

Book Review



Collective Rights and Digital Content: The Legal Framework for Competition, Transparency and Multi-Territorial Licensing of the New European Directive on Collective Rights Management, Lucena, Cláudio, Springer, 2015, 59 Pages, ISBN 978-3-319-15910-2

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Abstract

“Collective Rights and Digital Content: The Legal Framework for Competition, Transparency, and Multi-Territorial Licensing of the New European Directive on Collective Rights Management” is a part of Springer Briefs in Law book series written by Cláudio Lucena, a Brazilian researcher at Paraíba State University. This book was published in 2015, and divided into 5 chapters. In the first chapter, we have an introduction and the last one is the Conclusion. Thanks to digital technologies wide growth social, cultural, and economic interaction is completely

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transformed. The impact of collaboration tools in the activity of creating intellectual content transformed the way collective management organizations operate and current market requirements demand legal adaptation to face this new reality. The last conclusion in this book emphasizes on necessity of global copyright database's formation, which is based on European legal and cultural matter. While non-European areas are completely deferent and it would be a great challenge. These countries also need to be examined in terms of their own cultural, political, economic and technical infrastructure, then we would have a real global copyright database.

Keywords: Book Review, Collective Rights, Legal Framework

1) Preface

“Collective Rights and Digital Content: The Legal Framework for Competition, Transparency and Multi-Territorial Licensing of the New European Directive on Collective Rights Management” is a part of Springer Briefs in Law book series written by Cláudio Lucena, a Brazilian researcher at Paraíba State University.

The book is intended to support students, academics and practitioners by enhancing their general and legal grasp of these phenomena, while also encouraging their collaboration with policymakers and other interested parties in the ongoing task of transposing the Directive into concrete national legislation.

2) About the Editors

Cláudio Lucena is a Professor of the Law Faculty in the Department of Private Law, Paraíba State University (UEPB), specializing in Information Technology and Intellectual Property Law. Dean of the Law Faculty, Center for Legal Studies, at Paraíba State University, in Brazil from 2011 to 2013.

Faculty Member of the Fundamental Rights, Information and Communication Technologies research group and coordinator of the lines of study which develop works in areas like lawsuit automation systems and the impact of ICTs over Law.

LLM in International and European Law, Institute of European Studies, Vrije Universiteit Brussel.

Recently joined the European Centre for Information Policy and Security (ECIPS), an organization that researches and develops initiatives and policy formations to combat new emerging security threats for both governments and corporations. In the legal team of the think tank, collaborates in cyber security and digital crime fighting and prevention projects.

3) About the Context of the Book

This book published at 2015, and divided to 5 chapters. At the first chapter we have an introduction and the last one is the Conclusion.

Chapter1: introduction

After a brief introduction on sociodigitization concept, we will know the technology role in human behavior and its importance. This

impact is more noticeable when it is based on Information and Communication Technologies.

Chapter2: Shift Happens

In the second chapter named “Shift Happens”, we get to know how digital technologies allow new forms of social interaction which opens new collaboration possibilities and new economic opportunities.

Chapter3: Why Does Law Even Care?

“Why Does Law Even Care?” is discussed in the third chapter. Inclusive of economic repercussion’s scale of the creative industry, technology the regulatory role, and legal interests at stake, and the mantra of balance.

Chapter4: collective rights management

The fourth part stands on collective rights management. After an introduction on collecting in the name of the artist and controversial issues in the context of collective rights management, a legal framework of the Collective Rights Management (CRM) is presented.

Chapter5: Conclusion

Social, cultural, and economic interaction is completely transformed because of wide growth in digital technologies. The impact of collaboration tools in the activity of creating intellectual content transformed the way collective management organizations operate and current market requirements demand legal adaptation to face this new reality. The related societies will have a determinative role in this situation which is explained as below:

“Collecting societies are important players in the content industry, and several relevant issues are addressed in the ongoing redesigning process of the legal model in which they operate, many of which are not even superficially discussed in this work, like strictly illegal or non-commercial uses, exceptions or protection of cultural heritage, for this, would exceed its scope as it was delimited, that is to say, issues of competition, transparency, and multi-territorial licensing of rights over online protected works that are collectively managed.

A whole new social architecture communicates, interacts, produces, and distributes information and impacts on the exercise of creativity and other general aspects of cultural expression and intellectual property issues. It surely has various repercussions in aspects of the production of intellectual content. Wide sharing and collaboration possibilities that technologies introduce in social interaction promote the creation of intellectual content from various perspectives. This new environment is a tool, not a fight or an object in itself, which people—the real protagonists of changes—should explore to reach their goals. It's a catalyst, not an aim.”

Planning on online services and content is inevitable in the present age. In this way, we need to attend to artists' rights and their explicit and implicit revenue. The author stated that directive 2014/26/EU as the first intervention of this magnitude the European Union experiences in the matter. Using IT tools will provide “enhanced capability to process large amounts of data, accurate identification of the works used by the service providers, fast invoicing to service providers and timely payment to right-holders”

On the other hand, multi-territorial licensing is also addressed by a clearer framework on representation agreements, with rules on non-discrimination, non-exclusivity, and non-refusal. All the organizations should.

“comply with strict technical requirements, demonstrating they have put in place data management tools that can process electronically the necessary data for the administration of the licenses they contractually receive, including identification of the repertoire, monitoring use, invoicing users, collecting and distributing revenue to rights holders, which, in its turn includes the need to identify musical works, in whole or in part, the rights, and the corresponding rights holders for each of these works using, when possible, industry identification standards, and to resolve, timely, and efficiently, data inconsistencies. Concerns that the Commission's approach to the issue was sectorial, and that it promoted insufficient

harmonization of national law to deal with these circumstances on an EU Level were expressed by stakeholders, including some Member States”.

4) Review

The last conclusion in this book emphasizes the necessity of a global copyright database's formation, which is based on European legal and cultural matters. While non-European areas are completely different and it would be a great challenge. These countries also need to be examined in terms of their own cultural, political, economic, and technical infrastructure, then we would have a real global copyright database.

5) Summary

This book starts with an exercise, proposing a theoretical reflection on the technological path that, over time, has transformed the ways we produce, consume and manage intellectual content subject to copyright protection. This lays the groundwork for a further analysis of the main legal aspects of the new European Directive, its improvements, its tendencies and its points of controversy, with special and more concrete attention to how it proposes to address the issues of competition, transparency and multi-territorial licensing.

Digital technologies, networks and communication have boosted the production and distribution of intellectual content. These activities are based on a renewable and infinite resource – creativity – which turns this content into strategic artistic, cultural, social, economic and informational assets. Managing the rights and obligations that emerge in this system has never been an easy task; managing them collectively, which is more often than not the case, adds even more complexity.

The European Directive on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market is a policy initiative that seeks to establish an adequate legal framework for the collective management of authors' rights in a digital environment, recognizing this goal as crucial to achieving a fully integrated Single Market. Part of the Digital Agenda for Europe, it is an effort to promote simplification and to enhance the efficiency of collective rights management by tackling three of the main issues that are currently undermining the

business model of collecting societies: competition, transparency and multi-territorial licensing.¹