

Procedure file

Basic information		
INI - Own-initiative procedure	2006/2008(INI)	Procedure completed
Commission recommendation of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services (recom. 2005/737/EC)		
Subject 3.50.15 Intellectual property, copyright		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs		12/12/2005
		PSE LÉVAI Katalin	
	Committee for opinion	Rapporteur for opinion	Appointed
	CULT Culture and Education		13/02/2006
		PPE-DE MAVROMMATIS Manolis	
European Commission	Commission DG Financial Stability, Financial Services and Capital Markets Union	Commissioner MCCREEVY Charlie	

Key events			
18/05/2005	Non-legislative basic document published	32005H0737	Summary
21/10/2005	Final act published in Official Journal		
19/01/2006	Committee referral announced in Parliament		
27/02/2007	Vote in committee		Summary
05/03/2007	Committee report tabled for plenary	A6-0053/2007	
12/03/2007	Debate in Parliament		
13/03/2007	Decision by Parliament	T6-0064/2007	Summary
13/03/2007	End of procedure in Parliament		

Technical information	

Procedure reference	2006/2008(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/33013

Documentation gateway					
Non-legislative basic document		32005H0737 OJ L 276 21.10.2005, p. 0054-0057	18/05/2005	EU	Summary
Committee opinion	CULT	PE374.024	20/07/2006	EP	
Committee draft report		PE380.834	07/11/2006	EP	
Amendments tabled in committee		PE382.370	08/12/2006	EP	
Amendments tabled in committee		PE384.567	20/02/2007	EP	
Committee report tabled for plenary, single reading		A6-0053/2007	05/03/2007	EP	
Text adopted by Parliament, single reading		T6-0064/2007	13/03/2007	EP	Summary

Commission recommendation of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services (recom. 2005/737/EC)

[ACT : Commission Recommendation 2005/737/EC on collective cross-border management of copyright and related rights for legitimate online music services.](#)

CONTENT : new technologies have led to the emergence of a new generation of commercial users that make use of musical works and other subject matter online. The provision of legitimate online music services requires management of a series of copyright and related rights. One category of those rights is the exclusive right of reproduction which covers all reproductions made in the process of online distribution of a musical work.

Other categories of rights include :

- § the right of communication to the public of musical works;
- § the right to equitable remuneration for the communication to the public of other subject matter;
- § the exclusive right of making available a musical work or other subject matter.

This Recommendation invites the Member States to take the steps necessary to facilitate the growth of legitimate online services in the Community by promoting a regulatory environment which is best suited to the management, at Community level, of copyright and related rights for the provision of legitimate online music services. It is addressed to the Member States and to all economic operators which are involved in the management of copyright and related rights within the Community.

It also covers :

- § the relationship between right-holders, collective rights managers and commercial users;
- § equitable distribution and deductions;
- § non-discrimination and representation;
- § accountability;
- § dispute settlement.

Lastly, Member States and collective rights managers are invited to report, on a yearly basis, to the Commission on the measures they have taken in relation to this Recommendation and on the management, at Community level, of copyright and related rights for the provision of legitimate online music services.

Commission recommendation of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services (recom. 2005/737/EC)

The committee adopted the own-initiative report drawn up by Katalin LEVAI (PES, HU) in response to the Commission Recommendation of 18 October 2005 on collective cross-border management of copyright and related rights for legitimate online music services. MEPs were critical of the Commission's failure to consult interested parties and Parliament before adopting the Recommendation, and also criticised the "soft law" approach. They called on the Commission to propose a framework directive, to be adopted under the codecision procedure, for regulating the collective management of cross-border online music services, "while taking account of the specificity of the digital era and safeguarding European cultural diversity, small stakeholders and local repertoires".

The committee stressed that the proposed directive should not in any way undermine the competitiveness of the underlying creative businesses, the effectiveness of the services provided by collective rights managers (CRMs) or the competitiveness of user businesses, in particular small right-holders and users. It therefore called for such a directive to guarantee right-holders a high degree of protection and equal treatment, ensure "comprehensive transparency" in CRMs, promote creativity and cultural diversity, and allow "fair and controlled" competition. MEPs also wanted to avoid the over-centralisation of market powers and repertoires by ensuring that exclusive mandates may not be granted to a single or a very few CRMs by major right-holders. In this way, the global repertoire would remain available to all CRMs for the granting of licences to users. They also said that it was crucial to prohibit any form of exclusive mandate between major right-holders and CRMs for the direct collection of royalties in all Member States, as this would lead to "the rapid extinction of national CRMs and undermine the position of minority repertoires and cultural diversity in Europe". Lastly, the Commission was urged to conduct an assessment of the impact of a global licence for online services and its effects on the economic and social situation of authors.

Commission recommendation of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services (recom. 2005/737/EC)

The European Parliament adopted a resolution based on the own-initiative report drafted by Katalin LEVAI (PES, HU) in response to the Commission Recommendation of 18 October 2005 on collective cross-border management of copyright and related rights for legitimate online music services. Parliament criticised the Commission for failing to undertake a thorough consultation process with interested parties and with Parliament before adopting the Recommendation. All categories of right-holders must be consulted on any future regulatory activities in this area so as to ensure a fair and balanced representation of interests. Parliament also criticised the "soft law" approach. Parliament felt that the Recommendation was inadequate for the following reasons :

- it sought merely to regulate the online sale of music recordings, but could ? owing to its imprecise wording ? also be applied to other online services (e.g. broadcasting services) containing music recordings;
- there was a risk that right-holders complying with the recommendation in respect of their interactive online rights would deprive local collective rights managers (CRMs) of other rights (e.g. those relating to broadcasting), thus preventing users of those rights from acquiring user rights for a diversified repertoire from one and the same CRM ;
- national CRMs should continue to play an important role in providing support for the promotion of new and minority right-holders, cultural diversity, creativity and local repertoires, which presupposed that national CRMs should retain the right to charge cultural deductions ;
- there was concern about the potentially negative effects of some provisions of the Recommendation on local repertoires and on cultural diversity given the potential risk of favouring a concentration of rights in the bigger CRMs. The impact of any initiative for the introduction of competition between rights managers in attracting the most profitable right-holders must be examined and weighed against the adverse effects of such an approach on smaller right-holders, small and medium-sized CRMs and cultural diversity.

Parliament invited the Commission to make it clear that the 2005 Recommendation applied exclusively to online sales of music recordings, and to present a proposal for a flexible framework directive to be adopted by codecision. This should aim at regulating the collective management of copyright and related rights as regards cross-border online music services, while taking account of the specificity of the digital era and safeguarding European cultural diversity, small stakeholders and local repertoires, on the basis of the principle of equal treatment. The Commission's consultation of interested parties should be as broadly based as possible. The proposed directive should not in any way undermine the competitiveness of the underlying creative businesses, the effectiveness of the services provided by CRMs or the competitiveness of user businesses ? in particular small right-holders and users ? and should: guarantee right-holders a high degree of protection and equal treatment; ensure that legal provisions have a real impact on the effective protection of all categories of right-holders; be based on solidarity and an adequate, equitable balance between right-holders within CRMs; avoid downward pressure on royalty levels by ensuring that users are licensed on the basis of the tariff applicable in the country where the consumption of the copyrighted work (the so-called "country of destination") will take place, and help to achieve an appropriate level of royalties for the right-holders.

MEPs also wanted to avoid the over-centralisation of market powers and repertoires by ensuring that exclusive mandates may not be granted to a single or a very few CRMs by major right-holders. In this way, the global repertoire would remain available to all CRMs for the granting of licences to users. They also said that it was crucial to prohibit any form of exclusive mandate between major right-holders and CRMs for the direct collection of royalties in all Member States, as this would lead to the rapid extinction of national CRMs and undermine the position of minority repertoires and cultural diversity in Europe.

A CRM should be free to provide commercial users based anywhere in the EU with pan-European and multi-repertoire licences for online uses (including mobile telephony uses), on fair and individually negotiated terms and without discrimination between users. The Commission was urged to conduct an assessment of the impact of a global licence for online services and its effects on the economic and social situation of authors.