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Committee on International Trade

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AMENDMENTS 1 - 69

Helmut Scholz

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

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

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Amendment 1
Amelia Andersdotter

Proposal for a directive
Recital 2

Text proposed by the Commission

(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.

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 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 2 **Amelia Andersdotter**

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 market¹⁸ 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.

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 market¹⁸ which seeks to create a legal framework for 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.

Or. en

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

Amendment 3

Amelia Andersdotter

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

Or. en

Justification

Inefficiencies and transparency problems also concern commercial independent rights management providers. And in the end, consumers pay a large part of the cost of inefficiencies in markets for creative works.

Amendment 4

Amelia Andersdotter

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-commercial uses.

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 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.***

Or. en

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 5
Amelia Andersdotter

Proposal for a directive
Recital 12

Text proposed by the Commission

(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.

Amendment

(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**.

Or. en

Justification

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

Amendment 6
Amelia Andersdotter

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 **collective management organisations**. To this end, **collective management organisations** should establish a supervisory function appropriate to their organisational structure and allow members, **representing different categories of rightholders**, to be **represented in the body that exercises this function.**

Or. en

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. Additionally, this recital should be consistent with revisions to articles 8.3 and 20.5.

Consistent with draft opinions from CULT and IMCO.

Amendment 7
Amelia Andersdotter

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

Amendment

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

Or. en

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
Amelia Andersdotter

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

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

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 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.

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 *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

Consistent with draft opinion from IMCO.

Amendment 9
Amelia Andersdotter

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Fair commercial terms in licensing are particularly important to ensure that users can license the works and other protected subject-matter for which a collecting society represents rights and to ensure the remuneration of rightholders. Collecting societies and users should therefore conduct licensing negotiations in good faith and apply tariffs determined on the basis of objective criteria.

Amendment

(18) Fair commercial terms in licensing are particularly important to ensure that users can license the works and other protected subject-matter for which a collecting society represents rights and to ensure the remuneration of rightholders. Collecting societies and users should therefore conduct licensing negotiations in good faith and apply tariffs determined on the basis of objective *and non-discriminatory* criteria. *Tariffs should be reasonable in relation to the economic value of the use of the rights in trade.*

Or. en

Justification

Should reflect ECJ case law. As monopoly providers, collective management organisations face weak incentives not to overcharge.

Amendment 10
Amelia Andersdotter

Proposal for a directive
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18 a) To enhance transparency and prevent situations where users receive more than one invoice for the same rights in the same works, collecting societies should be required to cooperate closely among themselves. This cooperation should include pooling of information on

licences and use of works in a common database, coordinated and joint invoicing and collection of rights revenues.

Or. en

Justification

The double-invoicing of copyright users is a recurring and widespread problem. According to the Commission Impact Assessment, as much as 10-30% of royalties invoiced to users may be affected by double invoicing. Consistent with draft opinion from IMCO.

Amendment 11
Amelia Andersdotter

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 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.***

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 educational services.

Or. en

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 12
Amelia Andersdotter

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 collecting societies 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) 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 collecting societies 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, *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*.

Or. en

Justification

The effectiveness of collective management organisations depend on the control of anti-competitive

effects. Improved language. Consistency with draft opinion from IMCO.

Amendment 13

Amelia Andersdotter

Proposal for a directive

Recital 27

Text proposed by the Commission

(27) Digital technology allows the automated monitoring by collecting societies of the use by the licensee of the licensed musical works and facilitates invoicing. Industry standards for music usage, sales reporting and invoicing are instrumental to improve the efficiency in the exchange of data between collecting societies and users. The monitoring of the use of licences should respect fundamental rights, namely the right to respect of private and family life and data protection. To ensure that these efficiency gains result in faster financial processing and ultimately in earlier payments to rightholders, collecting societies should be required ***to invoice service providers*** and to distribute amounts due to rightholders without delay. For this requirement to be effective, it is necessary that licensees make every effort to provide collecting societies with accurate and timely reports on the use of the works. Collecting societies should not be required to accept users' reports in proprietary formats when widely used industry standards are available.

Amendment

(27) Digital technology allows the automated monitoring by collecting societies of the use by the licensee of the licensed musical works and facilitates invoicing. Industry standards for music usage, sales reporting and invoicing are instrumental to improve the efficiency in the exchange of data between collecting societies and users. The monitoring of the use of licences should respect fundamental rights, namely the right to respect of private and family life and data protection. To ensure that these efficiency gains result in faster financial processing and ultimately in earlier payments to rightholders, collecting societies should be required ***to establish cooperation procedure among themselves so as to ensure that each user receives a single joint invoice*** and to distribute amounts due to rightholders without delay. For this requirement to be effective, it is necessary that licensees make every effort to provide collecting societies with accurate and timely reports on the use of the works. Collecting societies should not be required to accept users' reports in proprietary formats when widely used industry standards are available.

Or. en

Justification

High transaction costs, such as complicated and multiple invoices, are a major impediment in the European copyright licensing market. Consistent with draft opinion from IMCO.

Amendment 14
Amelia Andersdotter

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 **collective management organisations** who do not comply with the 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.

Or. en

Justification

Consistent with draft opinion from CULT.

Amendment 15
Amelia Andersdotter

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 collecting societies of authors' rights in

musical works for online use.

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

Or. en

Amendment 16
Amelia Andersdotter

Proposal for a directive
Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(a a) '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;

Or. en

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
Amelia Andersdotter

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***;

Or. en

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
Amelia Andersdotter

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**;

Or. en

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
Amelia Andersdotter

Proposal for a directive
Article 3 – paragraph 1 – point i

Text proposed by the Commission

(i) ‘user’ means any natural person or legal entity who is carrying out acts subject to the authorisation **of rightholders**, the remuneration of rightholders **or the payment of compensation to rightholders** and who is not acting in the capacity of a consumer;

Amendment

(i) ‘user’ means any natural person or legal entity who is carrying out acts subject to the authorisation **or** the remuneration of rightholders and who is not acting in the capacity of a consumer;

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

Justification

The term "compensation" is a reference to statutory remuneration rights, copyright levies, which is outside the scope of the directive.

Amendment 20
Amelia Andersdotter

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, ***works*** 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.

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 manage individual works within their collective management organisation. Consistent with draft opinion from CULT.

Amendment 21
Amelia Andersdotter

Proposal for a directive
Article 5 – paragraph 2 a (new)

*Text proposed by the Commission**Amendment*

2 a. Rightholders shall have the right to grant free licences for use of their works and rights. In this case, rightholders shall inform in due time the collective management organisations authorised to

manage the rights of such works that such a free license has been granted.

Or. en

Justification

Flexibility should be given to rightholders in the management of their works: rightholders should have the right to decide that their works could be used under free licenses, such as Creative Commons, without jeopardising their membership in the collective management organisation which represents them. Consistent with draft opinion from CULT.

Amendment 22
Amelia Andersdotter

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 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.

Amendment

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

Or. en

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 23
Amelia Andersdotter

Proposal for a directive
Article 5 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 a. Without prejudice to Article 20(4), rightholders shall have the right to request external independent audits of their collective management organisation at any time during the term of the authorisation.

Or. en

Justification

With a number of cases of corruption or mismanagement of funds in European collective management organisations in recent years, there is a need to facilitate external audits so that real independence and diligence can be assured. Consistent with draft opinion from CULT.

Amendment 24
Amelia Andersdotter

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

Amendment

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.

2. Collecting societies shall accept rightholders, **or any other members as defined in Article 3(c)**, as members if they fulfil the membership requirements. They may only refuse a request for membership on the basis of objective **and nondiscriminatory** criteria. These criteria shall be included in the statute or the membership terms of the collecting society and shall be made publicly available.

Or. en

Justification

Clarification. Nondiscriminatory criteria. Consistent with draft opinion from IMCO.

Amendment 25
Amelia Andersdotter

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

3. ***The general meeting shall approve any amendments to the statute and the membership terms of the **collecting society, where those terms are not regulated** by the statute.***

Amendment

3. The statute and the membership terms of the ***collective management organisation as well as any amendments thereof shall be adopted*** by the ***general meeting***.

Or. en

Justification

Clearer language. Consistent with draft opinion from CULT.

Amendment 26
Amelia Andersdotter

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.

Or. en

Justification

Clarification. Consistent with draft opinion from IMCO.

Amendment 27
Amelia Andersdotter

Proposal for a directive
Article 7 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) the use of the amounts due to rightholders which cannot be distributed as set out in Article 12(2) except where the general meeting decides to delegate this decision to the body exercising the supervisory function;

deleted

Or. en

Justification

Consistent with proposed changes to article 12(2). Consistent with draft opinion from CULT.

Amendment 28

Amelia Andersdotter

Proposal for a directive

Article 7 – paragraph 6

Text proposed by the Commission

Amendment

6. The general meeting shall control the activities of the ***collecting society*** by, at least, deciding on the appointment and removal of the auditor and approving the annual transparency report and the auditor's report.

6. The general meeting shall control the activities of the ***collective management organisation*** by, at least, deciding on the appointment and removal of the auditor and approving the annual transparency report and the auditor's report. ***If the financial management practice of the collective management organisation, is reasonably in doubt, the general meeting may decide to conduct an external audit. The result of such external audit shall be communicated to all members and to the public.***

Or. en

Justification

With a number of cases of corruption or mismanagement of funds in European collective management organisations in recent years, there is a need to facilitate external audits so that real independence and diligence can be assured. Consistent with draft opinion from CULT.

Amendment 29

Amelia Andersdotter

Proposal for a directive

Article 7 – paragraph 7 – subparagraph 1 – introductory part

Text proposed by the Commission

Any restriction on the right of the members of the collecting society to participate and to exercise voting rights at the general meeting shall be fair and proportionate and be based on the following criteria:

Amendment

Every member of a collective management organisation shall have the right to vote at the general meeting, including, where appropriate, by electronic vote. Any restriction on the right of a member of the collective management organisation to participate and to exercise his or hers voting rights at the general meeting shall be fair and proportionate and be based on the following criteria:

Or. en

Justification

Broad participation and efficient voting should be encouraged. Consistent with draft opinion from CULT.

Amendment 30

Amelia Andersdotter

Proposal for a directive

Article 7 – paragraph 7 – subparagraph 1 – point b

Text proposed by the Commission

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

Amendment

deleted

Or. en

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 31

Amelia Andersdotter

Proposal for a directive
Article 7 – paragraph 8

Text proposed by the Commission

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.

Amendment

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.***

Or. en

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 32
Amelia Andersdotter

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the **collecting society** establishes a supervisory function responsible for continuously monitoring the activities and the performance of the duties of the persons entrusted with managerial responsibilities in **the collecting society**. There shall be fair and balanced representation of the members of the **collecting society** in the body exercising this function in order to ensure their effective participation.

Amendment

1. Member States shall ensure that the **collective management organisation** establishes a supervisory function responsible for continuously monitoring the activities and the performance of the duties of the persons entrusted with managerial responsibilities in **that organisation**. There shall be fair and balanced representation of the **different categories of** members of the **collective management organisation** in the body exercising this function in order to ensure their effective participation.

Or. en

Justification

Consistent with draft opinion from CULT.

Amendment 33
Amelia Andersdotter

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

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

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

Amendment 34
Amelia Andersdotter

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

Clarification. Consistent with draft opinion from IMCO.

Amendment 35
Amelia Andersdotter

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

(a) balance sheet total: EUR 350 000;

(b) net turnover: EUR 700 000;

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

Or. en

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 36
Amelia Andersdotter

Proposal for a directive
Article 9 – paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

Amendment

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

Those procedures shall include an individual statement by each of those persons and directors, to the body entrusted with the supervisory function, **to the members and publicly accessible through the website of the collective management organisation. The statement should be made before each of those persons take up their duties and should thereafter be renewed annually. The statement should contain** the following information:

Or. en

Justification

Conflicts of interest needs to be disclosed before a manager or director takes up his or her duties. Consistent with recital 14. Consistency with draft opinion from CULT.

Amendment 37
Amelia Andersdotter

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

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

Amendment

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.***

Or. en

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 38
Amelia Andersdotter

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

3. The collecting society shall not be allowed to use rights revenue and any income derived from its investment for its own account, save that it may deduct its management fees.

Amendment

3. The collecting society shall not be allowed to use rights revenue and any income derived from its investment for its own account, save that it may deduct its management fees ***according to the rules referred to in Article 7(5)(d).***

Or. en

Justification

Clarification. Consistent with draft opinion from IMCO.

Amendment 39
Amelia Andersdotter

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

Or. en

Justification

Artists see it as a big problem that many collective management organisations are so slow in paying the money they owe. The draft directive proposes that the organisations should be allowed to keep the money for up to two years. This is hardly reasonable. Collective management organisations that currently do not meet higher targets need incentives to improve the efficiency of their administrative routines.

Amendment 40
Amelia Andersdotter

Proposal for a directive
Article 12 – paragraph 2

Text proposed by the Commission

2. Where the amounts due to rightholders

Amendment

2. Where the amounts due to rightholders

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

cannot be distributed, after **three** years from the end of the financial year in which the collection of the rights revenue occurred, **because the collective management organisation failed** to identify and locate the rightholders, the **money shall be paid to a fund set up and managed for this purpose by the Member State in which the money is collected. The fund is thereafter responsible for any claims from reappearing rightholders.**

Or. en

Justification

Allowing the collecting society to keep the money will provide an incentive for the collecting society not to perform a true diligent search for the real rightholders. A fund managed by the Member State may also be beneficial in promoting cultural diversity. Additionally, the suggested five years is a long period of time – it is very unlikely that a missing rights holder will be found after year three or four. Consistency with draft opinions from CULT and IMCO.

Amendment 41 **Amelia Andersdotter**

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

Text proposed by the Commission

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

Amendment

3. For the purposes of paragraph 2, **the collecting society shall put in place effective** measures to identify and locate rightholders **while ensuring appropriate safeguards to deter fraud. Such measures** shall include verifying membership records and making available **regularly and at least annually** to the members of the collecting society as well as to the public a list of works and other subject matter for which one or more rightholders have not been identified or located.

Or. en

Justification

Unless publishing the list of works is specified in terms of time, collective management organisations may postpone doing so indefinitely. Consistency with draft opinions from CULT and IMCO.

Amendment 42
Amelia Andersdotter

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

Reporting and invoicing

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

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

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

Or. en

Justification

A cooperation procedure such as this will facilitate simpler invoices and payments for users and mitigate problems of high transaction costs and multiple invoicing. Consistent with draft opinion from IMCO.

Amendment 43
Amelia Andersdotter

Proposal for a directive
Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15 b

Invoicing standards

1. Collective management organisations, as well as commercial operators, as defined in point (aa) of Article 3, shall invoice users by electronic means, whenever possible. Collective management organisations and commercial operators shall offer the use of a least one format which takes into account voluntary industry standards or practices developed at international or Union level.

2. Collective management organisations and commercial operators shall invoice online music service providers accurately and without delay after the actual use of the works.

3. Collecting management organisations and commercial operators shall have adequate procedures in place for the user to challenge the accuracy of the invoice, including when the user receives invoices from one or more collective management organisations or commercial operator for the same rights in the same works.

Or. en

Justification

Standardized and efficient invoicing will contribute to lower transaction costs. All users need to be able to challenge the accuracy of invoices. Consistency with draft opinion from CULT.

Amendment 44
Amelia Andersdotter

Proposal for a directive
Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

Member States shall ensure that a collecting society makes available at least once a year, by electronic means **and where appropriate on a more regular basis through individual on-line accounts**, the following information to each rightholder it represents **directly**:

Or. en

Justification

Consistent with draft opinion from IMCO.

Amendment 45
Amelia Andersdotter

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

Text proposed by the Commission

Amendment

Member States shall ensure that commercial operators, as defined in point (aa) of Article 3, make available at least once a year, by electronic means, the information described in points (a), (b), (c), (d) and (g) of paragraph 1 of this Article, to each rightholder whose rights they manage.

Or. en

Justification

As managers of rights for individual rightholders, commercial operators should be subject to a minimum set of transparency rules. Consistent with draft opinion from CULT.

Amendment 46
Amelia Andersdotter

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

Text proposed by the Commission

(c) the amounts due to the rightholder per category of rights managed, and type of use, paid by the **collecting society** to the rightholder in the period concerned;

Amendment

(c) the amounts due to the rightholder per category of rights managed, and **per** type of use, **and per work** paid by the **collective management organisation** to the rightholder in the period concerned;

Or. en

Justification

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

Amendment 47
Amelia Andersdotter

Proposal for a directive
Article 17 – paragraph 1 – point a

Text proposed by the Commission

(a) the amounts due to rightholders per category of rights managed, **and** per type of use paid by the **collecting society** for the licensing of the rights it manages under the representation agreement;

Amendment

(a) the amounts due to rightholders per category of rights managed, per type of use **and per work** paid by the **collective management organisation** for the licensing of the rights it manages under the representation agreement;

Or. en

Justification

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

Amendment 48
Amelia Andersdotter

Proposal for a directive
Article 18 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 49
Amelia Andersdotter

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

Or. en

Justification

Basic information on tariffs, licensing contracts, repertoire and representation agreements is essential to a well-functioning and transparent market in creative goods. It should not be limited to provision on request. Consistent with draft opinions from CULT and ITRE.

Amendment 50
Amelia Andersdotter

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

Text proposed by the Commission

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

Amendment

(b) *the list of its members*, the repertoire and *the specific* rights it manages *on their behalf*, and the Member States covered, *without revealing personal data and sensitive information about the*

rightholders;

Or. en

Justification

Improved transparency. Consistent with draft opinion from CULT.

Amendment 51
Amelia Andersdotter

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

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

Amendment 52
Amelia Andersdotter

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*:

Or. en

Justification

Improved transparency. Consistent with draft opinion from CULT.

Amendment 53
Amelia Andersdotter

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

Text proposed by the Commission

Amendment

(a a) standard licensing contracts and applicable tariffs;

Or. en

Justification

Transparency in pricing and terms will improve the functioning of the licensing market. Consistent with draft opinion from CULT.

Amendment 54
Amelia Andersdotter

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 55
Amelia Andersdotter

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

Text proposed by the Commission

Amendment

2 a. 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.

Or. en

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 56
Amelia Andersdotter

Proposal for a directive
Article 21 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Within the scope of this Title, categories of online rights in musical works shall not allow the separation of the reproduction (mechanical) and the communication to the public (performance) right.

Or. en

Justification

The division of licenses into separate mechanical and performing rights makes little sense in an online environment. Such fragmentation of rights creates excess costs for users and raises transaction costs. Remedying this is important to the competitiveness of the European Single Digital Market since such divisions does not burden some other major global markets.

Amendment 57
Amelia Andersdotter

Proposal for a directive
Article 22 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(e a) 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.

Or. en

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 58
Amelia Andersdotter

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.

Or. en

Justification

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

Amendment 59
Amelia Andersdotter

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.

Or. en

Justification

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

Amendment 60
Amelia Andersdotter

Proposal for a directive
Article 25 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

As per amendments to recital 18, 27 and article 15a. Consistent with draft opinion from IMCO.

Amendment 61
Amelia Andersdotter

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

As per amendments to recital 18, 27 and article 15a. Consistent with draft opinion from IMCO.

Amendment 62
Amelia Andersdotter

Proposal for a directive
Article 25 – paragraph 5

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 63
Amelia Andersdotter

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.

Or. en

Justification

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

Amendment 64
Amelia Andersdotter

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***.

Or. en

Justification

Consistent with draft opinion from CULT.

Amendment 65
Amelia Andersdotter

Proposal for a directive
Article 33 – paragraph 1

Text proposed by the Commission

The requirements under this Title shall not apply to collecting societies which grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 TFEU, a multi-territorial licence for the online rights in musical works required by a broadcaster to communicate or make available to the public its radio or television programmes simultaneously with or after their initial broadcast as well as any online material produced by the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

Amendment

The requirements under this Title shall not apply to collecting societies which grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 TFEU, a multi-territorial licence for the online rights in musical works required by a broadcaster to communicate or make available to the public its radio or television programmes **before**, simultaneously with or after their initial broadcast as well as any online material produced by the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

Or. en

Justification

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

Amendment 66
Amelia Andersdotter

Proposal for a directive
Article 35 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 67
Amelia Andersdotter

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

To ensure a level playing field for smaller players seeking dispute resolution. Consistent with draft opinion from IMCO.

Amendment 68
Amelia Andersdotter

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

Text proposed by the Commission

Amendment

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

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

Or. en

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.

Amendment 69
Amelia Andersdotter

Proposal for a directive
Article 38 – paragraph 1

Text proposed by the Commission

Amendment

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

1. Member States shall ***designate or establish competent authorities which continuously monitor collective management organisations operating in their territory. Member States shall***

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.

ensure that their respective competent authorities ***impose*** 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.

Or. en

Justification

Where competent authorities have not previously been designated or established, member states should have to do so. Stronger enforcement language. Consistency with draft opinions from CULT and ITRE.