

Complementary Contribution to the European Commission Targeted Consultation on Art. 17 DSM Directive

Brussels, 10th September 2020

Additional response about Authorisations – Art. 17 (1-2)

[... continued from our response to Question 2, section II (Authorisations) of the survey form]

- ECL is a collective management model that has been developed for mass uses where not all authors can be identified. It allows a contractual basis taking into account the differences of OCSSPs' business models, the size of their audiences and can cover any number and format of files. The contractual basis provides flexibility to adapt to new technology and markets.
- ECL should be implemented by Art. 12 in all MS and be highly recommended. It has been developed for mass uses especially where not all authors can be identified. This is the case for the visual repertoire due to the large number of works that are included in the CMO's repertoires and other market realities.
- CMOs manage rights based on authors' mandates covering all works created in a lifetime, usually several thousands.
- Visual works are much reused by sharing from image search engines and freely accessible sites

- Authors ID is neither included in the data set or ripped off.
- Even OCSSPs have not developed automated image recognition for visual works.
- ECL is efficient to facilitate application of exceptions provided in Art. 17(7) on works which are protected but cannot be identified by machines.
- Cross-border licensing methods are settled between national CMOs and by the one-stop-shop OnLineArt.
- CMOs' mechanisms are in place to guarantee equal treatment of national and foreign non-members as concerns opt-outs and cross border distribution of remuneration.
- Guidance by the Commission would be a much-appreciated help to achieve that most or all MS will implement Art. 12. By support from MS Art.12 may become efficient for cross-border use
- ECL is compatible with direct licensing by other rights holders (for ex.: picture agencies). Picture agencies are managing repertoires based on works, not on authors. Direct licenses for such determined repertoire are not interfering with the local CMO's collective management that covers all works of the authors and heirs being their members without repertoire managed by others, such as picture agencies.
- MS should encourage co-operation of all players managing image repertoire if not in place already.
- Scandinavian countries offer know-how based on good experiences.

About EVA

European Visual Artists (EVA) represents the interests of authors' collective management societies for the visual arts. **28 European societies** are gathered under this roof as members or observers. They manage collectively authors' rights of close to **130 000 creators** of works of fine art, illustration, photography, design architecture and other visual works.

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