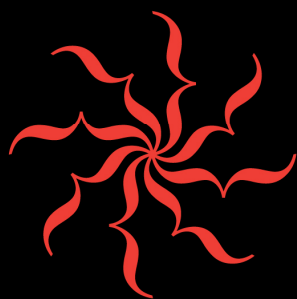


*Mandatory Collective Management in the Slovenian Copyright Act
A Mistake or an Opportunity?*

Dr. Maja Bogataj Jančič, LL.M., LL.M., 02102009, Communia Workshop, Barcelona



*Intellectual
Property
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Mandatory collective management

- very broad definition in Slovenian law
- beyond the scope of limitations/exceptions
- communication to public included
- making available included????

Is it a mistake or a legal tradition?

A mistake



- 2001 amendment extends communication to public also to making available
- no changes in provision on mandatory CM

Is it a mistake or a legal tradition?

A legal tradition



- since 1995 communication to public is managed mandatory collectively
- justification: enhancement of author's rights
- nobody objected!

**Is the solution Berne and Copyright
Directive compliant?**

**CM: The limits of regulatory interventions
(outline)**

Fordham IP Conference, Cambridge Uni, 2009

Mihaly Ficsor



- only when international norms allow special conditions for enforcement of rights

MCA of exclusive rights – A case study on its compatibility with Int. and EC CR Law (e-Copyright Bulletin, 2004)

Silke von
Lewinski



- it is not a limitation
- as a rule it may have beneficial and protective effects

Slovenian Copyright Act



- Since 1995
- Since 2004 Slovenia is an EU member
- Nobody complained nor objected!

Practical Effect Today

- none so far!
- no effective collective organization so far
- transitional provision:
 - until IP office issues permission to a certain collective organization or until there is a contract (a tariff system)
 - permission for communication to public issued in 1997!!

Possible Practical Effect

- all works of all authors ?!?!?!?
- individual management not possible !?
- consequences if one manages individually?
 - for users
 - for authors/copyright owners

It is a mistake – action needed!!!

Legislator should

abolish MCM

or

develop MCM?

Proposals of CR reform for digital libraries:

New exception / limitation

Scandinavian like expanded collective licenses

Slovenian (revised Slovenian) like collective licenses

Revision of Slovenian MCM

Copyright law reform

not all works

not all authors

opt- out system

opt –in system

Collective management reform

new collective – new clearing center needed

Reform of collective management!

- high Administrative cost
- non- transparency
- cross licensing does not work!

Urgent EU reform needed

- reform of copyright law
- harmonization of reformed copyright law
- reform of collective management regime(s)
and organizations

Maja.Bogataj@ipi.si { Thank you!