



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Legal Affairs

31.10.2012

NOTICE TO MEMBERS

(93/2012)

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

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, any national parliament may, within eight weeks from the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for compliance with the subsidiarity principle.

Please find attached, for information, a reasoned opinion by the French Senate on the above-mentioned proposal.

PROVISIONAL TEXT

Only the final version is authentic.

EUROPEAN RESOLUTION

CONTAINING A REASONED OPINION

on the compliance with the principle of subsidiarity of the proposal for a directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market (COM(2012) 372).

Pursuant to Article 73g(4) and (5) of the Senate's Rules of Procedure, the resolution adopted by the Senate's Committee on Culture, worded as follows, has become a Senate resolution.

This proposal for a directive has two aims:

- to lay down rules for transparency and good governance in the collective management of copyright and related rights;
- to establish a legal framework that will encourage collecting societies in the field of music to issue multi-territorial and multi-repertoire licences.

Having regard to Article 88(6) of the Constitution,

The Senate makes the following comments:

- Article 5 of the Treaty on European Union stipulates that, under the principle of subsidiarity, '*the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level*'; this means that it must not only be considered whether the objective of the proposed action can be better achieved at Community level, but also whether the intensity of the action undertaken does not go beyond what is necessary to achieve the objective pursued.
- the aim of promoting harmonisation of standards in this field and ensuring transparency on the part of collecting societies must be approved; however, the proposal seeks to establish a very high degree of harmonisation in the management rules to be followed by authors' collecting societies without giving a convincing justification for going into such detail;
- establishing 'European standards' for the granting of multi-territorial licences does not pose a problem in respect of subsidiarity since this involves dissemination on the territory of

several Member States. However, the proposal stipulates that each country must designate a specific authority responsible for the enforcement of these 'European standards'. It would be more in line with the principle of subsidiarity to authorise a variety of national models (in France, for example, verification by a judge).

The Senate therefore takes the view that the proposal for a directive does not, in its present form, comply with the principle of subsidiarity.

This text became a Senate resolution on 26 October 2012.

The President,

Signed: Jean-Pierre BEL