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Committee on Industry, Research and Energy

2012/0180(COD)

16.5.2013

AMENDMENTS

27 - 169

Draft opinion
Luigi Berlinguer
(PE508.223v01-00)

Collective management of copyright and related rights and multi-territorial
licensing of rights in musical works for online uses in internal market

Proposal for a directive
(COM(2012)0372 – C7-0183/2012 – 2012/0180(COD))

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United in diversity

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Amendment 27

Lena Kolarska-Bobińska

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The dissemination of content which is protected by copyright and related rights and the linked services, including books, audiovisual productions and recorded music require the licensing of rights by different holders of copyright and related rights, such as authors, performers, producers and publishers. It is normally for the rightholders to choose between the individual or collective management of their rights. Management of copyright and related rights includes the granting of licences to users, the auditing of licensees and monitoring of the use of rights, the enforcement of copyright and related rights, the collection of rights revenue derived from the exploitation of rights and the distribution of the amounts due to rightholders. **Collecting societies** enable rightholders to be remunerated for uses which they would not be in a position to control or enforce themselves, including in non-domestic markets. Moreover, they have an important social and cultural role as promoters of the diversity of cultural expressions by enabling the smallest and less popular repertoires to access the market. Article 167 of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action, in particular in order to respect and to promote the diversity of its cultures.

Amendment

(2) The dissemination of content which is protected by copyright and related rights and the linked services, including books, audiovisual productions and recorded music require the licensing of rights by different holders of copyright and related rights, such as authors, performers, producers and publishers. It is normally for the rightholders to choose between the individual or collective management of their rights. Management of copyright and related rights includes the granting of licences to users, the auditing of licensees and monitoring of the use of rights, the enforcement of copyright and related rights, the collection of rights revenue derived from the exploitation of rights and the distribution of the amounts due to rightholders. **Collective management organisations** enable rightholders to be remunerated for uses which they would not be in a position to control or enforce themselves, including in non-domestic markets. Moreover, they have an important social and cultural role as promoters of the diversity of cultural expressions by enabling the smallest and less popular repertoires to access the market. Article 167 of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action, in particular in order to respect and to promote the diversity of its cultures.

(This amendments applies throughout the text)

Or. en

Amendment 28
Lena Kolarska-Bobińska

Proposal for a directive
Recital 3

Text proposed by the Commission

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 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.

deleted

Or. en

Amendment 29
Jürgen Creutzmann

Proposal for a directive
Recital 3

Text proposed by the Commission

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 which seeks to create a legal framework for

deleted

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.

Or. en

Justification

The question of the applicability of the Services Directive appears unclear. However, no matter whether it is applicable or not, a recital will not change this as it is not legally binding. Either the basic act is clarified accordingly by the legislator or the ECJ is called on to provide a ruling. However, the recital is redundant.

Amendment 30 **Amelia Andersdotter**

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 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.

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 which seeks to create a legal framework for ensuring the freedom of establishment and the free movement of services between the Member States. ***In this context, reminds that the derogation in Article 17(11) of that Directive for intellectual property rights from the principle of freedom to provide cross-border services without unjustified restriction, covers the rights as such (existence of the right, scope and exceptions, duration, etc.) and it does not concern services linked to the***

management of such rights, such as those provided by collective management organisations. This implies that *collective management organisations* 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

Justification

Clarifies the relation to the Services Directive. This addition reflects the Commission's interpretation of the derogation for intellectual property rights as explained in the Commission's "Handbook on implementation of the Services Directive, European Commission, DG Internal Market and Services (2007). p. 42"

Amendment 31 **Britta Thomsen**

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 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.

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 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 **able** 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 32
Rolandas Paksas

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) There are significant differences in the national rules governing the functioning of collecting societies, in particular as regards their transparency and accountability towards their members and rightholders. Beyond the difficulties non-domestic rightholders face when exercising their rights and the too often poor financial management of the revenues collected, problems with the functioning of collecting societies lead to inefficiencies in the exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders and users alike. These difficulties do not arise in the functioning of independent rights management service providers who act as agents for rightholders for the management of their rights on a commercial basis and in which rightholders do not exercise membership rights.

Amendment

(4) There are significant differences in the national rules governing the functioning of collecting societies, in particular as regards their transparency and accountability towards their members and rightholders. Beyond the difficulties non-domestic rightholders face when exercising their rights and the too often poor financial management of the revenues collected, problems with the functioning of collecting societies lead to inefficiencies in the exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders and users alike. These difficulties do not arise in the functioning of independent rights management service providers who act as agents for rightholders for the management of their rights on a commercial basis and in which rightholders do not exercise membership rights ***provided that they are not acting in direct competition with collecting societies in the fields of collection and distribution of amounts due to rightholders. In such cases, the criteria of ownership and control by members are not relevant.***

Or. en

Amendment 33
Amelia Andersdotter

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) There are significant differences in the national rules governing the functioning of **collecting societies**, in particular as regards their transparency and accountability towards their members and rightholders. Beyond the difficulties non-domestic rightholders face when exercising their rights and the too often poor financial management of the revenues collected, problems with the functioning of **collecting societies** lead to inefficiencies in the exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders **and** users **alike**. **These difficulties do not arise in the functioning of independent rights management service providers who act as agents for rightholders for the management of their rights on a commercial basis and in which rightholders do not exercise membership rights.**

Amendment

(4) There are significant differences in the national rules governing the functioning of **collective management organisations**, in particular as regards their transparency and accountability towards their members and rightholders. Beyond the difficulties non-domestic rightholders face when exercising their rights and the too often poor financial management of the revenues collected, problems with the functioning of **collective management organisations** lead to inefficiencies **and inequities** in the exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders, users **and consumers alike**.

Or. en

Justification

Inefficiencies and transparency problems also concern commercial independent rights management providers. And in the end, consumers pay a large part of the cost of inefficiencies in markets for creative works.

Amendment 34
Krišjānis Kariņš

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) There are significant differences in the national rules governing the functioning of collecting societies, in particular as regards their transparency and accountability

Amendment

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towards their members and rightholders. Beyond the difficulties non-domestic rightholders face when exercising their rights and the too often poor financial management of the revenues collected, problems with the functioning of collecting societies lead to inefficiencies in the exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders and users alike. These difficulties do not arise in the functioning of independent rights management service providers who act as agents for rightholders for the management of their rights on a commercial basis and in which rightholders do not exercise membership rights.

towards their members and rightholders, ***which makes for fragmentation of the internal market in this sector.*** Beyond the difficulties non-domestic rightholders face when exercising their rights and the too often poor financial management of the revenues collected, problems with the functioning of collecting societies lead to inefficiencies in the exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders and users alike, ***for whom it is too complicated to assert their rights in other Member States.*** These difficulties do not arise in the functioning of independent rights management service providers who act as agents for rightholders for the management of their rights on a commercial basis and in which rightholders do not exercise membership rights.

Or. lv

Amendment 35
Eija-Riitta Korhola

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) This Directive should aim at coordinating national rules concerning the access to the activity of managing copyright and related rights by collecting societies, the modalities for their governance, and their supervisory framework and is also based on Article 53(1) of the Treaty. In addition, since this is a sector offering services across the Union, this Directive is also based on Article 62 of the Treaty.

Amendment

deleted

Or. en

Justification

Recital to be replaced by new recitals 7a and 7b.

Amendment 36
Eija-Riitta Korhola

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) This Directive is without prejudice to the arrangements concerning the management of rights by collective management organisations, such as extended collective licenses, mandatory collective management and legal presumptions of representation or transfer of rights.

Or. en

Justification

It must be reassured that the provisions of the Directive do not affect the functioning of licensing arrangements based on the enumerated legal operations. Consequently, all activities of the CMO's, including those that are based on the aforementioned legal operations, fall within the scope of application of the Directive. This is further emphasized by the fact that a reference to CMO's is made.

Amendment 37
Eija-Riitta Korhola

Proposal for a directive
Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) This Directive is without prejudice to the legal form traditionally chosen by the Member States for the operation of the collective management organizations. The Member States should not be required to change the legal form of these

organizations. The provisions of the Directive are without prejudice to right holders' freedom of association and their right to organize themselves.

Or. en

Justification

It is imperative that the directive shall not have a negative effect on established modes of governance and functioning internal practises of CMO's based on applicable national law. This goal has been generally endorsed by many interested parties including the European Commission.

Amendment 38
Eija-Riitta Korhola

Proposal for a directive
Recital 7 c (new)

Text proposed by the Commission

Amendment

(7c) Titles I, II and IV of this Directive shall apply to all collecting societies established in the Union. Member States may extend the application of this Directive to Title I, chapters 2 to 5 of Title II and Title IV with the exception of Articles 36 and 40 to non-EU collecting societies licensing the use of rights in their territory.

Or. en

Justification

The scope of the Directive should be extended to cover not only collecting societies that are established in the European Union, but also non-EU collecting societies that directly license users in the European Union. Otherwise, the Directive risks creating an uneven playing field allowing societies that do not comply with the EU standards to license users in the Union. It might not be feasible to apply all provisions of the Directive to non-EU collecting societies, due to the risk of interfering with national legislation of non-EU Member States and restrictions on the extra-territorial reach of EU law, while at least Title I, Chapters 2 to 5 in Title II, and Title IV (except articles 36 and 40) should apply to non-EU collecting societies (provisions on transparency, licensing, tariffs and distribution of rights revenue).

Amendment 39
Eija-Riitta Korhola

Proposal for a directive
Recital 7 d (new)

Text proposed by the Commission

Amendment

(7d) In this Directive, collective management organisations cover non-profit organisations authorised by more than one rightholder to manage copyright or related rights as their main activity and which are owned or directly or indirectly controlled by rightholders. Individual companies who in the normal course of their business are engaged in the production of content or licensing of rights on a commercial basis (such as music publishers, book publishers or music companies) are not covered by this Directive.

Or. en

Justification

The definition of a collective management organisation should cover all non-profit organisations whose main activity is the collection and distribution of licence fees or remuneration on behalf of more than one rightholder, regardless of how their ownership or control is organised. Under the current draft, collective management organisations, which do not have “members” as such might not be covered by the definition. The proposed amendment aims at ensuring that all collective management organisations controlled by rightholders are covered by the definition. In order to avoid any ambiguity, it should be made clear in a recital that entities such as record or film companies which receive assignment of rights from other rightholders are not covered by the Directive

Amendment 40
Lena Kolarska-Bobińska

Proposal for a directive
Recital 9

(9) Having the freedom to **provide and to receive** collective management **services** across national borders entails that rightholders are able to freely choose the **collecting society** for the management of their rights, such as public performance or broadcasting rights, or categories of rights, such as interactive communication to the public, provided the **collecting society** already manages such rights or categories of rights. This implies that rightholders can easily withdraw their rights or categories of rights from a **collecting society** and entrust or transfer all or part of them to another **collecting society** or another entity irrespective of the Member State of residence or the nationality of either the **collecting society** or the rightholder. **Collecting societies** managing different types of works and other subject matter, such as literary, musical or photographic works, should also allow this flexibility to rightholders as regards the management of different types of works and other subject matter. **Collecting societies** should inform rightholders of this choice and allow them to exercise it as easily as possible. Finally, this Directive should not prejudice the possibilities of rightholders to manage their rights individually, including for non-commercial uses.

(9) Having the freedom to **receive services for** collective management **of copyright and related rights** across national borders entails that rightholders are able to freely choose the **collective management organisation** for the management of their rights, such as public performance or broadcasting rights, or categories of rights, such as interactive communication to the public, provided the **collective management organisation** already manages such rights or categories of rights. This implies that rightholders can easily withdraw their rights or categories of rights from a **collective management organisation** and entrust or transfer all or part of them to another **collective management organisation** or another entity irrespective of the Member State of residence or the nationality of either the **collective management organisation** or the rightholder. **Collective management organisations** managing different types of works and other subject matter, such as literary, musical or photographic works, should also allow this flexibility to rightholders as regards the management of different types of works and other subject matter. **Collective management organisations** should inform rightholders of this choice and allow them to exercise it as easily as possible. Finally, this Directive should not prejudice the possibilities of rightholders to manage their rights individually, including for non-commercial uses.

Or. en

Amendment 41
Amelia Andersdotter

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Having the freedom to provide and to receive collective management services across national borders entails that rightholders are able to freely choose the collecting society for the management of their rights, such as public performance or broadcasting rights, or categories of rights, such as interactive communication to the public, provided the collecting society already manages such rights or categories of rights. This implies that rightholders can easily withdraw their rights or categories of rights from a collecting society and entrust or transfer all or part of them to another collecting society or another entity irrespective of the Member State of residence or the nationality of either the collecting society or the rightholder. Collecting societies managing different types of works and other subject matter, such as literary, musical or photographic works, should also allow this flexibility to rightholders as regards the management of different types of works and other subject matter. Collecting societies should inform rightholders of this choice and allow them to exercise it as easily as possible. Finally, this Directive should not prejudice the possibilities of rightholders to manage their rights individually, including for non-commercial uses.

Amendment

(9) Having the freedom to provide and to receive collective management services across national borders entails that rightholders are able to freely choose the collecting society for the management of their rights, such as public performance or broadcasting rights, or categories of rights, such as interactive communication to the public, provided the collecting society already manages such rights or categories of rights. This implies that rightholders can easily withdraw their rights or categories of rights from a collecting society and entrust or transfer all or part of them to another collecting society or another entity irrespective of the Member State of residence or the nationality of either the collecting society or the rightholder. Collecting societies managing different types of works and other subject matter, such as literary, musical or photographic works, should also allow this flexibility to rightholders as regards the management of **works**, different types of works and other subject matter. Collecting societies should inform rightholders of this choice and allow them to exercise it as easily as possible. Finally, this Directive should not prejudice the possibilities of rightholders to manage their rights individually, including for non-commercial uses **or placement in the public domain**.

Or. en

Justification

Rightholders should retain the right to freely decide over the rights to their own works, including the right to place the work in the public domain.

Amendment 42
Rolandas Paksas

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Whereas the individual exercise of exclusive economic rights, such as is often the case in the audiovisual sector, is also consistent with internal market goals and reduces the potential for fragmentation, through the consolidation of exploitation rights in the producer.

Or. en

Amendment 43
Amelia Andersdotter

Proposal for a directive
Recital 12

Text proposed by the Commission

Amendment

(12) Members of ***collecting societies*** should be allowed to participate and vote in the general meeting; the exercise of these rights may only be subject to fair and proportionate restrictions. The exercise of voting rights should be made easy.

(12) ***All*** members of ***collective management organisations*** should be allowed to participate and vote in the general meeting; the exercise of these rights may only be subject to fair and proportionate restrictions. The exercise of voting rights should be made easy, ***and whenever possible by electronic means.***

Or. en

Justification

Inclusive as well as efficient member participation should be encouraged. [Consistent with draft opinion from CULT.]

Amendment 44
Lena Kolarska-Bobińska

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 **collective management organisations**. To this end, **collective management organisations** should establish a supervisory function appropriate to their organisational structure and allow **the different categories of** members to be represented **in fair and balanced manner** 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.

Or. en

Amendment 45
Amelia Andersdotter

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**

Amendment

(13) Members should be allowed to take part in monitoring the management of **collective management organisations**. To this end, **collective management organisations** 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.

should be able to, if they consider this to be necessary, exclude the smallest collecting societies from having to organise such a supervisory function.

Or. en

Justification

Excluding small collective management organisations from any kind of supervisory function goes counter to the purpose of the directive. Even small companies and organizations typically require a board. The different categories of members need adequate representation. Additionally, this recital should be consistent with revisions to Articles 8.3 and 20.5. [Consistent with draft opinions from CULT and IMCO.]

Amendment 46 **Amelia Andersdotter**

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

Amendment

(15) *Collective management organisations* 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 *collective management organisations* exercise the utmost diligence in collecting, managing and distributing that revenue. Accurate distribution is only possible where *collective management organisations* 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 *collective management organisations*. Amounts collected and due to rightholders should be managed separately from any own assets of the *collective management organisation* and, if they are invested, pending their distribution to rightholders,

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 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.

this should be carried out in accordance with the investment policy decided by the **collective management organisations'** 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 **collective management organisation** should be managed in accordance with criteria which would oblige the **collective management organisation** to act prudently, while allowing the **collective management organisation** to decide on the most secure and efficient investment policy. This should allow the **collective management organisation** to opt for **a secure and profitable asset allocation that prevents** exposure to risk of any rights revenue 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 **collective management organisations** 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 **collective management organisations** of the rules governing any situation where, due to the lack of identified or located rightholders, amounts collected cannot be distributed.

Or. en

Justification

*In order to prevent unnecessary risks to the revenue that belongs to rightholders, collective management organisations should employ a secure and low risk investment strategy.
[Consistent with draft opinion from IMCO.]*

Amendment 47
Amelia Andersdotter

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Where the amounts due to rightholders cannot be distributed, because the collective management organisation failed to identify and locate the rightholders, it would provide a disincentive for the collective management organisations to be diligent in their effort to locate the proper rightholders, if they were allowed to keep the money and use it for other purposes. Since it is Member States that have primary responsibility for cultural policy, it is appropriate that the money that cannot be distributed shall be paid to a fund set up and managed for this purpose by the Member State in which the money was collected. The fund is thereafter responsible for any claims from reappearing rightholders. In addition, each Member State will decide how to use the money in the fund for related purposes, such as paying reappearing rightholders according to Directive 2012/28/EU on Certain Permitted Uses of Orphan Works, digitising and restoring our cultural heritage, and promoting cultural diversity.

Or. en

Justification

Allowing the collective management organisation to keep money that cannot be distributed will provide a disincentive for the collective management organisation to perform a true diligent search for the real rightholders. Moreover, a fund solution makes it possible to coordinate this directive with the recent Orphan Works Directive. A fund managed by the Member State may also be beneficial in promoting cultural diversity. See also amended Article 12.2.

Amendment 48
Amelia Andersdotter

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.

Amendment

(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. **Tariffs should be reasonable in relation to the economic value of the use of the rights in trade.**

Or. en

Justification

Should reflect the text of ECJ case law [C-52/07, Kanal 5 and TV4 vs STIM]. As monopoly providers, collective management organisations face weak incentives not to overcharge.

Amendment 49
Amelia Andersdotter

Proposal for a directive
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) 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

Justification

The double-invoicing of copyright users is a recurring and widespread problem. According to the Commission Impact Assessment, as much as 10-30% of royalties invoiced to users may be affected by double invoicing. [Consistent with draft opinion from IMCO.]

Amendment 50

Amelia Andersdotter

Proposal for a directive

Recital 20

Text proposed by the Commission

(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 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.***

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 educational services.

Or. en

Justification

Excluding small collective management organisations from reporting obligations goes counter to the purpose of the directive. Additionally, this recital should be consistent with revisions to Articles 8.3 and 20.5. [Consistent with draft opinion from IMCO.]

Amendment 51
Rolandas Paksas

Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) This Directive is without prejudice to the arrangements in the Member States concerning the management of rights such as extended collective licensing, compulsory collective management and legal presumptions of representation, or transfer of rights, provided that such arrangements are compatible with Union law and the international obligations of the Union and its Member States. In the case of mandatory collective management for all works in a relevant category of rights or type of content, the obligation to publish the repertoire is unnecessary where only one is actively mandated.

Or. en

Amendment 52
Amelia Andersdotter

Proposal for a directive
Recital 24

Text proposed by the Commission

Amendment

(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-

(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, 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*.

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, 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 *a decrease in unauthorized copying of music*.

Or. en

Justification

The effectiveness of collective management organisations depend on the control of anti-competitive effects. Improved language. [Consistency with draft opinion from IMCO.]

Amendment 53 **Rolandas Paksas**

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*

Amendment

(24) *Unlike other creative sectors where direct licensing plays a more prominent role, the collective management of authors'*

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, 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.

rights on a territorial basis remains the norm *in the music sector*. *Therefore*, 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, 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.

Or. en

Amendment 54
Amelia Andersdotter

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) Digital technology allows the

Amendment

(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.

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 **establish cooperation procedure among themselves so as to ensure that each user receives a single joint invoice** 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.

Or. en

Justification

High transaction costs, such as complicated and multiple invoices, are a major impediment in the European copyright licensing market. [Consistent with draft opinion from IMCO.]

Amendment 55 **Ivo Belet**

Proposal for a directive **Recital 35**

Text proposed by the Commission

(35) Broadcasting organisations generally rely on a licence from a local collecting

Amendment

(35) Broadcasting organisations generally rely on a **blanket** licence from a local

society, *for their own broadcasts of television and radio programmes which include musical works. This licence is often limited to broadcasting activities. A licence for online rights in musical works would be required in order to allow such television or radio broadcasts to be also available online. To facilitate the licensing of online music rights for the purposes of simultaneous and delayed transmission online of television and radio broadcasts, it is necessary to provide for a derogation from the rules that would otherwise apply to the multi-territorial licensing of musical works for online uses. Such derogation should be limited to what is necessary to allow access to television or radio programmes online and to material having a clear and subordinate relationship to the original broadcast produced for purposes such as supplementing, previewing or reviewing that television or radio programme. That derogation* should not operate so as to distort competition with other services which give consumers access to individual musical *or audiovisual* works online, or lead to restrictive practices, such as market or customer sharing, *in breach of* Articles 101 or 102 of the Treaty on the Functioning of the European Union.

collecting society *for the rights to the world repertoire of musical works in order to communicate and make available to the public their own television and radio programmes and online services related to their broadcasts, such as material which supplements, enriches or otherwise expands on the broadcaster's programme offerings. Such blanket licences for broadcasters respond to an actual need, are well established and generally accepted by right holders, broadcasters and collecting societies alike. This directive should therefore maintain that established practice so as to avoid the application of different rules for the licensing of broadcasters' offline and online services. For this reason it is necessary to exempt collecting societies from the application of Title III when they license online services to broadcasters that are related to their offline broadcast services. This* should not operate so as to distort competition with other services which give consumers access to individual musical works online, or lead to restrictive practices, such as market or customer sharing, *and should remain in compliance with national and EU law, in particular* Articles 101 or 102 of the Treaty on the Functioning of the European Union.

Or. en

Justification

Broadcasters include in their online services not only broadcast programmes or parts thereof but also other programme material provided under the broadcaster's editorial control and responsibility which normally bears a relationship with the broadcaster's offline activities. As the exact scope and extent of that material will be subject to contractual arrangements between broadcasters and the music right holders or collecting societies concerned, it should not be defined in advance by the Directive.

Amendment 56
Eija-Riitta Korhola

Proposal for a directive
Recital 36

Text proposed by the Commission

(36) It is necessary to ensure the effective enforcement of the provisions of the national law adopted pursuant to this Directive. Collecting societies should offer their members specific procedures for the handling of complaints and the resolution of disputes. These procedures should also be made available to other rightholders represented by the collecting society. It is also appropriate to ensure that Member States have independent, impartial and effective dispute resolution bodies capable of settling commercial disputes between collecting societies and users on existing or proposed licensing conditions as well as on situations in which the granting of a licence is refused. Furthermore, the effectiveness of the rules on the multi-territorial licensing of online rights in musical works could be undermined if disputes between collecting societies and their counterparts were not solved quickly and efficiently by independent and impartial bodies. As a result, it is appropriate to provide, without prejudice to the right of access to a tribunal, for an easily accessible, efficient and impartial out-of-court procedure for resolving conflicts between collecting societies, on the one hand, and online music service providers, rightholders or other collecting societies, on the other.

Amendment

(36) It is necessary to ensure the effective enforcement of the provisions of the national law adopted pursuant to this Directive. Collecting societies should offer their members specific procedures for the handling of complaints and the resolution of disputes. These procedures should also be made available to other rightholders represented by the collecting society. It is also appropriate to ensure that Member States have independent, impartial and effective dispute resolution bodies capable of settling commercial disputes between collecting societies and users on existing or proposed licensing conditions as well as on situations in which the granting of a licence is refused. Furthermore, the effectiveness of the rules on the multi-territorial licensing of online rights in musical works could be undermined if disputes between collecting societies and their counterparts were not solved quickly and efficiently by independent and impartial bodies. As a result, it is appropriate to provide, without prejudice to the right of access to a tribunal, for an easily accessible, efficient and impartial out-of-court procedure for resolving conflicts between collecting societies, on the one hand, and online music service providers, rightholders or other collecting societies, on the other. ***These dispute resolution bodies should have special knowledge of intellectual property matters and they should base their decisions on objective standards and criteria, such as the "fair value in trade" established by the CJEU. In order to secure payment, users should be required to make payments to the collective management organisations, while the process is pending, according to the existing tariff where such tariff exists or based on an interim order by the court***

where no pre-existing applicable tariff is set.

Or. en

Justification

To ensure that national dispute resolution bodies have the required expertise and that their decisions follow the same fair principles across the internal market, these bodies should consist of dedicated judges that have special knowledge of IP matters and the decisions should be made following the criteria set out in Article 15(2). Parties may abuse the use of dispute resolution mechanisms, for example, to avoid or delay obligations such as payment of the licence fees. To ensure that these dispute resolution mechanisms are used in good faith, and given the potential length of dispute resolution proceedings, the provisions should specify that where a dispute resolution process is pending, users may only use the works or other protected content provided that, as a minimum obligation, they pay the tariffs published by the CMO or, where there is no pre-existing tariff, a monthly fee set by the dispute resolution body, into an escrow account. The collective management organisation or the user, as the case may be, should be required to pay the balance between the payments made and the new tariff set by the competent body no later than 30 days after the decision has been made by that body.

Amendment 57

Amelia Andersdotter

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) Moreover, Member States should establish appropriate procedures by means of which it will be possible to make complaints against ***collecting societies*** who do not comply with the law and to ensure that, where appropriate, effective, proportionate and dissuasive sanctions are imposed. Member States should determine which authorities should be responsible for administering the complaints procedures and sanctions. To ensure that the requirements for multi-territorial licensing are complied with, specific provisions on the monitoring of their implementation should be laid down. The competent authorities of the Member States and the

Amendment

(37) Moreover, Member States should establish appropriate procedures by means of which it will be possible to make complaints against ***collective management organisations*** who do not comply with the law and to ensure that, where appropriate, effective, proportionate and dissuasive sanctions ***or measures*** are imposed. Member States should determine which authorities should be responsible for administering the complaints procedures and sanctions. To ensure that the requirements for multi-territorial licensing are complied with, specific provisions on the monitoring of their implementation should be laid down. The competent

European Commission should cooperate with each other to this end.

authorities of the Member States and the European Commission should cooperate with each other to this end.

Or. en

Justification

Clarification of Member State enforcement options. [Consistent with draft opinion from CULT.]

Amendment 58
Rolandas Paksas

Proposal for a directive
Recital 43

Text proposed by the Commission

(43) The provisions of this Directive are without prejudice to the application of competition law rules, and any other relevant law in other areas including confidentiality, trade secrets, privacy, access to documents, the law of contract and private international law relating to the conflict of laws and the jurisdiction of courts.

Amendment

(43) The provisions of this Directive are without prejudice to the application of competition law rules, and any other relevant law in other areas including confidentiality, ***in particular with respect to individual agreements and non-disclosure agreements***, trade secrets, privacy, access to documents, the law of contract and private international law relating to the conflict of laws and the jurisdiction of courts.

Or. en

Amendment 59
Rolandas Paksas

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down requirements necessary to ensure the proper functioning of the management of copyright and

Amendment

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.

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.

Or. en

Amendment 60
Britta Thomsen

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

Titles I, II and IV with the exception of Articles 36 and 40 shall apply to all collecting societies *established in* the Union.

Amendment

Titles I, II and IV with the exception of Articles 36 and 40 shall apply to all collecting societies *which operate within* the Union.

Or. en

Amendment 61
Ivo Belet

Proposal for a directive
Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

Title III shall however not apply when collecting societies grant licenses for such musical works, in compliance with national and community law, to broadcasters in relation to online services that are related to their offline broadcast services.

Or. en

Justification

Ex article 33 - Broadcasters include in their online services not only broadcast programmes

or parts thereof but also other programme material provided under the broadcaster's editorial control and responsibility which normally bears a relationship with the broadcaster's offline activities. As the exact scope and extent of that material will be subject to contractual arrangements between broadcasters and the music right holders or collecting societies concerned, it should not be defined in advance by the Directive.

Amendment 62
Britta Thomsen

Proposal for a directive
Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) ‘collecting society’ means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement, by more than one rightholder, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or controlled by its members;

Amendment

(a) ‘collecting society’ means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement, by more than one rightholder, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or controlled by its members; ***In order for the sole or primary purpose of an organisation to be considered rights administration, it must be stated in the articles of the association that the object of the organisation is to collect and ensure a fair distribution of rights revenue when mass exploitation of copyright takes place. Moreover, the number of employees engaged in the administration of rights must constitute the majority of the organisations total number of employees.***

Or. en

Amendment 63
Rolandas Paksas

Proposal for a directive
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) '**collecting society**' means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement, by **more than one rightholder**, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or controlled by its members;

(a) '**collective management organisation**' means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement, by **a substantial number of rightholders**, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or controlled by its members;

Or. en

Amendment 64
Jürgen Creutzmann

Proposal for a directive
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) '**collecting** society' means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement, by more than one rightholder, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or controlled by its members;

(a) '**collective management** society' means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement, by more than one rightholder **or collective management society**, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or controlled by **its members, and acts in the sole collective interest of, and with a fiduciary duty to**, its members;

Or. en

Justification

Clarification with regards to the definition of collective management societies.

Amendment 65
Eija-Riitta Korhola

Proposal for a directive
Article 3 – paragraph 1 – point a

Text proposed by the Commission

(a) **'collecting society'** means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement, by more than one rightholder, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or controlled by its **members**;

Amendment

(a) **A 'collective management organisation'** is any **non-profit** organisation, which is authorised by law or by way of assignment, licence or any other contractual arrangement, by more than one rightholder, to manage copyright or rights related to copyright as its sole or main purpose and which is owned or **directly or indirectly** controlled by its **rightholders**;

Or. en

Amendment 66
Amelia Andersdotter

Proposal for a directive
Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

(aa) **'commercial operator'** means any entity which is authorised by way of any contractual arrangement to manage copyright or rights related to copyright on behalf of rightholders on a commercial basis;

Amendment

Or. en

Justification

In order to establish a level playing field within the framework of rights management, publishers and record companies - who also manage rightholders rights - should be subject to a minimum set of transparency rules. [Consistent with draft opinion from CULT.]

Amendment 67
Amelia Andersdotter, Jürgen Creutzmann

Proposal for a directive
Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) ‘member *of a collecting society*’ means a rightholder or an entity directly representing rightholders, including other *collecting societies* and associations of rightholders, fulfilling the membership requirements of the *collecting society*;

Amendment

(c) ‘member’ means a rightholder or an entity directly representing rightholders, including other *collective management organisations* and associations of rightholders, fulfilling the membership requirements of the *collective management organisation, regardless of its legal form*;

Or. en

Justification

Clarification needed in relation to the variety of legal forms of collective management organisations within different Member States. [Consistent with draft opinion from CULT.]

Amendment 68
Rolandas Paksas

Proposal for a directive
Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) ‘member of a collecting society’ means a rightholder or an entity directly representing rightholders, including other collecting societies and associations of rightholders, fulfilling the membership requirements of the collecting society;

Amendment

(c) ‘member of a collecting society’ means a rightholder or an entity directly representing rightholders, including other collecting societies and associations of rightholders, *such as trade unions*, fulfilling the membership requirements of the collecting society;

Or. en

Amendment 69
Amelia Andersdotter, Jürgen Creutzmann

Proposal for a directive
Article 3 – paragraph 1 – point f

Text proposed by the Commission

(f) ‘rights revenue’ means income collected by a **collecting society** on behalf of rightholders, whether from an exclusive right, a right to remuneration or a right to compensation;

Amendment

(f) ‘rights revenue’ means income collected by a **collective management organisation** on behalf of rightholders, whether from an exclusive right, a right to remuneration or a right to compensation, **and including any income derived from the investments of rights revenue**;

Or. en

Justification

Article 10.2 states that income derived from investments of rights revenue should be "kept separate" but does not make clear that such income belongs to and should, eventually, be paid out to rightholders. Including this income stream in the definition is the easiest way to remedy this. [Consistency with draft opinion from CULT.]

Amendment 70
Eija-Riitta Korhola

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. Rightholders shall have the right to authorise a **collecting society** of their choice to manage the rights, categories of rights or types of works and other subject matter of their choice, for the Member States of their choice, irrespective of the Member State of residence or of establishment or the nationality of either the **collecting society** or the rightholder.

Amendment

2. Rightholders shall have the right to authorise a **collective management organisation** of their choice to manage the rights, categories of rights or types of works and other subject matter of their choice, for the Member States of their choice, irrespective of the Member State of residence or of establishment or the nationality of either the **collective management organisation** or the rightholder. **Collective management organisations shall have the right to require the exclusive assignment of the rights in all works of their members.**

Or. en

Justification

A recent declaration adopted by more than 40 independent European associations of music creators called for the maintenance of the exclusive assignment of the performing right to their collective management organisation. This entails that music writers assign the performing right in all their works to the society of their choice. This provides the CMO with legal certainty because it knows that it represents the performing rights of all works of its' members. The split of works (some compositions in one society, others in another one) would be detrimental: CMO's would lose the certainty needed for blanket licenses as requested e.g. by public broadcasters. The consequences are that obtaining licenses will be more burdensome and costly.

Amendment 71

Amelia Andersdotter, Jürgen Creutzmann

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Rightholders shall have the right to authorise a **collecting society** of their choice to manage the rights, categories of rights or types of works and other subject matter of their choice, for the Member States of their choice, irrespective of the Member State of residence or of establishment or the nationality of either the **collecting society** or the rightholder.

Amendment

2. Rightholders shall have the right to authorise a **collective management organisation** of their choice to manage the rights, categories of rights, **works** or types of works and other subject matter of their choice, for the Member States of their choice, irrespective of the Member State of residence or of establishment or the nationality of either the **collective management organisation** or the rightholder.

Or. en

Justification

Rightholders should retain the right to freely decide over the rights to their own works. In some EU member states and in other countries, for instance in the United States, rightholders have the right to manage individual works within their collective management organisation. [Consistent with draft opinion from CULT.]

Amendment 72

Amelia Andersdotter

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Rightholders shall have the right to grant free licences for use of their works and rights. In this case, rightholders shall inform in due time the collective management organisations authorised to manage the rights of such works that such a free license has been granted.

Or. en

Justification

Flexibility should be given to rightholders in the management of their works: rightholders should have the right to decide that their works could be used under free licenses, such as Creative Commons, without jeopardising their membership in the collective management organisation which represents them. [Consistent with draft opinion from CULT.]

Amendment 73
Amelia Andersdotter

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Rightholders shall have the right to terminate the authorisation to manage rights, categories of rights or types of works and other subject matter granted to a **collecting society** or to withdraw from a **collecting society** any of the rights or categories of rights or types of works and other subject matter of their choice, for the Member States of their choice, upon serving reasonable notice not exceeding six months. The **collecting society** may decide that such termination or withdrawal will take effect only at the middle and at the end of the financial year, whichever is sooner after the expiry of the notice period.

3. Rightholders shall have the right to terminate the authorisation to manage rights, categories of rights, **works** or types of works and other subject matter granted to a **collective management organisation** or to withdraw from a **collective management organisation** any of the rights or categories of rights, **works** or types of works and other subject matter of their choice, **at any time during the term of the authorisation**, for the Member States of their choice, upon serving reasonable notice not exceeding six months. The **collective management organisation** may decide that such termination or withdrawal will take effect

only at the middle and at the end of the financial year, whichever is sooner after the expiry of the notice period.

Or. en

Justification

Rightholders should retain the right to freely decide over the rights to their own works. In some EU member states and in other countries, for instance in the United States, rightholders have the right to withdraw individual works from their collective management organisation. [Consistent with draft opinion from CULT.]

Amendment 74
Britta Thomsen

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

3. **Rightholders** shall have the right to terminate the authorisation to manage rights, categories of rights or types of works and other subject matter granted to a collecting society or to withdraw from a collecting society any of the rights or categories of rights or types of works and other subject matter of their choice, for the Member States of their choice, upon serving reasonable notice not exceeding six months. The collecting society may decide that such termination or withdrawal will take effect only at the middle and at the end of the financial year, whichever is sooner after the expiry of the notice period.

Amendment

3. **Members** shall have the right to terminate the authorisation to manage rights, categories of rights or types of works and other subject matter granted to a collecting society or to withdraw from a collecting society any of the rights or categories of rights or types of works and other subject matter of their choice, for the Member States of their choice, upon serving reasonable notice not exceeding six months. The collecting society may decide that such termination or withdrawal will take effect only at the middle and at the end of the financial year, whichever is sooner after the expiry of the notice period.

Or. en

Amendment 75
Britta Thomsen

Proposal for a directive
Article 5 – paragraph 4

Text proposed by the Commission

4. If there are amounts due to a **rightholder** for acts of exploitation which occurred before the termination of the authorisation or the withdrawal of rights took effect, or under a licence granted before such termination or withdrawal took effect, the **rightholder** shall retain his rights under Articles 12, 16, 18 and 34 with respect to those acts of exploitation.

Amendment

4. If there are amounts due to a **member** for acts of exploitation which occurred before the termination of the authorisation or the withdrawal of rights took effect, or under a licence granted before such termination or withdrawal took effect, the **member** shall retain his rights under Articles 12, 16, 18 and 34 with respect to those acts of exploitation.

Or. en

Amendment 76
Britta Thomsen

Proposal for a directive
Article 5 – paragraph 5

Text proposed by the Commission

5. Collecting societies shall not restrict the exercise of rights provided under paragraphs 3 and 4 by requiring that the management of rights or categories of rights or type of works and other subject matter which are subject to the termination or the withdrawal are entrusted to another collecting society.

Amendment

5. Collecting societies shall not restrict the exercise of rights provided under paragraphs 3 and 4 by requiring that the management of rights or categories of rights or type of works and other subject matter which are subject to the termination or the withdrawal are entrusted to another collecting society. ***Notwithstanding this provision, collecting societies which administer the right of performers and phonogram producers to a single equitable remuneration according to Article 8, paragraph 2, of Directive 2006/115/EC, may require that the management of these rights is transferred to another collecting society established in the Union.***

Or. en

Amendment 77
Amelia Andersdotter

Proposal for a directive
Article 5 – paragraph 5

Text proposed by the Commission

5. **Collecting societies** shall not restrict the exercise of rights provided under paragraphs 3 and 4 by requiring that the management of rights or categories of rights or type of works and other subject matter which are subject to the termination or the withdrawal are entrusted to another **collecting society**.

Amendment

5. **Collective management organisations** shall not restrict the exercise of rights provided under paragraphs 3 and 4 by requiring that the management of rights or categories of rights, **works** or type of works and other subject matter which are subject to the termination or the withdrawal are entrusted to another **collective management organisation**.

Or. en

Justification

As per articles 5.2-5.3.

Amendment 78
Britta Thomsen

Proposal for a directive
Article 5 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that the **rightholder** gives express consent specifically for each right or category of rights or type of works and other subject matter which that **rightholder** authorises the collecting society to manage and that any such consent is evidenced in documentary form.

Amendment

6. Member States shall ensure that the **member** gives express consent specifically for each right or category of rights or type of works and other subject matter which that **member** authorises the collecting society to manage and that any such consent is evidenced in documentary form. ***This paragraph does not apply to the arrangements in the Member states concerning the administration of rights through extended collective licenses, legal presumption of representation or transfer, mandatory collective management or similar arrangements or a combination of***

them.

Or. en

Amendment 79

Jens Rohde

Proposal for a directive

Article 5 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that the rightholder gives express consent specifically for each right or category of rights or type of works and other subject matter which that rightholder authorises the collecting society to manage and that any such consent is evidenced in documentary form.

Amendment

6. Member States shall ensure that the rightholder gives express consent specifically for each right or category of rights or type of works and other subject matter which that rightholder authorises the collecting society to manage and that any such consent is evidenced in documentary form; ***this paragraph does not apply to the arrangements in the Member States concerning the administration of rights through extended collective licenses, legal presumptions of representation or transfer, mandatory collective management or similar arrangements or a combination of them.***

Or. en

Justification

Collective societies shall not be obligated to get consent from right holders that are covered by extended collective licenses or similar schemes in a member state. The amendment has thus the purpose to secure the continuation of well functioning systems of collective management of copyright and ensure rights holders' income and users' possibilities to obtain rights clearances and licenses.

Amendment 80

Amelia Andersdotter

Proposal for a directive

Article 5 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that the rightholder gives express consent specifically for each right or category of rights or type of works and other subject matter which that rightholder authorises the **collecting society** to manage and that any such consent is evidenced in documentary form.

Amendment

6. Member States shall ensure that the rightholder gives express consent specifically for each right or category of rights, **works** or type of works and other subject matter which that rightholder authorises the **collective management organisation** to manage and that any such consent is evidenced in documentary form.

Or. en

Justification

As per articles 5.2-5.3. [Consistent with draft opinion from CULT and main draft report in JURI]

Amendment 81

Amelia Andersdotter

Proposal for a directive

Article 5 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Without prejudice to Article 20(4), rightholders shall have the right to request external independent audits of their collective management organisation at any time during the term of the authorisation.

Or. en

Justification

Against the background of highly problematic governance in many European collective management organisations in recent years, there is a strong need to facilitate external audits so that real independence and diligence in the auditing can be assured. [Consistent with draft opinion from CULT.]

Amendment 82

Britta Thomsen

Proposal for a directive
Article 5 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Where a collective management organization has as members entities representing right holders, the information under paragraph 3-7 shall be provided to these entities.

Or. en

Amendment 83
Rolandas Paksas

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

Amendment

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.

2. Collecting societies shall 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.

Or. en

Amendment 84
Amelia Andersdotter

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. Collecting societies shall accept rightholders as members if they fulfil the membership requirements. They may only

2. Collecting societies shall accept rightholders, **or any other members as defined in Article 3(c)**, as members if they

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.

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.

Or. en

Justification

Clarification needed with respect to Article 3.c. Denying membership on the basis of discriminatory criteria should be prohibited. [Consistent with draft opinion from IMCO.]

Amendment 85
Jürgen Creutzmann

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 **management societies** 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.

Or. en

Justification

There might be cases where a membership should be refused.

Amendment 86
Rolandas Paksas

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. The statute of the collecting society shall provide for appropriate and effective mechanisms of participation of its members in the collecting society's decision-making process. The representation of the different categories of members *in* the decision-making process shall be fair and balanced.

Amendment

3. The statute of the collecting society shall provide for appropriate and effective mechanisms of participation of its members in the collecting society's decision-making process. The representation of the different categories of members *at all levels of* the decision-making process shall be fair and balanced.

Or. en

Amendment 87

Lena Kolarska-Bobińska

Proposal for a directive

Article 6 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Collective management organisations shall make information included in Article 19(1) publicly accessible provided that the protection of the personal data of the rightholders is preserved.

Or. en

Amendment 88

Amelia Andersdotter

Proposal for a directive

Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. The general meeting shall approve any amendments to the statute and the membership terms of the collecting society, where those terms are not regulated by the statute.

3. The statute and the membership terms of the ***collective management organisation as well as any amendments thereof shall be adopted*** by the ***general meeting***.

Justification

Clearer language. [Consistent with draft opinion from CULT.]

Amendment 89

Amelia Andersdotter, Jürgen Creutzmann

Proposal for a directive

Article 7 – paragraph 4 – subparagraph 1

Text proposed by the Commission

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

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.

Justification

The relationship between the general meeting and the directors should be clear. [Consistent with draft opinion from IMCO.]

Amendment 90

Amelia Andersdotter

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

deleted

Justification

The deletion of this paragraph is a consequence of the proposed changes to Article 12.2.

Amendment 91
Amelia Andersdotter

Proposal for a directive
Article 7 – paragraph 6

Text proposed by the Commission

6. The general meeting shall control the activities of the **collecting society** by, at least, deciding on the appointment and removal of the auditor and approving the annual transparency report and the auditor's report.

Amendment

6. The general meeting shall control the activities of the **collective management organisation** by, at least, deciding on the appointment and removal of the auditor and approving the annual transparency report and the auditor's report. ***If the financial management practice of the collective management organisation, is reasonably in doubt, the general meeting may decide to conduct an external audit. The result of such external audit shall be communicated to all members and to the public.***

Justification

With a recent history of problematic governance in many European collective management organisations, there is a strong need to facilitate external audits so that real independence and diligence can be ensured. [Consistent with draft opinion from CULT.]

Amendment 92
Amelia Andersdotter

Proposal for a directive
Article 7 – paragraph 7 – subparagraph 1 – introductory part

Text proposed by the Commission

Any restriction on the right of **the members**

Amendment

Every member of a collective management

of the *collecting society* to participate and to exercise voting rights at the general meeting shall be fair and proportionate and be based on the following criteria:

organisation shall have the right to vote at the general meeting, including, where appropriate, by electronic vote. Any restriction on the right of *a member* of the *collective management organisation* to participate and to exercise *his or hers* voting rights at the general meeting shall be fair and proportionate and be based on the following criteria:

Or. en

Justification

Broad participation and efficient voting should be encouraged. [Consistent with draft opinion from CULT.]

Amendment 93
Amelia Andersdotter

Proposal for a directive
Article 7 – paragraph 7 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) amounts received or due to a member in relation to the specified financial period. *deleted*

Or. en

Justification

Conditioning the right to vote on amounts received is undemocratic. Since the income distribution of rights holders in collective management organisations is extremely unequal, restricting voting power according to amounts received may give rise to unreasonably large differences in influence.

Amendment 94
Rolandas Paksas

Proposal for a directive
Article 7 – paragraph 8

Text proposed by the Commission

8. Every member of a collecting society shall have the right to appoint any other natural or legal person as a proxy holder to attend and vote at the general meeting in his name.

Amendment

8. Every member of a collecting society shall have the right to appoint any other natural or legal person ***that is a member of that collecting society*** as a proxy holder to attend and vote at the general meeting in his name. ***When a collective management organisation represents more than one category of right holders, a member may only give a proxy to another member from the same category. The number of proxies that may be held by a single member shall be capped.***

Or. en

Amendment 95
Amelia Andersdotter

Proposal for a directive
Article 7 – paragraph 8

Text proposed by the Commission

8. Every member of a ***collecting society*** shall have the right to appoint any other natural or legal person as a proxy holder to attend and vote at the general meeting in his name.

Amendment

8. Every member of a ***collective management organisation*** shall have the right to appoint any other natural or legal person as a proxy holder to attend and vote at the general meeting in his name. ***To be valid, the proxy shall have been given by the member to the proxy holder no more than three months before its use.***

Or. en

Justification

To avoid that music publishers and/or record companies make it a standard practice to demand a permanent proxy from new artists that they sign a contract with, which over time would allow them to take control of the collecting societies. [Consistent with draft opinion from CULT.]

Amendment 96
Amelia Andersdotter

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 **collective management organisation** establishes a supervisory function responsible for continuously monitoring the activities and the performance of the duties of the persons entrusted with managerial responsibilities in **that organisation**. There shall be fair and balanced representation of the **different categories of** members of the **collective management organisation** in the body exercising this function in order to ensure their effective participation.

Or. en

Justification

Maintaining the balance between the different categories of members is of great importance to artists and authors and should be made explicit. [Consistent with draft opinion from CULT.]

Amendment 97
Amelia Andersdotter

Proposal for a directive
Article 8 – paragraph 2 – introductory part

Text proposed by the Commission

2. The body entrusted with the supervisory function shall meet **regularly** and shall have at least the following powers:

Amendment

2. The body entrusted with the supervisory function shall meet **no less than every three months** and shall have at least the following powers:

Or. en

Justification

A requirement to meet "regularly" is too vague and would benefit from being defined more clearly.

Amendment 98

Amelia Andersdotter, Jürgen Creutzmann

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

Justification

*Informing the general meeting is standard practice in organizational good governance.
[Consistent with draft opinion from IMCO.]*

Amendment 99

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 2 –

Text proposed by the Commission

Amendment

Those procedures shall include an ***annual*** individual statement by each of those persons and directors, to the body entrusted with the supervisory function, ***containing*** the following information:

Those procedures shall include an individual statement by each of those persons and directors, to the body entrusted with the supervisory function, ***to the members and publicly accessible through the website of the collective management organisation. The statement shall be made before each of those persons take up their duties and shall thereafter be renewed annually. The statement shall contain*** the following information:

Or. en

Justification

Conflicts of interest needs to be disclosed before a manager or director takes up his or her duties. Consistent with Recital 14. [Consistency with draft opinion from CULT.]

Amendment 100 **Amelia Andersdotter**

Proposal for a directive **Article 10 – paragraph 1**

Text proposed by the Commission

1. **Collecting societies** shall be diligent in the collection and the management of rights revenue.

Amendment

1. **Collective management organisations** shall be diligent, **accurate and transparent** in the collection and the management of rights revenue. **Collective management organizations shall ensure that they only collect rights revenue on behalf of rightholders whose rights it is authorised to represent.**

Or. en

Justification

Harmonise with Articles 12.1 and 14.2 which says payments must be made accurately. If payments must be accurate it stands to reason that the collection and management should also have to be. Additionally, collective management organisations should only collect on behalf of actual members and rightholders whose rights they manage under a representation agreement.

Amendment 101 **Amelia Andersdotter**

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

Text proposed by the Commission

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

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 **according to the rules**

management fees.

referred to in Article 7(5)(d).

Or. en

Justification

Clarifying that any deductions have to be made according to the rules that have been decided on by the general meeting. [Consistent with draft opinion from IMCO.]

Amendment 102
Rolandas Paksas

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that agreements governing the relationship of the collecting society with its members **and rightholders** shall **specify** deductions applicable to the rights revenue referred to in point (e) of Article 16.

Amendment

1. Member States shall ensure that agreements governing the relationship of the collecting society with its members shall **specifically authorise** deductions applicable to the rights revenue referred to in point (e) of Article 16.

Or. en

Amendment 103
Rolandas Paksas

Proposal for a directive
Article 11 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that, where a collecting society provides social, cultural or educational services funded through deductions from rights revenue, **rightholders are entitled to the following:**

Amendment

2. Member States shall ensure that, where a collecting society provides social, cultural or educational services funded through deductions from rights revenue, **such services shall be provided on the basis of fair criteria, in particular in relation to the access to and the extent of those services.**

Or. en

Amendment 104
Rolandas Paksas

Proposal for a directive
Article 11 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) social, cultural or educational services on the basis of fair criteria, in particular in relation to the access to and the extent of those services; **deleted**

Or. en

Amendment 105
Rolandas Paksas

Proposal for a directive
Article 11 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) rightholders who have terminated the authorisation to manage rights or categories of rights or types of works and other subject matter or who have withdrawn their rights or categories of rights or types of works and other subject matter from the collecting society, continue to have access to those services. The criteria in relation to the access to and the extent of those services may take into consideration the rights revenue generated by those rightholders and the duration of the authorisation to manage rights, provided that such criteria are also applicable to rightholders who have not terminated such authorisation or have not withdrawn their rights or categories of rights or types of works and other subject matter from the collecting society. **deleted**

Or. en

Amendment 106
Lara Comi, Aldo Patriciello

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 ***and this on the basis of the information provided by users within 6 months after the use of the content.*** 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.

Or. en

Justification

Timely distribution by collecting societies is only possible when users provide timely information on the uses made by different contents.

Amendment 107
Amelia Andersdotter

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 **collective management organisations** regularly and diligently distributes and pays amounts due to all rightholders it represents. The **collective management organisation** shall carry out such distribution and payments **without undue delay and no later than three months after** 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 **collective management organisation** from respecting this deadline. The **collective management organisation** shall carry out such distribution and payments accurately, ensuring equal treatment of all categories of rightholders.

Or. en

Justification

The delays with which many collective management organisations distribute the money they owe is experienced as a big problem for many artists and authors. The draft directive proposes that the organisations should be allowed to keep the money for up to two years. This is hardly reasonable. Collective management organisations that currently do not meet higher targets need incentives to improve the efficiency of their administrative routines.

Amendment 108

Hannu Takkula

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

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 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.

society shall carry out such distribution and payments ***without undue delay and*** no later than **6** 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.

Or. en

Amendment 109
Jens Rohde, Jürgen Creutzmann

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 no later than ***six*** 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.

Or. en

Amendment 110
Eija-Riitta Korhola

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 five years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the **collective management organisation** has taken all necessary measures to identify and locate the rightholders, the **collective management organisation** shall decide on the use of the amounts concerned in accordance with Article 7(5)(b), **provided that the collective management organisation ensures that the revenue is distributed in proportion to the revenues received by rightholders for the relevant financial year. Collective management organisations may distribute amounts due to rightholders who cannot be identified before the expiration of the five-year period if allowed under national law. Where, under national law, the prescription period is longer than five years, collective management organisations shall make adequate provisions for future claims** without prejudice to the right of the rightholder to claim such amounts from the **collective management organisation**.

Or. en

Justification

The Directive should provide that where the CMO decides to distribute amounts relating to unidentified rightholders, the collecting society ensures that the revenue is distributed in proportion to the revenues received by rightholders for the relevant financial year. In addition, in a number of countries the statutory prescription period for civil law claims may be shorter or longer than five years, e.g. three or ten years. Therefore, the article should

allow CMOs to distribute unidentified amounts before the five years period expires if the local law so allows and oblige the CMOs to make adequate provisions for future claims if money is distributed before the expiry of the longer statutory prescription period.

Amendment 111

Amelia Andersdotter

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 **three** years from the end of the financial year in which the collection of the rights revenue occurred, **because the collective management organisation failed** to identify and locate the rightholders, the **money shall be paid to a fund set up and managed for this purpose by the Member State in which the money is collected. The fund is thereafter responsible for any claims from reappearing rightholders.**

Or. en

Justification

Allowing the collective management organisation to keep the money will provide an incentive for the organisation not to perform a true diligent search for the real rightholders. A fund managed by the Member State may also be beneficial in promoting cultural diversity. Additionally, the suggested five years is a long period of time – it is very unlikely that a missing rights holder will be found after year three or four. [Consistency with draft opinions from CULT and IMCO.]

Amendment 112

Jens Rohde, Jürgen Creutzmann

Proposal for a directive

Article 12 – paragraph 2

Text proposed by the Commission

2. Where the amounts due to rightholders

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Amendment

2. Where the amounts due to rightholders

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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.

cannot be distributed, after **three** 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.

Or. en

Amendment 113
Britta Thomsen

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 **three** 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.

Or. en

Amendment 114
Amelia Andersdotter, Jürgen Creutzmann

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 collective management organisation 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 ***regularly and at least annually*** to the members of the ***collective management organisation*** 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.

Or. en

Justification

Collective management organisations may indefinitely postpone making available of any list of works, unless this is specified in terms of time. [Consistency with draft opinions from CULT and IMCO.]

Amendment 115
Britta Thomsen

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, 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. ***Where due to the scope of activity of the collective management organisation such works or other subject matter cannot be determined, the categories of works or of other subject***

*matter it represents, the rights it manages
and the territories covered;*

Or. en

Amendment 116
Jürgen Creutzmann

Proposal for a directive
Article 15 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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

Amendment

Licensing terms shall ***take into account*** objective criteria, in particular in relation to tariffs.

Or. en

Justification

The original wording restricted the freedom to contract disproportionately.

Amendment 117
Hannu Takkula

Proposal for a directive
Article 15 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 118
Eija-Riitta Korhola

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 the service provided by the collecting society.**

Amendment

Tariffs for exclusive rights **and rights to equitable remuneration** shall reflect the economic value of the rights in trade and **the economic benefit that users derive from the collective management of rights.**

Or. en

Justification

In accordance with the case law of the CJEU (ruling of 6 February 2003, C-245/00, SENA and NOS and ruling of 30 June 2011, C-271/10, VEWA), the right to equitable remuneration should be assessed in the light of the value of the use for which it is provided in trade. The tariffs for the rights to equitable remuneration should therefore be treated on an equal footing as the tariffs for exclusive rights. In addition, the notion of service provided would be better reflected by the benefits which users derive from the collective management of rights. The economic benefit for users that ought to be taken into account consists for instance of the reduction of the number of licensing transactions from thousands or tens of thousands to a few or even one in some cases.

Amendment 119
Jürgen Creutzmann

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 the service provided by the collecting society.

Amendment

Tariffs for exclusive rights shall **take into account** the economic value of the rights in trade and of the service provided by the collecting society.

Or. en

Justification

It is unclear whether the economic value of a right can always be determined up front and whether this does not create legal uncertainties since parties could challenge the agreement due to differing views on the economic value.

Amendment 120
Eija-Riitta Korhola

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 compensation, the **collective management organisation** shall base its own determination of those amounts due, on the economic value of those rights in trade.

Or. en

Amendment 121
Eija-Riitta Korhola

Proposal for a directive
Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Users should report to collective management organisations on their use of works and other subject matter in an agreed format, and in a timely and accurate manner, in order to allow collective management organisations to determine applicable fees and to distribute the amounts due to rightholders accurately and in accordance with the obligations imposed by this Directive. Where users fail to report to collective management organisations in a manner that enables the collective management organisations to make timely and accurate distributions to individual rightholders, Member States shall ensure that collective management organisations shall be discharged of their obligations under this Directive related to distribution of revenues to individual rightholders, and

the collective management organisations may charge such users additional fees to cover the additional administrative costs caused by missing or insufficient usage reports

Or. en

Justification

Obligations of efficiency on CMOs should be accompanied by corresponding obligations on users. These obligations are necessary to ensure that the CMOs are in turn able to meet the efficiency obligations imposed on them by the Directive. In particular, failure by the users to report in an adequate and timely manner the use of works (and other subject matter) or late payment by users are likely to hamper the efficient operation of CMOs. One way to incentivize users to cooperate with collecting societies in a businesslike manner is to expressly allow collecting societies to charge users for the extra administrative work caused by lack of cooperation. Whenever there is a generally applicable tariff (either agreed or determined by a competent court or tribunal) users should make prompt and voluntary payments of the applicable licence fees or remuneration. Where users fail to pay such licence fees or remuneration in a timely manner, collecting societies should be allowed to charge additional fees to users that fail to pay voluntarily to cover the extra administrative costs caused by them.

Amendment 122

Lara Comi, Aldo Patriciello

Proposal for a directive

Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In order to ensure a timely, fair and transparent distribution of rights, collecting societies shall require to users to receive the analytical accounts of the works used, according to the standards reports provided by collecting societies or in use in the sector, no later than 6 months after the use of the music work.

Or. en

Justification

Reports from users in the digital environment and beyond are required in order to identify the

use of protected works. Without this provision, the distribution of author's rights and related rights would continue to be hampered by the lack of data which are necessary to ensure a proportionate and analytical distribution of the effective use of works. Data are often provided in an incomplete and inaccurate manner. The increase of devices and the dissemination of copyright works require that collecting societies could obtain timely and accurate data from users on their use of music works.

Amendment 123
Eija-Riitta Korhola

Proposal for a directive
Article 15 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Users should pay licence fees and remunerations to the collective management organisations in a timely manner whenever there is a generally applicable or court-determined tariff in force. Where users fail to pay such licence fees or remuneration in a timely manner, Member States shall ensure that collective management organisations may charge such users additional fees to cover the administrative costs caused by the failure to voluntarily pay the licence fees or remunerations.

Or. en

Amendment 124
Amelia Andersdotter

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

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 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 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

Justification

A cooperation procedure on invoicing will facilitate simpler invoices and payments for users and mitigate problems of high transaction costs and multiple invoicing. [Consistent with draft opinion from IMCO.]

Amendment 125
Lena Kolarska-Bobińska

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

Information provided to collective management organisations

Member States shall ensure that collective management organisations have the right to request from users to provide any information and documents necessary to determine the nature and scope of the use of works and other protected subject-matter they represent, as well as the amounts of rights revenue. When necessary, these information and documents should be provided in an electronic form allowing for its processing by the collective management organisation.

Or. en

Amendment 126
Jürgen Creutzmann

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Collective management organisations shall respond to communications from persons requesting a license for online services within a reasonable time period and shall propose a license within 6 months of receiving a request for a license with the relevant information. If a collective management organisation does not comply with these deadlines, the person requesting a license shall be entitled to access dispute resolution pursuant to Articles 35, 36 and 37.

Justification

Taking up the proposed amendment of the rapporteur. However, there cannot be strict deadlines as licencing agreements can differ significantly in their complexity, depending e.g. on what type or number of rights are concerned.

Amendment 127

Amelia Andersdotter

Proposal for a directive

Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15b

Invoicing standards

- 1. Collective management organisations, as well as commercial operators, as defined in point (aa) of Article 3, shall invoice users by electronic means, whenever possible. Collective management organisations and commercial operators shall offer the use of a least one format which takes into account voluntary industry standards or practices developed at international or Union level.***
- 2. Collective management organisations and commercial operators shall invoice online music service providers accurately and without delay after the actual use of the works.***
- 3. Collecting management organisations and commercial operators shall have adequate procedures in place for the user to challenge the accuracy of the invoice, including when the user receives invoices from one or more collective management organisations or commercial operators for the same rights in the same works.***

Justification

Standardized and efficient invoicing will contribute to lower transaction costs. All users need to be able to challenge the accuracy of invoices. [Consistency with draft opinion from CULT.]

Amendment 128
Lena Kolarska-Bobińska

Proposal for a directive
Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15b

Refusal to grant a license:

1. The collective management organisation shall not, without important and justified reasons, refuse to grant a license for the use of works or other protected subject-matter within the scope of the repertoire it represents. In particular, the collective management organisation shall not refuse to grant a license, including a multi-territorial license, for the reasons related to profitability of such license.

2. When refusing to grant a license, the collective management organisation shall inform rightholders it represents, other collective management organisations on whose behalf it manages rights under a representation agreement and the user, of the reasons of such refusal.

Or. en

Amendment 129
Amelia Andersdotter

Proposal for a directive
Article 16 – paragraph 1 – 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

Justification

Individual on-line accounts combine improved cost-effectiveness with more information to individual members. They are already in use by many of the most well-functioning CMOs. [Consistent with draft opinion from IMCO.]

Amendment 130
Amelia Andersdotter

Proposal for a directive
Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure that commercial operators, as defined in point (aa) of Article 3, make available at least once a year, by electronic means, the information described in points (a), (b), (c), (d) and (g) of paragraph 1 of this Article, to each rightholder whose rights they manage.

Or. en

Justification

As managers of rights for individual rightholders, commercial operators should be subject to a minimum set of transparency rules. [Consistent with draft opinion from CULT.]

Amendment 131
Amelia Andersdotter

Proposal for a directive
Article 16 – paragraph 1 – point c

Text proposed by the Commission

(c) the amounts due to the rightholder per category of rights managed, and type of use, paid by the **collecting society** to the rightholder in the period concerned;

Amendment

(c) the amounts due to the rightholder per category of rights managed, and **per** type of use, **and per work** paid by the **collective management organisation** to the rightholder in the period concerned;

Or. en

Justification

Improves the information provided to the rightholders. [Consistent with draft opinion from CULT.]

Amendment 132
Amelia Andersdotter

Proposal for a directive
Article 17 – paragraph 1 – point a

Text proposed by the Commission

(a) the amounts due to rightholders per category of rights managed, **and** per type of use paid by the **collecting society** for the licensing of the rights it manages under the representation agreement;

Amendment

(a) the amounts due to rightholders per category of rights managed, per type of use **and per work** paid by the **collective management organisation** for the licensing of the rights it manages under the representation agreement;

Or. en

Justification

Improves the information provided through intermediaries, and therefore in the end to the rightholders. [Consistent with draft opinion from CULT.]

Amendment 133
Amelia Andersdotter

Proposal for a directive
Article 18 – title

Text proposed by the Commission

Information provided to rightholders, members, other *collecting societies* and users *on request*

Amendment

Information provided to rightholders, members, other *collective management organisations* and users

Or. en

Amendment 134
Amelia Andersdotter

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 *collective management organisation* makes the following information available *to* any rightholder whose rights it represents, *to any collective management organisation* on whose behalf it manages rights under a representation agreement or *to* any user, by electronic means, without undue delay:

Or. en

Justification

Basic information on tariffs, licensing contracts, repertoire and representation agreements is essential to a well-functioning and transparent market in creative goods. It should not be limited to provision on request. [Consistent with draft opinion from CULT.]

Amendment 135
Jürgen Creutzmann

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 **collective management** 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:

Or. en

Amendment 136
Amelia Andersdotter

Proposal for a directive
Article 18 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

(b) **the list of its members**, the repertoire and **the specific** rights it manages **on their behalf**, and the Member States covered, **without revealing personal data and sensitive information about the rightholders**

Or. en

Justification

*Improves the transparency obligation while ensuring the need to protect personal data.
[Consistent with draft opinion from CULT.]*

Amendment 137
Britta Thomsen

Proposal for a directive
Article 18 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

(b) the *works or other subject matter it represents, the rights it manages, directly or under representation agreements, and the territories covered; or, where due to the scope of activity of the collective management organisation such works or other subject matter cannot be determined, the categories of works or of other subject matter it represents, the rights it manages and the territories* covered;

Or. en

Amendment 138

Britta Thomsen

Proposal for a directive

Article 18 – paragraph 2

Text proposed by the Commission

2. In addition, a collecting society shall make available at the request of any rightholder or any collecting society, any information on works for which one or more rightholders have not been identified 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.

Amendment

2. In addition, a collecting society shall make available at the request of any rightholder or any collecting society, any information on works for which one or more rightholders have not been identified 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; *Where due to the scope of activity of the collective management organisation such works or other subject matter cannot be determined, the categories of works or of other subject matter it represents, the rights it manages and the territories covered.*

Or. en

Amendment 139
Amelia Andersdotter

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

2. In addition, a *collecting society* shall make *available at the request of any rightholder or any collecting society*, any information on works for which one or more rightholders have not been identified 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.

Amendment

2. In addition, a *collective management organisation* shall make *publicly available* any information on works for which one or more rightholders have not been identified *in accordance with the provisions laid down in Directive 2012/28/EU on Certain Permitted Uses of Orphan Works*, 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

Justification

Rightholders who are not members of a collecting society should be able to check if any of their works are listed as unidentified. Additionally, this information is valuable to users as well as to end consumers. The Orphan Works Directive contains provisions on how to handle the situation when rightholders cannot be found. In order to ensure co-ordinated copyright policy that directive should be referenced.

Amendment 140
Rolandas Paksas

Proposal for a directive
Article 18 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that users communicate, free of charge, and in an electronic format, to collective management organisations for the purpose of the effective administration of rights, complete and accurate information as is necessary in order to identify the use

of the work or other subject matter and the corresponding right holder.

Or. en

Amendment 141
Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that a **collecting** society makes public the following information:

Amendment

1. Member States shall ensure that a **collective management** society makes public the following information:

Or. en

Amendment 142
Amelia Andersdotter, Jürgen Creutzmann

Proposal for a directive
Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that a **collecting society** makes public the following information:

Amendment

1. Member States shall ensure that a **collective management organisation** makes public the following information **preferably through publicly accessible and searchable interfaces**:

Or. en

Justification

Interoperability in electronic networks should be encouraged. [Consistent with draft opinion from CULT.]

Amendment 143
Amelia Andersdotter

Proposal for a directive
Article 19 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) standard licensing contracts and applicable tariffs;

Or. en

Justification

Transparency in pricing and terms is fundamental for efficient price-setting and bargaining in the licensing market. [Consistent with draft opinion from CULT.]

Amendment 144
Amelia Andersdotter

Proposal for a directive
Article 19 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Open repertoire information is of crucial importance to rightsholders, users and consumers alike. [Consistent with draft opinion from CULT.]

Amendment 145
Amelia Andersdotter

Proposal for a directive
Article 19 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Collective management organisations shall ensure that, in accordance with point (ab) of paragraph 1, the information

on repertoire is accurate and regularly updated. In this respect, they shall particularly ensure that the information concerning works whose term of protection is about to terminate is accurate and regularly updated, and made available to the public.

Or. en

Justification

Accurate information about when a specific work will fall into the Public Domain is important knowledge to the public. [Consistent with draft opinion from CULT.]

Amendment 146
Amelia Andersdotter

Proposal for a directive
Article 21 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that ***collecting societies established*** in their territory comply with the requirements in this Title when granting multi-territorial licences for online rights in musical works.

Amendment

1. Member States shall ensure that ***collective management organisations operating*** in their territory comply with the requirements in this Title when granting multi-territorial licences for online rights in musical works.

Or. en

Justification

Article should be consistent with changes to Article 2.

Amendment 147
Amelia Andersdotter

Proposal for a directive
Article 21 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Within the scope of this Title, categories of online rights in musical works shall not allow the separation of the reproduction (mechanical) and the communication to the public (performance) right.

Or. en

Justification

The division of licenses into separate mechanical and performing rights makes little sense in an online environment. Such fragmentation of rights creates excess costs for users and raises transaction costs. Remedying this is important to the competitiveness of the European Single Digital Market since such divisions does not burden some other major global markets.

Amendment 148
Amelia Andersdotter

Proposal for a directive
Article 22 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) The ability to offer both the reproduction (mechanical) and the communication (performance) right in the musical works it seeks to license by means of multi-territorial licenses.

Or. en

Justification

The division of licenses into separate mechanical and performing rights makes little sense in an online environment. Such fragmentation creates excess costs for users and raises transaction costs.

Amendment 149
Amelia Andersdotter

Proposal for a directive
Article 23 – paragraph 2

Text proposed by the Commission

2. The **collecting society** may take reasonable measures to protect the accuracy and integrity of the data, **to control its re-use** and to protect personal data and commercially sensitive information.

Amendment

2. The **collective management organisation** may take reasonable measures to protect the accuracy and integrity of the data and to protect personal data and, **when necessary**, commercially sensitive information.

Or. en

Justification

Collective management organisations should not be granted a blanket power to limit the "re-use" of information, which is an important and fundamental human right.

Amendment 150
Amelia Andersdotter

Proposal for a directive
Article 24 – paragraph 1

Text proposed by the Commission

1. A collecting society which grants multi-territorial licences for online rights in musical works shall have procedures in place to enable rightholders and other collecting societies to object to the contents of the data referred to in Article 22(2) or to information provided under Article 23, where such rightholders and collecting societies, on the basis of reasonable evidence, believe that the data or the information are inaccurate in respect of their online rights in musical works. Where the claims are sufficiently substantiated, the collecting society shall ensure that the data or the information are corrected without undue delay.

Amendment

1. A collecting society which grants multi-territorial licences for online rights in musical works shall have procedures in place to enable rightholders and other collecting societies, **and users** to object to the contents of the data referred to in Article 22(2) or to information provided under Article 23, where such rightholders and collecting societies, **and users**, on the basis of reasonable evidence, believe that the data or the information are inaccurate in respect of their online rights in musical works. Where the claims are sufficiently substantiated, the collecting society shall ensure that the data or the information are corrected without undue delay.

Or. en

Justification

Users, in this case typically online music service providers, have a legitimate interest in the accuracy of the information provided by the collective management organisation. They should therefore be included among those with a right to object.

Amendment 151 **Amelia Andersdotter**

Proposal for a directive **Article 25 – paragraph 1**

Text proposed by the Commission

1. A collecting society shall **monitor** the use of online rights in musical works which it represents, in whole or in part, by online music service providers to which it has granted a multi-territorial licence for those rights.

Amendment

1. A collecting society shall **agree with the online music service provider on the provision of information regarding** the use of online rights in musical works which it represents, in whole or in part, by online music service providers to which it has granted a multi-territorial licence for those rights.

Or. en

Justification

The term "monitor" can be interpreted as technical monitoring which does not work well for some online services.

Amendment 152 **Amelia Andersdotter**

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

Text proposed by the Commission

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

Amendment

2. The **collective management organisation** 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 **collective management organisation** shall offer the

or practices developed at international or 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.

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

Or. en

Justification

As per amendments to Recital 18, 27 and Article 15a. [Consistent with draft opinion from IMCO.]

Amendment 153
Amelia Andersdotter

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

Justification

As per amendments to Recital 18, 27 and Article 15a. [Consistent with draft opinion from IMCO.]

Amendment 154
Amelia Andersdotter

Proposal for a directive
Article 25 – paragraph 5

Text proposed by the Commission

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.

Amendment

5. The **collective management organisation** 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

Justification

All relevant entities that make use of double invoicing should be covered.

Amendment 155
Jürgen Creutzmann

Proposal for a directive
Article 28 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall assess and report to the European Parliament and the Council on the need for sector specific rules, with a view to the implementation of paragraph 3 of Article 101 of the TFEU, covering representation agreements and online rights pools, exchanges of information as well as other forms of cooperation among collective management societies for the purpose of granting and administration of multi-territorial multi-repertoire licences and/or for the purpose of establishing uniform or mutually agreeable tariffs and conditions for such licences.

Or. en

Justification

Cooperation of collective management organizations should be encouraged but this also requires legal certainty as to the applicable competition rules. The risk of facing antitrust investigations due to cooperation appears significant and should therefore be clarified.

Amendment 156

Amelia Andersdotter

Proposal for a directive

Article 29 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The management fee for the service provided by the requested **collecting society** to the requesting **society** shall not exceed the costs reasonably incurred by the requested **collecting society** in managing the repertoire of the requesting **collecting society** and a reasonable profit margin.

Amendment

The management fee for the service provided by the requested **collective management organisation** to the requesting **organisation** shall not exceed the costs reasonably incurred by the requested **collective management organisation** in managing the repertoire of the requesting **organisation** and a reasonable profit margin **economically viable for all parties involved**.

Or. en

Justification

In a competitive situation with collective management organisations of different sizes, repertoires and with different fixed costs per member to cover, great care needs to be taken with respect to margins on transactions between organisations.

Amendment 157

Eija-Riitta Korhola

Proposal for a directive

Article 29 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The requested collective management organisation shall license the requesting collective management organisation's repertoire, in its relations with users, on

the same conditions as its own repertoire and shall not exclude the requesting organisation's repertoire from the licensed repertoire without the requesting organisation's consent

Or. en

Justification

The amendment is identical to rapporteur's amendment 25, changing the place of the amendment whilst preserving the original Commission proposal for Art. 29(3). This article and amendment proposed highlight that the repertoires of small and medium-sized CMO's should be sufficiently protected in order fully to contribute for the development and promotion of cultural diversity in Europe and would receive equal treatment when licensing the cross-border online music in Europe .

Amendment 158

Ivo Belet

Proposal for a directive

Article 33

Text proposed by the Commission

Amendment

Article 33

deleted

Derogation for online music rights required for radio and television programmes

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.

Justification

Moved to Article 2 (Scope).

Amendment 159

Amelia Andersdotter, Jürgen Creutzmann

Proposal for a directive

Article 33 – paragraph 1

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.

Amendment

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.

Justification

For greater clarity and conformity with Recital 35, the broadcaster exception should cover previews. [Consistent with draft opinion from IMCO.]

Amendment 160

Eija-Riitta Korhola

Proposal for a directive

Article 35 – title

Text proposed by the Commission

Amendment

Dispute resolution **for** users

Dispute resolution **with** users

Or. en

Amendment 161

Amelia Andersdotter

Proposal for a directive

Article 35 – paragraph 1

Text proposed by the Commission

Amendment

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.

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 an independent and impartial dispute resolution body.

Or. en

Justification

How tariffs are calculated is a frequent cause of disputes, making it useful to explicitly state that dispute resolution also covers calculation. The right to also go to court is covered by paragraph 2, and does not need repeating here.

Amendment 162

Eija-Riitta Korhola

Proposal for a directive

Article 35 – paragraph 1

Text proposed by the Commission

Amendment

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

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 **or to comply with its terms** can be

appropriate, to an independent and impartial dispute resolution body.

submitted to a court, and if appropriate, to an independent and impartial dispute resolution body. ***Member States shall ensure that these dispute resolution bodies are specialised in intellectual property matters and that their decisions are made on the basis of the criteria set out in Article 15(2).***

Or. en

Amendment 163
Amelia Andersdotter, Jürgen Creutzmann

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

Justification

To ensure a level playing field for smaller players seeking dispute resolution the administrative costs must be reasonable. [Consistent with draft opinion from IMCO.]

Amendment 164
Eija-Riitta Korhola

Proposal for a directive
Article 35 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that where users have recourse to dispute resolution under this Article, they have an obligation to pay to the collective management organisation, while the process is pending:

(a) The pre-existing tariff applicable to the use in question, if such tariff exists.

(b) An interim non-prejudicial monthly payment determined by the dispute resolution body if there is no pre-existing tariff for the use in question.

Or. en

Amendment 165
Eija-Riitta Korhola

Proposal for a directive
Article 35 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Member States shall ensure that the collective management organisations or users, as the case may be, shall pay the balance between the payments made and the new tariff set by the competent body no later than 30 days after the decision has been made by that body.

Or. en

Amendment 166
Amelia Andersdotter

Proposal for a directive
Article 36 – paragraph 1 – point c

Text proposed by the Commission

Amendment

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

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

Or. en

Justification

Disputes between collective management organisations about capacity to process and

repertoire transparency should be subject to dispute resolution. [Consistent with draft opinion from IMCO.]

Amendment 167

Lena Kolarska-Bobińska

Proposal for a directive

Article 38 – paragraph 1

Text proposed by the Commission

1. Member States shall ***provide that their respective*** competent authorities ***may take appropriate administrative*** sanctions and measures where the provisions of ***the*** national ***provisions*** adopted in the implementation of this Directive have not been complied with, ***and shall ensure that they are applied. The*** sanctions and measures shall be effective, proportionate ***and dissuasive.***

Amendment

1. Member States shall ***ensure that*** competent authorities ***have the power to impose appropriate*** sanctions ***on collective management organisations and to take appropriate*** measures where the provisions of national ***law*** adopted in the implementation of this Directive have not been complied with. ***These*** sanctions and measures shall be effective ***and*** proportionate.

Or. en

Amendment 168

Amelia Andersdotter

Proposal for a directive

Article 38 – paragraph 1

Text proposed by the Commission

1. Member States shall ***provide*** that their respective competent authorities ***may take*** appropriate administrative sanctions and measures where the provisions of the national provisions adopted in the implementation of this Directive have not been complied with, and shall ensure that they are applied. The sanctions and measures shall be effective, proportionate and dissuasive.

Amendment

1. Member States shall ***designate or establish competent authorities which continuously monitor collective management organisations established in their territory. Member States shall ensure*** that their respective competent authorities ***impose*** appropriate administrative sanctions and measures where the provisions of the national provisions adopted in the implementation of this Directive have not been complied with, and shall ensure that they are applied.

The sanctions and measures shall be effective, proportionate and dissuasive.

Or. en

Justification

Where competent authorities have not previously been designated or established, Member States shall have to do so. Stronger enforcement language. [Consistency with draft opinion from CULT]

Amendment 169
Amelia Andersdotter

Proposal for a directive
Article 40 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the competent authorities referred to in Article 39 continuously monitor the compliance with the requirements laid down in Title III of this Directive by collecting societies ***established*** in their territory when granting multi-territorial licences for online rights in musical works.

Amendment

1. Member States shall ensure that the competent authorities referred to in Article 39 continuously monitor the compliance with the requirements laid down in Title III of this Directive by collecting societies ***operating*** in their territory when granting multi-territorial licences for online rights in musical works.

Or. en

Justification

Article should be consistent with changes to Article 2.