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*Committee on Industry, Research and Energy*

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**2012/0180(COD)**

24.6.2013

## **OPINION**

of the Committee on Industry, Research and Energy

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: Luigi Berlinguer

PA\_Legam

## SHORT JUSTIFICATION

Europe's creative industries have a high potential for jobs and growth creation. Our cultural diversity also offers a unique advantage and opportunity on the world stage. This Directive should therefore facilitate the vitality of our creative industries while preserving the ability of collective rights management organisations to serve local and niche repertoires on a solidarity basis. The ITRE rapporteur expresses general satisfaction with the overall profile of the proposal, which is going to provide European collective management organisations, users, beneficiaries and artists with a fundamentally new tool for the better functioning of the online music sector in Europe. Particularly important is the first part of the Directive, covering the issue of transparency and good governance: some of the measures suggested in the opinion aim at improving the effectiveness and functionality of that new system. The ITRE rapporteur also wishes to make sure that the provisions introduced by the proposal do not discriminate against European collective management organisations (including online service providers and agents) compared to non-EU organisations.

## AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a directive

#### Recital 3

*Text proposed by the Commission*

*Amendment*

***(3) When established in the Union, collecting societies – as service providers – must comply with the national requirements pursuant to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market which seeks to create a legal framework for ensuring the freedom of establishment and the free movement of services between the Member States. This implies that collecting societies should be free to provide their services across borders, to represent rightholders resident or established in other Member States or grant licences to users resident or established in other Member States.***

***deleted***

## Amendment 2

### Proposal for a directive

#### Recital 4

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 3

### Proposal for a directive

#### Recital 6 a (new)

*Text proposed by the Commission*

*Amendment*

**(6 a) This Directive is without prejudice to**

*the arrangements in the Member States concerning the management of rights by collective management organisations, such as extended or mandatory collective licensing, legal presumptions of representation or transfer, or a combination of them.*

**Amendment 4**  
**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

*Justification*

*Recital to be replaced by new recital 7a.*

**Amendment 5**

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

*Text proposed by the Commission*

*Amendment*

*(7a) This Directive is without prejudice to the legal form traditionally chosen by the Member States for the operation of the collective management organizations. The Member States should not be required to change the legal form of these organizations. The provisions of the Directive are without prejudice to right holders' freedom of association and their*

***right to organize themselves.***

*Justification*

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

**Amendment 6**

**Proposal for a directive**

**Recital 9**

*Text proposed by the Commission*

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

*Amendment*

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

commercial uses.

of this choice and allow them to exercise it as easily as possible. Finally, this Directive should not prejudice the possibilities of rightholders to manage their rights individually, including for non-commercial uses.

## Amendment 7

### Proposal for a directive Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

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

## Amendment 8

### Proposal for a directive Recital 12

*Text proposed by the Commission*

*Amendment*

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

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

*Justification*

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

## Amendment 9

### 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 10

### 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

*Amendment*

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

*Amendment*

(15) **Collective management organisations** collect, manage and distribute revenue from the exploitation of the rights entrusted to them by rightholders. This revenue is ultimately due to rightholders who may be members of that society, or another society. It is therefore important that **collective management organisations** exercise the utmost diligence in collecting, managing and distributing that revenue. Accurate distribution is only possible where **collective management organisations** maintain proper records of membership, licences and use of works and other subject matter. Where appropriate, data should also be provided by rightholders and users and verified by the

separately from any own assets of the **collecting society** and, if they are invested, pending their distribution to rightholders, this should be carried out in accordance with the investment policy decided by the **collecting societies'** general meeting. In order to maintain a high level of protection for the rights of rightholders and to ensure that any income which may be derived from exploitation of their rights accrues for the benefit of rightholders, the investments made and held by the **collecting society** should be managed in accordance with criteria which would oblige the **collecting society** to act prudently, while allowing the **collecting society** to decide on the most secure and efficient investment policy. This should allow the **collecting society** to opt for **an asset allocation that suits the precise nature and duration of any** exposure to risk of any rights revenue 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.

**collective management organisations**. Amounts collected and due to rightholders should be managed separately from any own assets of the **collective management organisation** and, if they are invested, pending their distribution to rightholders, this should be carried out in accordance with the investment policy decided by the **collective management organisations'** general meeting. In order to maintain a high level of protection for the rights of rightholders and to ensure that any income which may be derived from exploitation of their rights accrues for the benefit of rightholders, the investments made and held by the **collective management organisation** should be managed in accordance with criteria which would oblige the **collective management organisation** to act prudently, while allowing the **collective management organisation** to decide on the most secure and efficient investment policy. This should allow the **collective management organisation** to opt for **a secure and profitable asset allocation that prevents** exposure to risk of any rights revenue invested and which does not unduly prejudice any rights revenue owed to rightholders. Moreover, in order to ensure that the amounts due to rightholders are appropriately and effectively distributed, it is necessary to require **collective management organisations** to undertake diligent and good faith reasonable measures to identify and locate the relevant rightholders. It is also appropriate to provide for the approval by members of **collective management organisations** of the rules governing any situation where, due to the lack of identified or located rightholders, amounts collected cannot be distributed.

#### *Justification*

*In order to prevent unnecessary risks to the revenue that belongs to rightholders, collective management organisations should employ a secure and low risk investment strategy.*

[Consistent with draft opinion from IMCO.]

## Amendment 11

### Proposal for a directive

#### Recital 24

*Text proposed by the Commission*

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

*Amendment*

(24) ***Unlike other creative sectors where direct licensing plays a more prominent role, the*** collective management of authors' rights on a territorial basis remains the norm ***in the music sector. Therefore*** it is essential to create conditions conducive to the most effective licensing practices by ***collective management organisations***, in an increasingly cross-border context. It is therefore appropriate to provide for a set of rules coordinating basic conditions for the provision by collective management organisations of multi-territorial collective licensing of authors' online rights in musical works. These provisions should ensure the necessary minimum quality of the cross-border services provided by ***collective management organisations***, notably in terms of transparency of repertoire represented and accuracy of financial flows related to the use of the rights. They should also set out a framework for facilitating the voluntary aggregation of music repertoire and thus reducing the number of licences a user needs to operate a multi-territorial service. These provisions should enable a collecting society to request another collecting society to represent its repertoire on a multi-territorial basis where it cannot fulfil the requirements itself. There should be an obligation on the requested society, provided that it aggregates repertoire and offers or grants multi-territorial licences, to accept the mandate of the requesting society, ***without abusing its market power***. The development of legal online music services across the Union should also

contribute to *a decrease in unauthorized copying of music.*

## Amendment 12

### Proposal for a directive Recital 35

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## Justification

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

### Amendment 13

#### Proposal for a directive

#### Recital 36

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

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

##### *Amendment*

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

*organisations*, on the one hand, and online music service providers, rightholders or other *collective management organisations*, on the other. *These dispute resolution bodies should have special knowledge of intellectual property matters and they should base their decisions on objective standards and criteria, such as the "fair value in trade" established by the CJEU. In order to secure payment, users should be required to make payments to the collective management organisations, while the process is pending, according to the existing tariff where such tariff exists or based on an interim order by the court where no pre-existing applicable tariff is set.*

#### *Justification*

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

#### **Amendment 14**

##### **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

###### *Amendment*

(37) Moreover, Member States should establish appropriate procedures by means of which it will be possible to make complaints against *collective management organisations* who do not comply with the

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.

law and to ensure that, where appropriate, effective, proportionate and dissuasive sanctions *or measures* are imposed. Member States should determine which authorities should be responsible for administering the complaints procedures and sanctions. To ensure that the requirements for multi-territorial licensing are complied with, specific provisions on the monitoring of their implementation should be laid down. The competent authorities of the Member States and the European Commission should cooperate with each other to this end.

### *Justification*

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

## **Amendment 15**

### **Proposal for a directive**

#### **Recital 43**

#### *Text proposed by the Commission*

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

#### *Amendment*

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

## **Amendment 16**

### **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 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.

*(Global change)*

## **Amendment 17**

### **Proposal for a directive Article 2- paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

## **Amendment 18**

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

*Text proposed by the Commission*

*Amendment*

*Title I, Articles 10, 11(1), 12, 15, 16, 18, 19 and 20 of Title II, Title III and Articles 34, 35, 37 and 38 of Title IV shall also apply to independent rights management service providers established inside or outside the Union who act as agents for*

*rightholders for the management of their rights and operate in the Union on a commercial basis.*

## **Amendment 19**

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

*Text proposed by the Commission*

*Amendment*

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

#### *Justification*

*Ex article 33 - Broadcasters include in their online services not only broadcast programmes or parts thereof but also other programme material provided under the broadcaster's editorial control and responsibility which normally bears a relationship with the broadcaster's offline activities. As the exact scope and extent of that material will be subject to contractual arrangements between broadcasters and the music right holders or collective management organisations concerned, it should not be defined in advance by the Directive.*

## **Amendment 20**

### **Proposal for a directive Article 2 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

*This Directive does not interfere with any arrangements concerning extended or mandatory collective licensing at national level.*

## **Amendment 21**

### **Proposal for a directive Article 2 – paragraph 2 d (new)**

*Text proposed by the Commission*

*Amendment*

***This Directive does not derogate from the European regulations concerning the protection of individuals as regards the processing of personal data.***

## **Amendment 22**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

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

(a) '***collective management organisation***' means any organisation authorised by law or by way of assignment, licence or any other contractual arrangement ***to manage copyright or rights related to copyright on behalf of*** more than one rightholder, ***for the collective benefit of those rightholders*** as its sole or ***one of its main purposes***, and which is:

***(i) owned or directly or indirectly controlled by its rightholders, or***

***(ii) organised as a not for profit organisation.***

## **Amendment 23**

### **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 24**

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

*Text proposed by the Commission*

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

*Amendment*

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

### *Justification*

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

#### **Amendment 25**

##### **Proposal for a directive Article 3 – paragraph 1 – point k**

*Text proposed by the Commission*

(k) ‘multi-territorial licence’ means a licence which covers the territory of more than one Member State;

*Amendment*

(k) ‘multi-territorial licence’ **for an online music service** means a licence which covers the territory of more than one Member State;

#### **Amendment 26**

##### **Proposal for a directive Article 5 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

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

*Justification*

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

**Amendment 27**

**Proposal for a directive  
Article 5 – paragraph 6**

*Text proposed by the Commission*

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

*Amendment*

6. Member States shall ensure that the rightholder gives express consent specifically for each right or category of rights or type of works and other subject matter which that rightholder authorises the collecting society to manage and that any such consent is evidenced in documentary form; **this paragraph does not apply to the arrangements in the Member States**

*concerning the administration of rights through extended collective licenses, legal presumptions of representation or transfer, mandatory collective management or similar arrangements or a combination of them.*

*Justification*

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

**Amendment 28**

**Proposal for a directive  
Article 6 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

2. **A collective management organisation** shall accept rightholders **and entities representing rightholders, including other collective management organisations and associations of rightholders** as members if they fulfil the membership requirements, **which shall be based on objective and non-discriminatory criteria.** These criteria shall be included in the statute or the membership terms of the collecting society and shall be made publicly available.

**Amendment 29**

**Proposal for a directive  
Article 6 – paragraph 3**

*Text proposed by the Commission*

3. The statute of the **collecting society** shall provide for appropriate and effective mechanisms of participation of its members in the collecting society's

*Amendment*

3. The statute of the **collective management society** shall provide for appropriate and effective mechanisms of participation of its members in the

decision-making process. The representation of the different categories of members *in* the decision-making process shall be fair and balanced.

collecting society's decision-making process. The representation of the different categories of members *at all levels of* the decision-making process shall be fair and balanced.

### Amendment 30

#### Proposal for a directive Article 7 – paragraph 4 – subparagraph 1

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

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

##### *Amendment*

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

##### *Justification*

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

### Amendment 31

#### 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

##### *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*

ensure their effective participation.

**management organisation** in the body exercising this function in order to ensure their effective participation.

*Justification*

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

**Amendment 32**

**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.**

*Justification*

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

**Amendment 33**

**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.**

## Amendment 34

### 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*

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

## Amendment 35

### 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

*Amendment*

1. Member States shall ensure that the ***collective management organisations distribute and pay regularly and diligently amounts*** due to ***the*** rightholders it represents. The ***collective management organisations*** shall, ***taking into account the state of technology,*** carry out such distribution and payments ***without undue delay and at least on a semestral basis and*** 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 ***collective management***

categories of rightholders.

*organisations* from respecting this deadline. The *collective management organisations* shall carry out such distribution and payments accurately, ensuring equal treatment of all categories of rightholders.

## Amendment 36

### Proposal for a directive Article 12 – paragraph 2

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 37

### Proposal for a directive Article 12 – paragraph 3

*Text proposed by the Commission*

3. For the purposes of paragraph 2,

*Amendment*

3. For the purposes of paragraph 2, *the*

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.

*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.

## Amendment 38

### Proposal for a directive

#### Article 15 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 39

### 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 *be reasonable in relation to in particular the economic* value of the *use of the* rights in trade *taking into account the nature and scope of the use of the work and other subject matter, as well as to the economic value* of the service provided by the *collective management organisation*.

## Amendment 40

### Proposal for a directive

### Article 15 – paragraph 2 – subparagraph 3

*Text proposed by the Commission*

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

*Amendment*

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

### Amendment 41

**Proposal for a directive**

**Article 15 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2 a. A collective management organisation providing licences shall not be required to use as a precedent for other types of services licensing terms agreed with a service provider, when such service provider is providing a new type of service which has been available to the public for less than three years.**

### Amendment 42

**Proposal for a directive**

**Article 15 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. Users shall provide collective management organisations, in an adopted or agreed format and timeframe, with information necessary to enable the accurate analysis of the use of their repertoires. In order to allow collective management organisations to determine applicable fees and to distribute the amounts due to rightholders accurately and in accordance with the obligations imposed by this Directive. Where users**

*fail to report to collective management organisations in a manner that enables the collective management organisations to make timely and accurate distributions to individual rightholders, Member States shall ensure that collective management organisations shall be discharged of their obligations under this Directive related to distribution of revenues to individual rightholders, and the collective management organisations may charge such users additional fees to cover the additional administrative costs caused by missing or insufficient usage reports.*

#### **Amendment 43**

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

*Text proposed by the Commission*

*Amendment*

*3b. Collective management organisations shall be permitted to include a right of audit in their licences, subject to reasonable conditions, in order to verify the compliance with the terms of the licence and the declaration of qualifying revenue.*

#### **Amendment 44**

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

*Text proposed by the Commission*

*Amendment*

*3c. Users should pay licence fees and remunerations to the collective management organisations in a timely manner whenever there is a generally applicable or court-determined tariff in force. Where users fail to pay such licence fees or remuneration in a timely manner, Member States shall ensure that collective*

*management organisations may charge such users additional fees to cover the administrative costs caused by the failure to voluntarily pay the licence fees or remunerations.*

## **Amendment 45**

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

*Text proposed by the Commission*

*Amendment*

#### *Article 15a*

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

#### *Justification*

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

## **Amendment 46**

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

*Text proposed by the Commission*

*Amendment*

#### *Article 15b*

*Refusal to grant a license:*

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

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

#### **Amendment 47**

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

##### **Article 18 – paragraph 1 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

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

#### **Amendment 48**

##### **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

*Amendment*

2. In addition, a **collective management organisation** 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.

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 49**

### **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*

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

## **Amendment 50**

### **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;**

*Amendment*

*deleted*

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

## **Amendment 51**

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

*Text proposed by the Commission*

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

*Amendment*

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

*Justification*

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

## **Amendment 52**

### **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. **In order to allow the aggregation of a multiplicity of repertoires and to be able to grant multi-repertoire and multi-territorial licences, collective management societies shall have the possibility to conclude representation agreements with other collective management societies for the coordination and efficiency of such licenses under equal and non-discriminatory terms.** Any representation agreement between **collective management** societies whereby a **collective management** society mandates another **collective management** society to grant

multi-territorial licences for the online rights in musical works in its own music repertoire *should preserve the ability for the mandating society to mandate another society and* shall be of a non-exclusive nature. The mandated *collective management organisation* shall manage those online rights on non-discriminatory terms.

## **Amendment 53**

### **Proposal for a directive**

#### **Article 28 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall promote, on the same conditions, where applicable, cooperation between collective management organisations in the fields of management, administration and licensing of rights.***

## **Amendment 54**

### **Proposal for a directive**

#### **Article 28 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

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

*for such licences.*

*Justification*

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

**Amendment 55**

**Proposal for a directive**

**Article 29 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

2. 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*

2. The requested **collective management organisation** shall accept such a request **without delay** 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 **collective management organisations**.

**Amendment 56**

**Proposal for a directive**

**Article 29 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 57

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

***The requested collective management organisation shall license the requesting collective management organisation's repertoire, in its relations with users, on the same conditions as its own repertoire and shall not exclude the requesting organisation's repertoire from the licensed repertoire without the requesting organisation's consent.***

*Justification*

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

## Amendment 58

### 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

The requirements under this Title shall not apply to ***collective management organisations*** 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

broadcast of its radio or television programme.

which is ancillary to the initial broadcast of its radio or television programme.

*Justification*

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

**Amendment 59**

**Proposal for a directive  
Article 35 – title**

*Text proposed by the Commission*

*Amendment*

Dispute resolution *for* users

Dispute resolution *with* users

**Amendment 60**

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

*Text proposed by the Commission*

*Amendment*

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

1. Member States shall ensure that disputes between *collective management organisations* and users concerning existing and proposed licensing conditions, tariffs, *the calculation of tariffs*, and any refusal to grant a licence *or to comply with its terms* 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 intellectual property matters and that their decisions are made on the basis of the criteria set out in Article 15(2).*

**Amendment 61**

**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.***

*Justification*

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

## **Amendment 62**

**Proposal for a directive**

**Article 35 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

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

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

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

## **Amendment 63**

**Proposal for a directive**

**Article 35 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. Member States shall ensure that the collective management organisations or users, as the case may be, shall pay the***

*balance between the payments made and the new tariff set by the competent body no later than 30 days after the decision has been made by that body.*

## Amendment 64

### Proposal for a directive Article 38 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

1. Member States shall **ensure** that their respective competent authorities **have the power to impose** appropriate administrative sanctions and **to take appropriate measures, or, alternatively, designate appropriate bodies**, where the provisions of the national provisions adopted in the implementation of this Directive have not been complied with, and shall ensure that they are applied. **These** sanctions and measures shall be effective, proportionate and dissuasive.

## PROCEDURE

<b>Title</b>	Collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market
<b>References</b>	COM(2012)0372 – C7-0183/2012 – 2012/0180(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 11.9.2012
<b>Opinion by</b> Date announced in plenary	ITRE 11.9.2012
<b>Rapporteur</b> Date appointed	Luigi Berlinguer 5.11.2012
<b>Discussed in committee</b>	13.5.2013
<b>Date adopted</b>	20.6.2013
<b>Result of final vote</b>	+: 52 -: 0 0: 0
<b>Members present for the final vote</b>	Josefa Andrés Barea, Jean-Pierre Audy, Ivo Belet, Bendt Bendtsen, Fabrizio Bertot, Jan Březina, Maria Da Graça Carvalho, Giles Chichester, Jürgen Creutzmann, Pilar del Castillo Vera, Dimitrios Droutsas, Christian Ehler, Vicky Ford, Adam Gierek, Robert Goebbels, Fiona Hall, Jacky Hélin, Edit Herczog, Kent Johansson, Romana Jordan, Krišjānis Kariņš, Lena Kolarska-Bobińska, Philippe Lamberts, Judith A. Merkies, Jaroslav Paška, Aldo Patriciello, Vittorio Prodi, Herbert Reul, Teresa Riera Madurell, Jens Rohde, Paul Rübig, Francisco Sosa Wagner, Konrad Szymański, Britta Thomsen, Patrizia Toia, Ioannis A. Tsoukalas, Niki Tzavela, Marita Ulvskog, Vladimir Urutchev, Kathleen Van Brempt, Alejo Vidal-Quadras
<b>Substitute(s) present for the final vote</b>	Jerzy Buzek, Ioan Enciu, Andrzej Grzyb, Roger Helmer, Jolanta Emilia Hibner, Gunnar Hökmark, Bernd Lange, Hannu Takkula
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Bas Eickhout, Indrek Tarand, Keith Taylor