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1st of Cheshvan, 5777

The Antitrust Authority:
ACUM will be Required to be Transparent about Use of Artists'
Funds

The Antitrust Authority published today (Wednesday) the conditions under which ACUM will be allowed to operate, while imposing a series of new duties on the organization relative to the conditions under which ACUM has been operating until today. The main purpose of these conditions is to protect the right holders (such as composers and lyricists) and the users (such as businesses playing music and television and radio broadcasters) from the monopolistic power created by the cooperation within ACUM.

As part of these new duties it was determined, *inter alia*, that ACUM will be required to publish regular reports for the public regarding its activity, and detailed reports for each artist, listing the uses of the funds collected on the artist's behalf. In addition, ACUM is required to publish yearly reports to all the artists regarding its financial conduct. *Inter alia*, ACUM will be required to publish its total revenue segmented according to user type, compensation to office holders, funds ACUM paid members and represented parties, segmented according to user type and member type. In addition, an arbitration mechanism will be established for artists not accepted as members of ACUM.

In addition, ACUM's duties in relation to the public database of works on its website were expanded and clarified. *Inter alia*, the database will include the names of right holders and copyrights that have expired and are now in the public domain.

In addition, user protections were expanded, in particular in the case of users from outside the public performance realm, such as radio broadcasters. At present, ACUM's enforcement options are already limited (e.g. its ability to request injunctions) when there is a legal dispute regarding the level of licensing fees. This limitation is necessary in order to prevent ACUM from receiving injunctions against businesses, forbidding playing music and thus forcing them into paying high licensing fees. This limitation has so far applied only to users from the realm of public performance, such as businesses and DJs. Under the new conditions, protection was extended to all user types, including radio stations and television channels, in order for them to challenge the licensing fees demanded by ACUM without concern of an injunction or statutory compensation, as long as temporary usage fees are paid.

Background

ACUM (Society of Authors, Composers and Music Publishers in Israel) is a corporation for the joint management of copyrights in musical and literary works. As part of ACUM's operations, right holders jointly market their rights in their works in order to provide licenses that permit the use of all works managed by ACUM ("blanket licenses").

In the modern era, collective management organisations are an effective way of protecting the copyrights of various artists. This is due to the fact that most artists cannot contact every entity playing or using their works (radio stations, event halls, businesses, hotels). Artists also cannot enforce their own copyright infringement claims, as they are often unaware of who is using their works, and therefore such enforcement would be inefficient. That is why the existence of organizations jointly managing copyrights is efficient and necessary. However, over time, these organizations have amassed a market power over both users and artists, and they might use this market power to impose unfair usage conditions on businesses (such as high prices), or to force artists into inferior contracting conditions with the organization. In light of all this, the need arises to authorize the activities of these organizations, while setting conditions to limit their operations in a way that would restrain the market power they developed vis-a-vis users and artists.

ACUM's activity was approved by the Antitrust Tribunal around 5 years ago, and appeals submitted against the Tribunal's decision were rejected by the Supreme Court.

The current conditions are based on the conditions set by the Tribunal, and they are in keeping with the conditions for the operation of similar organizations, such as the Collecting Society of Film and Television Creators in Israel (TALI), and the conditions recommended by the General Director to the Tribunal for the operations of the Israeli Federation of Independent Record Producers (PIL) and the IFPI Israel ("the Federation").