

1 December 2003

A E P O

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Comments of the AEPO on the amendments 1-132 to the draft report of Ms. Raina Mercedes Echerer on a Community framework for collective management societies in the field of copyright and neighbouring rights, and on the Commission report to the Council, the European Parliament and the Economic and Social Committee on the question of authorship of cinematographic or audiovisual works in the Community 2002/2274 (INI)

The Association of European Performers' Organisations (AEPO) represents organisations in charge of the collective management of performers' rights in Europe and includes 22 collecting societies.

The Committee on Legal Affairs and Internal Market will vote on the draft report on a Community framework for collective management societies in the field of copyright and neighbouring rights, and on the Commission report to the Council, the European Parliament and the Economic and Social Committee on the question of authorship of cinematographic or audiovisual works in the Community 2002/2274 (INI) at its meeting of 1 – 2 December 2003 in Brussels.

Musicians, singers, actors and dancers are vital to the success of the growing European entertainment industry. They are also the stakeholders most vulnerable to exploitation. **Parliamentarians must ensure that the European Parliament resolution on a Community framework for collective management societies in the field of copyright and neighbouring rights, and on the Commission report on the question of authorship of cinematographic or audiovisual works in the Community supports rather than damages the interests of European performers.**

We restrict our comments to three key elements of the proposed amendments.

Amendment 75 by Klaus-Heiner Lehne concerning paragraph 19

This amendment calls for the introduction of the principle of a Europe-wide one-stop.

However, it has to be noted that one can not at the same time encourage collective management societies to conclude reciprocal agreements, call for the application of competition law to collective management societies and call for a Europe-wide one-stop.

Will the instauration of a Europe-wide one-stop not create an even greater position of monopoly in the area of access to the works and other subject-matter protected by copyright and neighbouring rights, as also in the area of the exercise and exploitation of such works and other subject-matter?

The access to the works and other subject-matter can fully be guaranteed by collective management societies supervised by well-balanced national laws controlling these societies and their activities.

This amendment should therefore not be adopted.

Amendments concerning paragraph 26 :

The possibility of concluding type A agreements is linked to the proper identification of rightholders. Such identification is only possible if users have the obligation to communicate the information on the works or protected recordings that have generated remuneration to be distributed.

Such information is indeed essential to distribute notably to performers, who are often many to have participated to sound or audiovisual recordings.

This element must be reminded in the text proposed.

Consequently, a sentence should be added in the future paragraph 26, stating that:

« Consequently, communication from the users on the identification of the used repertoire should be made compulsory ».

Amendment 126 by Ms. Raina A. Mercedes Echerer on paragraph 43 new :

It is contradictory on the one hand to support the protection of rights and collective management of these rights, and on the other hand to be in favour of an expropriation of such rights.

The proposed amendment 126, in which it is surprisingly called for a “*concentration of exclusive rights of use, including rights in respect of online use (video-on-demand), in the hands of producers, in order to ensure that the movement of films is not restricted*”, means that authors’ and performers’ rights should be transferred to producers.

With regard to performers’ rights, this position is in contradiction with the principle of individual rights, exercised by performers or through collective management.

Calling for concentration of rights in the hands of producers means that other rightholders than audiovisual producers are considered as incapable of exercising their rights.

This is precisely the view developed by the USA on the basis of their concept of copyright in the WIPO negotiation concerning the protection of performers in the audiovisual, against which the European Community and its Member States fought during the diplomatic conference of 2000.

This amendment should not be adopted.