[NL] Proposal for an amendment of the Act on supervision of collective management organisations

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On 12 April 2018, the Dutch legislature published a proposal for an amendment of the 2003 Act on the Supervision of Collective Management Organisations of Authors' Rights and Neighbouring Rights (Wet toezicht collectieve beheersorganisaties auteurs- en naburige rechten). The main aim of the amendment is to increase the effectiveness of the supervision of the collective management organisations and to change the funding system for that supervision. Collective management of authors' rights and neighbouring rights in the Netherlands is carried out by collective management organisations and independent management entities. These organisations supervise the use of materials of rights holders and collect compensation for the use of such materials; that compensation is the distributed to the rights holders. One of the advantages of such a system for users of protected material is that they only have to engage in contracts with one organisation and not with several rights holders.

The Act on the Supervision of Collective Management Organisations of Authors' Rights and Neighbouring Rights contains rules that collective management organisations and independent management entities have to comply with. The Supervisory Board of Collective Management Organisations of Authors' Rights and Neighbouring Rights (College van Toezicht collectieve beheersorganisaties Auteurs- en naburige rechten) is appointed to supervise these organisations regarding their compliance with the rules. One of the amendments ensures that the Board will be able to intervene more quickly. Currently, the Board must give advice to the collective management organisation before it is authorised to instruct the collective management organisations or impose a fine. This obligation will no longer exist under the amended Act, with the result that the Board will be able to exercise supervision in a more effective manner. Moreover, the Board will be able to exercise reinforced, targeted supervision if it has legitimate reason to doubt a collective management organisation's policy. If the Board is of the opinion that change is necessary, it will be authorised to compel improvements by means of an improvement plan or to demand behavioural change within a short amount of time.

The Amendment Act also contains provisions that protect the collective management organisations. The scope of prior supervision is clarified in order to avoid legal uncertainty among the organisations. Moreover, the Act provides for a confidentiality clause regarding information concerning the collective

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management organisations. It forbids the Board from giving out information to citizens on request that the Board holds for the purpose of the its duty of supervision. Furthermore, the Dutch legislature proposes that the supervision will no longer be fully funded by taxation income, but that the costs of supervision will partly be borne by the collective management organisations and independent management entities themselves. In conclusion, this proposal seeks to ensure that the Supervisory Board of Collective Management Organisations can act with sufficient means and capacity when there is a risk of a violation of the rules – if necessary by imposing effective and deterrent sanctions. On the other hand, the proposal aims to ensure that collective management organisations are able to carry out their tasks without experiencing unjustified impediments arising from the supervision.

Wijziging van de Wet toezicht en geschillenbeslechting collectieve beheersorganisaties auteurs- en naburige rechten

https://www.internetconsultatie.nl/wettoezicht

Amendment of the Act on supervision and dispute resolution of collective management organizations of authors' rights and neighbouring rights, 12 April 2018

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