

The Director General's Report to the Executive Board on the Artisjus Society's Activity in the Year 2007

I. The most important aspects characteristic of 2007

In 2007 Artisjus – acting as an officially recorded society in charge of administering the authors' rights related to the domains of music and literature collectively – met the tasks prescribed for it by the relevant law on the one hand and its own Statutes on the other. This means that it did its best to promote the financial interests of the composers, authors and music publishers it represents as well as to support and recognize the musical and literary creative activity. It carried on negotiations with users and in reliance on its equitable tariffs and licensing practice approved by the competent minister it promoted a mass-scale and simultaneously legal use of the works affected.

In the one hundredth year of the collective administration of the Hungarian musical rights the royalty receipts achieved by Artisjus, i.e. the complete overall receipts of royalties, amounted to HUF 12,996,121 thousand. Of this, the total of musical royalties due to domestic and foreign composers and music publishers ran to HUF 8,123,943 thousand (the details and the comparison with 2006 are included in **Appendix 1**). About 30 per cent of the royalties collected as a total is due to other Hungarian collective rights administration societies and foreign television organisations, which themselves take care of the individual distributions (see **Appendix 2**). The expenses on the collective administration of rights amounted to 18.3 per cent of the total collected. Related to the preceding year, the personal expenditures of the operation rose by 4 per cent (with the staff number unchanged), whereas material expenses and those on investments somewhat fell (by respectively 3 and 5 per cent). As regards welfare and cultural purposes, the Society spent on such 3.9 per cent of the total. All in all, 77.8 per cent of the total income was distributed, or transferred to the representatives of other groups of rightholders (see **Appendix 3**). The individual distribution of the royalties took place according to the public Rules of Distribution to the musical and literary rightholders numbering 6000 in Hungary and several tens of thousands abroad.

The membership of Artisjus and the number of its domestic clients continued to increase during the year, totalling 6345 at the end of the year (for more details see **Appendix 4**). Under its 83 international agreements on mutual representation, the Society represented practically all composers of the world as regards the use of their works in Hungary, on the other hand, it provided authorization to the partners to license the use of the Hungarian repertory in their respective countries.

At the General Meeting in November – with a much higher participation than ever – Artisjus renewed its elected leading bodies. The members elected five new representatives to the 33-member Committee, one to the six-member Supervisory Board, and one to the ten-member Executive Board. In 2007 Artisjus set up a Board of the Beneficiaries, in which two composers and one music publisher represent the interests of the domestic persons entitled to receiving royalties from Artisjus but not yet members of the Society. The internal Society rules set up in accordance with the Statutes (e.g.,

the Rules of Distribution) are available to all members, and they are consistent with the relevant legal regulations of the European Union (affecting e.g., the regulations on leaving the Society and the recall of the rights of representation).

The General Meeting also altered the Statutes regarding a number of issues. In consideration of the requirements of and developments in the European Union it became possible to conclude agreements on mutual representation of which the territorial effect extends to the whole of the European Economic Area or to several countries. In case of need, the Society can also set up regional rights management organizations jointly with foreign collective rights administration societies. The rules of exclusion of members were transferred from lower-level internal regulations to the level of the Statutes; and in conclusion, subject to certain conditions, the members may commission other persons to present them and even to cast votes on their behalf, at the General Meeting.

In the processes of the enforcement of rights, the documentation and the distribution of royalties Artisjus took advantage of the latest organizational and information technology procedures applicable to the collective administration of rights as well as the most up-to-date international databases and standards. Accordingly, in 2007 it developed a computer-based system which, in co-operation with the service provider, registers the download of works simultaneously with their use. It also established an electronic authors-related information system which permits authors to have an individual and safe "online" access to their works and current account related data.

The regular operation of Artisjus is supervised and controlled – internally by the bodies elected in accordance with the statutes – through the annual auditing (the report of which is made public), by the foreign collective rights administration organizations represented, the Ministry of Public Education and Culture, as well as the National Tax Office carrying out case-by-case financial controls.

In the international organizations concerned with the collective administration of the rights as well as in related cases of co-operation Artisjus continued to play an important role.

The one-hundredth year of the history of Artisjus and its legal predecessors was celebrated in 2007 through concerts, prize awards and the publication of a work presenting the hundred years of the collective administration of rights in the domain of music.

2. The rights enforcement aspect

The application of tariffs to the users objectively being in the same situation occurred uniformly and equitably. The goal was to achieve a fair combination of profitability and efficiency. This was not too easy to achieve, given that in regard of public performances the Society's records cover 60 thousand shops of which 31 thousand were checked during the year (coming up on average to 85 checks a day). This resulted in the Society's contacting the Courts requesting them to send out 11 thousand orders to pay (implying an expenditure on stamp duties up to HUF 70 million). Against the illegal, so called pirate uses the Society also took actions together with the other collective rights administration organizations, implying major expenditures, with the ProArt organization taking the lead in this respect. The ProArt demands calling the internet service providers to immediately put an end to the breaches of law amounted to around 5000.

The income of royalties on the publication of sound recordings had continuously been decreasing from 2002, by a total of 30 per cent in the period involved. It was a

ARTISJUS's royalty receipts under its collective rights administration activity (HUF thousand)

	2006	2007	%
1. Royalties due to composers on public performances	3 810 591	4 143 662	108.7
2. Radio and television royalties	2 492 892	2 481 462	99.5
3. Internet, phone signal tones ect. royalties	101 749	110 746	108.8
4. Blank sound and picture carriers royalties to rightholders	1 163 398	1 139 581	98.0
5. Cable television royalties to composers	156 720	153 400	97.9
6. Sound recording ("mechanical") royalties	415 157	417 412	100.5
7. Literary works broadcasting royalties	118 854	95 093	80.0
8. Royalties to rightholders from abroad	342 559	521 516	152.2
9. Non-musical and neighbouring rights royalties	3 408 893	3 433 857	100.7
10. Cable TV royalties by foreign broadcasters	550 361	499 392	90.7
Total	12 561 174	12 996 121	103.5

Royalties collected for other domestic collective rights administration societies as well as foreign rightholders under the neighbouring rights category (HUF thousand)

	2006	%	2007	%
Those represented by ARTISJUS	8 601 920	68.5	9 062 871	69.7
Those represented by HUNGART, FILMJUS, EJI and MAHASZ	3 408 893	27.1	3 433 857	26.4
Foreign broadcasting organizations	550 361	4.4	499 393	3.8
Total	12 561 174	100.0	12 996 121	100.0

Proportion of distributed royalties, costs as well as welfare and cultural supports in relation to the incomes (HUF thousand)

	2006	%	2007	%
Incomes	12 561 174	100.0	12 996 121	100.0
Administration costs	2 318 031	18.5	2 382 550	18.3
Welfare and cultural supports	504 207	4.0	510 421	3.9
Distribution to Artisjus rightholders, and to other non-Artisjus rightholders (organizations)	9 738 174	77.5	10 103 150	77.8

success in 2007 – that resisting the pressure of the big foreign collective rights administration societies and multinational publishers of sound recordings – the Society could retain the direct licensing of, and the related collection of royalties on the publications of the multinational record publishers in Hungary (accounting for about one third of all relevant publications in this country). The Society won the case, with the right to appeal, instituted for achieving the payment of royalties on the film music recorded and distributed for sale on DVD, however, the collection could not yet be begun in view of the appeal granted. The second appeal court repealed the decision, and a new process is to start. Through an application presented to the Constitutional Court, the defendant tries to achieve the annihilation of the regulation through the interpretation of which the enforcement of the so-called video-mechanical royalty in respect of the audiovisual works offered for sale on copies of the works may become possible.

Following the 20 per cent growth, an outstanding one in 2006, of the collection of royalties on blank sound and picture carriers, it could be considered a fair result that the level of these incomes could be maintained (though the related private copying continued to increase and expand). At the end of the year the Society was obliged to bring an action, because of the nonpayment of royalties, against the Hungary-based subsidiary of the international firm Nokia manufacturing cellular phones and other multifunctional apparatuses storing also music. The public prosecutor's interpretation referring to desuetude excludes the application of penal law sanctions even following a modification of the Penal Code.

The number of ARTISJUS rightholders and other represented rightholders as of December 31, 2007

1. Members of the Society	1286
a) of whom	
Authors and Composers	1057
Legal successors	202
Music publishers	27
b) of whom	
Section for Literature	94
Section for serious music composers	185
Section for light music composers	980
Section for music publishers	27
2. Client under representation	5059
Total	6345

In Hungary, the use of music on the internet continues to result for composers in an insignificant size of receipt; it runs to less than 1 per cent of Artisjus's receipts collected from other sources. In view of the file exchanges, the so-called warez sides actually being pirate ones, and the community video sharing portals the situation is similar also in other countries of Europe. The providers of electronic telecommunication services on the internet – referring to the legal rules setting limits to their responsibility – practically do not pay royalties, although 80 per cent of their deals covers musical and cinematographic file exchanges in Eastern Central Europe for instance.

Among the royalty sources based on other types of the electronic media (“broadcasting and cable television royalties”), some increase could only be recorded in respect of the simultaneous transmission by the satellite channels broadcasting encrypted programmes in the cable networks, the royalty receipts from which source could somewhat offset the considerable contraction of royalties paid by the Hungarian Radio and the Hungarian Television.

The royalty receipts from public performances – with the tariffs unchanged! – showed a 9 per cent growth. A role was played in this by the increasing number of the framework agreements entered into with commercial store chains as well as the growth in the number of live music performances at concerts and in the catering industry.

3. The documentation and royalty distribution aspect

For the registration and identification of the musical and literary works used, the documentation of the Hungarian and the international repertory covering several millions of works, as well as the international accounting of royalties Artisjus operates big information technology systems, including all electronic devices and standards jointly developed with the International Confederation of Societies of Authors and Composers (CICAC). The database increases annually by about a thousand items in respect of Hungarian authors and by about ten thousand in respect of their works alone. As regards the data managed see Appendix 5.

The genre categorization of the works announced as well as their classification whether they are to be considered original or adapted ones are seen to by expert committees.

It raises difficulties in respect of the distribution of royalties that to a considerable extent the users continue to provide inaccurate and unreliable data on the works played, broadcast or downloaded. A major proportion of the data supply by the public service Hungarian Radio and Hungarian Television failed, even in 2007, to be electronic. The data received by the Society are controlled through continuous elec-

tronic observation. In 2007 several entrepreneurs' programmes were tested in respect of the fully automatic identification, through digital fingerprints or in other ways, of the work played in broadcast or internet programmes, however, no operable and efficient version could so far be found.

As regards the distribution of royalties in 2007, of those collected in 2006, essentially the former Distributions Regulation was relied on. However, there was an increase in the number of sources of data and the data themselves (composers and publishers affected) taken into account for the distribution of the cumulative distribution funds, which resulted in an overall decrease in the sums of royalties due on public performances, broadcasting and blank carriers to the composer to be considered successful.

The 10 per cent portions deducted on the basis of the Distribution Regulation and the contracts on mutual representation for welfare and cultural support purposes from the public performance type royalties were transferred by Artisjus, in 2007 again, to Artisjus Musical Foundation and Artisjus Literary Foundation. The sums were used by the Foundations for the financial motivation of the creative activity of the Hungarian composers, the promotion of the Hungarian repertory to be more available to the Hungarian public at large, the rewarding of the accredited primary and secondary musical education, as well as providing awards complete with bonuses and granting scholarships (in the field of literature) in accordance with the relevant deeds of foundation.

4. International relations

Artisjus's international relations were unfavourably influenced in 2007 by the unstable situation induced by the European Commission's controversial measures affecting the collective administration of rights as well as certain actions brought about thereby on the part of various multinational music publishers and Western European collective rights administration societies mainly affecting the licensing of "online" music uses. Artisjus played itself a role in that the European Parliament's resolution based on Katalin Lévai's proposal regarding the protection of cultural minorities and cultural diversity was counteracting the Commission's measures. Artisjus made it clear that only a directive determining the collective administration of rights on the European level would be able to deal with the contradiction currently existing between, on the one hand, the unconditional application of the right of competition as well as, in the near future, of the rule of the free flow of services and, on the other hand, the fact that the collective rights administration societies acting in domains of cultural significance and common interests are controlled and supervised by the state in respect of their operation as well as regulations (affecting tariffs and the rules of distribution, for instance).

Although under the threat of fine Artisjus joined a commitment in the competition right procedure against all collective rights administration societies and CISAC, however, that commitment was not approved by the Commission and thus the procedure continues to remain open. Commissioned by some 20 small and medium-sized European collective rights administration societies Artisjus elaborated, for the purpose to be submitted to the Commission, a new model of "online" licensing, however, it was not yet approved by the big collective rights administration societies. In respect of the matter of licensing a chaos is prevailing all over Europe. In several cases, Artisjus has granted licences to such foreign providers of contents on the internet which offer services to the territory of Hungary, too. Artisjus is of the view that as regards the licensing of musical online services affecting several countries it would be appropriate to find a solution through the further improvement of the current system of mutual representation and not by an arrangement under which service providers

should get the licences one by one through contacting the competent representative of each “major” music publisher or, differently, the licence of each and every composer and publisher should be accessible through the mediation of a central collective rights administration body.

Artisjus continues to be a member of the nongovernmental international organizations CISAC, of GESAC bringing together the European collective rights administration societies, as well as of BIEM concerned with the rights on sound recording. At the 2007 General Meeting of CISAC bringing together over 200 members, Artisjus was elected into the 20 member Board of Directors with the largest number of votes. Artisjus’s representatives carried on acknowledged activities in the managing, composers related, legal and technical development bodies of these international organizations. CISAC’s Central and Eastern European Regional Directorate is headquartered in Budapest; during the year five of the seven regional conferences were held in Budapest. Professional assistance and training was offered to the collective rights administration societies of the region also on a bilateral basis.

Budapest, May 1, 2008

Dr. Péter Gyertyánfy