

Collective Management of Copyright

The collective management of copyright entails the granting of authorization to collecting societies by the copyright holders to commercially exploit their rights over their artistic works in a particular territory. In turn, such collecting societies grant licences to service providers who desire to use the copyright over that particular territory under their management against payment of a royalty.

To copyright holders, the management of collective rights acts as security against the exploitation of copyright and other related rights by commercial users. By managing their rights collectively, collecting societies guarantee access to the right-holders' works and performances via licensing. In the meantime a financial return to the right-holders is assured once their work gains success on the market.

Historically, copyright has been managed on a territory by territory basis through the issue of territorially-limited licences. A music service provider intending to provide a multi-territorial music service would need to obtain separate licences for each territory in which his service is going to be made available. New technologies, however, such as the internet, defy territorial borders making it impossible at times to obtain separate licences for each territory.

Collective licensing for online music on a multi-territorial basis is still at an early stage of development. However, the European Commission has been following the manner copyright is managed across borders for quite some time. It has acknowledged early on the necessity of multi-territorial licensing which corresponds to the borderless online market. The Commission has conducted various discussions on the current system of collective management and has heard different views from stakeholders on the issue.

In 2005 the Commission issued its 'Recommendation on collective cross-border management of copyright and related rights for legitimate online music services'. This Recommendation is addressed to member states and to collecting rights managers. The Commission is proposing the introduction of pan-European licences to facilitate the licensing of online music services so as to eliminate territorial restrictions. Thus, copyright holders would be able to authorize a single collective rights manager for the online use of their musical works across the entire EU.

In addition the Recommendation lays down provisions designed to increase right-holders' freedom to choose the collective rights manager to be entrusted with their rights, irrespective of the member state of residence or the nationality of either the collective rights manager or the right-holder. Lastly, the Recommendation contains a number of principles to which collective rights managers should adhere. These principles, which are intended to introduce a more honest and transparent system of management by collecting societies, include rules on distribution of payment of royalties, on precision in the management of rights, transparency in accounting and non-discrimination in representation.

The Commission's Recommendation is not binding on the parties to which it is addressed. However, it does have a certain persuasive character since it affords the parties with the possibility to introduce self-regulation on the subject. The Commission

is inviting all interested stakeholders to submit their views on their initial experience regarding the Recommendation. Feedback is expected by July 1, 2007. Relevant comments should be addressed to the European Commission.

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