

Collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market

Department for Business, Innovation and Skills

(Intellectual Property Office)

RPC rating: fit for purpose

Description of proposal

The Department proposes to transpose Directive 2014/26/EU on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market into UK law. The Directive aims to ensure that Collective Management Organisations (CMOs) - bodies mandated by their members, the rights owners, to license rights and to collect and distribute royalties in return for an administrative fee - act in the best interest of those they represent by:

- modernising and improving standards of governance, financial management and transparency;
- giving rights holders an effective voice in the decision-making process;
- ensuring that rights holders receive accurate and timely royalty payments;
- promoting a level playing field among EU CMOs and
- creating innovative and dynamic cross-border structures to encourage further provision and take-up of legitimate online music services.

The Directive requires UK CMOs to adhere to codes of practice that comply with minimum standards of governance and transparency set by the Government. These include requirements for regular, independent reviews of compliance and the production of an annual transparency report. Underpinning the new governance and transparency arrangements is the entrenchment of rightholders' ability to move, quickly and easily, rights, categories of rights, or types of work, to a CMO of their choice within the UK.

The Directive also applies, in part, to independent management entities (IMEs). IMEs collectively manage rights, but are commercial entities, not owned or controlled by rights holders. Currently, IMEs are not in scope of domestic regulations.

Impacts of proposal

The proposal will affect twelve CMOs and six IMEs.

Costs

The IA explains that CMOs are expected, as a result of the proposal, to incur a variety of transition and recurring costs. Transition costs include: changes to distribution systems; legal costs (for example, redrafting member agreements); familiarisation costs; and the increased capacity necessary to deliver Annual Transparency Reports (ATR) to members. Recurring costs include complying with reporting requirements in the ATR and further analysis/auditing of accounts. The Department estimates that transition costs will total £2.30 million and recurring costs will total £0.10 million each year.

Evidence from the consultation showed that UK IMEs are already meeting the limited reporting and transparency requirements of the Directive. IMEs are, however, still expected to incur ongoing compliance costs associated with the presentation of information, estimated at £0.02 million each year.

The IA explains that the Directive further requires the establishment of a national competent authority. Following consultation, the Department reassessed its staffing assumptions and reduced the estimated cost to the public sector from £150,000 - £200,000 to £50,000 - £100,000 each year.

Benefits

Benefits to CMOs include positive reputational effects, attracting repertoire from competitors in other Member States and reduced costs of complaints handling. IMEs are already doing what the Directive requires. The Department has not quantified these benefits.

The RPC is able to validate the estimated equivalent annual net cost to business of £0.38 million. Based on current working assumptions, as the measure is of EU origin, the RPC expects that this will be a non-qualifying regulatory provision which will not score against the business impact target.

Quality of submission

The IA provides a clear and detailed discussion of the proposal and the potential costs and benefits. The Department has undertaken a comprehensive consultation of stakeholders, which has been used to strengthen the analysis and provide a stronger evidence base. Where it was not possible to quantify benefits, the Department has provided good qualitative explanations.

Other comments

As a result of RPC concerns raised at the consultation stage, the Department has looked at how collective management organisations will meet the additional compliance costs. The Department expects these costs to be passed on to rights holders through administrative deductions from distributed revenue. The Department expects these costs to be passed on to rights holders (some of whom could be based abroad) through administrative deductions from distributed revenue. In line, however, with the guidance in the better regulation framework manual, these effects are considered to be indirect. The Department notes that the costs to rights holders will be partially offset by benefits from increased transparency, flexibility, and participation in decision-making on collection, distribution and handling of their royalties. The Department's explanation of these costs and benefits appears to be reasonable.

The Department states that it wishes to retain the current independent dispute resolution system. This provision is, however, outside the scope of the Directive; the Department justifies this by demonstrating its past success and explicit support from stakeholders. The Department has quantified the current cost to CMOs of this provision as £9,690 each year. There will be no additional costs to business.

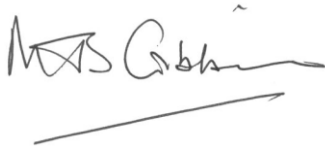
Initial departmental assessment

Classification	Non-qualifying regulatory provision (EU)
Equivalent annual net cost to business (EANCB)	£0.38 million
Business net present value	£-3.30 million

Opinion: final stage IA
Origin: European
RPC reference number: RPC15-BIS-3102(1)
Date of implementation: 10 April 2016

RPC assessment¹

Classification	Non-qualifying regulatory provision (EU)
EANCB – RPC validated	£0.38 million
Small and micro business assessment	Not required (European origin)



Michael Gibbons CBE, Chairman

¹ The RPC verification of the estimated equivalent annual net cost to business (EANCB) and assessment of whether the measure is a qualifying regulatory provision are based on current working assumptions.