



Collective Management and the Implications of Right-holders' Freedom of Choice

DIGITAL RIGHTS AWARENESS MODULE 5

Author:

Giuseppe Mazziotti Coordinator and Principal Investigator of the Fair MusE project



Funded by
the European Union



The Traditional Role of CMOs

- CMOs emerged because no single composer could license every performance or broadcast.
- They negotiated licences, collected royalties, and distributed income — usually as **national monopolies** cooperating through reciprocal agreements.
- This model worked in the **analogue, territorial era**, but struggled once music went digital and cross-border.

The 2014 Directive on Collective Rights Management reformed the system to modernise governance and adapt to the Digital Single Market.

Harmonising Collective Management

3 KEY REFORMS FOR CMOs (2014 DIRECTIVE)

Definition and supervision of CMOs as accountable, transparent institutions.

Freedom of choice for creators to decide which rights to manage collectively or individually.

Multi-territorial licensing rules for online music uses.

Under Article 5, right-holders may confer or withdraw rights freely, and CMOs must accept mandates unless justified otherwise.

- CMOs now face transparency obligations, including timely distribution (within nine months) and clear reporting.
- The result: **more competitive and data-driven CMOs**, balancing collectivity with accountability.

Independent Management Entities (IMEs)

- The Directive also recognised **IMEs** — private, for-profit entities that license and distribute rights commercially.
- IMEs are **not owned by creators** but must comply with transparency and good-faith obligations.
- Implementations varies widely:

ITALY

EU Court ruled in 2024 that excluding IMEs breaches EU law.

SPAIN

Competition authorities sanctioned **SGAE** for restricting withdrawals.

GREECE AND PORTUGAL

Unclear rules still blur the line between CMOs and IMEs.

IMEs expanded choice but fragmented the European market.

The “European Licensing Passport”

The Directive introduced technical standards for composers' and publishers' CMOs to license online music across borders — the so-called **European Licensing Passport**.

To obtain it, CMOs must prove **data-handling capacity**:

IDENTIFY REPERTOIRES

PROCESS USAGE DATA

ISSUE E-INVOICES

PAY ROYALTIES PROMPTLY

The system improved digital infrastructure but produced **uneven outcomes**:

Larger CMOs and publishers gained international reach.

Smaller societies and local repertoires struggled to compete. **uneven outcomes**:

The result is a two-tier licensing market — efficient but unequal — limiting cultural diversity and fair competition.



Licensing Hubs and New Intermediaries

- To simplify online licensing, major players formed **joint hubs** such as **ICE, MINT, and DEAL**, offering multi-territorial licences to streaming and social media platforms.
- These hubs increased efficiency but **blurred lines of accountability**, often operating as commercial entities outside EU oversight.

Fair MusE warns that while practical, these ventures **shift collective management toward corporate logic**, risking reduced transparency for creators.

A decorative vertical bar on the left side of the slide, composed of various geometric shapes including circles, triangles, and semi-circles in colors like green, orange, pink, and grey, some with patterns like stripes or dots.

Data, Metadata, and Fragmentation

- At the heart of collective management lies **metadata** — identifying who owns what and where it's used.
- Despite systems like **CISAC's Cis-Net**, **ISRC databases**, and **SCAPR's performers database**, data remain **siloed and poorly connected**.
- This leads to **unmatched royalties ("black-box" revenues)** that accumulate when tracks can't be linked to right-holders.
- Platforms are still **not obliged** to flag or fix metadata gaps, undermining the transparency promised by both the 2014 and 2019 Directives.



Policy Challenges

EU-level supervision of the Passport system is needed for consistency.

CMOs should **partner with data-analysis providers** and improve interoperability.

IME regulation must be harmonised to prevent forum-shopping.

Any new **performer remuneration rights** for online uses should rely on robust metadata.

FAIR MUSE'S TAKEAWAY

Europe's rights ecosystem must combine **freedom with coordination** — competition that strengthens, not weakens, collective fairness.



Find us on



fairmuse.eu



Creative Commons' licence (BY NC ND 4.0)



Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or REA. Neither the European Union nor the granting authority can be held responsible for them.