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Committee on Legal Affairs

2012/0180(COD)

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AMENDMENTS

332 - 540

Draft report
Marielle Gallo
(PE510.562v01-00)

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

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

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PE513.142v01-00

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United in diversity

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Amendment 332
Cecilia Wikström

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 has*** a supervisory function responsible for continuously monitoring the activities and the performance of the duties of the persons ***who manage the business of the organisation***.

There shall be fair and balanced representation of the ***different categories of*** members of the ***collective management organisation*** in the body exercising ***the supervisory*** function in order to ensure their effective participation. ***Members of the administrative board shall not be allowed to be members of the body exercising the supervisory function.***

Each member of the body exercising the supervisory function shall make an annual individual statement on conflicts of interest containing the information referred to in Article 9(2), second subparagraph.

Or. en

Amendment 333
Christian Engström

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

Balance between different categories of members of the CMO.

Amendment 334

Tadeusz Zwiefka, Piotr Borys, Lidia Joanna Geringer de Oedenberg

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 the **collective management organisation**. There shall be fair and balanced representation of the members of the **collective management organisation** in the body exercising this function in order to ensure their effective participation.

Amendment 335
Silvia-Adriana Țicău

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

Amendment

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

(a) to approve any acquisition of immovable property by the collecting society;

(b) to approve the setting-up of subsidiaries, acquisitions of other entities, acquisitions of shares or rights in other entities, mergers and alliances;

(c) to approve the taking-out of loans, granting of loans and provision of security or guarantee for loans.

Amendment 336
Christian Engström

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

Text proposed by the Commission

Amendment

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

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

Justification

A requirement to meet 'regularly' is too vague and should therefore be defined more clearly.

Amendment 337
Silvia-Adriana Țicău

Proposal for a directive
Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

*(a) to approve any acquisition of
immovable property by the collecting
society;*

deleted

Or. ro

Amendment 338
Cecilia Wikström

Proposal for a directive
Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

*(a) to approve any acquisition of
immovable property by the collecting
society;*

deleted

Or. en

Justification

Moved from Article 8(2) to 7(5).

Amendment 339
Silvia-Adriana Țicău

Proposal for a directive
Article 8 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) to approve the setting-up of subsidiaries, acquisitions of other entities, acquisitions of shares or rights in other entities, mergers and alliances;

deleted

Or. ro

**Amendment 340
Cecilia Wikström**

**Proposal for a directive
Article 8 – paragraph 2 – point b**

Text proposed by the Commission

Amendment

(b) to approve the setting-up of subsidiaries, acquisitions of other entities, acquisitions of shares or rights in other entities, mergers and alliances;

deleted

Or. en

Justification

Moved from Article 8(2) to 7(5).

**Amendment 341
Silvia-Adriana Țicău**

**Proposal for a directive
Article 8 – paragraph 2 – point c**

Text proposed by the Commission

Amendment

(c) to approve the taking-out of loans, granting of loans and provision of security or guarantee for loans.

deleted

Or. ro

Amendment 342
Cecilia Wikström

Proposal for a directive
Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) to approve the taking-out of loans, granting of loans and provision of security or guarantee for loans.

deleted

Or. en

Justification

Moved from Article 8(2) to 7(5).

Amendment 343
Cecilia Wikström

Proposal for a directive
Article 8 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) to exercise the powers delegated under Article 7(4) and (5);

Or. en

Amendment 344
Cecilia Wikström

Proposal for a directive
Article 8 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(cb) to monitor the activities and the performance of the duties of the persons referred to in Article 9, including the

implementation of the decisions of the general meeting of members and in particular, of the general policies listed in Article 7(5) points (a) to (d).

Or. en

Amendment 345
Marietje Schaake

Proposal for a directive
Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 346
Cecilia Wikström

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may decide that paragraphs 1 and 2 shall not apply to a collecting society which on its balance sheet date does not exceed the limits of two of the three following criteria:

deleted

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

Or. en

Amendment 347
Christian Engström

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may decide that paragraphs 1 and 2 shall not apply to a collecting society which on its balance sheet date does not exceed the limits of two of the three following criteria:

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

deleted

Or. en

Justification

Big or small, all collective management organisations are handling other people's money, and need to live up to appropriate standards on transparency and accountability. If they are currently unable to do this, they need to improve their functioning.

Amendment 348
Pawel Zalewski

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may decide that paragraphs 1 and 2 shall not apply to a collecting society which on its balance sheet date does not exceed the limits of two of the three following criteria:

(a) balance sheet total: EUR 350 000;
(b) net turnover: EUR 700 000;
(c) average number of employees during

deleted

the financial year: ten.

Or. en

Amendment 349
Marietje Schaake

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may decide that paragraphs 1 and 2 shall not apply to a collecting society which on its balance sheet date does not exceed the limits of two of the three following criteria:

deleted

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

Or. en

Amendment 350
Evelyn Regner

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may decide that paragraphs 1 and 2 shall not apply to a collecting society which on its balance sheet date does not exceed the limits of two of the three following criteria:

deleted

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

Amendment 351
Silvia-Adriana Țicău

Proposal for a directive
Article 9 – title

Text proposed by the Commission

Obligations of the persons who effectively manage the business of the collecting society

Amendment

Obligations of the persons who effectively manage the business of the collecting society ***and those exercising the supervisory function***

Amendment 352
Cecilia Wikström

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that ***the persons who effectively manage the business of a collecting society and its directors, with the exception of the directors exercising supervisory function, manage the collecting society*** in a sound ***and prudent*** manner, using sound administrative and accounting procedures and internal control mechanisms.

Amendment

1. Member States shall ensure that ***a collective management organisation puts in place and applies procedures to ensure that the persons who manage the business of the collective management organisation do so*** in a sound, ***prudent and appropriate*** manner, using sound administrative and accounting procedures and internal control mechanisms.

Amendment 353
Silvia-Adriana Țicău

Proposal for a directive
Article 9 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that the persons who effectively manage the business of a collecting society *and* its directors, *with the exception of the directors* exercising supervisory function, design procedures so as to avoid conflicts of interest. The collecting society shall have procedures to identify, manage, monitor and disclose conflicts of interest in order to prevent them from adversely affecting the interests of members of the society.

Amendment

Member States shall ensure that the persons who effectively manage the business of a collecting society, its directors *and the persons* exercising *the* supervisory function design procedures so as to avoid conflicts of interest. The collecting society shall have procedures to identify, manage, monitor and disclose conflicts of interest in order to prevent them from adversely affecting the interests of members of the society.

Or. ro

Amendment 354
Cecilia Wikström

Proposal for a directive
Article 9 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that *the persons who effectively manage the business of a collecting society and its directors, with the exception of the directors exercising supervisory function, design* procedures so as to avoid conflicts of interest. The *collecting society* shall have procedures to identify, manage, monitor and disclose conflicts of interest in order to prevent them from adversely affecting the interests of members *of the society*.

Amendment

Member States shall ensure that *collective management organisations put in place and apply* procedures so as to avoid conflicts of interest. The *collective management organisation* shall have procedures *in place* to identify, manage, monitor and disclose conflicts of interest *or potential conflicts of interest* in order to prevent them from adversely affecting the *collective* interests of *the members and rightholders represented by the organisation*.

Or. en

Amendment 355
Cecilia Wikström

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

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:

Amendment

Those procedures shall include an annual individual statement by each of those persons **referred to in paragraph 1** to the body entrusted with the supervisory function, containing the following information:

Or. en

Amendment 356

Christian Engström

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

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:

Amendment

Those procedures shall include an individual statement by each of those persons and directors, to the body entrusted with the supervisory function **and 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.

Amendment 357

Silvia-Adriana Țicău

Proposal for a directive
Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Collecting societies shall publish these statements on their website.

Or. ro

Amendment 358
Christian Engström

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

Amendment

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

1. **Collective management organisations** shall be diligent, **accurate and transparent** in the collection and the management of rights revenue. **Except in Member States with systems of extended collective licensing, a collective management organisation may not collect rights revenue or bring or seek infringement proceedings in respect of works, rights or territories which it is not authorised to represent.**

Or. en

Justification

To align with Articles 12(1) and 14(2) which provide that payments must be made accurately. If payments must be accurate it stands to reason that the collection and management should also be so. Additionally, collective management organisations should only collect on behalf of actual members and rightholders whose rights they manage under a representation agreement.

Amendment 359
Dimitar Stoyanov

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The collecting society shall manage and keep separate the rights revenue and any income derived from its investment from its own assets, the income derived from its management services or the income derived from any other activities.

Amendment

2. The collecting society shall manage and keep separate the rights revenue and any income derived from its investment from its own assets, the income derived from its management services or the income derived from any other activities. ***The income from management activities and the income from investment shall be entered into separate bank accounts, the management of which shall be entrusted to the supervisory body.***

Or. bg

Justification

This will enable greater transparency to be achieved as regards cash flows. If it is not possible for rightholders to track these cash flows, this will lead to a lack of trust on their part as regards the fair distribution of remuneration.

Amendment 360
József Szájer

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. The collecting society shall manage and keep separate the rights revenue and any income derived from its investment from its own assets, the income derived from its management ***services*** or the income derived from any other activities.

Amendment

2. The collecting society shall manage and keep separate the rights revenue and any income derived from its investment from its own assets, the income derived from its management ***activities*** or the income derived from any other activities.

Or. en

Amendment 361
Silvia-Adriana Țicău

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 management fees.

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, ***which may not exceed 15% of the income collected.***

Or. ro

Amendment 362
Marietje Schaake

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 management fees.

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

Or. en

Amendment 363
Cecilia Wikström

Proposal for a directive
Article 10 – paragraph 4 – introductory part

Text proposed by the Commission

4. Where, pending the distribution of the amounts due to rightholders, the collecting

Amendment

4. Where, pending the distribution of the amounts due to rightholders, the collecting

society invests the rights revenue and any income derived from its investment, it shall do so in accordance with the general investment policy referred to in Article 7(5)(c) and the following rules:

society invests the rights revenue and any income derived from its investment, it shall do so in accordance with the general investment **and risk management** policy referred to in Article 7(5)(c) and the following rules:

Or. en

Amendment 364
Marietje Schaake

Proposal for a directive
Article 10 – paragraph 4 – point a

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 365
Toine Manders

Proposal for a directive
Article 10 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 366
Pawel Zalewski

Proposal for a directive
Article 10 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the investments shall not lead to the extension of the term referred to in Article 12(1).

Or. en

Amendment 367
Cecilia Wikström

Proposal for a directive
Article 10 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Any deductions from the rights revenue, whether for management fees or to provide services as specified in Article 11(2) shall be done at the same time as the collective management organisation pays the rightholders.

Or. en

Justification

A CMO should perform deductions, whether for management fees or cultural purposes at the same time as it pays its rightholders. It should thus not be allowed to perform deductions when collecting the revenues and then waiting to pay rightholders. This will serve as an incentive to speed up payments to rightholders.

Amendment 368
Silvia-Adriana Țicău

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 and rightholders shall specify deductions applicable to the rights revenue referred to in point (e) of Article 16. ***Agreements shall be concluded on the basis of a framework contract which shall be published on the collecting society's website and which shall specifically and transparently set out the deductions applicable to the rights revenue referred to in point (e) of Article 16.***

Or. ro

Amendment 369
Dimitar Stoyanov

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 and rightholders shall specify deductions applicable to the rights revenue referred to in point (e) of Article 16. ***Member States shall establish the minimum and maximum levels between which percentage deductions may vary.***

Or. bg

Justification

This will enable a common ceiling to be established that cannot be exceeded. As a result, it could help prevent the 'monopolisation' of collecting societies and avoid the possibility of unfavourable conditions being imposed on rightholders and of unregulated profit making.

Amendment 370
Cecilia Wikström

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The collective management organisation shall, upon the request for membership by a rightholder, communicate its rules on deductions from rights revenue and any income derived from its investment.

Or. en

Amendment 371
Pawel Zalewski

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Management fees shall not exceed the justified and documented costs incurred by the collective management organisation for the management of copyright and related rights.

Or. en

Amendment 372
József Szájer

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

Text proposed by the Commission

Amendment

2. Member States shall ensure that, where a

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:

collecting society *performs* social, cultural or educational *activities* funded through deductions from rights revenue, rightholders are entitled to the following:

Or. en

Amendment 373
József Szájer

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

Text proposed by the Commission

(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;

Amendment

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

Or. en

Amendment 374
József Szájer

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

Text proposed by the Commission

(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

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 *activities*. 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.

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.

Or. en

Amendment 375
Cecilia Wikström

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 organisation** regularly and diligently distributes and pays amounts due to all rightholders it represents. The **collective management organisation** shall carry out such distribution and payments **as soon as it is possible for it to do so but** no later than **six** months from the **time that** 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

Amendment 376
Silvia-Adriana Țicău

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 **as quickly as possible 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. ro

Amendment 377
Christian Engström

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

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

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.

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

Artists and authors see it as a big problem that many collective management organisations are so slow in paying the money they owe. 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 378 **Christian Engström**

Proposal for a directive **Article 12 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. Collective management organisation shall start distributing rightholder's revenue when the amount collected reasonably covers collection costs. The minimum level required before distribution takes place may not unreasonably exceed the lowest minimum amount used by comparable collective management organisations.

Or. en

Justification

The income distribution of rightholders is extremely unequal, i.e.: a very large number of creators earn very little. This means that lower minimum distribution levels will distribute to a large number of rightholders much faster. At the same time high earning rightholders have

an incentive to set minimum distribution levels too high, creating unfair distributions in some cases. Additionally, a requirement to maintain low minimum distribution provides incentives for cost-efficient distribution.

Amendment 379
Mary Honeyball

Proposal for a directive
Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Commission shall be empowered, by means of implementing acts, to assess the existence of cost-effective work usage monitoring technologies for the reporting of the actual use of rights, categories of rights, type of works or other subject matter, taking into account technological developments. The first assessment shall take place 6 months after the entry into force of this Directive and be followed by yearly updates.

When the Commission identifies the existence of cost-effective usage monitoring technologies for certain rights, categories of rights or type of works, the reporting and payment requirements provided for online music rights in this Directive shall apply mutatis mutandis to such rights, categories of rights or type of works.

Member States shall ensure that collecting societies and users apply cost-effective usage monitoring technologies without undue delay, when such technologies exist.

Or. en

Amendment 380
Jean-Marie Cavada

Proposal for a directive
Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In the interests of facilitating the management of authorisations to exploit and distribute protected content and of improving the distribution of remunerations due to rightholders, consideration should be given to extending Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC, and to extending the term of protection of rights related to audiovisual recordings to 70 years.

Or. fr

Justification

In the interests of facilitating the management of the use of protected content and in order not to introduce discrimination between the term of protection for audiovisual recording rights and that for sound recording rights, this term should be harmonised by raising it to 70 years for all types of recording, with the terms having the same starting points.

Amendment 381
Dimitar Stoyanov

Proposal for a directive
Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall undertake to maintain and update a public register of collecting societies.

Or. bg

Justification

The fact that the register is a public one will mean that rightholders are better informed and therefore have greater freedom of choice.

Amendment 382
Cecilia Wikström

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, **it shall be concluded** that the **collective management organisation has failed to accurately attribute the collected funds to their respective rightholders. This rights revenue shall then be transferred to a fund designated by the Member State in which the collective management organisation has its seat. This fund shall thereafter be responsible for any claims from reappearing rightholders and shall support goals in accordance with those set out in Article 11(2). A collective management organisation may not make any deductions on rights revenue that are transferred to this fund.**

Or. en

Amendment 383
Tiziano Motti

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

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 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.

society shall decide on the use of the amounts concerned in accordance with Article 7(5)(b), ***provided that the collecting society ensures that the revenue is distributed in proportion*** to the revenues received by rightholders for the relevant financial year. ***Collecting societies may distribute amounts due to rightholders who cannot be identified before expiration*** of the ***five years period if allowed under national law. Where, under national law, the prescription period is longer than five years, collecting societies shall make adequate provisions for future claims.***

Or. en

Justification

The Directive should provide that where the collecting society 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 collecting societies to distribute unidentified amounts before the five years period expires if the local law so allows and oblige the societies to make adequate provisions for future claims if monies are distributed before the expiry of the longer statutory prescription period

Amendment 384 **Christian Engström**

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***

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***

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.

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.

Or. en

Justification

Allowing the collecting society to keep the money would provide an incentive for the collecting society 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. See recital 15a (new). 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.

Amendment 385 **Mary Honeyball**

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 **have not been** distributed, after **three** years from the **date of entry into force of this Directive**, 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 386 **Sebastian Valentin Bodu**

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 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), ***provided that the collecting society ensures that the revenue is distributed in proportion to the revenues received by rightholders for the relevant financial year. Collecting societies may distribute amounts due to rightholders who cannot be identified before expiration of the five years period if allowed under national law. Where, under national law, the prescription period is longer than five years, collecting societies shall make adequate provisions for future claims.***

Or. en

Justification

Where the collecting society decides to distribute amounts relating to unidentified rightholders, it should ensure that the revenue is distributed in proportion to those received by rightholders for that financial year. In some countries the statutory prescription period for civil law claims may be different than five years. The article should allow collecting societies to distribute unidentified amounts before the five years period expires if the local law allows and oblige the societies to make provisions for future claims if money are distributed before the expiry of the longer statutory prescription period.

Amendment 387
Sajjad Karim

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 **not less than three** 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, **Member States shall specify to whom the undistributed monies shall be paid and shall ensure that the distribution takes place** without prejudice to the right of the rightholder to claim such amounts from the **collective management organisation in accordance with the laws of the Member States on the statute of limitation claims**.

Or. en

Amendment 388
Marielle Gallo

Proposal for a directive
Article 12 – paragraph 2 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Rightholders shall have the right to claim payment of these amounts within the periods and according to the procedures laid down by the applicable national law.

Or. fr

Amendment 389
Jean-Marie Cavada

Proposal for a directive
Article 12 – paragraph 2 a (new)

2a. Sums which have not been claimed by rightholders upon the expiry of a period which may not exceed three years and which have not therefore been distributed must be reinvested in economic or social measures in the cultural and creative sector. It shall be for the general meeting, acting in accordance with Article 7(5)(b), to determine how these sums shall be spent.

Furthermore, the general meeting may also decide to earmark some of the sums collected by the collecting society each year for measures to support the creation and dissemination of works, training, the safeguarding and promotion of the interests of rightholders and, more generally, measures to foster cultural and artistic diversity.

Or. fr

Amendment 390
Christian Engström

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

Unless publishing the list of works is specified in terms of time, collective management organisations may postpone doing so indefinitely.

Amendment 391
Marietje Schaake

Proposal for a directive
Article 12 – paragraph 3

Text proposed by the Commission

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

Amendment

3. For the purposes of paragraph 2, ***the collecting society shall put in place effective*** measures to identify and locate rightholders ***while ensuring appropriate safeguards to deter fraud. Such measures*** shall include verifying membership records and making available ***regularly and at least annually*** 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.

Or. en

Amendment 392
Cecilia Wikström

Proposal for a directive
Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where a collective management organisation has applied management fees that have been higher than what has

been necessary to cover the cost of managing the rights these revenues may be transferred to the fund referred to in paragraph 2.

Or. en

Justification

In cases management fees have generated a surplus in the CMO the members should have the option of transferring parts (or all) of this surplus to the cultural fund referred to in Article 12(2).

Amendment 393
Françoise Castex

Proposal for a directive
Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12 a

Collecting societies shall be encouraged to cooperate with each other in the area of rights management to facilitate, improve and simplify the procedures for licensing users under equal and transparent conditions and to offer multi-territorial licenses, in particular, in areas other than those referred to in Title III.

Or. fr

Justification

While Title III on multi-territorial licensing of online rights to musical works applies only to musical societies, the directive should encourage societies in other sectors to work together to develop multi-territorial licenses adapted to their own sector, including in the audiovisual field.

Amendment 394
Silvia-Adriana Țicău

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

Member States shall ensure that a collecting society does not discriminate between its members and any rightholders whose rights it manages under a representation agreement, in particular with respect to applicable tariffs, management fees, and the conditions for the collection of the rights revenue and distribution of the amounts due to rightholders.

Amendment

Member States shall ensure that a collecting society does not discriminate between its members and any rightholders whose rights it manages under a representation agreement, in particular with respect to applicable tariffs, management fees, and the conditions for the collection of the rights revenue and distribution of the amounts due to rightholders, **and the deductions applicable to the rights revenue referred to in point (e) of Article 16.**

Or. ro

Amendment 395
Pawel Zalewski

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

1. ***The collecting society shall*** not apply deductions, other than management fees, to the rights revenue derived from the rights it manages on the basis of a representation agreement ***with another collecting society, unless the other collecting society expressly consents to such deductions.***

Amendment

1. ***Member States shall ensure that a collective management organisation does*** not apply deductions, other than ***reasonable*** management fees, to the rights revenue derived from the rights it manages on the basis of a representation agreement, ***and to any income arising from the investment of that rights revenue.***

Or. en

Amendment 396
József Szájer

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

1. The collecting society shall not apply deductions, other than management fees, to the rights revenue derived from the rights it manages on the basis of a representation agreement with another collecting society, unless the other collecting society **expressly** consents to such deductions.

Amendment

1. The collecting society shall not apply deductions, other than management fees, to the rights revenue derived from the rights it manages on the basis of a representation agreement with another collecting society, unless the other collecting society consents to such deductions.

Or. en

Amendment 397

Tadeusz Zwiefka, Piotr Borys, Lidia Joanna Geringer de Oedenberg

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

1. **The collecting society shall** not apply deductions, other than management fees, to the rights revenue derived from the rights it manages on the basis of a representation agreement **with another collecting society, unless the other collecting society expressly consents to such deductions.**

Amendment

1. **Member States shall ensure that a collective management organisation does** not apply deductions, other than management fees, to the rights revenue derived from the rights it manages on the basis of a representation agreement, **and to any income arising from the investment of that rights revenue.**

Or. en

Amendment 398

Marietje Schaake

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. The collecting society shall regularly, diligently **and accurately** distribute and

Amendment

2. The collecting society shall regularly, diligently, **accurately and without undue**

pay amounts due to other collecting societies.

delay distribute and pay amounts due to other collecting societies.

Or. en

Amendment 399
József Szájer

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

1. Collecting societies and users shall conduct negotiations for the licensing of rights in good faith including the provision of all necessary information on their respective *services*.

Amendment

1. Collecting societies and users shall conduct negotiations for the licensing of rights in good faith including the provision of all necessary information on their respective *activities*.

Or. en

Amendment 400
Cecilia Wikström

Proposal for a directive
Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A collective management organisation shall respond to a user requesting a license within a maximum period of 14 days indicating inter alia the information needed for the collective management organisation to provide a proposal for a licence. Upon receipt of this information by the collective management organisation it shall promptly give the user a notice of whether it has received all relevant information or specify what additional information it needs in order to provide a proposal for a licence. A collective management organisation shall either propose a license or give a reasoned

statement of why it does not intend to licence a particular service within 60 days of receiving a request for a license with all the relevant information.

Or. en

Justification

Users as well as rightholders should have a right to demand that CMOs are rapid when it comes to responding to demands for licensing and that they deliver a license. A CMO could however not be expected to deliver a proposal for a license without getting the information it needs from the user, which should in turn be entitled to clear information about what information the CMO will need. Also a CMO can not be forced to license a specific service as this would violate the rights of rightholders. The CMO should however have to issue a reasoned statement on why it has refused to license the service for the information of users, and pursuant to a new provision in article 16 rightholders represented by the CMO.

Amendment 401

Pawel Zalewski

Proposal for a directive

Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that users provide a collective management organisation, without undue delay, with the information on the use of the rights represented by the collective management organisation that is necessary for the collection of rights revenue and for the distribution and payment of amounts due to rightholders. Member States shall ensure that collective management organisations have the right to request the above information from users. When necessary, this information should be provided in an electronic form allowing for its processing by the collective management organisation.

Or. en

Amendment 402
Pawel Zalewski

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 objective ***and non-discriminatory*** criteria, in particular in relation to tariffs. ***Tariffs for exclusive rights and rights to remuneration shall reflect in particular, the economic value of the use of the rights in trade, the nature and scope of the use of the work and other subject matter.***

Or. en

Amendment 403
Christian Engström

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

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, tariffs set by collective management organisations shall be reasonable in relation to the economic value ***of the use*** of the rights in trade and of the service provided by the ***collective management organisation***.

Or. en

Justification

ECJ ruling in the Case C-52/07 Kanal 5 and TV4 v. STIM. In accordance with Article 102 of

the TFEU, imposing, directly or indirectly, unfair prices may be considered an abuse of a dominant position which is incompatible with the internal market and thus prohibited.

Amendment 404

József Szájer

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 remuneration* shall reflect *in particular*, the economic value of the *use of the rights, the nature and scope of the use of the work and other subject matter in the particular context*.

Or. en

Amendment 405

Arlene McCarthy

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

The tariffs applied shall reflect the economic value of the rights in trade and of the service provided by the collecting society.

Or. en

Justification

Both exclusive and remuneration rights should be decided according to the economic value of the rights in trade.

Amendment 406

Eija-Riitta Korhola, Sirpa Pietikäinen

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 reflect, **inter alia, the** value of **rights and the extent, nature and value** of the **use of the rights**.

Or. en

Justification

The following issues should be taken into account: the CJEU has dealt with the issue of tariff-setting criteria several times; CMOs are already subject to the control of supervisory or competition authorities; the Directive should deal with good governance and transparency and setting tariffs would be out of its scope and objective; tariffs were not subject of the consultation process and were not covered by the impact assessment.

Amendment 407
Sebastian Valentin Bodu

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

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 be treated on an equal footing as the tariffs for exclusive rights. 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 to a few or

even one in some cases.

Amendment 408

Françoise Castex, Luigi Berlinguer

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 *ensure that rightholders receive a fair and proportionate share* of the *revenues arising from the use of the works and reflect* the service provided by the collecting society.

Or. fr

Amendment 409

Marielle Gallo

Proposal for a directive

Article 15 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Collecting societies shall explain the calculation of the tariffs referred to in subparagraph 2 for the award or renewal of licences.

Amendment

Or. fr

Amendment 410

Christian Engström

Proposal for a directive

Article 15 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

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

Or. en

Justification

Redundant with the revised Article 15(2)(2).

Amendment 411

József Szájer

Proposal for a directive

Article 15 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

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

Or. en

Amendment 412

Arlene McCarthy

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 collecting society shall base its own determination of those amounts due, on the economic value of those rights in trade.

Or. en

Justification

Both exclusive and remuneration rights should be decided according to the economic value of the rights in trade.

Amendment 413

Eija-Riitta Korhola, Sirpa Pietikäinen

Proposal for a directive

Article 15 – paragraph 2 – subparagraph 3

Text proposed by the Commission

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

Amendment

In the absence of any national law which establishes the amounts due to rightholders in respect of a right to remuneration and a right to compensation, the collecting society shall base its own determination of those amounts due, on **objective criteria, which reflect, inter alia, the value of rights and the extent, nature and value of the use of the rights**.

Or. en

Amendment 414

Sebastian Valentin Bodu

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 collecting society shall base its own determination of those amounts due, on the economic value of those rights in trade.

Or. en

Justification

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 be treated on an equal footing as the tariffs for exclusive rights. 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 to a few or even one in some cases.

Amendment 415

Françoise Castex, Luigi Berlinguer

Proposal for a directive

Article 15 – paragraph 2 – subparagraph 3

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 416

Jean-Marie Cavada

Proposal for a directive
Article 15 – paragraph 2 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

If a general tariff applies, or if such a tariff has been set by a court, Member States shall ensure that users pay the fees due to collecting societies by a set deadline.

Or. fr

Amendment 417
Françoise Castex, Luigi Berlinguer

Proposal for a directive
Article 15 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Users and producers shall provide collecting societies, free of charge, with statements of use, containing the information needed to identify sound works and their rightholders.

Or. fr

Amendment 418
Arlene McCarthy

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

Text proposed by the Commission

Amendment

3a. Member States shall ensure that users give collective societies information concerning the usage of works and other subject matter on time and in an agreed format. so as to enable the collecting societies to distribute the rights revenue.

Whenever there is a generally applicable or court-determined tariff in force, users should pay the licence fees or remuneration to the collecting societies on time.

Or. en

Amendment 419
Sebastian Valentin Bodu

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

Text proposed by the Commission

Amendment

3a. Users should report to collecting societies on the usage of works and other subject matter in an agreed format, on time and accurately in order to allow collecting societies 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 collecting societies in a manner that enables the collecting societies to make timely and accurate distributions to individual rightholders, Member States shall ensure that collecting societies shall be discharged of their obligations under this Directive related to distribution of rights revenue to individual rightholders and the collecting societies may charge such users additional fees to cover the additional administrative costs caused by missing or insufficient usage reports.

Or. en

Justification

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 license

fees or remuneration. Where users fail to pay such license fees or remuneration in a timely manner, collecting societies are entitled to legal penalties to users that fail to pay voluntarily to cover the extra administrative costs caused by them.

Amendment 420
Sebastian Valentin Bodu

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

Text proposed by the Commission

Amendment

3b. Users should pay licence fees or remuneration to the collecting societies 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 collecting societies are entitled to legal penalties to cover the administrative costs caused by the failure to voluntarily pay the licence fees or remuneration.

Or. en

Justification

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 license fees or remuneration. Where users fail to pay such license fees or remuneration in a timely manner, collecting societies are entitled to legal penalties to users that fail to pay voluntarily to cover the extra administrative costs caused by them.

Amendment 421
Cecilia Wikström

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Obligations on users and producers

Member States shall ensure that users and producers provide collective management organisations, within a reasonable period, with all information in their possession on the use of rights, categories of rights, works, types of works or other subject matter which they represent and which are necessary for the collection and distribution of rights revenue.

Or. en

Amendment 422

Tadeusz Zwiefka, Piotr Borys, Lidia Joanna Geringer de Oedenberg

Proposal for a directive

Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Obligations on users

Member States shall ensure that users provide a collective management organisation, within a reasonable period, with relevant information on the use of the rights represented by the collective management organisation that is necessary for the collection and distribution of rights revenue. Member States shall ensure that collective management organisations have the right to request the above information from users. When necessary, this information should be provided in an electronic form allowing for its processing by the collective management organisation.

Amendment 423
Marielle Gallo

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

Obligations of users and producers

Users and producers shall forward to the collecting societies, within an agreed time and in an agreed format, the information at their disposal which is necessary for the collection and distribution of rights revenue.

Or. fr

Amendment 424
Françoise Castex, Luigi Berlinguer

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

Obligations of users

1. Member States shall ensure that users and producers comply with the payment time limits and schedules provided for in the licences and agreements concluded with the collecting societies in order for them to be able to comply with their own time limits for distribution to rightholders.

2. Member States shall ensure that users and producers provide the collecting societies with which they have concluded a licence or an agreement with regular,

precise and prompt information, free of charge, on the use of rights, rightholders and works covered by the licence or agreement, in order for the societies to meet their own obligations to rightholders.

3. Member States shall ensure that users comply with international and sectoral standards on data transfer, and in their exchange of information with collecting societies use international identifiers of works and rightholders where they exist.

Or. fr

Justification

Ms Gallo's amendment 82 improves the proposed directive but is not sufficient because it is limited to an obligation to provide information on the use of works within a reasonable period. It is important, however, for users also to comply with the time limits for payment laid down in the agreements, and to use international identifiers, such as the ISAN, when transferring information.

Amendment 425
Marietje Schaake

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Reporting and invoicing

1. Collecting societies shall establish appropriate communication procedures allowing the user to provide all necessary information on the use of the licence, including a report on actual use of the works, to the collecting society accurately and within the deadline jointly agreed in relation to that licence.

2. Collecting societies shall establish a cooperation procedure among themselves for the benefit of their rightholders,

members and users. Such a cooperation procedure shall include at least pooling of information on the licences issued and the use of works and other protected subject-matter in a common database, coordinated and joint invoicing and collection of rights revenues.

3. The cooperation procedure referred to in paragraph 2 shall enable the collecting societies to coordinate the invoicing of the users in such a way that a single user receives a single joint invoice in respect of the rights in the works and other protected subject-matter which have been licensed. The single invoice shall be transparent and shall identify the collecting societies concerned, the lists of works and other protected subject-matter which have been licensed and the corresponding actual uses. The invoice should also indicate clearly at least the proportionate amounts due to rightholders and the amounts to be used to cover management fees.

Or. en

Justification

Consistent with draft opinion from IMCO.

Amendment 426
Toine Manders

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Reporting and invoicing

1. Collecting societies shall establish appropriate communication procedures allowing the user to provide all necessary information on the use of the licence,

including a report on actual use of the works, to the collecting society accurately and within the deadline jointly agreed in relation to that licence.

2. Member States may require that collecting societies established on their territory put in place procedures as laid down in paragraphs 3 to 4.

3. Collecting societies shall establish a cooperation procedure among themselves for the benefit of their rightholders, members and users. Such a cooperation procedure shall include at least pooling of information on the licences issued and the use of works and other protected subject-matter in a common database, coordinated and joint invoicing and collection of rights revenues.

4. The cooperation procedure referred to in paragraph 2 shall enable the collecting societies to coordinate the invoicing of the users in such a way that a single user receives a single joint invoice in respect of the rights in the works and other protected subject-matter which have been licensed. The single invoice shall be transparent and shall identify the collecting societies concerned, the lists of works and other protected subject-matter which have been licensed and the corresponding actual uses. The invoice should also indicate clearly at least the proportionate amounts due to rightholders and the amounts to be used to cover management fees.

5. Paragraphs 2 and 3 shall not apply to the collective management of online rights in musical works and the collective management of rights in works and other subject matter on a multi-territorial basis.

Or. en

Amendment 427
Françoise Castex

**Proposal for a directive
Article 15 b (new)**

Text proposed by the Commission

Amendment

Article 15 b

Remuneration of authors and performers

1. Member States shall ensure that authors and performers receive appropriate remuneration for the exploitation of their copyright and related rights. That remuneration shall come from any exploitation of their works and performances and shall represent a share of the revenue generated by such exploitation.

2. The management of this remuneration shall be entrusted to the collecting societies which receive it from any entity which exploits the rights, in accordance with the relevant provisions of this Directive.

3. Collecting societies shall distribute this remuneration to authors and performers regularly, precisely and promptly, in accordance with the provisions of this Directive.

Or. fr

Justification

Collective management plays a particularly important role for authors and performers. It is often the only way for these rightholders to obtain a revenue from their rights, as collective management allows them to negotiate a remuneration directly with the users of their works and performances.

**Amendment 428
Tiziano Motti**

**Proposal for a directive
Article 16 – title**

Text proposed by the Commission

Information provided to rightholders on the management of their rights

Amendment

Information provided to rightholders on the management of their rights ***on request***

Or. en

Amendment 429
Cecilia Wikström

Proposal for a directive
Article 16 – title

Text proposed by the Commission

Information provided to rightholders on the management of their rights

Amendment

Information provided to rightholders ***represented by a collective management organisation*** on the management of their rights

Or. en

Justification

Clarification with regards to the scope of the Article.

Amendment 430
Tiziano Motti

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, ***subject to applicable rules on data protection***, by electronic means, the following information to each rightholder it represents:

Or. en

Justification

The obligation imposed on collecting societies to automatically report on a yearly basis to all rightholders they represent all the information provided in Article 16 would be too burdensome and costly. Rather than a general obligation to report the information automatically to all rightholders, collecting societies should have the obligation to provide the information specified in the article upon request only and in accordance with the rules applicable under the Data Protection Directive.

Amendment 431

Pawel Zalewski

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

Without prejudice to paragraph 2, Articles 17 and 26(2), Member States shall ensure that a **collective management organisation** makes available **no less than** once a year **to each rightholder to whom it attributed rights revenue or made payments, in the period to which the information relates, at least the following information:**

Or. en

Amendment 432

Marietje Schaake

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 **on a rolling basis or** at least once a year, by electronic means, the following information to each rightholder it represents:

Or. en

Amendment 433
Sajjad Karim

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, the following information to each rightholder ***to whom it makes a payment during the period concerned and member*** it represents:

Or. en

Amendment 434
Pawel Zalewski

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

Text proposed by the Commission

(a) any ***personal data*** which the rightholder has authorised the ***collecting society*** to use ***including*** to identify and locate the rightholder;

Amendment

(a) any ***contact details*** which the rightholder has authorised the ***collective management organisation*** to use ***in order*** to identify and locate the rightholder ***with the request to update these data if necessary***;

Or. en

Amendment 435
Pawel Zalewski

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

Text proposed by the Commission

(b) the rights revenue ***collected on behalf of*** the rightholder;

Amendment

(b) the rights revenue ***attributed to*** the rightholder;

Or. en

Amendment 436

Pawel Zalewski

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 ***paid by the collective management organisation*** to the rightholder per category of rights managed, and type of use;

Or. en

Amendment 437

Pawel Zalewski

Proposal for a directive

Article 16 – paragraph 1 – point d

Text proposed by the Commission

(d) the period during which the ***uses*** took place for which amounts ***are due*** to the rightholder;

Amendment

(d) the period during which the ***use*** took place for which amounts ***were attributed and paid*** to the rightholder, ***unless objective reasons related to the reporting by users prevent the collective management organisation from providing this information***;

Or. en

Amendment 438
Pawel Zalewski

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

Text proposed by the Commission

(e) the deductions made for management fees ***in the period concerned***;

Amendment

(e) the deductions made for management fees;

Or. en

Amendment 439
Eija-Riitta Korhola, Sirpa Pietikäinen

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

Text proposed by the Commission

(e) the deductions made for management fees in the period concerned;

Amendment

(e) ***the amount of the management fees in the period concerned***, the deductions made for management fees ***in the period concerned and the investment income used for management fees and/or distributed to the members*** in the period concerned;

Or. en

Justification

The flexibility in the proposal requires more granular transparency standards to ensure accurate and clear reporting on the actual use.

Amendment 440
Pawel Zalewski

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

Text proposed by the Commission

(f) the deductions made for any purpose other than management fees, including those that may be required by national law for the provision of any social, cultural or educational services ***in the period concerned***;

Amendment

(f) the deductions made for any purpose other than management fees, including those that may be required by national law for the provision of any social, cultural or educational services;

Or. en

Amendment 441
József Szájer

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

Text proposed by the Commission

(f) the deductions made for any purpose other than management fees, including those that may be required by national law for the provision of any social, cultural or educational ***services*** in the period concerned;

Amendment

(f) the deductions made for any purpose other than management fees, including those that may be required by national law for the provision of any social, cultural or educational ***activities*** in the period concerned;

Or. en

Amendment 442
Pawel Zalewski

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

Text proposed by the Commission

(g) any ***amounts due*** to the rightholder which ***are*** outstanding for ***the*** period ***concerned***;

Amendment

(g) any ***rights revenue attributed*** to the rightholder which ***is*** outstanding for ***any*** period;

Or. en

Amendment 443
Pawel Zalewski

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

Text proposed by the Commission

Amendment

(h) the available complaint handling and dispute resolution procedures pursuant to Articles 34 and 36.

deleted

Or. en

Amendment 444
Silvia-Adriana Țicău

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

Text proposed by the Commission

Amendment

(ha) the information provided in accordance with Article 17;

Or. ro

Amendment 445
Cecilia Wikström

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

Text proposed by the Commission

Amendment

(ha) any reasoned statement pursuant to Article 15(1a) regarding the refusal of the collective management organisation to license a particular service;

Or. en

Amendment 446
Pawel Zalewski

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

Text proposed by the Commission

Amendment

(ha) the information on the use of the rights represented by the collective management organisation where it is necessary for determining the amounts of the rights revenue due to the rightholder.

Or. en

Amendment 447
Sajjad Karim

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

Text proposed by the Commission

Amendment

In addition, the collective management organisation shall make available the information referred to in paragraph 1 to rightsholders it represents where requested to do so by those rightsholders.

Or. en

Amendment 448
Marietje Schaake

Proposal for a directive
Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

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

Member States shall ensure that a collecting society makes the following information available, ***on a rolling basis or*** at least once a year by electronic means, to

society on whose behalf it manages rights under a representation agreement for a particular period:

the collecting society on whose behalf it manages rights under a representation agreement for a particular period:

Or. en

Amendment 449
Pawel Zalewski

Proposal for a directive
Article 18

Text proposed by the Commission

Amendment

Article 18

deleted

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

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:

(a) standard licensing contracts and applicable tariffs;

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

(c) a list of representation agreements it has entered into, including information on other collecting societies involved, the repertoire represented and the territorial scope covered by any such agreement.

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.

Or. en

Amendment 450
Cecilia Wikström

Proposal for a directive
Article 18 – title

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 451
Tadeusz Zwiefka, Piotr Borys

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

Amendment

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

deleted

(a) standard licensing contracts and applicable tariffs;

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

(c) a list of representation agreements it has entered into, including information on other collecting societies involved, the

repertoire represented and the territorial scope covered by any such agreement.

Or. en

Amendment 452
Cecilia Wikström

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, any **collective management organisation** on whose behalf it manages rights under a representation agreement or any user, by electronic means, without undue delay:

Or. en

Amendment 453
Tiziano Motti

Proposal for a directive
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Justification

To require collecting societies to make the information listed in paragraph 1 available to any user would be unreasonable and too broad as the definition of a ‘user’ provided under Article 3(i) is almost unlimited and includes any potential user. Collecting societies should be obliged to provide the information only to users that have a real and direct commercial interest in the data requested.

Amendment 454
Christian Engström

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 the public on its website:**

Justification

Basic information on tariffs, licensing contracts, repertoire and representation agreements is essential to a well-functioning and transparent market in creative goods. Basic information on prices and what is being sold should not be limited to provision on request. If this amendment is adopted, the list in paragraph 18.1 can be moved as an addition to 19.1, and 18.1 deleted.

Amendment 455
Marietje Schaake

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

Text proposed by the Commission

Amendment

(a) standard licensing contracts and applicable tariffs;

deleted

Or. en

Amendment 456
Marietje Schaake

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

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 457
Sajjad Karim

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

Text proposed by the Commission

Amendment

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

(b) the repertoire and rights it manages and the Member States covered. **Such information may be provided in general terms where provision of detailed information imposes an unreasonable burden on the collective management organisation;**

Or. en

Amendment 458
Silvia-Adriana Țicău

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

Text proposed by the Commission

(c) a list of representation agreements it has entered into, including information on other collecting societies involved, the repertoire represented and the territorial scope covered by any such agreement.

Amendment

(c) a list of representation agreements it has entered into, including information on other collecting societies involved, the repertoire represented and the territorial scope covered by any such agreement, **and the information provided in accordance with Article 17.**

Or. ro

Amendment 459
Klaus-Heiner Lehne

Proposal for a directive
Article 18 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) the deductions made for management fees in the period concerned;

Or. en

Amendment 460
Klaus-Heiner Lehne

Proposal for a directive
Article 18 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) the deductions made for any purpose other than management fees, including those that may be required by national law for the provision of any social, cultural or educational service in the period concerned.

Amendment 461
Marietje Schaake

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

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.

deleted

Amendment 462
Cecilia Wikström

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

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.

2. In addition, a **collective management organisation** shall make available **to** any rightholder or any **collective management organisation**, 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 463
Christian Engström

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**, 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.

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, so in order to ensure consistency, a reference to that Directive should be made.

Amendment 464
Tadeusz Zwiefka, Piotr Borys, Lidia Joanna Geringer de Oedenberg

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

Amendment

2. A **collective management organisation** shall make available at the **duly motivated** request of any rightholder or any **collective management organisation**, any

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.

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.

Or. en

Amendment 465
Toine Manders

Proposal for a directive
Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18 a

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

Or. en

Amendment 466
Toine Manders

Proposal for a directive
Article 18 b (new)

Text proposed by the Commission

Amendment

Article 18 b

Collecting societies and users should also establish communication procedures in

order to allow users to provide necessary information on the use of the licences and to report accurately on the actual use of the works licensed.

Or. en

Amendment 467

Pawel Zalewski

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 collecting society makes public ***through a searchable interface at least*** the following information:

Or. en

Amendment 468

Cecilia Wikström

Proposal for a directive

Article 19 – paragraph 1 – point c

Text proposed by the Commission

(c) *the* list of the persons *referred to in Article 9*;

Amendment

(c) *a* list of the persons ***who manage the business of the organisation***;

Or. en

Amendment 469

Silvia-Adriana Țicău

Proposal for a directive

Article 19 – paragraph 1 – point f

Text proposed by the Commission

(f) rules on deductions from rights revenue for purposes **other than** management fees, **including** deductions for the purposes of social, cultural and educational services;

Amendment

(f) rules on deductions from rights revenue for purposes **including** management fees, **and** deductions for the purposes of social, cultural and educational services;

Or. ro

Amendment 470
Cecilia Wikström

Proposal for a directive
Article 19 – paragraph 1 – point f

Text proposed by the Commission

(f) rules on deductions from rights revenue for purposes other than management fees, including deductions for the purposes of social, cultural and educational services;

Amendment

(f) rules on deductions from rights revenue, **including those that may be required by national law**, for purposes other than management fees, including deductions for the purposes of social, cultural and educational services;

Or. en

Justification

Some member states have legal requirements for deductions for social, cultural and educational purposes. It is important that these are not omitted in this information.

Amendment 471
József Szájer

Proposal for a directive
Article 19 – paragraph 1 – point f

Text proposed by the Commission

(f) rules on deductions from rights revenue for purposes other than management fees, including deductions for the purposes of

Amendment

(f) rules on deductions from rights revenue for purposes other than management fees, including deductions for the purposes of

social, cultural and educational *services*;

social, cultural and educational *activities*;

Or. en

Amendment 472
Marietje Schaake

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

Text proposed by the Commission

Amendment

(fa) standard licensing contracts and applicable tariffs;

Or. en

Amendment 473
Pawel Zalewski

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

Text proposed by the Commission

Amendment

(ga) standard licensing contracts and applicable tariffs;

Or. en

Amendment 474
Tadeusz Zwiefka, Piotr Borys, Lidia Joanna Geringer de Oedenberg

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

Text proposed by the Commission

Amendment

(ga) standard licensing contracts and applicable tariffs;

Or. en

Amendment 475
Marietje Schaake

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

Text proposed by the Commission

Amendment

(ga) 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 on works for which one or more rightholders have not been identified.

Or. en

Amendment 476
Pawel Zalewski

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 477
Marietje Schaake

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

Text proposed by the Commission

Amendment

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

Amendment 478

Tadeusz Zwiefka, Piotr Borys, Lidia Joanna Geringer de Oedenberg

Proposal for a directive

Article 19 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 479

Pawel Zalewski

Proposal for a directive

Article 19 – paragraph 1 – point g c (new)

Text proposed by the Commission

Amendment

***(gc) a list of representation agreements it
has entered into, including information
on other collecting societies involved, the
repertoire represented and the territorial
scope covered by any such agreement;***

Or. en

Amendment 480

Tadeusz Zwiefka, Piotr Borys, Lidia Joanna Geringer de Oedenberg

Proposal for a directive

Article 19 – paragraph 1 – point g c (new)

Text proposed by the Commission

Amendment

***(gc) a list of representation agreements it
has entered into, including information
on other collecting societies involved, the***

repertoire represented and the territorial scope covered by any such agreement;

Or. en

Amendment 481
Pawel Zalewski

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

Text proposed by the Commission

Amendment

(gd) 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;

Or. en

Amendment 482
Pawel Zalewski

Proposal for a directive
Article 20 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The annual transparency report shall be published on the website of the collecting society *and shall remain available to the public on that website for at least five years.*

The annual transparency report shall be published on the website of the collecting society.

Or. en

Amendment 483
József Szájer

Proposal for a directive
Article 20 – paragraph 3

Text proposed by the Commission

3. The special report referred to in paragraph 1 shall be on the use of the amounts deducted for the purposes of social, cultural and educational *services* and shall contain at least the information set out in point 3 of Annex I.

Amendment

3. The special report referred to in paragraph 1 shall be on the use of the amounts deducted for the purposes of social, cultural and educational *activities* and shall contain at least the information set out in point 3 of Annex I.

Or. en

Amendment 484
Cecilia Wikström

Proposal for a directive
Article 20 – paragraph 5

Text proposed by the Commission

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

(a) balance sheet total: EUR 350 000;

(b) net turnover: EUR 700 000;

(c) average number of employees during the financial year: ten.

Amendment

deleted

Or. en

Amendment 485
Christian Engström

Proposal for a directive
Article 20 – paragraph 5

Text proposed by the Commission

Amendment

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

(a) balance sheet total: EUR 350 000;

(b) net turnover: EUR 700 000;

(c) average number of employees during the financial year: ten.

Or. en

Justification

Big or small, all collective management organisations are handling other people's money, and need to live up to appropriate standards on transparency and accountability. If they are currently unable to do this, they need to improve their functioning.

Amendment 486

Pawel Zalewski

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

Text proposed by the Commission

Amendment

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

(a) balance sheet total: EUR 350 000;

(b) net turnover: EUR 700 000;

(c) average number of employees during the financial year: ten.

Or. en

Amendment 487
Marietje Schaake

Proposal for a directive
Article 20 – paragraph 5

Text proposed by the Commission

Amendment

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

deleted

(a) balance sheet total: EUR 350 000;

(b) net turnover: EUR 700 000;

(c) average number of employees during the financial year: ten.

Or. en

Amendment 488
Françoise Castex

Proposal for a directive
Article 20 – paragraph 5

Text proposed by the Commission

Amendment

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

deleted

(a) balance sheet total: EUR 350.000;

(b) net turnover: EUR 700 000;

(c) average number of employees during the financial year: ten.

Or. fr

Amendment 489
Evelyn Regner

Proposal for a directive
Article 20 – paragraph 5

Text proposed by the Commission

Amendment

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

deleted

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

Or. de

Amendment 490
Christian Engström

Proposal for a directive
Article 23 – paragraph 2

Text proposed by the Commission

Amendment

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.

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 fundamental human right.

Amendment 491
Christian Engström

Proposal for a directive
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Except in Member States with systems of extended collective licensing, a collective management organisation may not bring or seek infringement proceedings in respect of works, rights or territories which are not in its control and are not accurately identified in accordance with paragraph 1.

Or. en

Amendment 492
Christian Engström

Proposal for a directive
Article 24 – paragraph 1

Text proposed by the Commission

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** 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.

1. A **collective management organisation** which grants multi-territorial licences for online rights in musical works shall have procedures in place to enable rightholders, **other collective management organisations, 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, **collective management organisations, 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 **collective management organisation** shall ensure that the data or the information are

corrected without undue delay.

Or. en

Justification

Users also have a legitimate interest that the information held by the collecting management organisation is accurate.

Amendment 493
Marietje Schaake

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 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.

Amendment

2. The collecting society shall offer online music service providers the possibility of reporting the actual use of online rights in musical works, ***in accordance with Article 15a(1)***, by electronic means. The collecting society shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or Union level for the electronic exchange of such data. The collecting society may refuse to accept reporting by the user in a proprietary format if the society allows for reporting using an industry standard for the electronic exchange of data.

Or. en

Amendment 494
Marietje Schaake

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 495

Toine Manders

Proposal for a directive

Article 25 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 496

Marietje Schaake

Proposal for a directive

Article 25 – paragraph 5

Text proposed by the Commission

Amendment

5. The collecting society shall have adequate procedures in place for the online music service provider to challenge the accuracy of the invoice, including when the online music service provider receives

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.

more than one invoice for the same online rights in the same musical work.

Or. en

Amendment 497
Toine Manders

Proposal for a directive
Article 25 – paragraph 5

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 498
Silvia-Adriana Țicău

Proposal for a directive
Article 26 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) for each online music service provider, amounts collected for the rightholder, deductions made, and amounts distributed by the collecting society.

(c) for each online music service provider, amounts collected for the rightholder, deductions made, and amounts distributed by the collecting society, *with a breakdown per Member State for which the collecting society has granted licences for online rights in musical works.*

Or. ro

Amendment 499
Sajjad Karim

Proposal for a directive
Article 28 – paragraph 1

Text proposed by the Commission

1. Any representation agreement between collecting societies whereby a collecting society mandates another collecting society to grant multi-territorial licences for the online rights in musical works in its own music repertoire shall be of a non-exclusive nature. The mandated collecting society shall manage those online rights on non-discriminatory terms.

Amendment

1. Any representation agreement between collecting societies whereby a collecting society mandates another collecting society to grant multi-territorial licences for the online rights in musical works in its own music repertoire shall be of a non-exclusive nature. The mandated collecting society shall manage those online rights on non-discriminatory terms. ***Unless appropriately justified, the mandated collecting society shall issue licenses under the same conditions as for its own repertoire.***

Or. en

Amendment 500
József Szájer

Proposal for a directive
Article 28 – paragraph 2

Text proposed by the Commission

2. The mandating collecting society shall inform its members of the duration of the agreement, the costs of the ***services provided*** by the other collecting society and any other significant terms of the agreement.

Amendment

2. The mandating collecting society shall inform its members of the duration of the agreement, the costs of the ***activities performed*** by the other collecting society and any other significant terms of the agreement.

Or. en

Amendment 501
Marietje Schaake

Proposal for a directive
Article 29 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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

Amendment

The requested collecting society shall accept such a request ***within 1 month after receipt***, if it is already granting or offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collecting societies.

Or. en

Amendment 502
Pawel Zalewski

Proposal for a directive
Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The requested collective management organisation shall offer and manage the repertoire of the requesting collective management organisation for the purpose of multi-territorial licensing on the same conditions as its own repertoire.

Or. en

Amendment 503
Tadeusz Zwiefka, Piotr Borys, Lidia Joanna Geringer de Oedenberg

Proposal for a directive
Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The requested collective management organisation shall offer and manage the repertoire of the requesting collective management organisation for the purpose

of multi-territorial licensing on the same conditions as its own repertoire.

Or. en

Amendment 504
József Szájer

Proposal for a directive
Article 30 – paragraph 1

Text proposed by the Commission

Member States shall ensure that where a ***collecting society*** does not grant or offer to grant multi-territorial licences ***in*** online rights in musical works or does not allow another ***collecting society*** to represent those rights for such purpose by one year after the transposition date of this Directive, rightholders who have authorised that ***collecting society*** to represent their online rights in musical works can grant multi-territorial licences in their online rights in musical works themselves or through any ***collecting society complying with the provisions of this Title or any other party they authorise. The collecting society*** which does not grant or offer to grant multi-territorial licences shall continue to grant or offer to grant licences for the online rights in musical works of such rightholders for their use in the territory of the Member State where the ***collecting society*** is established, unless the rightholders terminate their authorisation ***to manage them.***

Amendment

Member States shall ensure that where a ***collective management organisation*** does not grant or offer to grant multi-territorial licences ***for*** online rights in musical works or does not allow another ***collective management organisation*** to represent those rights for such ***a*** purpose by one year after the transposition date of this Directive, rightholders who have authorised that ***collective management organisation*** to represent their online rights in musical works can grant multi-territorial licences in their online rights in musical works themselves, or through any ***other party they authorise, or can grant such licences through any collective management organisation complying with the provisions of this Title. A collective management organisation*** which does not grant or offer to grant multi-territorial licences shall continue to grant or offer to grant licences for the online rights in musical works of such rightholders for their use in the territory of the Member State where the ***collective management organisation*** is established, unless the rightholders terminate their authorisation.

Or. en

Amendment 505
Pawel Zalewski

Proposal for a directive
Article 31

Text proposed by the Commission

Amendment

Article 31

deleted

***Multi-territorial licensing by subsidiaries
of collecting societies***

***Articles 18(1)(a), 18(1)(c), 22, 23, 24, 25,
26, 27, 32 and 36 shall also apply to
entities owned, in whole or in part, by a
collecting society and which offer or grant
multi-territorial licences for online rights
in musical works.***

Or. en

Amendment 506
József Szájer

Proposal for a directive
Article 31

Text proposed by the Commission

Amendment

Article 31

deleted

***Multi-territorial licensing by subsidiaries
of collecting societies***

***Articles 18(1)(a), 18(1)(c), 22, 23, 24, 25,
26, 27, 32 and 36 shall also apply to
entities owned, in whole or in part, by a
collecting society and which offer or grant
multi-territorial licences for online rights
in musical works.***

Or. en

Amendment 507
Pawel Zalewski

Proposal for a directive
Article 32

Text proposed by the Commission

Amendment

Article 32

deleted

Licensing terms in online services

A collecting society providing multi-territorial licences for online rights in musical works shall not be required to use as a precedent for other types of services licensing terms agreed with an online music service provider, when the online music service provider is providing a new type of service which has been available to the public for less than three years.

Or. en

Amendment 508
Bernhard Rapkay

Proposal for a directive
Article 33 – paragraph 1

Text proposed by the Commission

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 ***simultaneously with or after their initial broadcast*** as well as any online ***material produced by the broadcaster which is ancillary to the initial broadcast of its radio or television programme.***

The requirements under this Title shall not apply to collecting societies which grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 TFEU, a licence for the online rights in musical works required by a broadcaster to make available its radio or television programmes as well as any online ***offers connected to linear broadcasting.***

Or. de

Amendment 509
Christian Engström

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.

Or. en

Justification

For greater clarity and conformity with recital 35, the broadcaster exception should cover previews.

Amendment 510
Marietje Schaake

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

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 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.

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.

Or. en

Amendment 511
Angelika Niebler

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 licence for the online rights in musical works required by a broadcaster to make available to the public its radio or television programmes as well as any online **offers connected to linear broadcasting**.

Or. de

Justification

The services offered by traditional broadcasting companies go beyond the arrangement whereby radio and television programmes can be downloaded in the seven days following their initial broadcast. The scope of the derogation must therefore be widened in order not to complicate the legal situation for broadcasters unnecessarily.

Amendment 512
Sajjad Karim

Proposal for a directive
Article 34 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that collecting societies make available to their members and rightholders effective and timely procedures for dealing with complaints and for resolving disputes in particular in relation to authorisation to manage rights and termination or withdrawal of rights, membership terms, the collection of amounts due to rightholders, deductions and distributions.

Amendment

1. Member States shall ensure that collecting societies make available to their members and rightholders effective and timely procedures for dealing with complaints and for resolving disputes, ***including where appropriate recourse to an independent and impartial dispute resolution body***, in particular in relation to authorisation to manage rights and termination or withdrawal of rights, membership terms, the collection of amounts due to rightholders, deductions and distributions.

Or. en

Amendment 513
Sajjad Karim

Proposal for a directive
Article 34 – paragraph 3

Text proposed by the Commission

3. ***Parties*** shall not ***be prevented*** from asserting and defending their rights by bringing an action before a court.

Amendment

3. ***Where the obligation set out in paragraph 1 is implemented by recourse to an independent and impartial dispute resolution body with expertise in intellectual property law, this*** shall not ***prevent the parties*** from asserting and defending their rights by bringing an action before a court.

Or. en

Amendment 514
Christian Engström

Proposal for a directive
Article 35 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Users should have access to dispute resolution as well. The right to also (or instead) go to court is covered by paragraph 2, and does not need to be mentioned here.

Amendment 515
Klaus-Heiner Lehne

Proposal for a directive
Article 35 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 516
Jean-Marie Cavada

Proposal for a directive
Article 35 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that disputes between collecting societies and users concerning existing and proposed licensing conditions, tariffs, and any refusal to grant a licence can be submitted to a court. **However, if the law of the Member State concerned so permits, priority shall be given to mediation.**

Or. fr

Amendment 517
Marietje Schaake

Proposal for a directive
Article 35 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 518
Arlene McCarthy

Proposal for a directive
Article 35 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that disputes between collecting societies and users concerning existing and proposed licensing conditions, tariffs, and any refusal to grant a licence can be 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 IP matters and that their decisions are made on the basis of the criteria set out in Article 15 (2).

Or. en

Amendment 519
Sajjad Karim

Proposal for a directive
Article 35 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 520
Marietje Schaake

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

Text proposed by the Commission

Amendment

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

Or. en

**Amendment 521
Toine Manders**

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

Text proposed by the Commission

Amendment

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

Or. en

**Amendment 522
Christian Engström**

**Proposal for a directive
Article 35 – paragraph 2**

Text proposed by the Commission

Amendment

2. Where the obligation set out in paragraph 1 is implemented by recourse to an independent and impartial dispute resolution body, this shall not prevent the parties from asserting and defending their rights by bringing an action before a court.

2. Where the obligation set out in paragraph 1 is implemented by recourse to an independent and impartial dispute resolution body, this shall not prevent the parties from asserting and defending their rights by bringing an action before a court, ***and shall allow the parties to challenge the impartiality and independence of the dispute resolution body, or its members, before the courts.***

Or. en

Amendment 523
Klaus-Heiner Lehne

Proposal for a directive
Article 35 – paragraph 2

Text proposed by the Commission

2. *Where* the obligation set out in paragraph 1 ***is implemented by recourse to an independent and impartial dispute resolution body, this*** shall not prevent the parties from asserting and defending their rights by bringing an action before a court.

Amendment

2. The obligation set out in paragraph 1 shall not prevent the parties from asserting and defending their rights by bringing an action before a court.

Or. en

Amendment 524
Christian Engström

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

Text proposed by the Commission

Amendment

2a. A person requesting a licence or the renewal of a licence may request the dispute resolution body to determine a reasonable interim tariff. An interim tariff shall be deemed to authorise the person requesting a licence or the renewal of a licence to carry out the acts necessary for the product or service to operate, with the proviso that an interim tariff does not give right to a compulsory licence. Subject to the foregoing, the independent dispute resolution body shall determine a reasonable interim tariff within 90 days of receiving an application.

A person requesting the renewal of a licence may request the dispute resolution body that the tariff of the previously agreed licence shall take effect as the

interim tariff.

The interim tariff shall remain valid until the parties reach mutual agreement on a tariff, or until the dispute resolution body reaches a decision on the applicable tariff.

The decision on the applicable tariff shall be retroactive and provide for the settlement of the payments made under the interim tariff against the tariff.

Or. en

Amendment 525
Arlene McCarthy

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

Text proposed by the Commission

Amendment

2a. Member States shall ensure that if users resort to dispute resolution bodies, the sums in question are frozen while the process is pending.

Or. en

Justification

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 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 collecting society or, where there is no pre-existing tariff, a monthly fee set by the dispute resolution body, into an escrow account.

Amendment 526
Sebastian Valentin Bodu

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

Text proposed by the Commission

Amendment

2a. Member States may include in their specific dispute legislation that the users should deposit the disputed tariff into an escrow account until the final and irrevocable decision is being taken by the dispute resolution body related to the disputed tariff.

Or. en

Amendment 527
Jean-Marie Cavada

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

Text proposed by the Commission

Amendment

2a. Member States shall ensure that if users challenge the tariffs charged by a collecting society before a court or an independent and impartial dispute resolution body, the sums in question are frozen until such time as the dispute has been settled.

Or. fr

Amendment 528
Sajjad Karim

Proposal for a directive
Article 36 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure, for the purposes of Title III, that the following disputes of a collecting society which grants or offers to grant multi-territorial licences in online rights in musical works

1. Member States shall ensure, for the purposes of Title III, that the following disputes of a collecting society which grants or offers to grant multi-territorial licences in online rights in musical works

can be submitted to an independent and impartial alternative dispute resolution *bodies*:

can be submitted to an independent and impartial alternative dispute resolution *body expertise in intellectual property law*:

Or. en

Amendment 529
Christian Engström

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

Text proposed by the Commission

(a) disputes with an actual or potential online music service provider on the application of Articles 22, 23 and 25;

Amendment

(a) disputes with an actual or potential online music service provider on the application of Articles 15, 22, 23, 25 and 31;

Or. en

Amendment 530
Marietje Schaake

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 531
Paweł Zalewski

Proposal for a directive
Article 37 – title

Text proposed by the Commission

Amendment

Complaints

Compliance with the Directive

Or. en

Amendment 532
Cecilia Wikström

Proposal for a directive
Article 37 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that procedures are set up for members of a **collecting society**, rightholders, users and other interested parties to submit complaints to the competent authorities with regard to the activities of **collecting societies** which are covered by this Directive.

1. Member States shall ensure that procedures are set up for members of a **collective management organisation**, rightholders, users, **another collective management organisation** and other interested parties to submit complaints to the competent authorities with regard to the activities of **collective management organisations** which are covered by this Directive.

Or. en

Justification

One could easily see that a CMO may have complaints over how another CMO is setting up its procedures in areas covered by this directive, they should also be allowed to bring these complaints to the attention of the national authorities.

Amendment 533
Pawel Zalewski

Proposal for a directive
Article 37 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that **procedures are set up for members of a**

1. Member States shall ensure that **compliance by collective management**

collecting society, rightholders, users and other interested parties to submit complaints to the competent authorities with regard to the activities of collecting societies which are covered by this Directive.

organisations established in their territory with the provisions of national law adopted pursuant to the requirements laid down in this Directive is monitored by competent authorities designated for that purpose. To this end Member States may require these collective management organisations to obtain the prior authorisation from the competent authority before commencing the collective management. Member States should not decline the prior authorisation for operating on their territories unless there are reasonable circumstances that justify such a refusal. Collective management organisations operating in Member States for at least twenty years as of the date of entry into force of this Directive should be granted authorisation on automatic basis without any formalities. Every collecting management organisation which is declined the authorisation or its authorisation is revoked has a right to appeal against the decision.

Or. en

Amendment 534
Tadeusz Zwiefka, Piotr Borys

Proposal for a directive
Article 37 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States may require collective management organisations established outside their territory to obtain a prior authorisation from the competent authority in order to operate within the framework of the arrangements in that Member State concerning the management of rights such as extended collective licensing, compulsory collective management and legal presumptions of

*representation, or transfer of rights.
Member States shall ensure that
compliance by collective management
organisations, operating in their territory
on the basis of such authorisation, with
the provisions of national law adopted
pursuant to the requirements laid down in
this Directive is monitored by competent
authorities designated for that purpose.*

Or. en

Amendment 535
Pawel Zalewski

Proposal for a directive
Article 37 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

*1a. Member States may require collective
management organisations established
outside their territory to obtain a prior
authorisation from the competent
authority in order to operate within the
framework of the arrangements in that
Member State concerning the
management of rights such as extended
collective licensing, compulsory collective
management and legal presumptions of
representation, or transfer of rights.
Member States shall ensure that
compliance by collective management
organisations, operating in their territory
on the basis of such authorisation, with
the provisions of national law adopted
pursuant to the requirements laid down in
this Directive is monitored by competent
authorities designated for that purpose.*

Or. en

Amendment 536
Silvia-Adriana Țicău

Proposal for a directive
Article 41 – paragraph 1

Text proposed by the Commission

By [5 years after the end of the transposition period (date)], the Commission shall assess the application of this Directive and report to the European Parliament and to the Council on the application of this Directive, including its impact on the development of cross-border services and on cultural diversity, and, if necessary, on the need to review it. The Commission shall submit its report accompanied, if appropriate, by a legislative proposal.

Amendment

By [**3** years after the end of the transposition period (date)], the Commission shall assess the application of this Directive and report to the European Parliament and to the Council on the application of this Directive, including its impact on the development of cross-border services and on cultural diversity, and, if necessary, on the need to review it. The Commission shall submit its report accompanied, if appropriate, by a legislative proposal.

Or. ro

Amendment 537
Jean-Marie Cavada

Proposal for a directive
Article 41 – paragraph 1

Text proposed by the Commission

By [5 years after the end of the transposition period (date)], the Commission shall assess the application of this Directive and report to the European Parliament and to the Council on the application of this Directive, including its impact on the development of cross-border services and on cultural diversity, and, if necessary, on the need to review it. The Commission shall submit its report accompanied, if appropriate, by a legislative proposal.

Amendment

By [5 years after the end of the transposition period (date)], the Commission shall assess the application of this Directive and report to the European Parliament and to the Council on the application of this Directive, including its impact on the development of cross-border services and on cultural diversity, and, if necessary, on the need to review it. ***The report shall also be used to assess the financial impact of implementing the provisions of this Directive and the possibility of introducing related funding for collecting societies, if necessary.*** The Commission shall submit its report accompanied, if appropriate, by a legislative proposal.

Amendment 538

József Szájer

Proposal for a directive

Article 41 – paragraph 1

Text proposed by the Commission

By [5 years after the end of the transposition period (date)], the Commission shall assess the application of this Directive and report to the European Parliament and to the Council on the application of this Directive, including its impact on the development of cross-border **services** and on cultural diversity, and, if necessary, on the need to review it. The Commission shall submit its report accompanied, if appropriate, by a legislative proposal.

Amendment

By [5 years after the end of the transposition period (date)], the Commission shall assess the application of this Directive and report to the European Parliament and to the Council on the application of this Directive, including its impact on the development of cross-border **collective management activities** and on cultural diversity, and, if necessary, on the need to review it. The Commission shall submit its report accompanied, if appropriate, by a legislative proposal.

Or. en

Amendment 539

Silvia-Adriana Țicău

Proposal for a directive

Annex 1 – point 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) the information referred to in Article 17;

Or. ro

Amendment 540

Silvia-Adriana Țicău

Proposal for a directive

Annex 1 – point 2 – point c – point ii

Text proposed by the Commission

(ii) total amount paid to rightholders, with a breakdown per category of rights managed and type of use;

Amendment

(ii) total amount paid to rightholders, with a breakdown per category of rights managed and type of use ***and per Member State***;

Or. ro