

# SOCIETY ARTISJUS HUNGARIAN BUREAU FOR THE PROTECTION OF AUTHORS'

## RIGHTS

### BUSINESS REPORT

#### ON THE YEAR ENDING ON DECEMBER 31 2016

(all balances are indicated in thousand HUF unless otherwise specified)

## **1. The operational environment of Artisjus in 2016**

### *1.1 Legal environment*

With the transposition of the EU directive on the collective administration of rights, the year of 2016 brought important changes, which affected the regulation of collective management organizations, among them Artisjus:

- Act XCIII of 2016 on the collective administration of copyright and rights relative to copyright ("Kjkt."), which transposed the directive on the collective administration of rights, was promulgated on 27 June 2016. Its provisions entered into force on various dates, but the sections primarily affecting Artisjus took effect as of 28 July 2016;
- Government Decree No. 2016/2016 (22 July) on the detailed rules relative to the operation of collective management organizations and independent rights management organizations and to the procedures of the administration of rights was published on 22 July 2016 and entered into force as of 22 August 2016;
- Act LXXVI of 1999 on copyright ("Szt.") was amended accordingly: the rules relative to the collective administration of rights were taken out, but they must be continuously applied to certain legal relations created prior to the entry into force of the "Kjkt."

In consideration of the rules of the "Kjkt." entered into force, we prepared the amendments of the Statutes and other internal regulations, which were approved by the General Assembly in December. The amended Statutes were submitted to the court in January 2017.

The first element of the so-called copyright reform package was published by the European Commission in autumn 2016 as part of the EU Digital Single Market Strategy. In accordance with the legislative procedure of the EU, the debate on the reform package has been carried on in 2017, too, in the European Parliament and the Council. This regulation can have an effect on the legislation of the member states primarily in the realm of the rights of (online) communication to the public.

In the course of 2016, the Court of Justice of the European Union made decisions in more than 10 cases involving copyright, which must be taken into consideration in the Hungarian judiciary as well. These cases pertain to public performance, communication to the public as well as blank carrier fees and reprography rights. From the earlier decisions, the Reprobel case (C-572/13) had a direct impact on copyright legislation in Hungary: in that case, the court adopted the position that the law cannot accord private copying (reprographic) rights to a person (publisher) different from the original right holder. These consequences were accommodated for by the Hungarian legislator in 2016 via the new provision of the "Kjkt." and the amendment of the reprographic rule of the "Szt.". The provision of the individual right holder is substituted by the agreement of the representative collective management organizations entitled for the extended collective administration of rights, an agreement approved by the supreme decision-making organs of these organizations. In the case of Artisjus, this approval was granted by the General Assembly in December 2016.

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*1.2 Evolution of our relations with authorities*

The usual comprehensive supervisory audit was carried out by the Hungarian Intellectual Property Office (HIPO) in 2016 as well, which examined the operation of the Society with respect to its compliance with the rules on authors' rights. This year the Society did not receive any notices or additional data requests; that is, based on the documents supplied by our Society, the supervising authority deemed its operation lawful in every respect.

The year of 2016 saw the submission of the uniform financial supervisory report. We did not receive any objections on that matter, either.

In 2014 the annual supervisory procedure of the Society was concluded by a notice from HIPO that pertained to the way in which the Society wished to exercise the lending right and the renting right specified in its registration. In the lack of an established tariff chart and the administration of rights, the Society must request its deletion from the registry. In 2015 and 2016 we carried out negotiations on the subject with the organizations representing the libraries and the other collective management organizations concerned. Based on the outcome of these negotiations, the Society concluded that as it would be unable to exercise the rights in question, it would request their deletion from the registry in the year 2017. The Statutes were amended in December 2016 accordingly.

The competition procedure launched by the Hungarian Competition Authority in 2014 regarding the blank carrier tariff charts of Artisjus was presented before the Competition Court in 2016. The Hungarian Competition Authority expected our Society to carry out a surveillance of our blank carrier system and fees from a different aspect and based on different data than before, putting compliance with competition law in the foreground (whether the fees were excessive to the detriment of the consumers, whether the system was unduly distorted against the consumers). We submitted our final engagement proposal in compliance with this requirement in January 2016, and finally, at the beginning of December, the Hungarian Competition Authority accepted the joint engagement of the collective management organizations and terminated the proceedings without establishing any violation of the law.

Artisjus submitted its tariff charts for 2016 for approval in due time by 1 September. Following the procedure conducted by HIPO, the tariff charts were approved by the Minister of Justice, and they were all published in the Official Journal by 1 January 2016.

**2. Royalty collection and administrative costs in 2016**

In the year 2016, the total amount of royalties collected by Artisjus was 18,587,712 thousand HUF, which constituted a 9% increase compared to the reference value of 2015.

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Royalty collection and administrative costs in 2016 (in thousand HUF)			
	2015 (thousand HUF)	2016 (thousand HUF)	%
Public performance royalties	5,286,321	5,474,749	103.6
Revenue from broadcasting and cable television	4,106,569	4,148,935	101.0
<i>from which cable television revenue</i>	<i>1,580,533</i>	<i>1,647,998</i>	<i>104</i>
Royalties on blank carriers	6,842,039	8,029,129	117.3
Royalties on mechanical and canned music	173,764	180,529	103.9
Online	202,095	330,716	163.6
Royalties on reprography	6,383	7,534	118.0
Royalties on foreign broadcasting organizations	147,156	136,042	92.4
Royalties from abroad	318,278	280,078	88.0
<b>Total:</b>	<b>17,082,605</b>	<b>18,587,712</b>	<b>109%</b>

Within that, the rate of the royalties collected on behalf of right holders represented directly by Artisjus, on that of Hungarian collective management organizations representing other right holders and of foreign television channels represented by Artisjus was the following:

	2015	%	2016	%
Those represented by Artisjus	11,267,970	65.96	11,979,802	64.45
Those represented by HUNGART, FILMJUS, EJI and MAHASZ	5,667,479	33.18	6,471,868	34.82
Foreign broadcasting organizations	147,156	0.86	136,042	0.73
<b>Total</b>	<b>17,082,605</b>	<b>100.00</b>	<b>18,587,712</b>	<b>100.00</b>

Based on the above, it can be stated that Artisjus successfully achieved its governing Financial Plan for the year 2016.

*2.1 Live and canned music public performance market*

The domain of musical public performance concluded the financial year with revenues equivalent to 103.6 per cent compared to those in the year 2015.

The main source of the increase can be put down to the spectacular improvement of payment discipline. Compared to the total amount of royalties invoiced, the proportion of payments rose by more than 3 per cent, to more than 85 per cent, while the number of the invoiced catering units

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grew for the first time in the past decade (the 2014 tariff correction must have played a role in that). The number of the demand notes sent out dropped dramatically, as did especially the number of the payment orders submitted. We registered a remarkable improvement regarding occasional events and cinemas. The amounts coming in from the hotel industry also showed a modest increase. At the same time, the payments of the commercial units stagnated despite the fact that it was primarily in this domain that we had anticipated significant progress on behalf of background music providers.

In order to provide state-of-the-art technical support for the planning and implementation of our local monitoring trips as well as data registration, we deployed the special target application developed by Artisjus for tablets in October 2016.

## *2.2 Broadcasting and cable television market*

In 2016, the sum of royalties collected from radio and television broadcasting as well as cable televisions amounted to 101 per cent of the reference level of 2015.

Expansion continued in 2016 in the television advertising market, which was characterized by the reshuffling of ownership forms and sales structures. The trends of the previous years continued: the share of the major entertainment and public service channels dropped steadily while the share of cable channels (encrypted broadcasts) went on growing. The range of OTT (over-the-top) services widened, but the traditional linear television watching is still dominant. No breakthrough was yet achieved by TV Go and ITT-OTT television. The proportion of regular consumers of non-linear media content remains 1–2 per cent for the moment. There was a minor decrease in the revenues of the right holders, which can be put down to the reshuffling of the ownership group of one of the leading commercial media groups. The decrease could be counterbalanced by the revenues due in an earlier period, but collected in 2016 as well as those royalties that were paid as a result of the media organizational audits launched by Artisjus in 2016 (see below).

The biggest change in the *radio* market was the termination of the market leader commercial radio, Class FM. This channel was the biggest radio with the largest national coverage. Its frequency license expired on 20 November 2016, and the Media Council rejected the radio's request for an additional 5 years of broadcasting. The termination of Class FM will most likely benefit the local and public service radios. Even though the listeners will probably migrate to other radios, a drop in radio advertising market is definitely to be expected in 2017 because the launching of smaller new radios (Karc FM, Rádió1) will not be able to make up for the elimination of Class FM.

In 2016, we started to inspect the declarations of the broadcasters. Since financial data constitute the basis for the accounts of the programme providers in the domain of broadcasting (TV/radio), we also involved external experts for the on-site inspection of the books. In 2016 we carried out the inspection of altogether 10 radio organizations and 10 television programme providers. In the first year, we typically audited local radio and television programme providers. In certain cases, the audit covered multiple years. The audit discovered a substantial declaration deficit: royalty arrears were established in the case of 17 partners due to certain deficiencies.

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In 2016 the highlight event of the year of the *cable television* market was the programme fee introduced by RTL and TV2 group. This payment obligation, which is imputed to the cable television organizations transmitting the channels concerned, substantially increased the transmission costs of the cable organizations, thus the broadcasters transferred some of the additional costs to the consumers or removed certain popular, valuable, but expensive channels from their offer. Digital services continued to carve out a bigger market share: according to the figures of the providers, the proportion of those subscribing to digital cable television or IPTV rose to 44.6 per cent. The share of wireless subscriptions was 29.7 per cent in December, and the proportion of analogue cable television service subscribers fell to 25.7 per cent.

The quarterly reports submitted by the Hungarian Cable Communication Federation (MKSZ) still need to be corrected before processing. We have elaborated a control mechanism in order to prevent posterior correction demands and the ensuing lengthy post operations. Based on the data of channel offer laid down in the valid General Terms and Conditions of broadcasters, we compare and check the data for the establishment of copyright.

The Global Agreement (GLA) signed with VGMedia representing German commercial televisions, with EBU representing European public service televisions and with RTL Media Group expired on 31 December 2016. The foreign partners proposed a price increase. MKSZ, acting on behalf of the biggest cable organizations, did not accept the proposal, as a result of which the foreign broadcasters terminated the GLA with MKSZ. We have undertaken to act as an intermediary between the foreign programme providers and the members of MKSZ in individual cases if necessary. In the future, MKSZ-member broadcasters will provide Artisjus with data directly concerning the tariff figures of the channels included in the earlier GLA agreement and distributed by them. In the case of individual collection of rights, invoicing will take place on the basis of the data sent directly to Artisjus by the cable organizations and not through MKSZ. The smaller cable federation (MKHSZ) did not leave the GLA. Its members continue to receive authorization for the retransmission of the channels and pay the fees due to the programme providers according to the earlier system.

#### *2.3 Blank carrier market*

In the year 2016, the blank carrier revenues collected by Artisjus grew by about 17 per cent compared to the reference value of 2015. There were neither substantial changes in the tariff charts, nor significant market transformations in this domain. The revenue increase was due partly to the more disciplined settlement of the invoices as well as to the capacity growth of mobile phones and tablets. In addition, the overdue data provisions and payments mentioned in our annual report for 2015 were completed in the first quarter of 2016, which also increased our revenues.

#### *2.4 The (offline mechanical) market of the collection of rights on sound recordings*

The royalties collected after pre-recorded publications from the collecting of rights for works registered in Hungary – with an unaltered tariff chart – amounted to 183,684,855 HUF, exceeding the reference value of the previous year by 1.07 per cent. (Taking into account the other mechanical type revenues, the increase was 3.9 per cent.) There are no market growth trends or structural transitions

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supporting this negligible growth. The number of publications with a special distribution range remains significant, while the Hungarian independent publishers prevail among the registered publications.

*2.5 Online music market*

In the realm of online music, the trend of fluctuating revenues seems to continue: while in 2015 we saw a 13.5 per cent decrease in revenue compared to the 61.5 per cent growth in 2014, in 2016 our revenues amounted to 163.6 per cent of the reference level. The digital market has been steadily expanding. The focus of exploitation has shifted from downloading to streaming services, which demands a much heavier administration in the course of the collection and distribution of royalties. More than 77 per cent of our revenues in this domain were collected from the three major Hungarian VOD (video-on-demand) providers. In addition to the continuous shift towards streaming, we can observe that the bulk of the rights collected were paid after music played in films. Apart from some ephemeral Hungarian hits, the digital music market is still characterized by the competition of the major international players while the VOD market is dominated by Hungarian cable service providers.

*2.6 Administrative costs*

In the year 2016, the administrative costs deducted by Artisjus effectively for its operation (i.e. excluding the obligatory payment of healthcare contribution after copyright) amounted to 17.27 per cent.

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		2015	2016	%
1	Net sales revenue:	17,126,388	18,558,871	108
2	Accrued administrative costs of the distribution of royalties for the year following the target year	968,690	997,531	103
3	Administrative costs for the target year	2,855,952	3,113,627	109
4	Administrative costs of the distribution of royalties collected in the year prior to the target year	1,012,473	968,690	96
(3+4) 5	<b>Total administrative costs</b>	<b>3,868,425</b>	<b>4,082,317</b>	<b>106</b>
(1+2-4) 6	<b>Adjusted net sales revenue</b>	<b>17,082,605</b>	<b>18,587,712</b>	<b>109</b>
7	Authors' healthcare contribution	1,033,678	872,853	84
(5-7) 8	<b>Operational administrative costs</b>	<b>2,834,747</b>	<b>3,209,464</b>	<b>113</b>
(5/1) 9	<b>Total administrative costs in proportion to net sales revenue</b>	<b>22.59%</b>	<b>22.00%</b>	-
(8/6) 10	<b>Operational administrative costs in proportion to adjusted net sales revenue</b>	<b>16.59%</b>	<b>17.27%</b>	-

### 3. Relations with members and right holders, communication

#### 3.1 Membership data

The society membership of Artisjus continued to grow in 2016: the Society had 2,069 members on 31 December 2016. At the same time, the number of non-society members entrusting Artisjus with the collective administration of their rights was 15,448.

#### 3.2 Events and communication programmes

This year again, Artisjus participated in the *Budapest Music Expo* event. At the biggest musical and audio-visual exhibition of Hungary, we represented Artisjus with a stand that imitated the authors' lobby. The authors could benefit from the full range of administrative services on site.

The year 2016 saw our first attempt to build contact with the general public at the event called *Múzeumok Éjszakája (Museums' Night)*. In addition to building the image of Artisjus and the

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Dal+Szerző (Song+Composer) magazine, the aim was to present and underline the role of the composers. We could reach approximately 3,000 people through this event.

In continuation of the *Open Artisjus* project launched in 2015, and thanks to the organizational efforts of the head of the Authors' Customer Service, we received the students of those music industry schools where visits in the various music industry facilities and to music industry events have basically become an integral part of the curriculum. We continue to believe that these visits are important. In 2016 "Majdnem híres Rocksuli" ("Almost Famous Rock School") and "Zeneipari Hivatal" ("Music Industry Authority") could tour the Artisjus headquarters.

On 17 November 2016 in the White Saloon of Boscolo Hotel, we celebrated the twentieth anniversary of the operation of Artisjus as a Society under the direction of the authors. The Society was founded at the same site, in New York café in autumn 1996, that is why our choice fell on this impressive location. The event was attended by 51 author officials and 10 leaders of the work organization. The members of the one-time constituent assembly and the current members of the General Assembly were also invited.

### 3.3 Online communication

The Artisjus online information system for authors, *Authors' Information System* (AIS) has definitely developed into one of our key communication channels. Based on the figures, our online system is the authors' preferred source of information. By 2017 the number of the users exceeded 9,000, which corresponds approximately to the number of our actively working authors who generate copyright turnover. A significant new development debuted in 2016: the AIS Performance module replaced the former KoncertOnline. The new module is composed of three essential functions:

- 1) Announcement of the performance data
- 2) Compilation of the setlist
- 3) Viewing of the collection-distribution status of the announced performances

The system is completed by an easy-to-navigate dashboard screen where the users can search according to their selected parameters. The module was launched on 30 November 2016 with a live trial run.

On our *website* refurbished in July 2015, radio and television rights calculators were made available in 2016. With their help, a certain range of the music users can also calculate the approximate amount of royalties on the website. By the end of the year, we launched three tariff calculators on our website, thanks to which:

- catering units,
- commercial units and
- concert organizers

can find information more easily. When they have supplied their data, they are informed about the (approximate) amount to be paid, and they can easily continue with the online registration of the catering/commercial unit or event on the same site.

In 2016 the *Facebook* was used mainly as the communication channel of the "Dal+Szerző" (Song+Composer) blog entries. Moreover, music industry news, news related to our Society, own



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press releases and tender information were also published here. The posts reached 18 per cent more followers in 2016 (without advertising) than a year earlier. The altogether 52 posts reached more than 3,000 followers (more than half of those who liked the page) without advertising costs. We made significant progress: it meant one and a half times bigger reach compared to 2015 and twice as big compared to 2014.

In 2016 on the European Music Day, we launched the "Dal+Szerző" (Song+Composer) Playlist project on the *Dalszerző blog*. This biweekly compilation presents the latest Hungarian musical works, composers and performers. It is destined primarily for those interested in Hungarian music: those who would like to stay tuned, but are unable to follow the professional press and music programmes on a daily basis. It is for people who long for more than merely listening to the current hits on the radio often without knowing who the performers are. These compilations contain about one hour of music arranged into a playlist on YouTube, Spotify and Deezer. There are short and clear informative texts related to the musical pieces presenting the history of the performers and their key musical and genre characteristics with links for more information. The compilation is not genre-specific.

In 2016, we informed the authors regularly in a *newsletter sent via e-mail* about the latest news of music industry, royalties settlements, tender news and other events affecting them. Throughout the year we sent altogether twenty-five newsletters to the general address list. The latter includes all the members and clients of the Society as well as those of the other authors who received at least a minimum amount of royalties in the past couple of years. Additional newsletters about royalty distribution were sent to the authors concerned by the specific distribution.

Although it is not purely a communication project, we should mention here the cooperation between Artisjus and *Zeneszöveg.hu*, in the course of which one of our computer softwares compared the song database of *Zeneszöveg.hu* with the database of music registered at Artisjus. Whenever our application found a clear correspondence in the two databases, we shared with *Zeneszöveg.hu* the author's data, the original title of the work and the name of the music publisher. As a result of that, the Hungarian site dedicated to the most popular lyrics can now provide precise details for about 40,000 Hungarian musical compositions from 2016.

### 3.4 Publications

*Dal+Szerző* (Song+Composer), the cultural quarterly of Artisjus continues to be a popular source of information for the stakeholders of the industry. The publication is available in its entirety on the Internet, which means an additional 6–7 thousand readers. Our online readership continued to expand in comparison with last year (and especially with 2014). At the end of 2016, we published the 20<sup>th</sup> number of the magazine; in fact, our magazine has been flipped through altogether 23,000 times online since its launch. On the occasion of WOMEX, the world music expo held in Budapest in 2015, the *Dal+Szerző* magazine published an English language special edition. We nominated this publication for the MEDIA DESIGN contest of the *Kreatív* magazine, and it was awarded the bronze medal.

In 2016, the second *ProArt Magyar Zeneipari Jelentés* (Hungarian Music Industry Report) came out (prepared by Hétfa Gazdaságkutató). The Report relies on the data provided by the collective

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management organizations (especially Artisjus). The Report was published at the end of 2016. As the second publication was just as successful as the first, the report can now be considered a fundamental infrastructure of the Hungarian music industry.

#### **4. Distribution and documentation**

In 2016 the main events concerning distribution were the following.

The number of live concerts processed by Artisjus has been growing dynamically over the past years. In 2015 we registered a 14 per cent increase compared to 2014 and a 34 per cent increase compared to 2013 in the number of data provisions. With this rate of growth, we were no longer able to guarantee the earlier processing deadlines, thus it became necessary to reschedule the settlement of royalties from May to June. There are about 7–8 thousand authors and legal successors concerned by the popular music concert distribution, so we had to inform them about the upcoming changes in advance. Nearly one month before the original payment date, we sent out a newsletter to our authors in which we explained the reasons for the change in detail.

Due to technical reasons, there were such deficiencies in the data provided by VIVA TV for the year 2015 that the following items were left out from the May distribution of rights:

- some of the specific musical play data of the period from January to September 2015 (video clips);
- all the play data of the period from October to December 2015 (video clips, signal tunes, etc.).

When we noticed the problem, we communicated it to the authors swiftly and transparently. Based on the new data provided by VIVA TV, the rights distribution of the first three quarters were rectified by the big distribution in June. Thanks to that, when the distribution was executed, all the authors found themselves in the same position with respect to the calculation of royalties as if they had received the correct amount of royalties in May. We informed the authors about this procedure the day before the settlement, and we performed the necessary developments in the AIS in order to be able to handle mass-scale corrections.

During the distribution of the canned music royalties, certain right holders were affected by distribution discrepancies due to an IT error, which required the correction of these royalties. We informed those concerned about the problem in a personalized newsletter as well as on the phone.

The principal modifications of the Distribution Regulation in 2016 were the following:

- the essential modification of the television broadcasting distribution (creation of a separate pool for the so-called functional works)
- modification of the algorithm of classical music concert distribution
- reconsideration of certain elements of pop music concert distribution
- clarification of the regulation relative to DJ performances (when such performances qualify as "live" performances with royalties to be distributed and when as canned music).

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**5. Social-cultural activities**

In harmony with the governing legal frameworks in force from 2012, Artisjus is only entitled to provide allowances (through its foundations: Artisjus Music Foundation and Artisjus Literary Foundation) as a supplement to pension or as a social benefit for persons in need. The amounts deducted for cultural purposes were transferred by Artisjus to the National Cultural Fund in 2016 as well.

**6. International environment**

Artisjus continues to take part in the work of the global confederation of rights management organizations (CISAC) and the European regional organization (GESAC) as a member of the board of both bodies. The representatives of our individual professional fields participate actively in the international professional information exchange of collective management organizations. In 2016 again, Artisjus hosted the international seminars and trainings organized by the European regional directorate of CISAC/BIEM.

An ever more important element of our international relationship network is the Armonia online platform, in the framework of which – besides online cooperation in the registration of works – Artisjus started to utilize in 2016 the jointly developed information technological background operational tools. We have also conducted extensive talks about the use of additional IT services utilized or planned by the major leading collective management organizations of the West.

**7. Miscellaneous issues**

The Society pursues no research and development.

The Society has a single business location (1016 Budapest, Mészáros utca 15–17.). Moreover, it has local offices in the following towns:

- Debrecen
- Győr
- Miskolc
- Pécs
- Szeged
- Zalaegerszeg

On 31 December 2016, the Society had altogether 165 active full-time employees.

The Society has projected a net royalty income of 14.467.854 thousand HUF (without VAT and basic administrative fee) for the year 2017.

28 April 2017, Budapest



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Dr. András Szinger  
Director General