

Copyright: the Commission advocates European legislation on the governance of collecting societies

Community legislation on the collective management of rights, and particularly on the governance of collecting societies, would be highly desirable. This is one of the main conclusions arrived at in a Communication published by the European Commission following an in-depth analysis of the issues surrounding the management of copyright and related rights. Moreover, the Commission is immediately launching a further consultation exercise on what such legislation might consist of. The Communication also concludes that interoperability and acceptance by all stakeholders, including consumers, of Digital Rights Management (DRM) systems is a pre-condition for their emergence. Lastly, the Communication sets out several options for improving the situation regarding the development of Community-wide licensing for the exploitation of rights. The Communication is based on the conclusions of the consultation carried out on these issues, which took place against the backdrop of the emerging Information Society. According to another study ordered by the Commission in 2003, copyright exploitation accounts for over 5.3% of Community GDP.

The term “management of rights” refers to the means by which copyright and related rights are marketed. Rights management can be carried out individually by the rightholder, or collectively by a collecting society acting as a trustee.

The Internal Market Commissioner, Frits Bolkestein, has stated that “the marketing of intellectual property rights needs to be facilitated in order to create a true single market in this area. Rightholders and commercial users deserve sound and modern management of these rights. That is why it is no longer possible not to address rights management at European level.”

In its Communication, the Commission notes that the Internal Market has largely become the framework for managing and using copyright and related rights: the digital environment, by definition, makes it possible to exploit rights across borders, but, at the same time, licensing for analogue exploitation is also – increasingly – taking on a cross-border dimension. Moreover, established Community legislation regarding intellectual property rights proper is now quite robust. It is based on seven harmonisation directives. This being so, effective rights management is crucial to ensuring that the Internal Market functions properly in this field. Furthermore, it is important to be sure that the rights management system can adapt to new developments, such as the increasing demand for Community-wide licences for the use of certain rights. It must also ensure that the necessary protection and remuneration of authors and performers are balanced against the demands of commercial users.

On the basis of these needs and of the results of the consultation process which commenced in 1995, the Commission has come to four main conclusions:

- An Internal Market for collective rights management will be more firmly established if a legislative framework on the governance of collecting societies is implemented at Community level. Such a framework would address the issues surrounding the establishment and status of collecting societies, the relationship they have with rightholders and commercial users, and lastly, their external supervision. This would make it possible to ensure that collecting societies are transparent, and that established Community law in the field of intellectual property is properly applied. It would foster the emergence of Community-wide licensing for the exploitation of rights. On this point, the Communication echoes the European Parliament's report of 15 January 2004 on collecting societies.
- There is no need, for the moment, to take any action at Community level with regard to individual rights management.
- The advent of Digital Rights Management (DRM) systems has generated high expectations, but a necessary pre-condition for their development is their interoperability and acceptance by all stakeholders, including consumers.
- With regard to the increasing demand for Community-wide licensing for the exploitation of certain rights, the Commission's Communication describes several options for improving the situation. In principle, the response to this demand should be market-led, but it could be supported by common rules on collective rights management and on good governance of collecting societies.

The Commission is launching a consultation exercise beginning immediately to take over where the one which ended in 2002 left off and focus especially on the components of possible legislation on collective rights management. This will make it possible to discuss the impact of such an initiative.

The Commission would therefore like to ask all interested parties to submit any additional comments before 21 June 2004 by e-mail to: Markt-E4@cec.eu.int.

The full version of the Communication is available at:

http://www.europa.eu.int/comm/internal_market/en/intprop/docs/index.htm