 <b>Regulatory Policy Committee</b>	<b>Opinion</b>	
<b>Impact Assessment (IA)</b>	Directive 2011/77/EU of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights	
<b>Lead Department/Agency</b>	Department for Business, Innovation and Skills (Intellectual Property Office)	
<b>Stage</b>	Final	
<b>IA number</b>	BIS1562	
<b>Origin</b>	European	
<b>Expected date of implementation (and SNR number)</b>	1 November 2013 (SNR6)	
<b>Date submitted to RPC</b>	11/07/2013	
<b>RPC Opinion date and reference</b>	18/07/2013	RPC12-BIS-1562(2)
<b>Overall assessment</b>	<b>GREEN</b>	
<p><b>RPC comments</b></p> <p>The IA is fit for purpose. The direct cost to business (£0.3 million – EANCB) has been calculated correctly. However, the IA needs to go further in explaining the rationale for government action in this area.</p>		
<p><b>Background (extracted from IA)</b></p> <p><b>What is the problem under consideration? Why is government intervention necessary?</b>  The copyright term for performers and record producers of their performance and sound recordings are harmonised at European level and last for 50 years. After this term of copyright expires, performers and record producers no longer receive a source of income from sales or from royalties. The EU has approved a directive to extend the period of protection for sound recordings (not including audiovisual performances) to 70 years. Government intervention is required as copyright term protection is governed by acts of Parliament through EU competency; the UK is bound to implement the Directive by 1 November 2013. The Directive also harmonises the rules concerning the term of protection for musical compositions with words.</p> <p><b>What are the policy objectives and the intended effects?</b>  To enhance the welfare of all performers by improving their sources of potential income throughout their lifetime and to distribute income to those previously excluded due to contractual agreements. Record companies will also benefit from royalties that accrue from the extended term of protection. Harmonising the rules concerning co-authored works should also provide greater legal certainty to users and rights holders.</p>		
<p><b>Comments on the robustness of the One-in, Two-out (OITO) assessment</b></p> <p>As the proposals are of European origin and there is no evidence that the increase in regulation would go beyond minimum requirements, or of a failure to take available derogations which would reduce the costs to business, it is out of scope of One-in, Two-out in accordance with paragraph 1.9.8. ii of the Better Regulation Framework Manual (July 2013).</p>		

**Comments on the robustness of the small & micro-business assessment (SMBA)**

As the proposals are of European origin, SMBA is not applicable.

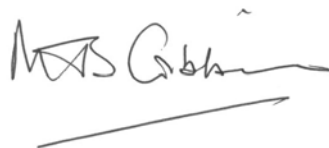
**Quality of the analysis and evidence presented in the IA**

The IA says that the objective of the policy is "To enhance the welfare of all performers by improving their sources of income through their lifetime and to distribute income to those previously excluded due to contractual agreements." However the IA provides no evidence that there is a specific problem with the welfare of performers, and accepts that "...the distribution of these revenues would be skewed towards the top 20% of earners." The IA must explain why it was felt at the EU level that there is a need to legislate to improve the welfare of performers at a cost to other members of society.

Given that the aims of the policy are redistributive, the IA should include a distributional analysis for the costs and benefits and use the distributional weights provided in the Treasury Green Book to weight costs and benefits included in the NPV.

The proposal would also add a 'clean slate' provision which would mean that contracts which require performers to pay back the costs of making a track by paying royalties to a producer would not be enforceable after 50 years. The IA needs to set out the market failure that requires the Government to regulate these contracts.

**Signed**



**Michael Gibbons, Chairman**