

Intellectual property

COPYRIGHT AND RELATED RIGHTS

Directive [2001/29/EC](#) of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society

Objective

To harmonise certain aspects of copyright in order to ensure the smooth functioning of the internal market in this area, especially in the light of the technological developments of the information society

Relevance for the hospitality industry

The Directive is relevant for the hospitality industry as it determines whether or not hospitality businesses have to pay copyright and neighbouring rights royalties for playing music or broadcasting/transmitting protected works to their guests.

State of progress

Adopted on 22 May 2001.

Content

According to the Directive, Member States should provide copyright holders an exclusive right to authorise or prohibit any communication to the public of their works, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.

It also provides neighbouring right holders with an exclusive right to authorise or prohibit the making available to the public of protected works in such a way that members of the public may access them from a place and at a time individually chosen by them.

Finally, Member States should provide copyright and neighbouring right holders with an exclusive right to authorise or prohibit the reproduction or the distribution of their works. The Directive also provides for the legal protection of anti-copying devices and rights management systems.

A summary of the content of the Directive is also available on the [SCADPlus](#) website (European Commission).

The concept of “communication to the public” has been clarified by the European Court of Justice (ECJ) in the Rafael case (C-306/05). According to the ECJ, the transmission of a protected work in a hotel room constitutes an act of communication to the public, even though a hotel room is a private place.

HOTREC position

HOTREC considers that hotel room is a private place and, as such, should not give rise to copyright or neighbouring right royalties for communication to the public.

HOTREC response to the consultation on the review of the EC legal framework in the field of copyright and related rights, October 2004 – See www.hotrec.eu

Copyright Brochure "Did you know that when you have a beer with your friends you also pay for the music?" (2000) - See www.hotrec.eu

Common Position by the HOTREC Member Associations on the issue of the administration of copyright and neighbouring rights, May 1995. - See www.hotrec.eu

Official references

ECJ Case C-136/09, Reference for a preliminary ruling from the Arios Pagos (Greece) lodged on 10 April 2009 - Organismos Sillogikis Diakhirisis Dimiourgon Theatrikon kai Optikoakoustikon Ergon v Divani Acropolis Hotel and Tourism AE

ECJ case C-306/05, Judgment of the Court (Third Chamber) of 7 December 2006 (reference for a preliminary ruling from the Audiencia Provincial de Barcelona - Spain) - Sociedad General de Autores y Editores de España (SGAE) v Rafael Hoteles SAECJ.

Directive [2001/29/EC](#) of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, O.J. L 167 of 22.6.2001

Commission staff working paper on the review of the EC legal framework in the field of copyright and related rights, SEC(2004) 995 of 19.7.2004

See also:

Council Directive [1993/98/EEC](#) of 29 October 1993 harmonising the term of protection of copyright and certain related rights, O.J. L 290 of 24.11.93

Council Directive [1992/100/EEC](#) of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property, O.J. L 346 of 27.11.1992

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