



Targeted consultation addressed to the participants to the stakeholder dialogue on Article 17 of the Directive on Copyright in the Digital Single Market

AEPO-ARTIS contribution

AEPO-ARTIS is a non-profit making organisation that represents 36 European performers' collective management organisations from 26 different countries. The number of performers, from the audio and audiovisual sector, represented by the 36 member organisations of AEPO-ARTIS can be estimated at between 400,000 and 500,000.

It is of utmost importance that the European Commission and Member States engage in a constructive implementation of the Directive on Copyright in the DSM. In this regard, AEPO-ARTIS welcomes such broad and inclusive participation in developing elements for guidance ensuring the effective implementation of article 17 at national level.

AEPO-ARTIS would like to specifically comment on section II. AUTHORISATIONS (Art. 17 (1-2)) of the European Commission's consultation paper.

Article 17's raison d'être is the correction of the on-going imbalance in Europe's marketplace for digital content. In this regard, it set the rules for the operation of OCSSPs by creating a clear principle of licensing in order for rightholders to be in the capacity to authorise the act of communication to the public of their works and performances.

As is recognised in the Directive, OCSSPs thrive on contributions from different categories of rightholders. However, the provisions contained in article 17 will not automatically benefit all those it was meant to reach as in practice remuneration is unlikely to filter down to performers.

In the consultation paper, the European Commission notes that *"an authorisation may take the form of a licensing agreement but may also take another form in national law. The guidance could give indications of different authorisation schemes that Member States could provide for, **taking into account the specificities and practices of different sectors.** Both individual **and collective licensing solutions should be possible"** [emphasis added].*

AEPO-ARTIS welcomes the recognition of collective licensing solutions. Collective management is a key element in protecting performers and guaranteeing that they receive fair and proportionate remuneration for the use of their performances.

AEPO-ARTIS believes that collective management combined with a specific remuneration claim for performers in relation to article 17 is the right way forward in guaranteeing that the *raison d'être* of this article is reflected in its practical operation.

For these reasons, we would ask the Commission to include in any Communication to follow, a recommendation that Member States implement article 18 **by introducing into their national legislation a right to remuneration for making available on demand for performers paid by online platforms and subject to mandatory collective management.**

This would mean that article 17 would actually achieve its stated objective of improving the remuneration of all rightholders, including performers, for such uses.

If such collectively managed remuneration right is not granted to performers for the right of making available on demand in the framework of the implementation of article 18, their exclusive right regarding exploitation from "*online content-sharing service providers*" in the context of article 17 should be subject to compulsory collective management. Such collective licensing would also give them a guarantee of being remunerated for these mass uses of their performances on the Internet, together with other categories of rightholders.

Performers' organisations have managed performers' rights for decades and are equipped to implement licensing agreements as they have developed and continuously invested in management tools like the International Performers Database (IPD) - identifying individual performers in sound recordings and audiovisual works and to which CMOs they are affiliated - as well as VRDB - a centralised system to enable performers' organisations to more efficiently and accurately identify recordings and works and exchange the performers' information necessary to properly run distributions locally.

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