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2009 - 2014

Committee on International Trade

2012/0180(COD)

20.6.2013

OPINION

of the Committee on International Trade

for the Committee on Legal Affairs

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

Rapporteur: Helmut Scholz

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SHORT JUSTIFICATION

With this legislative proposal for a Directive the Commission aims to put in place an appropriate legal framework for the collective management of rights that are administered by collecting societies on behalf of rightholders by providing for rules ensuring the better governance and greater transparency of all collecting societies and also by encouraging and facilitating the multi-territorial licensing of the rights of authors in their musical works by collecting societies representing authors, in particular in the new digital environment.

In doing so the Commission is reacting to several calls by the Parliament in a series of resolutions of 2004¹, 2007² and 2008³, to propose a binding legal instrument in this area. It needs to be pointed out that not all considerations expressed by the Parliament have been addressed, especially those on the cross-border licences for online rights regarding works in music under the Commission recommendation of 2005⁴.

The current legal framework as to authors' rights in the EU has been lagging behind the fast developments in digital society. Online licensing should ease the access to music content online across the EU (download and streaming services) and collecting societies established in the EU will provide licenses also to online service providers established abroad for music originating abroad. These issues have implications for commercial aspects of intellectual property and competitiveness and have a clearly international dimension. From this standpoint, creating a level playing field among collecting societies by introducing the standards on governance and transparency applicable to all societies should facilitate access to online music.

Your rapporteur wishes to make sure that increased demands introduced by this legislation with regard to transparency and administrative capacities of collecting societies do not lead to discrimination of the EU based collecting societies and commercial agents compared to their non-EU based competitors operating in the EU market, and to discourage off-shoring of collecting societies. At the same time your rapporteur aims to ensure that EU collecting societies continue to play an important role in safeguarding cultural diversity and become attractive rights management partners for European and international artists while insuring a timely remuneration of authors and maintaining their highest control on who shall represent them on which rights.

Nonetheless the contribution of trade policy is essentially supportive – avoiding unnecessary barriers and ensuring the competitiveness internationally. For this reason, the opinion seeks to adopt a modest approach, restricting itself to the aspects of the Commission's proposal that are most relevant to international trade.

AMENDMENTS

The Committee on International Trade calls on the Committee on Legal Affairs, as the

¹ Resolution of 15 January 2004 (OJ C 92 E, p. 425).

² Resolution of 13 March 2007 (OJ C 301 E, p. 64).

³ Resolution of 25 September 2008 (OJ C 8 E, p. 105).

⁴ OJ L 276, p. 54.

committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The aim is to achieve a balanced model that gives users and citizens easy access to cultural content and goods, respects the rights of creators and rightholders and allows those who so desire to create their own content and share it without acquiring intellectual property rights (IPR). Modern EU legislation which is adapted to current needs in the field of IPR enforcement in the digital domain will serve as the basis for establishing agreements with our trading partners.

Amendment 2

Proposal for a directive

Recital 2

Text proposed by the Commission

Amendment

(2) The dissemination of content which is protected by copyright and related rights and the linked services, including books, audiovisual productions and recorded music require the licensing of rights by different holders of copyright and related rights, such as authors, performers, producers and publishers. It is normally for the rightholders to choose between the individual or collective management of their rights. Management of copyright and related rights includes the granting of licences to users, the auditing of licensees

(2) The dissemination of content which is protected by copyright and related rights and the linked services, including books, audiovisual productions and recorded music require the licensing of rights by different holders of copyright and related rights, such as authors, performers, producers and publishers. It is normally for the rightholders to choose between the individual or collective management of their rights. Management of copyright and related rights includes the granting of licences to users, the auditing of licensees

and monitoring of the use of rights, the enforcement of copyright and related rights, the collection of rights revenue derived from the exploitation of rights and the distribution of the amounts due to rightholders. *Collecting societies* enable rightholders to be remunerated for uses which they would not be in a position to control or enforce themselves, including in non-domestic markets. Moreover, they have an important social and cultural role as promoters of the diversity of cultural expressions by enabling the smallest and less popular repertoires to access the market. Article 167 of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action, in particular in order to respect and to promote the diversity of its cultures.

and monitoring of the use of rights, the enforcement of copyright and related rights, the collection of rights revenue derived from the exploitation of rights and the distribution of the amounts due to rightholders. *Collective management organisations* enable rightholders to be remunerated for uses which they would not be in a position to control or enforce themselves, including in non-domestic markets. Moreover, they have an important social and cultural role as promoters of the diversity of cultural expressions by enabling the smallest and less popular repertoires to access the market. Article 167 of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action, in particular in order to respect and to promote the diversity of its cultures.

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

Justification

Collective management organisations (CMOs) encompass all forms of entities dealing with collective rights management, such as collecting societies. This more general term is preferable in order to ensure a level playing field. Consistent with draft opinions from CULT and IMCO.

Amendment 3

Proposal for a directive

Recital 3

Text proposed by the Commission

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

Amendment

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

ensuring the freedom of establishment and the free movement of services between the Member States. This implies that **collecting societies** should be free to provide their services across borders, to represent rightholders resident or established in other Member States or grant licences to users resident or established in other Member States.

ensuring the freedom of establishment and the free movement of services between the Member States. ***In this context, reminds that the derogation in article 17(11) for intellectual property rights from the principle of freedom to provide cross-border services without unjustified restriction, covers the rights as such (existence of the right, scope and exceptions, duration, etc.) and it does not concern services linked to the management of such rights, such as those provided by collective management organisations.*** This implies that **collective management organisations** should be free to provide their services across borders, to represent rightholders resident or established in other Member States or grant licences to users resident or established in other Member States.

Justification

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

Amendment 4

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) There are significant differences in the national rules governing the functioning of collecting societies, in particular as regards their transparency and accountability towards their members **and rightholders**. Beyond the difficulties non-domestic rightholders face when exercising their rights and the too often poor financial management of the revenues collected, problems with the functioning of collecting societies lead to inefficiencies in the

Amendment

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

exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders and users alike. *These difficulties do not arise in the functioning of independent rights management service providers who act as agents for rightholders for the management of their rights on a commercial basis and in which rightholders do not exercise membership rights.*

exploitation of copyright and related rights across the internal market to the detriment of the members of collecting societies, rightholders and users alike.

Amendment 5

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) Having the freedom to provide and to receive collective management services across national borders entails that rightholders are able to freely choose the collecting society for the management of their rights, such as public performance or broadcasting rights, or categories of rights, such as interactive communication to the public, provided the collecting society already manages such rights or categories of rights. This implies that rightholders can easily withdraw their rights or categories of rights from a collecting society and entrust or transfer all or part of them to another collecting society or another entity irrespective of the Member State of residence or the nationality of either the collecting society or the rightholder. Collecting societies managing different types of works and other subject matter, such as literary, musical or photographic works, should also allow this flexibility to rightholders as regards the management of different types of works and other subject matter. Collecting societies should inform rightholders of this choice and allow them to exercise it as easily as possible. Finally,

Amendment

(9) Having the freedom to provide and to receive collective management services across national borders entails that rightholders are able to freely choose the collecting society for the management of their rights, such as public performance or broadcasting rights, or categories of rights, such as interactive communication to the public, provided the collecting society already manages such rights or categories of rights. This implies that rightholders can easily withdraw their rights or categories of rights from a collecting society and entrust or transfer all or part of them to another collecting society or another entity irrespective of the Member State of residence or the nationality of either the collecting society or the rightholder. Collecting societies managing different types of works and other subject matter, such as literary, musical or photographic works, should also allow this flexibility to rightholders as regards the management of **works**, different types of works and other subject matter. Collecting societies should inform rightholders of this choice and allow them to exercise it as easily as

this Directive should not prejudice the possibilities of rightholders to manage their rights individually, including for non-commercial uses.

possible. Finally, this Directive should not prejudice the possibilities of rightholders to manage their rights individually, including for non-commercial uses *or placement in the public domain*.

Justification

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

Amendment 6

Proposal for a directive Recital 13

Text proposed by the Commission

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

Amendment

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

Amendment 7

Proposal for a directive Recital 14

Text proposed by the Commission

(14) For reasons of sound management, a *collecting society's* senior management must be independent. Managers and

Amendment

(14) For reasons of sound management, a *collective management organisation's* senior management must be independent.

executive directors should be required to declare annually to the *collecting society* whether there are conflicts between their interests and those of the *society*.

Managers and executive directors should be required to declare *before taking up their duties and thereafter* annually to the *collective management organisation* whether there are conflicts between their interests and those of the *organisation*.

Justification

Conflicts of interest need to be disclosed before a manager or executive director takes up his or her duties. Consistent with draft opinion from CULT.

Amendment 8

Proposal for a directive Recital 15

Text proposed by the Commission

(15) Collecting societies collect, manage and distribute revenue from the exploitation of the rights entrusted to them by rightholders. This revenue is ultimately due to rightholders who may be members of that society, or another society. It is therefore important that collecting societies exercise the utmost diligence in collecting, managing and distributing that revenue. Accurate distribution is only possible where collecting societies maintain proper records of membership, licences and use of works and other subject matter. Where appropriate, data should also be provided by rightholders and users and verified by the collecting societies. Amounts collected and due to rightholders should be managed separately from any own assets of the collecting society and, if they are invested, pending their distribution to rightholders, this should be carried out in accordance with the investment policy decided by the collecting societies' general meeting. In order to maintain a high level of protection for the rights of rightholders and to ensure that any income which may be derived from exploitation of their rights accrues for

Amendment

(15) Collecting societies collect, manage and distribute revenue from the exploitation of the rights entrusted to them by rightholders. This revenue is ultimately due to rightholders who may be members of that society, or another society. It is therefore important that collecting societies exercise the utmost diligence in collecting, managing and distributing that revenue. Accurate distribution is only possible where collecting societies maintain proper *and transparent* records of membership, licences and use of works and other subject matter. Where appropriate, data should also be provided by rightholders and users and verified by the collecting societies. Amounts collected and due to rightholders should be managed separately from any own assets of the collecting society and, if they are invested, pending their distribution to rightholders, this should be carried out in accordance with the investment policy decided by the collecting societies' general meeting. In order to maintain a high level of protection for the rights of rightholders and to ensure that any income which may be derived from exploitation of their rights

the benefit of rightholders, the investments made and held by the collecting society should be managed in accordance with criteria which would oblige the collecting society to act prudently, while allowing the collecting society to decide on the most secure and efficient investment policy. This should allow the collecting society to opt for *an* asset allocation that *suits the precise nature and duration of any* exposure to risk of any rights revenue invested and which does not unduly prejudice any rights revenue owed to rightholders. Moreover, in order to ensure that the amounts due to rightholders are appropriately and effectively distributed, it is necessary to require collecting societies to undertake diligent and good faith reasonable measures to identify and locate the relevant rightholders. It is also appropriate to provide for the approval by members of collecting societies of the rules governing any situation where, due to the lack of identified or located rightholders, amounts collected cannot be distributed.

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Amendment 9

Proposal for a directive Recital 20

Text proposed by the Commission

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

Amendment

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

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

educational services.

Justification

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

Amendment 10

Proposal for a directive

Recital 37

Text proposed by the Commission

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

Amendment

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

Amendment 11

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 12

Proposal for a directive Article 2 – paragraph 1

Text proposed by the Commission

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

Amendment

Title I, Articles 13, 14, 15 to 19, 24(2), 31 and Title IV with the exception of Articles 36 and 40 shall **also** apply, **for their operations carried out in the Union, and with regard to rightholders residing in or established in the Union, to** collecting societies established **outside** the Union.

Amendment 13

Proposal for a directive Article 2 – paragraph 2

Text proposed by the Commission

Title III and Articles **36 and 40 of Title IV** shall **only** apply **to those collecting societies managing authors' rights in musical works for online use on a multi-territorial** basis.

Amendment

Title I, Articles 10, 11(1), 12, 15, 16 to 20, Title III and Articles 34, 35, 37 and 38 shall **also** apply, **for their operations carried out in the Union and with regard to rightholders residing in or established in the Union, to independent rights management service providers established**

inside or outside the Union who act as agents for rightholders for the collective management of their rights and operate in the Union on a commercial basis.

Amendment 14

Proposal for a directive

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

Titles I and II, as well as Articles 34, 35 and 37 to 39 shall also apply to entities directly or indirectly owned or controlled, in whole or in part, by one or more collecting societies provided that these entities carry out activity which, if carried out by a collecting society, would be subject to these provisions

Amendment 15

Proposal for a directive

Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

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

Amendment 16

Proposal for a directive

Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 17

Proposal for a directive

Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

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

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

Justification

Clarification needed in relation to the variety of legal forms of collective management organisations within different member states. Consistent with draft opinion from CULT.

Amendment 18

Proposal for a directive

Article 3 – paragraph 1 – point f

Text proposed by the Commission

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

Amendment

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

Justification

Art. 10 mentions that investment income should be kept separate from the collective management organisation's own funds, but not that it should actually be paid out to the rightholders. Consistency with draft opinion from CULT.

Amendment 19

Proposal for a directive Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 20

Proposal for a directive Article 5 – paragraph 3

Text proposed by the Commission

3. Rightholders shall have the right to terminate the authorisation to manage

Amendment

3. Rightholders shall have the right to terminate the authorisation to manage

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

rights, categories of rights, *works or* types of works and other subject matter granted to a *collective management organisation* or to withdraw from a *collective management organisation* any of the rights or categories of rights, *works or* types of works and other subject matter of their choice, *at any time during the term of the authorisation*, for the Member States of their choice, upon serving reasonable notice not exceeding six months. The *collective management organisation* may decide that such termination or withdrawal will take effect only at the middle and at the end of the financial year, whichever is sooner after the expiry of the notice period.

Justification

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

Amendment 21

Proposal for a directive Article 6 – paragraph 5

Text proposed by the Commission

5. Collecting societies shall **keep** records *of* members which are regularly updated so that members can be properly identified and located.

Amendment

5. Collecting societies shall **keep publicly accessible** records *of their* members **and their respective rights or works** which *the rightholders authorise the collecting society to manage*. **The records** are regularly updated so that **both** members **and their managed rights and works** can be properly identified and located.

Amendment 22

Proposal for a directive

Article 7 – paragraph 7 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 23

Proposal for a directive Article 7 – paragraph 8

Text proposed by the Commission

Amendment

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

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

Justification

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

Amendment 24

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.

Justification

Excluding small collective management organisations from any kind of supervisory function goes counter to the purpose of the directive. Even small companies and organizations typically require a board. Consistent with draft opinions from CULT and IMCO.

Amendment 25

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 organization shall ensure that it only collects rights revenue on behalf of rightholders whose rights it is authorised to represent.**

Justification

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

Amendment 26

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)***.

Justification

Clarification. Consistent with draft opinion from IMCO.

Amendment 27

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that the ***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 ***six months after*** the rights revenue was collected, unless objective reasons related in particular to reporting by users, the identification of rights, rightholders or to the matching of information on works and other subject matter with rightholders prevent the ***collective management organisation*** from respecting this deadline. The ***collective management organisation*** shall carry out such distribution and payments accurately, ensuring equal treatment of all categories

of rightholders.

Amendment 28

Proposal for a directive Article 14 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The collecting society shall regularly, diligently, **accurately and without undue delay** distribute and pay amounts due to other collecting societies.

Amendment 29

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

Text proposed by the Commission

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

Amendment

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

Justification

Fair, reasonable and non-discriminatory criteria constitute a standard wording in licensing.

Amendment 30

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 the economic value of the rights in trade and **shall be reasonable in relation to the economic value** of the service provided by the collecting society.

Justification

Modification is introduced to better reflect the case law of the Court of Justice, Canal 5 vs.

STIM case (C-52/07).

Amendment 31

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 collecting societies and users

Justification

Strengthens the transparency obligation. See amendments to Article 18, paragraphs 1 and 2.

Amendment 32

Proposal for a directive

Article 18 – paragraph 1 – introductory part

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:

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

Justification

Strengthens the transparency obligation. See amendments to the title of Article 18 and its paragraph 2.

Amendment 33

Proposal for a directive

Article 18 – paragraph 1 – point c

Text proposed by the Commission

Amendment

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

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

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

including those established outside the Union, the repertoire represented and the territorial scope covered by any such agreement.

Amendment 34

Proposal for a directive Article 18 – paragraph 2

Text proposed by the Commission

2. In addition, a collecting society shall make available **at the request of** any rightholder or any collecting society, any information on works for which one or more rightholders have not been identified including, where available, the title of the work, the name of the author, the name of the publisher and any other relevant information available which could be necessary to identify the rightholders.

Amendment

2. In addition, a collecting society shall make available **to** 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.

Justification

Strengthens the transparency obligation. See amendments to the title of Article 18 and its paragraph 1.

Amendment 35

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

Text proposed by the Commission

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

Amendment

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

Justification

Improved transparency. Consistent with draft opinion from CULT.

Amendment 36

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Justification

Strengthens the transparency obligation. Consistent with draft opinion from CULT.

Amendment 37

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ga) applicable tariffs.

Justification

Requirements of transparency should include the applicable tariffs.

Amendment 38

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.***

Amendment 39

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

Text proposed by the Commission

Amendment

2a. Collective management organisations shall ensure that, in accordance with point (ab) of paragraph 1, the information on repertoire is accurate and regularly updated. In this respect, they shall particularly ensure that the information concerning works whose term of protection is about to terminate is accurate and regularly updated, and made available to the public.

Justification

Accurate information about when a specific work will fall into the Public Domain is important to the public. Such information should be regularly updated. Consistent with draft opinion from CULT.

Amendment 40

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.

Justification

In order to keep collecting societies accountable, publication of annual transparency report should apply to all of them.

Amendment 41

Proposal for a directive

Article 22 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 42

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 collecting society may take reasonable measures to protect the accuracy and integrity of the data and to protect personal data and, ***when necessary***, commercially sensitive information.

Justification

Collection societies should not be granted the power to limit the "re-use" of information, an important and foundational human right.

Amendment 43

Proposal for a directive Article 24 – paragraph 1

Text proposed by the Commission

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

Amendment

1. A collecting society which grants multi-territorial licences for online rights in musical works shall have procedures in place to enable rightholders and other collecting societies to object to the contents of the data referred to in Article 22(2) *and rightholders, other collecting societies and online music service providers to object* to information provided under Article 23, where such rightholders, collecting societies *and online music service providers* on the basis of reasonable evidence, believe that the data or the information are inaccurate in respect of their online rights *or licences* 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.

Justification

The right to object should be given to online music service providers too.

Amendment 44

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

Text proposed by the Commission

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

Amendment

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

Justification

The requested society should be required to accept within a reasonable time. Consistency with draft opinions from IMCO and ITRE.

Amendment 45

Proposal for a directive Article 31 – paragraph 1

Text proposed by the Commission

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

Amendment

This Title as well as Articles 36 and 40 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.

Amendment 46

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**.

Justification

Disputes between collective management organisations about capacity to process and repertoire transparency should be subject to dispute resolution. Consistent with draft opinion from IMCO.

PROCEDURE

Title	Collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market		
References	COM(2012)0372 – C7-0183/2012 – 2012/0180(COD)		
Committee responsible Date announced in plenary	JURI 11.9.2012		
Opinion by Date announced in plenary	INTA 13.12.2012		
Rapporteur Date appointed	Helmut Scholz 26.11.2012		
Discussed in committee	20.3.2013	24.4.2013	27.5.2013
Date adopted	18.6.2013		
Result of final vote	+: 23	–: 0	0: 4
Members present for the final vote	Maria Badia i Cutchet, David Campbell Bannerman, María Auxiliadora Correa Zamora, Christofer Fjellner, Yannick Jadot, Metin Kazak, Franziska Keller, Bernd Lange, David Martin, Vital Moreira, Paul Murphy, Cristiana Muscardini, Helmut Scholz, Peter Šťastný, Robert Sturdy, Henri Weber, Iuliu Winkler, Paweł Zalewski		
Substitute(s) present for the final vote	Josefa Andrés Barea, Catherine Bearder, Albert Deß, Elisabeth Köstinger, Emma McClarkin, Mario Pirillo, Miloslav Ransdorf, Peter Skinner, Jarosław Leszek Wałęsa		
Substitute(s) under Rule 187(2) present for the final vote	Paul Rübig		