



COMMISSION DES COMMUNAUTÉS EUROPÉENNES

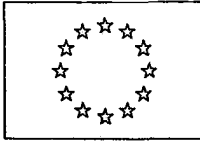
Bruxelles, le 9.7.2008
SEC(2008) 2289

Annule et remplace le document SEC(2008) 2298

AVIS DU COMITÉ DES ÉVALUATIONS D'IMPACT

**PROPOSITION DE DIRECTIVE DU PARLEMENT EUROPEEN ET DU CONSEIL
MODIFIANT LA DIRECTIVE 2006/116/CE DU PARLEMENT EUROPEEN ET DU
CONSEIL DU 12 DECEMBRE 2006 RELATIVE A LA DUREE DE PROTECTION DU
DROIT D'AUTEUR ET DE CERTAINS DROITS VOISINS**

{COM(2008) 464}
{SEC(2008) 2287}
{SEC(2008) 2288}



Brussels, 07.04.2008
D(2008)2848

Opinion

Title **Impact Assessment on: The legal and economic situation of performers and record producers in the European Union (amendment to Directive 2006/116/EC on the term of protection of copyright and certain related rights)**

(draft version of 7 March 2008)

Lead DG **DG MARKT**

1) Impact Assessment Board Opinion

(A) Context

The term of protection of performers and record producers is regulated by Directive 2006/116/EC which is a codified version of Directive 93/98/EEC. A Commission Staff Working Paper on the review of the EC legal framework in the field of copyright and related rights was published in July 2004, followed by a public consultation. The specific objectives of the proposal are: to enhance the welfare of performers in the music industry, to ensure the competitiveness of the European music industry and to enhance consumer choice.

(B) Positive aspects

The report is written in clear language and illustrated by examples. The problems and drivers behind the initiative are clearly presented.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: The IA report should provide a more balanced presentation of pros and cons of the analysed options and their impacts. It should make the context of the initiative clearer; analyse in more detail the impact of policy options on consumers and on revenues of performers; develop an analysis of complementary options; be more precise on the scope of the initiative; provide analysis of the administrative burden of the analysed options; strengthen quantitative analysis of impacts. During its meeting with the board, DG MARKT

agreed to revise the impact assessment on this basis.

(1) More balanced presentation of pros and cons of the analysed options and their impacts. The report should give more balanced attention to the interests of the various stakeholders, taking into account not only the concerns of performers and main record producers, but also those of consumers (by setting out more clearly the impacts on the choice and prices of music) and of public domain record labels (by giving more details on the number of businesses and people employed in this sector, and what the consequences of this initiative would be). The presentation of the baseline scenario should include arguments both against and in favour of keeping the status quo, as expressed in the public consultation. The objectives should be rephrased to express the welfare aims of the initiative more realistically.

(2) Make the context of the initiative clearer. The report should better explain what new facts justify this initiative, since the 2004 Working Paper concluded that the situation was not mature enough for changes. It should clarify that Directive 2006/116/EC is a codified version of Directive 93/98/EEC, and that no changes of substance were introduced in 2006. It should also better explain the relationship between EU law and international conventions in this field.

(4) Explain more precisely how the options will affect revenues of performers, including those of session musicians. The description and analysis of the performers' funds, to be set up as part of option 2b, should be more precise, as well as the description and analysis of the 'use it or lose it' clause. The report should also clarify to what extent the problem identified by the IA stems from the length of the term of protection rather than, more generally, from the level of payments from record companies to performers.

(5) Complementary options. The IA report should develop more fully the analysis of the complementary options in line with the importance attached to them in the problem definition. The report should rephrase the conclusion that option 3c, which received high scores in the table comparing options, is generally less suited to meet the objectives.

(6) Be more precise on the scope of the initiative. The IA report should make clear whether it covers musicians only or all performers, and why these professional groups require a special regulation.

(7) Provide analysis of administrative burden of the analysed options. For instance, the negative impact on administrative burden of a term equal to life should be set out more elaborately.

(D) Procedure and presentation

The IA report should explain that the discount rate used differs from the standard rate recommended in the IA guidelines, and how this affects impacts.

2) IAB scrutiny process

Reference number	2008/MARKT/044 (Catalogue initiative)
Author DG	MARKT-D-1
External expertise used	No
Date of Board Meeting	2 April 2008
Date of adoption of Opinion	7 April 2008

