

RULES AND REGULATIONS ON THE ACCREDITATION OF COLLECTIVE MANAGEMENT ORGANIZATIONS

Whereas, the Intellectual Property Office of the Philippines (IPOP HL) IS mandated to administer and implement the State policies declared in Republic Act No. 8293, the Intellectual Property Code of the Philippines (IP Code);

Whereas, Sec. 183 of the IP Code, as amended by Sec. 10 of Republic Act No. 10372, allows the owners of copyright and related rights or their heirs to designate a society of artists, writers, composers and other right-holders, commonly referred to as collecting societies or collective management organizations (CMOs), to collectively manage their economic and moral rights on their behalf, provided that they first secure the necessary accreditation from IPOP HL in order that they can enforce the rights of their members;

Whereas, meetings with various copyright stakeholders have resulted in a call for IPOP HL to establish accreditation mechanisms for CMOs with the view of protecting both the right-holders and the users of protected works, taking into consideration the public interest, as well as the access to knowledge;

Now, therefore, IPOP HL hereby issues the following rules and regulations on the accreditation of CMOs:

RULE I GENERAL PROVISIONS

Section 1. Title. These rules shall be known as the "Rules on Accreditation of Collective Management Organizations".

Section 2. Coverage. These rules and regulations shall apply to:

- a. Any CMO, which refers to a group of artists, writers, composers and other creators, or copyright/related rights holders whose primary purpose is to collectively manage copyright and/or related rights, including any or all of the following activities:
 - i) negotiation with and grant of licenses to users of protected literary, scholarly, scientific and artistic works, derivative works, performances, sound recordings, audiovisual works and broadcasts;
 - ii) collection of royalties and other forms of remuneration for the use of protected literary, scholarly, scientific and artistic works, derivative works, performances, sound recordings, audiovisual works and broadcasts;
 - iii) collection of proceeds In subsequent transfers of the originals of paintings, sculptures and manuscripts:
 - iv) collection of additional remuneration for subsequent communication or broadcast of a performance;
 - v) collection of single equitable remuneration for the broadcast, other communication to the public or public performance of a sound recording; and
 - vi) distribution of the abovementioned collections to the rights holders.

b. Any CMO established before the effectivity of these Guidelines and is engaged in any or all of the above cited activities. Such CMO shall, within three (3) months from effectivity hereof, apply for accreditation.

c. These rules and regulations shall also apply to entities or individuals who engage in any of the functions enumerated in item (a) of this section.

RULE II PROCEDURE FOR ACCREDITATION

Section 1. Minimum Requirements. Only groups or CMOs meeting the following minimum requirements may apply:

- a. Registration as a non-stock, non-profit corporation;
- b. Membership is composed of right-holders belonging to the sector whose rights shall be managed;
- c. The General Manager or Executive Director, the heads of Documentation, Licensing, Distribution and Finance have at least sixteen (16) hours of training on copyright or any related topics relevant to the particular sector obtained from IPOPHL or other institutions offering IP courses or seminars, both local and abroad;
- d. Managerial and administrative capability of enforcing the rights of its members.

Section 2. Documentary Requirements. A duly accomplished application form shall be submitted in duplicate to the Bureau of Copyright and Other Related Rights, along with the following documents:

- a. Articles of Incorporation and By-Laws
- b. SEC Registration/BIR Registration/business permits and/or relevant government licenses/registrations
- c. Organizational structure
- d. List of Board members and officers, with respective biodata
- e. List of members
- f. List of current licensees (if applicable)
- g. List of authorized collecting agents, with respective contracts of agency
- h. Business/Operations Manual (including published tariffs/rates per category and distribution rules)
- i. Documents used in business:
 - i) Membership Agreement/Deed of Assignment
 - ii) Reciprocal agreements, if any

iii) Licensing Agreement

j. Audited Financial Statements, if already in operation

Section 3. Application Fee. A non-refundable application fee in the amount of Ten Thousand Pesos (PhP 10,000.00) shall be paid by the applicant to cover expenses of the proceedings and administrative costs.

Section 4. Third Party Observation. Within one (1) week from filing, the application shall be published in the IPOPHL Website. Any interested party may submit written observations thereon to the Bureau of Copyright and Other Related Rights within thirty (30) days. The observations shall forthwith be communicated to the applicant who may comment on them within ten (10) days from receipt of said communication. The Bureau shall acknowledge and consider the observations and comment in making its decision, and include the same in the file of the application to which it relates.

Section 5. Decision of the Director of the Bureau of Copyright and Other Related Rights. The Director of the Bureau of Copyright and Other Related Rights, or, in his absence, any IPOPHL official who may be duly designated by the Director General, shall examine the merits of the application within thirty (30) days from filing thereof or from the receipt of the last observation or comment of the parties. After which, the Director or duly designated official shall render a decision granting or denying accreditation. The Director or duly designated official may obtain the assistance of experts in the government and/or private sector who have worked for at least ten (10) years in the relevant copyright industry, or have at least a masteral degree in the relevant field, when necessary to resolve the matter. The corresponding certificate shall be issued within one (1) week after the decision.

Section 6. Denial of Accreditation. Accreditation may be denied if:

- a. The applicant does not comply with the provisions of Sections 1 and 2 of Rule II above.
- b. The information supporting the application reveals that the CMO is unable to effectively manage and administer intermediary affairs as well as the rights of their members.

Section 7. Appeal to the Director General. The decision of the Director or duly designated official denying accreditation shall be appealable to the Director General, subject to the IPO Uniform Rules on Appeal, as amended.

Section 8. Effectivity of Accreditation. The accreditation shall be effective for a period of three (3) years starting from the date of issuance of the resolution granting the accreditation.

Section 9. Publication upon Approval of Accreditation. IPOPHL shall publish, in the IPOPHL Website, the accreditation certificates, statutes, rates for collecting licensing fees, and distribution mechanism of the accredited CMO.

RULE III EFFECTS OF ACCREDITATION

Section 1. Rights of an Accredited CMO. An accredited CMO has the right to:

- a. Administer any or all of the following rights, depending on the nature of the work and the agreement with their members:

- i) reproduction
- ii) transformation
- iii) first public distribution
- iv) rental
- v) public display
- vi) public performance
- vii) communication to the public
- viii) moral rights

b. Negotiate with and grant licenses to users of protected literary, scholarly, scientific and artistic works, derivative works, performances, sound recordings, audiovisual works and broadcasts;

c. Collect royalties and other forms of remuneration for the use of the abovementioned works, including proceeds in subsequent transfers;

d. Distribute the said collection to their members;

e. Sue and enforce administered rights.

Section 2. Duties of an Accredited CMO. The accredited CMO shall:

a. Ensure the faithful discharge of their obligations as well as compliance with applicable laws and regulations;

b. Submit audited financial statements on or before April 15 of each year and allow the same to be posted in the IPOPHL website;

c. Notify IPOPHL of meetings, which are, at least, open to its general membership, and welcome a representative to such meetings;

d. Submit to IPOPHL whatever requests for information involving the CMO and its stakeholders;

e. Comply with these rules and the orders of IPOPHL issued from time to time.

Section 3. Reporting of Changes. An accredited CMO, which has amended its statutes or has undergone any change relative to its business (including changes in authorized collecting agents, if any), shall notify the IPOPHL thereof by submitting the amendatory statutes or a summary of the changes within thirty (30) days from effectivity thereof or the occurrence of the change, as the case may be. If such change shall necessitate the amendment of the accreditation certificate, an amendment fee of One Thousand Pesos (PhP 1,000.00) shall be paid.

RULE IV POST-ACCREDITATION

Section 1. Renewal of Accreditation. At least thirty (30) days before the expiry of the accreditation, the accredited CMO may apply for renewal of the accreditation and shall submit only those requirements enumerated in Section 2 of Rule II that need to be updated. The Director or duly designated official shall consider the performance of the CMO in the past year and shall issue a resolution within fifteen (15) days from filing of the application for renewal. A renewal fee of Five Thousand Pesos (PhP 5,000.00) shall be paid upon filing.

Section 2. Suspension of Accreditation. Under any of the following circumstances, the Director or duly designated official shall suspend, motu proprio or at the instance of the members of the CMO, or an interested party, after giving the concerned CMO due notice and opportunity to be heard, the accreditation of said CMO if the following circumstances are found after accreditation:

- a. The CMO or any Board member or officer thereof has been found (by final order or conviction) to have violated the Law on Copyright (Part IV, IP Code) or any related law, rules and regulations.
- b. Any of the documents or information/data contained in the documents submitted by the CMO has been found to be false or untrue.
- c. Failure to maintain its compliance with the provisions of Section 1 of Rule II above.
- d. Failure to engage in any of the activities under Section 2(a) of Rule 1 within one year after accreditation.
- e. Failure to observe the parameters for distribution of royalty collections.
- f. Malicious breach of contract or fiduciary duty against any of its members, regarding the primary activities and the duties of an accredited CMO as set out in these Guidelines and/or the principles of transparency, efficiency and good governance, including the fair and proportionate representation of members in the CMO's governing bodies.
- g. Failure to give proper accounting to its members.

Section 3. Effect of Non-accreditation, Denial, or Suspension of Accreditation. A CMO who has not applied for accreditation after the effectivity of these Guidelines, or whose application has been denied, or whose accreditation has been suspended, cannot engage in the activities enumerated in Section 2(a) of Rule I. However, the said CMO may re-apply for accreditation, or move for the lifting of the suspension, provided, that the ground/s for denial or suspension had ceased to exist and it has complied with the minimum requirements of Section 1 of Rule II above. Thereafter, the processing of the application shall proceed in accordance with these guidelines.

RULE V FINAL PROVISIONS

Section 1. Grace Period for Compliance with Application Requirements. Applicants shall have one year from the effectivity of these Guidelines to comply with all the minimum and documentary requirements set forth in Sections 1 and 2 of Rule II. After the said period, applicants shall comply with all the said requirements at the time of filing of the application.

Section 2. Separability Clause. If any section or provision of these Rules shall be held to be invalid, the remaining provisions shall remain in full force and effect as completely as if the part held invalid has not been included therein.

Section 3. Furnishing of Certified Copies. The IPOPHL Financial Management and

Administrative Services (FMAS) is hereby directed to immediately file three (3) certified copies of these Rules with the University of the Philippines Law Center, and one (1) certified copy each to the Office of the President, the Senate of the Philippines, the House of Representatives, the Supreme Court of the Philippines and the National Library of the Philippines.

Section 4. Effectivity. These Rules shall take effect after fifteen (15) days from publication in a newspaper of general circulation.

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Director General