property, it will be applicable to them. the provisions of this Law, without prejudice to the rights acquired by other people under the previous legislation.

Sixth transitory provision. Applicability of articles 14 to 16 for authors of works prior to the Law of November 11, 1987, on Intellectual Property.

The provisions of articles 14 to 16 of this Law shall apply to the authors of works created before the entry into force of Law 22/1987, of November 11, on Intellectual Property.

Seventh transitory provision. Regulation of September 3, 1880 for the execution of the Law of January 10, 1879 on Intellectual Property.

The Regulation of September 3, 1880 for the execution of the Law of January 10, 1879 on Intellectual Property and other regulatory norms on intellectual property will continue in force, provided that it does not oppose the provisions of this Law.

Eighth transitory provision. Regulation of special situations regarding computer programs.

The provisions of this Law will be applicable to computer programs created prior to December 25, 1993, without prejudice to acts already performed and rights already acquired before that date.

Ninth transitory provision. Application of equitable rental remuneration to contracts entered into before July 1, 1994.

Regarding contracts entered into before July 1, 1994, the right to equitable rental remuneration will only apply if the authors or performers or their representatives have made a request for this purpose, in accordance with the provisions of this Law, prior to January 1, 1997.

Tenth transitory provision. Rights acquired in relation to certain exploitation rights. The provisions of this Law regarding the rights of distribution, fixation, reproduction and communication to the public shall be understood without prejudice to the acts of exploitation carried out and contracts entered into before January 1, 1995, as well as without prejudice to the provisions of the paragraph c) of article 99.

Eleventh transitory provision. Regulation of special situations in relation to the

temporary application of the provisions relating to communication to the public via satellite.

1. In international co-production contracts concluded before January 1, 1995 between a co-producer from a Member State and one or more co-producers from other Member States or third countries, the co-producer, or his assignee, who wishes to grant communication authorization the public via satellite must obtain the prior consent of the owner of the exclusivity right, regardless of whether the latter is a co-producer or a transferee, if the following circumstances are jointly met:

a) That the contract expressly establishes a system for dividing the exploitation rights among the co-producers by geographic zones for all the means of diffusion to the public without establishing a distinction between the regime applicable to satellite communication and other means of communication.

b) That the communication to the public via satellite of the co-production implies a detriment to the exclusivity, in particular to the linguistic exclusivity, of one of the co-producers or their assignees in a given territory.

2. The application of the provisions of articles 106 to 108, 115 and 116, 122, and 126 of this Law shall be understood without prejudice to the exploitation agreements made and contracts entered into before October 14, 1995.

3. The provisions relating to communication to the public via satellite shall apply to all phonograms, performances, broadcasts and first fixations of audiovisual recordings that on July 1, 1994 were still protected by the legislation of the Member States on property rights, intellectual property or that on said date meet the necessary criteria for protection under the aforementioned provisions.

Twelfth transitory provision. Temporary application of the provisions relating to satellite broadcasting.

1. The rights referred to in articles 106 to 108, 115 and 116, 122, and 126 of this Law shall be governed, as applicable, by the tenth transitory provision and by the ninth transitory provision.

2. To the operating contracts in force on January 1, 1995, the provisions of this Law in relation to the right of communication to the public via satellite will be fully applicable as of January 1, 2000.

3. The provisions referred to in section 3 of the eleventh transitory provision shall not apply to contracts in force on October 14, 1995, the termination of which will

occur before January 1, 2000. On that date, the parties They may renegotiate the conditions of the contract in accordance with the provisions of such provisions.

Thirteenth transitory provision. Regulation of special situations regarding the term of protection.

1. This Law shall not affect any act of exploitation carried out before July 1, 1995. The intellectual property rights established in application of this Law shall not generate payments by those who have undertaken in good faith the exploitation of the corresponding works and services at the time such works were in the public domain.

2. The terms of protection contemplated in this Law shall apply to all works and services that are protected in Spain or at least in a Member State of the European Union on July 1, 1995 by virtue of the corresponding national provisions on the subject of intellectual property rights, or that meet the criteria to benefit from protection in accordance with the provisions that regulate in this Law the right of distribution, as regards works and services, as well as the rights of fixation, reproduction and communication to the public, insofar as they refer to benefits.

Fourteenth transitory provision. Application of the transitory of the Civil Code. In matters not provided for in these provisions, the transitory provisions of the Civil Code shall apply.

Fifteenth transitory provision. Application of the protection provided in Book I, to databases finalized before January 1, 1998.

The protection provided for in this Law, with regard to copyright, will also apply to databases finalized before January 1, 1998, provided that they meet the requirements demanded by this Law on the aforementioned date, with respect to the protection of databases by copyright.

Sixteenth transitory provision. Application of the protection provided in Book II, regarding the "sui generis" right to databases completed within the fifteen years prior to January 1, 1998.

1. The protection provided for in article 133 of this Law, with regard to the "sui generis" right, shall also apply to databases whose manufacture has been completed during the fifteen years preceding January 1, 1998 always who meet the requirements set forth in article 133 of this Law on that date.

2. The term of fifteen years of protection on the databases referred to in the previous section will be counted as of January 1, 1998.

Seventeenth transitory provision. Acts concluded and rights acquired before January 1, 1998 in relation to the protection of databases.

The protection provided for in the fifteenth and sixteenth transitory provisions shall be understood without prejudice to the acts concluded and the rights acquired before January 1, 1998.

Eighteenth transitory provision. Application to databases completed between January 1 and April 1, 1998 of the protection provided in Book I and Book II, with respect to the "sui generis" right.

The protection provided for in this Law with regard to copyright, as well as that established in article 133 of the same, with respect to the "sui generis" right will also apply to databases completed during the period between January 1 and April 1, 1998.

Nineteenth transitory provision. Duration of the rights of producers of phonograms.

The exploitation rights of the producers of phonograms that were in force on December 22, 2002 in accordance with the legislation applicable at that time will have the duration provided for in article 119.

Twentieth transitory provision.

The Royal Decree referred to in the second paragraph of article 37 of the Consolidated Text of the Intellectual Property Law must be promulgated within a maximum period of one year from the entry into force of this Law.

Until the Royal Decree referred to in the previous section is approved, the amount of the remuneration will be 0.2 euros for each copy of work acquired for the loan in the establishments mentioned in said section.

Likewise, in this period, the State, the autonomous communities and the local corporations may agree on the collaboration mechanisms necessary for the fulfillment of the remuneration obligations that affect publicly owned establishments.

Twenty-first transitory provision. Temporary application of the provisions relating to musical compositions with lyrics, orphan works and the transfer of rights from the performer to the producer of phonograms.

1. The second paragraph of article 28.1 shall apply only to musical compositions with lyrics of which at least the musical composition or lyrics are protected in Spain or at least in a Member State of the European Union on November 1, 2013 and musical compositions with lyrics created after this date.

The protection provided for in the preceding paragraph shall be understood without prejudice to the acts concluded and the rights acquired before November 1, 2013.

2. Article 37 bis shall apply with respect to all works and phonograms that are protected by the legislation of the Member States of the European Union on copyright as of October 29, 2014 or at a later date, without prejudice to the acts celebrated and the rights acquired before said date.

3. Articles 110 bis, 112 and 119 shall apply to the recording of performances and phonograms with respect to which the performer and the producer of the phonograms enjoy protection, as of November 1, 2013, in accordance with the legislation applicable before that date, and the recording of performances and phonograms after that date.

4. Unless otherwise agreed, assignment contracts entered into before November 1, 2013 will continue to take effect after the date on which, by virtue of article 112 applicable at that time, the performer would cease to be protected.

Sole repealing provision. Scope of the normative derogation.

1. The provisions that oppose the provisions of this Law and, in particular, the following are hereby repealed:

a) Royal Decree of September 3, 1880, which approves the Regulations for the execution of the Law of January 10, 1879 on Intellectual Property: chapters V and VI of Title I.

b) Royal Decree 1434/1992, of November 27, developing articles 24, 25 and 140 of Law 22/1987, of November 11, on Intellectual Property: articles 9.1, 11, 12, 14, 16, 17, 18, 19 and 37.1, as well as chapters II and III of Title II.

2. The following provisions remain in force:

a) Law 9/1975, of March 12, on the Book, as not repealed by Law 22/1987, of November 11, on Intellectual Property, and by Royal Decree 875/1986, of March 21.

b) Royal Decree of September 3, 1880, approving the Regulations for the execution of the Law of January 10, 1879 on Intellectual Property: chapters I, II, III, IV, VII, VIII, IX, X and transitory provision of Title I; Chapters I, II and III of Title II.

c) Decree 3837/1970, of December 31, which regulates the movable mortgage of cinematographic films.

d) Decree 2984/1972, of November 2, which establishes the obligation to record the ISBN number in all kinds of books and brochures.

e) Royal Decree 2332/1983, of September 1, which regulates the sale, distribution and public display of audiovisual material.

f) Royal Decree 448/1988, of April 22, which regulates the dissemination of cinematographic films and other audiovisual works collected on videographic support.

g) Royal Decree 479/1989, of May 5, which regulates the composition and procedure of action of the Intellectual Property Arbitration Commission, as far as is not modified by Royal Decree 1248/1995, of July 14 .

h) Royal Decree 484/1990, of March 30, on the sale price of books to the public.

i) Royal Decree 1584/1991, of October 18, which approves the Regulations of the General Registry of Intellectual Property, as declared in force in section 3 of the sole transitory provision of Royal Decree 733/1993, of 14 of May.

j) Royal Decree 1434/1992, of November 27, developing articles 24, 25 and 140 of Law 22/1987, of November 11, on Intellectual Property, in the version given to them by Law 20 / 1992, of July 7, in matters not modified by Royal Decree 325/1994, of February 25, and in matters not repealed by this repealing provision.

k) Royal Decree 733/1993, of May 14, approving the Regulations of the General Registry of Intellectual Property.

l) Royal Decree 325/1994, of February 25, which modifies article 15.2 of Royal Decree 1434/1992, of November 27, developing articles 24, 25 and 140 of Law 22/1987, of November 11, on Intellectual Property, in the version given to them by Law 20/1992, of July 7.

m) Royal Decree 1694/1994, of July 22, adapting to Law 30/1992, on the Legal Regime of Public Administrations and the Common Administrative Procedure, of Royal Decree 1584/1991, of October 18, by which the Regulations of the General Registry of Intellectual Property are approved.

n) Royal Decree 1778/1994, of August 5, which adapts to Law 30/1992, of November 26, the Legal Regime of Public Administrations and the Common Administrative Procedure, the regulations governing the granting, modification and termination of authorizations.

ñ) Royal Decree 1248/1995, of July 14, which partially modifies Royal Decree 479/1989, of May 5, regulating the composition and action procedure of the Intellectual Property Arbitration Commission.

o) Royal Decree 1802/1995, of November 3, which establishes the system for determining the compensatory remuneration for private copying in the cities of Ceuta and Melilla.

p) Order of June 23, 1966, which establishes the basic rules to which the advertising contracts of the cinema medium must comply.

q) Order of October 30, 1971 approving the Regulations of the Hispanic Bibliographic Institute.

r) Order of March 25, 1987 regulating the Spanish ISBN Agency.

s) Order of April 3, 1991, developing the provisions of Royal Decree 2332/1983, of September 1, which regulates the sale, distribution and public display of audiovisual material.

First final provision. Competency title.

This Royal Legislative Decree is approved under the provisions of article 149.1.9.^a of the Spanish Constitution, which attributes to the State the competence over legislation on intellectual property.

Article 31 ter is also dictated by virtue of the competence attributed to the State by Article 149.1.1.^a on the regulation of the basic conditions that guarantee the equality of all Spaniards in the exercise of rights and in compliance of constitutional duties.

Second final provision. Application in the Autonomous Communities with competence in the matter.

The application of the provisions of Title IV of the Third Book, in relation to the inspection, surveillance and control of intellectual property rights management entities and independent management operators, including the exercise of

sanctioning power, will be carried out carried out, where appropriate, in the Autonomous Communities with enforcement powers in matters of intellectual property, by the bodies that they determine.

Third final provision. Regulatory development.

The Government is authorized to dictate the norms for the regulatory development of this Law.

ANNEXED

Content of the annual transparency report

1. The annual transparency report provided for in article 189 must contain, as a minimum, the following information:

a) Financial statements, which will include the balance sheet, the income statement for the year and the report.

b) A report on the activities of the exercise.

c) Information on refusals to grant a non-exclusive authorization of the rights managed by the entity.

d) A description of the legal and administrative structure of the management entity.

e) Information on any entity that is owned or controlled directly or indirectly, in whole or in part, by the management entity.

f) Information on the total amount of remuneration paid in the previous year to the persons referred to in articles 161 and 162, as well as on other benefits that have been granted to them.

g) The financial information contemplated in section 2 of this annex.

h) A special report on the use of the amounts deducted for social, cultural and educational services, including the information referred to in section 3 of this annex.

The figures of the information in letters f), g) and h) above, must refer to the closed fiscal year and the immediately preceding fiscal year. For these purposes, when both are not comparable, either due to a change in the structure of the origin of the figures, or due to a change in accounting criteria or correction of

errors, the information from the previous year must be adapted. , for the purposes of its presentation in the year to which it refers, informing about it in detail.

2. The following financial information must appear in the annual transparency report:

a) Financial information on the rights collected, broken down by category of rights managed and by type of use, including information on the returns derived from the investment of rights collected, and the use of these (if they have been distributed to the holders of rights , to other management entities or intended for other uses).

b) Financial information on the cost of rights management and other services provided by the management entity to rights holders, with a detailed description of, at least, the following elements:

1.^º All operating costs and financial costs, broken down by category of managed rights and, when the costs are indirect and cannot be attributed to one or more categories of rights, with an explanation of the method used to allocate said indirect costs .

2. Operating costs and financial costs, broken down by category of managed rights and, when the costs are indirect and cannot be attributed to one or more categories of rights, with an explanation of the method used to assign said indirect costs, only in relation to the management of rights, including management discounts deducted from rights collected or offset by them, or any return derived from the investment of rights collected.

3. Operating costs and financial costs in relation to services other than rights management services, but including social, cultural and educational services.

4. Resources used to cover costs.

5. Deductions applied to the rights collected, broken down by category of rights managed and by type of use, as well as the purpose of the deduction, for example costs related to the management of rights or social, cultural or educational services.

6th Percentage that represents the cost of rights management services and other services provided by the management entity to rights holders in relation to the

rights collected in the relevant exercise, by category of rights managed, and, when the costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used for the allocation of these indirect costs.

c) Financial information on the amounts to be paid to the holders of rights, with a detailed description of, at least, the following elements:

1. The total amount attributed to the holders of rights, broken down by category of rights managed and by type of use.
2. The total amount paid to the holders of rights, broken down by category of rights managed and by type of use.
3. The frequency of payments, with a breakdown by category of rights managed and by type of use.
4. The total amount collected but not yet attributed to the rights holders, broken down by category of rights managed and by type of use, indicating the year in which said amounts were collected.
5. The total amount attributed but not yet paid to the holders of rights, broken down by category of rights managed and by type of use, indicating the year in which said amounts were collected.
6. In the event that the management entity has not proceeded to the distribution and payment within the period established in the second paragraph of article 177.1, the reasons for the delay.
7. The total of the amounts that cannot be distributed together with the explanation of the use that has been given to said amounts.

d) Information on relationships with other management entities, with a description of, at least, the following elements:

1. Amounts received from other management entities and amounts paid to other management entities, broken down by category of rights, by type of use and by entity.
2. Management discounts and other deductions from the collected fees that must be paid to other management entities, broken down by category of rights, by type of use and by entity.

3. Management discounts and other deductions from income paid by other management entities, broken down by category of rights and by entity.

4. Amounts distributed directly to the holders of rights from other management entities, broken down by category of rights and by entity.

3. The following information must appear in the special report, accounting for the use of the amounts deducted for healthcare services for the benefit of the entity's members, training and promotion activities for authors, artists, performers and performers and the promotion of the legal digital offer of the protected works and services whose rights are managed by:

a) Amount obtained by the entity in the year to allocate to these activities, both in global amount, and broken down according to its origin in accordance with the provisions of articles 175.3, 177.6 and 178.2 of this legal text, and with indication, in where appropriate, of the remaining amounts resulting after the activities have been carried out.

b) Amounts deducted for the aforementioned services and activities, broken down by type of purpose and, with respect to each type of purpose, broken down by category of managed rights and by type of use.

c) An explanation of the use of said amounts, with a breakdown by type of purpose, including the cost of managing the amounts deducted for the aforementioned services and activities and the separate amounts used for them.