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

2012/0180(COD) - 04/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 640 votes to 18, with 22 abstentions, a legislative resolution 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.

Parliament agreed its position in first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement negotiated between the European Parliament and the Council. They amend the proposal as follows:

Purpose: the aim of the directive is to lay down requirements applicable to **collective management organisations** with a view to ensuring a high standard of governance, financial management, transparency and reporting.

The amended text underlines that collective management organisations should continue to play, an important role as **promoters of the diversity of cultural expression**, both by enabling the smallest and less popular repertoires to access the market and by providing social, cultural and educational services for the benefit of their rightholders and the public.

General principles: Member States should ensure that collective management organisations act in the **best interests of the rightsholders** whose rights they represent and that they do not impose on them any obligations which are not objectively necessary for the protection of their rights and interests or for the effective management of their rights.

Rights of rights holders: the amended text provides that rights holders 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 territories of their choice, irrespective of the Member State of nationality, residence or establishment of either the collective management organisation or the rightholder. Unless the collective management organisation has objectively justified reasons to refuse management, it shall be obliged to manage these rights.

Rightholders should be **free to entrust the management of their rights to independent management entities**. Such independent management entities are commercial entities which differ from collective management organisations inter alia because they are not owned or controlled by rightholders.

However, to the extent that such independent management entities carry out the same activities as collective management organisations, they should be obliged to provide certain information to the rightholders they represent, collective management organisations, users and the public.

Organisation of collective management organisations: to ensure that rightholders' rights are properly managed, collective management organisations will also have to **comply** with transparency and reporting requirements as well as minimum rules on governance and on the collection and use of revenues.

Each collective management organisation should take all necessary measures so that the persons who manage its business do so in a sound, prudent and appropriate manner, using sound administrative and accounting procedures and internal control mechanisms. Procedures to avoid conflicts of interest should also be set in place.

Management of rights revenues: collective management organisations should be diligent in the collection and management of rights revenue.

A collective management organisation shall keep separate in its accounts: (a) rights revenue and any income arising from the investment of rights revenue; and (b) any own assets it may have and income arising from such assets, from management fees or from other activities.

Distribution of amounts due to rights holders: each collective management organisation should **regularly, diligently and accurately** distribute and pay amounts due to rightholders.

Amounts should be distributed and paid to rights holders **as soon as possible but no later than nine months** from the end of the financial year in which the rights revenue was collected, unless objective reasons prevent the collective management organisation from meeting that deadline.

When a rights holder authorises a collective management organisation to manage his rights, the collective management organisation should transmit to the rights holder information on management fees and other deductions made on revenue arising from these rights before obtaining his consent to manage his rights. The deductions in question must be reasonable.

Rights managed under representation agreements: collective management organisation **should not discriminate** against any rightholder whose rights it manages under a representation agreement, in particular with respect to applicable tariffs, management fees, and the conditions for the collection of the rights revenue and distribution of amounts due to rightholders.

Agreements between collective management organisations for multi-territorial licensing: Member States should ensure that any representation agreement between collective management organisations whereby a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works in its own music repertoire is of a non-exclusive nature. The mandated collective management organisation shall manage those online rights on a non-discriminatory basis.

Obligation to represent another collective management organisation for multi-territorial licensing: where a collective management organisation which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its own repertoire requests another collective management organisation to enter into a representation agreement to represent those rights, **the requested collective management organisation is required to agree to 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 collective management organisations.