

SCREENING MEETING
ACQUIS COMMUNAUTAIRE
Brussels, 6-7 February 2006

CHAPTER 7: INTELLECTUAL PROPERTY
COLLECTIVE MANAGEMENT OF RIGHTS

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Problems

- **Commercial online users require a licence for more than one territory which gives legal certainty for all territories (multi-territorial licence);**
- **Commercial online users want more choice as to which collective rights manager can grant a multi-territorial licence;**
- **Holders of copyright and related rights want multi-territorial licenses which maintain the value of their copyright and related rights.**

**ANALYTICAL EXAMINATION
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- **Traditional model**

via **reciprocal agreements** collecting societies grant each other the possibility to grant a licence of their repertoire in their respective territory – **multi-repertoire mono-territory license**

- **IFPI/Simulcasting** (Case COMP/C2/38.014)

Record producers collecting societies - **multi-territory multi-repertoire** including EU clause of free entry point for users

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COMMISSION RECOMMENDATION

**ON COLLECTIVE CROSS-BORDER MANAGEMENT OF COPYRIGHT AND
RELATED RIGHTS FOR LEGITIMATE ONLINE MUSIC SERVICES**

(18 October 2005, 2005/737/EC)

- **Basis: Art 211 EC-Treaty**
- **Eliminate territorial restrictions and customer allocation provisions in reciprocal representation agreements concluded between collecting societies**
- **Give right-holders the choice to appoint a collecting society for the online use of their works across the entire EU**

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- **Removal of territorial restrictions (No 5)**

Right-holders determine online rights entrusted and territorial scope of the mandate of the CRM; right to withdraw

- **Transparency (No 6 – 7)**

Repertoire (+ changes), reciprocal agreements, territorial scope of mandate, applicable tariffs

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- **CRM and users (No 8 – 9)**
 - Users inform of the features of the services they want to offer
 - CRM grant licenses without discrimination
- **Equitable distribution and deductions (No 10 – 12)**
 - Distribution of royalties to all right-holders or category of right-holders in an equitable manner
 - Specification of deductions for purposes other than management services in the contracts/statutory rules
 - Specification of deductions for purposes other than management services upon payment

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- **Representation (No 13)**
Equality in relation to the management services, fair representation
- **Accountability (No 14)**
Reporting to right-holders on licenses granted, applicable tariffs, licensing conditions, entrustment/withdrawal of rights
- **Dispute settlement (No 15)**
tariffs, licensing conditions, entrustment and withdrawal of online rights