

Statement on a draft of Czech copyright bill amendment in relation to Creative Commons licences

In relation with a leak of a draft of Czech copyright bill amendment that happened at the beginning of August 2010, Creative Commons Czech Republic is announcing its standpoint on proposed article that modifies liability of rightsholders of publicly licensed works towards collecting societies for the purpose of exclusion of collective rights management effects.

Proposed article is implemented at the end of § 101a and reads:

„If a right holder not represented on the basis of the agreement expresses his will to exclude the effect of cumulative agreement while providing gratuitous license, the effect of cumulative agreement is excluded to the extent of provided license in respect to the collective administrator at the moment when the collecting administrator is provably notified of the provided license.”

In order to prevent public from misinterpretations, we would like to notify, that the paragraph stated above stands only for usages of works that are subject to so-called “extended collective licensing” (complete listing of such usages is included at § 101a of Czech copyright bill). A list of the most frequent ones includes:

- radio or internet broadcasting of works
- live (no theatrical) performance of literary works (e.g. public readings in libraries)
- transfer of works through computer or similar networks (e.g. electronic document delivery service in libraries)

According to up-to-date Czech copyright bill, in order to exclude effects of extended collecting management for works released under public licence, **an author alone** has to send notification to particular collecting society at the moment of the act of publishing. If he doesn't do so, public licence such as Creative Commons doesn't work the way it should in relation to collecting royalties.

Proposed paragraph transfers announcing liability on a user of licensed work (e.g. manager of radio station or library), given that a form of announcement delivery to collecting society is not specified. To summarize: a list of publicly licensed works (that will be used in the scope of § 101a) delivered to particular collecting society should replace liability to pay royalty fees even for publicly licensed works.

We perceive this proposal as a positive shift and the maximum we can move to till the day, when whole system of collective rights management will be revisited. However, the system is subject to international contracts that are over our jurisdiction and even over jurisdiction of Ministry of Culture.

Other paragraphs of the draft that are related to collecting societies, including a new model for collecting royalty fees, will not be subject of our comments. The work on the draft was stopped due to public reactions on leaked document. We can only recommend to Ministry of Culture to invite interested parties into discussion at the beginning of drafting process in order to prevent excessive reactions after the document leaks out.

On the behalf of Creative Commons Czech republic,

Lukas Gruber, Petr Jansa.