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*Committee on the Internal Market and Consumer Protection*

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**2012/0180(COD)**

26.3.2013

## **DRAFT OPINION**

of the Committee on the Internal Market and Consumer Protection

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council  
on collective management of copyright and related rights and multi-territorial  
licensing of rights in musical works for online uses in the internal market  
(COM(2012)0372 – C7-0183/2012 – 2012/0180(COD))

Rapporteur: Toine Manders

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## **SHORT JUSTIFICATION**

### **Context**

In July 2012, the Commission proposed a Directive which contains general provisions on collective rights management for all sectors. Additionally, it includes specific provisions for multi-territorial licensing of online music. This proposal has to be regarded in the context of the Commission's 2010 Communication on the Digital Agenda for Europe and the Europe 2020 Strategy for smart, sustainable, and inclusive growth. It aims to facilitate the licensing of rights and, more generally, access to attractive digital content, in particular in a cross-border context, thereby ensuring that consumers and businesses can take full advantage of the opportunities of the Digital Single Market.

As noted in the Single Market Act of April 2011, intellectual property is among the key areas for which action is required on EU level to combat the current crisis, boost growth and enhance confidence in the Single Market. Studies demonstrate that creative industries contribute significantly to the GDP and employment of the Member States. However, the management of collective rights in the EU is still opaque. In particular, the systems in place for collection of rights revenues, the calculations of tariffs and the distribution of collected fees have been subject to debate for a number of years.

Right-holders often complain that they do not receive what they are entitled to. There is a risk of confusion and distrust among them caused by lengthy and unclear procedures for payment and distribution of fees by collecting societies. This hinders creativity and leads to a less transparent internal market. There are also requests for more clarity on the use of amounts that cannot be distributed. Users, on the other hand, often find it difficult to understand what fees they should pay and which collecting society is responsible for which fee.

Finally, collecting societies provide services for one or more groups of rights and right-holders in a Member State and are in many cases de jure or de facto monopolies. Therefore, we cannot yet speak of a truly competitive single market in this field.

### **Rapporteur's Remarks**

The Commission proposal is a great leap forward in the field of collective rights management and your Rapporteur shares the Commission's view that a legal framework needs to be put in place in this area.

However, in order to foster more innovation and intellectual creation across the Single Market for the benefit of artists, service providers, consumers and the European economy as a whole, we need to be bolder. Your Rapporteur would like to see that the Directive brings, inter alia, increased transparency for users and right-holders alike, lower administrative burdens, as well as better protection of the interests of right-holders. This opinion seeks to contribute to achieving those objectives by addressing the following main issues.

Firstly, in order to ensure better transparency for users and prevent double-invoicing, collecting societies should cooperate in such a manner that they form a central point of contact for the users. They should work together to ensure that a user receives a single

invoice. A precondition for all of that is a well functioning system of data sharing between those collecting societies.

Secondly, the license tariffs/fees should be more transparent. The single invoice should include a clear indication of the collecting societies involved, the works licensed and their actual uses. In case of a dispute, independent and impartial bodies with appropriate expertise should be available to resolve such disputes. In addition, the transparency requirements should apply to all collecting societies so as to avoid fragmentation. This Directive should also make full use of the current technological advancements by encouraging users, right-holders and collecting societies to obtain and share information through individual online accounts.

Thirdly, prudential use of revenues collected should be encouraged and risky investments of those revenues should therefore be curtailed. Collecting societies should refrain from investing assets in a manner that could result in a loss of revenues belonging to right-holders.

Fourthly, the rights and interests of right-holders should be better protected by ensuring that the management of their rights is backed up by more frequent and regular payments and distribution of the amounts, as well as better transparency on the use of their works.

Finally, your Rapporteur welcomes Title III of draft Directive on multiterritorial licensing of online rights in musical works. Freedom of establishment and of provision of services, including collective rights management services, across borders is a corner-stone of the Single Market as provided for by the Treaty and the Services Directive and should therefore be fully implemented.

## **AMENDMENTS**

The Committee on the Internal Market and Consumer Protection calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

**Amendment 1**  
**Proposal for a directive**  
**Recital 3**

*Text proposed by the Commission*

(3) When established in the Union, collecting societies – as service providers – must comply with the national requirements pursuant to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market<sup>18</sup> which seeks to create a legal framework for ensuring the freedom of establishment and the free movement of services between the

*Amendment*

(3) When established in the Union, collecting societies – as service providers – must comply with the national requirements pursuant to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market<sup>18</sup> which seeks to create a legal framework for ensuring the freedom of establishment and the free movement of services between the

Member States. This implies that collecting societies should be free to provide their services across borders, to represent rightholders resident or established in other Member States or grant licences to users resident or established in other Member States.

Member States. *Article 17(1) of that Directive includes an exception specifying that the provisions contained in Article 16 on the freedom to provide services do not apply to intellectual property rights as such. However, the derogation does not concern services linked to the management of such rights.* This implies that collecting societies should be free to provide their services across borders, to represent rightholders resident or established in other Member States or grant licences to users resident or established in other Member States.

Or. en

**Amendment 2**  
**Proposal for a directive**  
**Recital 10**

*Text proposed by the Commission*

(10) Membership of collecting societies should be based on objective and non-discriminatory criteria including as regards publishers who by virtue of an agreement on the exploitation of rights, are entitled to a share of the income from the rights managed by collecting societies and to collect such income from the collecting society.

*Amendment*

(10) Membership of collecting societies should be based on objective and non-discriminatory criteria including as regards *associations of rightholders, such as other collective societies or trade unions, and* publishers who by virtue of an agreement on the exploitation of rights, are entitled to a share of the income from the rights managed by collecting societies and to collect such income from the collecting society.

Or. en

**Amendment 3**  
**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

(11) Collecting societies are expected to

*Amendment*

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act in the best interests of their members. It is therefore important to provide for systems which enable members of collecting societies to exercise their membership rights by participating in the societies' decision-making process. The representation of the different categories of members in the decision-making process should be fair and balanced. The effectiveness of the rules on the general meeting of members of collecting societies may be undermined if there were no provisions on how the general meeting should be run. Thus, it is necessary to ensure that the general meeting is convened regularly, and at least annually, and that the most important decisions in the collecting society are taken by the general meeting.

act in the best interests of their **rightholders and** members. It is therefore important to provide for systems which enable members of collecting societies, **therefore rightholders and entities directly representing their interests**, to exercise their membership rights by participating in the societies' decision-making process. The representation of the different categories of members in the decision-making process should be fair and balanced. The effectiveness of the rules on the general meeting of members of collecting societies may be undermined if there were no provisions on how the general meeting should be run. Thus, it is necessary to ensure that the general meeting is convened regularly, and at least annually, and that the most important decisions in the collecting society are taken by the general meeting.

Or. en

**Amendment 4**  
**Proposal for a directive**  
**Recital 13**

*Text proposed by the Commission*

(13) Members should be allowed to take part in monitoring the management of collecting societies. To this end, collecting societies should establish a supervisory function appropriate to their organisational structure and allow members to be represented in the body that exercises this function. **To avoid imposing excessive burden on smaller collecting societies and to make the obligations arising from this Directive proportionate, Member States should be able to, if they consider this to be necessary, exclude the smallest collecting societies from having to organise such a supervisory function.**

*Amendment*

(13) Members should be allowed to take part in monitoring the management of collecting societies. To this end, collecting societies should establish a supervisory function appropriate to their organisational structure and allow members, **representing different categories of rightholders**, to be represented in the body that exercises this function.

**Amendment 5**  
**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

(15) Collecting societies collect, manage and distribute revenue from the exploitation of the rights entrusted to them by rightholders. This revenue is ultimately due to rightholders who may be members of that society, or another society. It is therefore important that collecting societies exercise the utmost diligence in collecting, managing and distributing that revenue. Accurate distribution is only possible where collecting societies maintain proper records of membership, licences and use of works and other subject matter. Where appropriate, data should also be provided by rightholders and users and verified by the collecting societies. Amounts collected and due to rightholders should be managed separately from any own assets of the collecting society and, if they are invested, pending their distribution to rightholders, this should be carried out in accordance with the investment policy decided by the collecting societies' general meeting. In order to maintain a high level of protection for the rights of rightholders and to ensure that any income which may be derived from exploitation of their rights accrues for the benefit of rightholders, the investments made and held by the collecting society should be managed in accordance with criteria which would oblige the collecting society to act prudently, while allowing the collecting society to decide on the most secure and efficient investment policy. This should allow the collecting society to opt for *an* asset allocation that *suits the precise nature and duration of any* exposure to risk of any rights revenue

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invested and which does not *unduly* prejudice any rights revenue owed to rightholders. Moreover, in order to ensure that the amounts due to rightholders are appropriately and effectively distributed, it is necessary to require collecting societies to undertake diligent and good faith reasonable measures to identify and locate the relevant rightholders. It is also appropriate to provide for the approval by members of collecting societies of the rules governing any situation where, due to the lack of identified or located rightholders, amounts collected cannot be distributed.

not prejudice any rights revenue owed to rightholders. Moreover, in order to ensure that the amounts due to rightholders are appropriately, *timely* and effectively distributed, it is necessary to require collecting societies to undertake diligent and good faith reasonable measures to identify and locate the relevant rightholders. It is also appropriate to provide for the approval by members of collecting societies of the rules governing any situation where, due to the lack of identified or located rightholders, amounts collected cannot be distributed.

Or. en

**Amendment 6**  
**Proposal for a directive**  
**Recital 18**

*Text proposed by the Commission*

(18) Fair commercial terms in licensing are particularly important to ensure that users can license the works and other protected subject-matter for which a collecting society represents rights and to ensure the remuneration of rightholders. Collecting societies and users should therefore conduct licensing negotiations in good faith and apply tariffs determined on the basis of objective criteria.

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(18) Fair commercial terms in licensing are particularly important to ensure that users can license the works and other protected subject-matter for which a collecting society represents rights and to ensure the remuneration of rightholders. Collecting societies and users should therefore conduct licensing negotiations in good faith and apply tariffs determined on the basis of objective *and non-discriminatory* criteria.

Or. en

**Amendment 7**  
**Proposal for a directive**  
**Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

*(18a) Collecting societies and users*

*should also establish communication procedures in order to allow users to provide necessary information on the use of the licences and to report accurately on the actual use of the works licensed.*

Or. en

**Amendment 8**  
**Proposal for a directive**  
**Recital 18 b (new)**

*Text proposed by the Commission*

*Amendment*

*(18b) To enhance transparency and prevent situations where users receive more than one invoice for the same rights in the same works, collecting societies should be required to cooperate closely among themselves. This cooperation should include pooling of information on licences and use of works in a common database, coordinated and joint invoicing and collection of rights revenues.*

Or. en

**Amendment 9**  
**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

*Amendment*

(20) To ensure that rightholders are in a position to monitor the performance of their collecting societies and compare their respective performance, collecting societies should make public an annual transparency report comprising comparable audited financial information specific to the activities of collecting societies. Collecting societies should also make public an annual special report on the use of amounts dedicated to social, cultural and

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educational services. ***To avoid imposing excessive burden on smaller collecting societies and to make the obligations arising from this Directive proportionate, Member States should be able to, if they consider this to be necessary, exclude the smallest collecting societies from certain transparency obligations.***

educational services.

Or. en

**Amendment 10**  
**Proposal for a directive**  
**Recital 24**

*Text proposed by the Commission*

(24) In the online music sector, where collective management of authors' rights on a territorial basis remains the norm, it is essential to create conditions conducive to the most effective licensing practices by collecting societies, in an increasingly cross-border context. It is therefore appropriate to provide for a set of rules coordinating basic conditions for the provision by collecting societies of multi-territorial collective licensing of authors' online rights in musical works. These provisions should ensure the necessary minimum quality of the cross-border services provided by collecting societies, notably in terms of transparency of repertoire represented and accuracy of financial flows related to the use of the rights. They should also set out a framework for facilitating the voluntary aggregation of music repertoire and thus reducing the number of licences a user needs to operate a multi-territorial service. These provisions should enable a collecting society to request another collecting society to represent its repertoire on a multi-territorial basis where it cannot fulfil the requirements itself. There should be an obligation on the requested society,

*Amendment*

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provided that it aggregates repertoire and offers or grants multi-territorial licences, to accept the mandate of the requesting society. The development of legal online music services across the Union should also contribute to the fight against piracy.

provided that it aggregates repertoire and offers or grants multi-territorial licences, to accept the mandate of the requesting society, *without abusing its market power*. The development of legal online music services across the Union should also contribute to the fight against piracy.

Or. en

**Amendment 11**  
**Proposal for a directive**  
**Recital 27**

*Text proposed by the Commission*

(27) Digital technology allows the automated monitoring by collecting societies of the use by the licensee of the licensed musical works and facilitates invoicing. Industry standards for music usage, sales reporting and invoicing are instrumental to improve the efficiency in the exchange of data between collecting societies and users. The monitoring of the use of licences should respect fundamental rights, namely the right to respect of private and family life and data protection. To ensure that these efficiency gains result in faster financial processing and ultimately in earlier payments to rightholders, collecting societies should be required to *invoice service providers* and to distribute amounts due to rightholders without delay. For this requirement to be effective, it is necessary that licensees make every effort to provide collecting societies with accurate and timely reports on the use of the works. Collecting societies should not be required to accept users' reports in proprietary formats when widely used industry standards are available.

*Amendment*

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**Amendment 12**  
**Proposal for a directive**  
**Article 1**

*Text proposed by the Commission*

This Directive lays down requirements necessary to ensure the proper functioning of the management of copyright and related rights by **collecting societies**. It also lays down requirements for multi-territorial licensing by collecting societies of authors' rights in musical works for online use.

*Amendment*

This Directive lays down requirements necessary to ensure the proper functioning of the management of copyright and related rights by **collective management organisations**. It also lays down requirements for multi-territorial licensing by collecting societies of authors' rights in musical works for online use.

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

**Amendment 13**  
**Proposal for a directive**  
**Article 3 – point 1**

*Text proposed by the Commission*

(l) ‘online rights in musical works’ means any of the rights in a musical work provided under Articles 2 and 3 of Directive 2001/29/EC which are required for the provision of an online music service;

*Amendment*

(l) ‘online rights in musical works’ means any of the **author’s** rights in a musical work provided under Articles 2 and 3 of Directive 2001/29/EC which are required for the provision of an online music service;

**Amendment 14**  
**Proposal for a directive**  
**Article 4**

*Text proposed by the Commission*

Member States shall ensure that collecting societies act in the best interest of their members and do not impose on rightholders whose rights they manage any obligations which are not objectively necessary for the protection of the rights and interests of these rightholders.

*Amendment*

Member States shall ensure that collecting societies act in the best interest of their **rightholders and** members and do not impose on rightholders whose rights they manage any obligations which are not objectively necessary for the protection of the rights and interests of these rightholders.

Or. en

**Amendment 15**

**Proposal for a directive**

**Article 5 – paragraph 7 – subparagraph 2**

*Text proposed by the Commission*

Collecting societies shall inform their members of their rights under paragraphs 1 to 6 within **six** months of the transposition date of this Directive.

*Amendment*

Collecting societies shall inform their members of their rights under paragraphs 1 to 6 within **three** months of the transposition date of this Directive.

Or. en

**Amendment 16**

**Proposal for a directive**

**Article 6 – paragraph 2**

*Text proposed by the Commission*

2. Collecting societies shall accept rightholders as members if they fulfil the membership requirements. They may only refuse a request for membership on the basis of objective criteria. These criteria shall be included in the statute or the membership terms of the collecting society and shall be made publicly available.

*Amendment*

2. Collecting societies shall accept rightholders, **or any other members as defined in Article 3(c)**, as members if they fulfil the membership requirements. They may only refuse a request for membership on the basis of objective **and non-discriminatory** criteria. These criteria shall be included in the statute or the membership terms of the collecting society and shall be made publicly available.

**Amendment 17**  
**Proposal for a directive**  
**Article 7 – paragraph 2**

*Text proposed by the Commission*

2. A general meeting of the members of the collecting society shall be convened at least once a year.

*Amendment*

2. A general meeting of the members of the collecting society shall be convened at least once a year. ***The general meeting shall be empowered to take the strategic decisions in the collecting society, the implementation of which may be delegated to the body exercising the supervisory function.***

**Amendment 18**  
**Proposal for a directive**  
**Article 7 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

4. The general meeting shall have the power to decide on the appointment or dismissal of the directors and approve their remuneration and other benefits such as non-monetary benefits, pension awards, right to other awards and rights to severance pay.

*Amendment*

4. The general meeting shall have the power to decide on the appointment or dismissal of the directors, ***monitor their general performance*** and approve their remuneration and other benefits such as non-monetary benefits, pension awards, right to other awards and rights to severance pay.

**Amendment 19**  
**Proposal for a directive**  
**Article 7 – paragraph 5 – point b**

*Text proposed by the Commission*

(b) the *use* of the amounts due to rightholders which cannot be distributed as set out in Article 12(2) except where the general meeting decides to delegate this decision to the body exercising the supervisory function;

*Amendment*

(b) the *allocation* of the amounts due to rightholders which cannot be distributed as set out in Article 12(2) except where the general meeting decides to delegate this decision to the body exercising the supervisory function;

Or. en

**Amendment 20**

**Proposal for a directive**

**Article 8 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that the collecting society establishes a supervisory function responsible for continuously monitoring the activities and the performance of the duties of the persons entrusted with managerial responsibilities in the collecting society. There shall be fair and balanced representation of the members of the collecting society in the body exercising this function in order to ensure their effective participation.

*Amendment*

1. Member States shall ensure that the collecting society establishes a supervisory function responsible for continuously monitoring the activities and the performance of the duties of the persons entrusted with managerial responsibilities in the collecting society. There shall be fair and balanced representation of the members of the collecting society, *representing different categories of rightholders*, in the body exercising this function in order to ensure their effective participation.

Or. en

**Amendment 21**

**Proposal for a directive**

**Article 8 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. The body entrusted with the supervisory function shall report on the exercise of its responsibilities to the general meeting provided for in Article 7.*

Or. en

**Amendment 22**  
**Proposal for a directive**  
**Article 8 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

- 3. Member States may decide that paragraphs 1 and 2 shall not apply to a collecting society which on its balance sheet date does not exceed the limits of two of the three following criteria:*
- (a) balance sheet total: EUR 350 000;*
- (b) net turnover: EUR 700 000;*
- (c) average number of employees during the financial year: ten.*

*deleted*

Or. en

**Amendment 23**  
**Proposal for a directive**  
**Article 10 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The collecting society shall not be allowed to use rights revenue and any income derived from its investment for its own account, save that it may deduct its management fees.

3. The collecting society shall not be allowed to use rights revenue and any income derived from its investment for its own account, save that it may deduct its management fees *according to the rules referred to in Article 7(5)(d)*.

Or. en

**Amendment 24**  
**Proposal for a directive**  
**Article 10 – paragraph 4 – point a**

*Text proposed by the Commission*

(a) the assets shall be invested in the best interests of **members**; where there is any potential conflict of interest, the collecting society shall ensure that the investment is made in the sole interest of **members**;

*Amendment*

(a) the assets shall be invested in the best interests of **rightholders**; where there is any potential conflict of interest, the collecting society shall ensure that the investment is made in the sole interest of **rightholders**;

Or. en

**Amendment 25**

**Proposal for a directive**

**Article 10 – paragraph 4 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(ba) the assets shall only be invested, directly or indirectly, in investment products where the principal amount is not reduced at the end of the maturity of those products;*

Or. en

**Amendment 26**

**Proposal for a directive**

**Article 10 – paragraph 4 – point b b (new)**

*Text proposed by the Commission*

*Amendment*

*(bb) the assets shall be invested in a manner which does not prejudice any rights revenue owed to rightholders;*

Or. en

**Amendment 27**

**Proposal for a directive**

**Article 12 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that the collecting society regularly and diligently distributes and pays amounts due to all rightholders it represents. The collecting society shall carry out such distribution and payments *no later than 12 months from the end of the financial year in which the rights revenue was collected, unless objective reasons related in particular to reporting by users, the identification of rights, rightholders or to the matching of information on works and other subject matter with rightholders prevent the collecting society from respecting this deadline.* The collecting society shall carry out such distribution and payments accurately, ensuring equal treatment of all categories of rightholders.

*Amendment*

1. Member States shall ensure that the collecting society regularly and diligently distributes and pays amounts due to all rightholders it represents. The collecting society shall carry out such distribution and payments *at least on a quarterly basis.* The collecting society shall carry out such distribution and payments accurately, ensuring equal treatment of all categories of rightholders.

Or. en

**Amendment 28**

**Proposal for a directive**

**Article 12 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. Member States may allow collecting societies to derogate from the obligation on the frequency of distribution and payments set out in paragraph 1 in situations where this is justified by objective reasons related in particular to reporting by users, the identification of rights, rightholders or to the matching of information on works and other subject matter with rightholders that prevent the collecting society from respecting the frequency and deadline provided in that paragraph. In such situations, collecting societies shall carry out the distribution and payments to the rightholders no later than 12 months after the rights revenue*

*was collected.*

Or. en

**Amendment 29**  
**Proposal for a directive**  
**Article 12 – paragraph 2**

*Text proposed by the Commission*

2. Where the amounts due to rightholders cannot be distributed, after *five* years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the collecting society has taken all necessary measures to identify and locate the rightholders, the collecting society shall *decide on the use of* the amounts concerned in accordance with Article 7(5)(b), without prejudice to the right of the rightholder to claim such amounts from the collecting society.

*Amendment*

2. Where the amounts due to rightholders cannot be distributed, after *two* years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the collecting society has taken all necessary measures to identify and locate the rightholders, the collecting society shall *allocate* the amounts concerned *in the best interests of the rightholders whose rights it manages*, in accordance with Article 7(5)(b), without prejudice to the right of the rightholder to claim such amounts from the collecting society.

Or. en

**Amendment 30**  
**Proposal for a directive**  
**Article 12 – paragraph 3**

*Text proposed by the Commission*

3. For the purposes of paragraph 2, measures to identify and locate rightholders shall include verifying membership records and making available to the members of the collecting society as well as to the public a list of works and other subject matter for which one or more rightholders have not been identified or located.

*Amendment*

3. For the purposes of paragraph 2, *the collecting society shall put in place effective* measures to identify and locate rightholders *while ensuring appropriate safeguards to deter fraud. Such measures* shall include verifying membership records and making available to the members of the collecting society as well as to the public a list of works and other subject matter for which one or more rightholders have not been identified or located

*including, where available, the title of the work, the name of the author, the name of the publisher and any other relevant information available which could be necessary to identify the rightholders.*

Or. en

**Amendment 31**  
**Proposal for a directive**  
**Article 14 – paragraph 2**

*Text proposed by the Commission*

2. The collecting society shall regularly, diligently and accurately distribute and pay amounts due to other collecting societies.

*Amendment*

2. The collecting society shall regularly, *without delay after the collection of rights revenue*, diligently and accurately distribute and pay amounts due to other collecting societies.

Or. en

**Amendment 32**  
**Proposal for a directive**  
**Article 15 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. Licensing terms shall be based on objective criteria, in particular in relation to tariffs.

*Amendment*

2. Licensing terms shall be based on objective *and non-discriminatory* criteria, in particular in relation to tariffs.

Or. en

**Amendment 33**  
**Proposal for a directive**  
**Article 15 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

Tariffs *for exclusive rights* shall reflect the economic value of the rights in trade and of

*Amendment*

*In the absence of any national law or administrative provision laying down*

the service provided by the collecting society.

tariffs *on a statutory basis, the tariffs* shall reflect the economic value of the rights in trade *and the nature and scope of use of the works and other protected subject-matter* and of the service provided by the collecting society.

Or. en

#### **Amendment 34**

#### **Proposal for a directive**

#### **Article 15 – paragraph 2 – subparagraph 3**

##### *Text proposed by the Commission*

In the absence of any national law which establishes the amounts due to rightholders in respect of a right to remuneration and a right to compensation, the collecting society shall base its own determination of those amounts due, on the economic value *of those rights in trade*.

##### *Amendment*

In the absence of any national law which establishes the amounts due to rightholders in respect of a right to remuneration and a right to compensation, the collecting society shall base its own determination of those amounts due, on *non-discriminatory criteria and on* the economic value *in trade of copyright and related rights that are being remunerated or compensated for and on the nature and scope of use of the works and other protected subject-matter*.

Or. en

#### **Amendment 35**

#### **Proposal for a directive**

#### **Article 15 – paragraph 2 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

*2a. Collecting societies and users shall establish procedures to ensure that the jointly agreed deadlines are respected and that replies to their respective requests are provided in a reasonable time period.*

Or. en

**Amendment 36**  
**Proposal for a directive**  
**Article 15 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 15a*

*Reporting and invoicing*

- 1. Collecting societies shall establish appropriate communication procedures allowing the user to provide all necessary information on the use of the licence, including a report on actual use of the works, to the collecting society accurately and within the deadline jointly agreed in relation to that licence.*
- 2. Collecting societies shall establish a cooperation procedure among themselves for the benefit of their rightholders, members and users. Such a cooperation procedure shall include at least pooling of information on the licences issued and the use of works and other protected subject-matter in a common database, coordinated and joint invoicing and collection of rights revenues.*
- 3. The cooperation procedure referred to in paragraph 2 shall enable the collecting societies to coordinate the invoicing of the users in such a way that a single user receives a single joint invoice in respect of the rights in the works and other protected subject-matter which have been licensed. The single invoice shall be transparent and shall identify the collecting societies concerned, the lists of works and other protected subject-matter which have been licensed and the corresponding actual uses. The invoice should also indicate clearly at least the proportionate amounts due to rightholders and the amounts to be used to cover management fees.*

Or. en

**Amendment 37**  
**Proposal for a directive**  
**Article 16 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that a collecting society makes available at least once a year, by electronic means, the following information to each rightholder it represents:

*Amendment*

Member States shall ensure that a collecting society makes available at least once a year, by electronic means **and where appropriate on a more regular basis through individual on-line accounts**, the following information to each rightholder it represents **directly**:

Or. en

**Amendment 38**  
**Proposal for a directive**  
**Article 16 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

**(ba) upon request, the applicable licensing contracts and tariffs;**

Or. en

**Amendment 39**  
**Proposal for a directive**  
**Article 18 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Member States shall ensure that a collecting society makes the following information available at the request of any rightholder whose rights it represents, any collecting society on whose behalf it manages rights under a representation agreement or any user, by electronic means, without undue delay:

*Amendment*

1. Member States shall ensure that a collecting society makes the following information available at the request of any rightholder whose rights it represents, any collecting society on whose behalf it manages rights under a representation agreement or any user, by electronic means **and where appropriate through individual online accounts**, without undue delay:

Or. en

**Amendment 40**

**Proposal for a directive**

**Article 18 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

**(a) standard licensing contracts and applicable tariffs;**

*deleted*

Or. en

**Amendment 41**

**Proposal for a directive**

**Article 18 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the repertoire and rights it manages and the Member States covered;

(b) the repertoire and rights it manages and the Member States covered, *to the extent that the rights are not managed under a mandatory collective licensing scheme*;

Or. en

**Amendment 42**

**Proposal for a directive**

**Article 19 – paragraph 1 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

**(fa) standard licensing contracts and applicable tariffs;**

Or. en

**Amendment 43**

**Proposal for a directive**

**Article 19 – paragraph 1 – point f b (new)**

*Text proposed by the Commission*

*Amendment*

*(fb) the repertoire and rights it manages and the Member States covered under a mandatory collective licensing scheme;*

Or. en

**Amendment 44**  
**Proposal for a directive**  
**Article 20 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. Member States may decide that points 1 (a), (f) and (g) of Annex I shall not apply to a collecting society which on its balance sheet date does not exceed the limits of two of the three following criteria:**

- (a) balance sheet total: EUR 350 000;**
- (b) net turnover: EUR 700 000;**
- (c) average number of employees during the financial year: ten.**

*deleted*

Or. en

**Amendment 45**  
**Proposal for a directive**  
**Article 25 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The collecting society shall offer online music service providers the possibility of reporting the actual use of online rights in musical works by electronic means. The collecting society shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or Union level for the electronic exchange of

2. The collecting society shall offer online music service providers the possibility of reporting the actual use of online rights in musical works, ***in accordance with Article 15a(1)***, by electronic means. The collecting society shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or

such data. The collecting society may refuse to accept reporting by the user in a proprietary format if the society allows for reporting using an industry standard for the electronic exchange of data.

Union level for the electronic exchange of such data. The collecting society may refuse to accept reporting by the user in a proprietary format if the society allows for reporting using an industry standard for the electronic exchange of data.

Or. en

**Amendment 46**  
**Proposal for a directive**  
**Article 25 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*4a. For the purposes of paragraphs 3 and 4, the collecting society shall establish a cooperation procedure with other collecting societies to ensure that the online music service provider is issued a single joint invoice as provided for in Article 15a.*

Or. en

**Amendment 47**  
**Proposal for a directive**  
**Article 25 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. The collecting society shall have adequate procedures in place for the online music service provider to challenge the accuracy of the invoice, including when the online music service provider receives ***invoices from one or more collecting societies*** for the same online rights in the same musical work.

5. The collecting society shall have adequate procedures in place for the online music service provider to challenge the accuracy of the invoice, including when the online music service provider receives ***more than one invoice*** for the same online rights in the same musical work.

Or. en

**Amendment 48**  
**Proposal for a directive**  
**Article 26 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that a collecting society which grants multi-territorial licences for online rights in musical works distributes amounts due to rightholders accruing from such licences accurately and without delay after the actual use of the work is reported, except where any further delay is attributable to the online music service provider.

*Amendment*

1. Member States shall ensure that a collecting society which grants multi-territorial licences for online rights in musical works distributes amounts due to rightholders accruing from such licences accurately and without delay after the actual use of the work is reported *in accordance with the deadlines and frequency set out in Article 12(1)*, except where any further delay is attributable to the online music service provider.

Or. en

**Amendment 49**  
**Proposal for a directive**  
**Article 29 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

The requested collecting society shall accept such a request if it is already granting or offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collecting societies.

*Amendment*

The requested collecting society shall accept such a request *within a reasonable time* if it is already granting or offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collecting societies.

Or. en

**Amendment 50**  
**Proposal for a directive**  
**Article 31**

*Text proposed by the Commission*

Articles **18(1)(a)**, 18(1)(c), 22, 23, 24, 25, 26, 27, 32 and 36 shall also apply to

*Amendment*

Articles 18(1)(c), **19(1)(fa)**, 22, 23, 24, 25, 26, 27, **29**, 32 and 36 shall also apply to

entities owned, in whole or in part, by a collecting society and which offer or grant multi-territorial licences for online rights in musical works.

entities owned, in whole or in part, by a collecting society and which offer or grant multi-territorial licences for online rights in musical works.

Or. en

**Amendment 51**  
**Proposal for a directive**  
**Article 33**

*Text proposed by the Commission*

The requirements under this Title shall not apply to collecting societies which grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 TFEU, a multi-territorial licence for the online rights in musical works required by a broadcaster to communicate or make available to the public its radio or television programmes simultaneously with or after their initial broadcast as well as any online material produced by the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

The requirements under this Title shall not apply to collecting societies which grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 TFEU, a multi-territorial licence for the online rights in musical works required by a broadcaster to communicate or make available to the public its radio or television programmes **before**, simultaneously with or after their initial broadcast as well as any online material produced by the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

*Amendment*

Or. en

**Amendment 52**  
**Proposal for a directive**  
**Article 34 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that collecting societies make available to their members and rightholders effective and timely procedures for dealing with complaints and for resolving disputes in particular in relation to authorisation to manage rights and termination or

1. Member States shall ensure that collecting societies make available to their members and rightholders effective and timely procedures for dealing with complaints and for resolving disputes in particular in relation to authorisation to manage rights and termination or

*Amendment*

withdrawal of rights, membership terms, the collection of amounts due to rightholders, deductions and distributions.

withdrawal of rights, membership terms, the collection of amounts due to rightholders, deductions and distributions.

*The procedures for dealing with complaints and for resolving disputes shall be made available for both copyright and neighbouring rights.*

Or. en

**Amendment 53**  
**Proposal for a directive**  
**Article 35 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that disputes between collecting societies and users concerning existing and proposed licensing conditions, tariffs, and any refusal to grant a licence can be submitted to a *court, and if appropriate, to an* independent and impartial dispute resolution body.

*Amendment*

1. Member States shall ensure that disputes between collecting societies and users concerning existing and proposed licensing conditions, tariffs, *the calculation of tariffs*, and any refusal to grant a licence can be submitted to a *specialised, independent and impartial dispute resolution body, or if appropriate, to a court.*

Or. en

**Amendment 54**  
**Proposal for a directive**  
**Article 35 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. The administrative costs of seeking recourse to such a dispute resolution shall be reasonable.*

Or. en

**Amendment 55**

**Proposal for a directive**

**Article 36 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) disputes with another collecting society  
on the application of Articles 24, 25, 26, 28  
and 29.

*Amendment*

(c) disputes with another collecting society  
on the application of Articles 22, 23, 24,  
25, 26, 28 and 29.

Or. en