

Intellectual property

COLLECTIVE MANAGEMENT

Commission Recommendation [2005/737/EC](#) of 18 May 2005 on collective cross-border management of copyright and related rights for legitimate online music services

Objective

To improve the EU-wide issuing of copyright licences for online services. These improvements are necessary because new Internet services (webcasting, on-demand music downloads, etc.) require a licence that covers their activities throughout the EU.

Relevance for the hospitality industry

This Recommendation is indirectly relevant for the hospitality industry as it recommends certain type of practices for the management and the licensing of online works protected by copyrights. Some of the principles enacted are also valid for the licensing of off-line works. As the levels of fees for copyright and neighbouring rights as well as the criteria and procedures for collecting these fees vary greatly from country to country, these principles can be of help to improve the transparency of collecting societies.

State of progress

The Recommendation was adopted on 18 May 2005.

Content

The Recommendation makes non-binding suggestions in relation to the relationship between right-holders, collective managers and commercial users. For instance:

- Right holders can choose any right manager irrespective of the nationality or Member State of residence to operate on the territorial scope of their choice;
- Right holders should be able to determine the territorial scope of the mandate given to the right manager;
- Collective rights managers should provide their tariffs, inform about who they represent and about any existing reciprocal representation agreements they may have concluded;
- Collective right managers should grant commercial users licenses on the basis of objective criteria and without any discrimination; etc.

In addition, Member States are invited to provide for efficient dispute settlement mechanisms in relation to tariffs, licensing conditions, entrustment of online rights for management and withdrawal of online rights.

Further to this Commission recommendation, DG competition of the Commission issued a competition decision on 16 July 2008 prohibiting certain clauses of a model agreement for reciprocal agreements used by some collecting societies for music authors (CISAC and its members). The Commission decision prohibits in particular:

- Clauses imposing authors to choose their domestic collecting body;
- The territorial clauses (which oblige commercial users to obtain a license only from the domestic collecting society and limited to the domestic territory);

- The exclusivity clauses (which permit a collecting society based in country A to grant to another collecting society established in country B an exclusive right to license the exploitation of the work of its members in country B).

HOTREC position

HOTREC considers that there should be no distinction between online and offline in the way rights are managed and licences are granted. Of particular importance are the issue of the transparency and efficiency of the collective management of rights.

HOTREC response to the Commission Communication on “The management of copyright and related rights in the internal market” – See www.hotrec.eu

HOTREC submission to the European Parliament and the European Commission, 31 October 2003 - See www.hotrec.eu

HOTREC Copyright Brochure “Did you know that when you have a beer with friends you also pay for the music?”, January 2000 – See www.hotrec.eu

Official references

CISAC Case, Commission decision of 16.07.2008 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement, Case COMP/C2/[38.698](#) – CISAC

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See also:

Communication of the Commission on “The management of copyright and related rights in the internal market”, [COM \(2004\) 261 final](#), 16.4.2004

Resolution of the European Parliament on a Community framework for collective management societies in the field of copyright and neighbouring rights, [P5_TA\(2004\) 36](#), 15.1.2004

Website of the DG Internal Market of the Commission, [specific section on copyright](#)