



DECISION

At its 167th sitting on 28 April 2016
on the basis of Bundestag printed paper 18/8268:

Bill transposing Directive 2014/26/EU on collective management of copyright and related rights and multi-territorial licencing of rights in musical works for online use in the internal market and amending the procedure for device and storage media remuneration (Act transposing the Directive on collective management organisations)

the German Bundestag adopted the following decision:

I. The German Bundestag notes:

The cooperation between authors and publishers in joint collecting societies has proven a successful model in the Federal Republic of Germany, but also in other European Union Member States for decades now. It is the expression of the close collaboration that takes place between authors and publishers when producing works subject to copyright. Publishers make a significant contribution to the creation of these works as they assist the author in many different ways – from pre-financing the work to proofreading all the way to commercialisation.

Joint collecting societies ensure the copyright fees owed to authors and publishers are collected. They also act as a point of contact for users of copyrighted contents, for instance libraries, and as such facilitate their work. They create a framework for resolving many everyday issues relating to the use of copyrighted works consensually and pragmatically. In addition to this is the special social and societal role collecting societies jointly exercising rights assume.

In this context, various different German collecting societies have now been asserting statutory remuneration entitlements for decades, in particular for the statutorily permitted reproduction of works subject to copyright, and distributing this income proportionally to the authors and publishers in accordance with their allocation plans.

With its ruling of 12 November 2015 on the case of “Hewlett-Packard Belgium SPRL versus Repobel SCRL” (Case C-572/13), the Court of Justice of the European Union triggered major concerns among the publishers’ and authors’ associations alike as to whether the current practice will continue to be possible in the future.



On 21 April 2016 the Federal Court of Justice then ruled that VG Wort - as the joint collecting society of written word authors and their publishers - is not entitled to pay out a lump sum of what in some cases is half of the revenues in question to publishing houses (I ZR 198/13).

The German Bundestag notes these decisions on publisher participation in statutory remuneration entitlements with concern.

The German Bundestag therefore welcomes the initiative by the Federal Government, which has already advocated at EU level that the requisite changes be made to the European legal framework.

At national level, too, all available avenues should be used to continue to enable authors and publishers to jointly exercise these rights in joint collecting societies in the future. If feasible, this could be implemented quickly in the scope of the upcoming consultations on the reform of copyright contract law.

Irrespective of the actions of the legislator, the change in previous allocation practices resulting from the implementation of the decision of the Federal Court of Justice will pose challenges for the collecting societies in question. Here, the legitimate interests of the authors must be recognised, but at the same time the threat of insolvency, in particular of smaller publishing houses, must also be taken into account. Here, the collecting societies can make use of the allocation plans already in place which already set forth how to conduct the reversal procedure in the event of allocation errors. The German Bundestag assumes that the collecting societies will be able to find adequate solutions for the return of monies and for future modified allocations on the basis of these provisions.

II. Against this backdrop, the German Bundestag calls on the Federal Government to verify whether national regulation enabling publishers to be granted a certain amount of what the income collecting societies receive from statutory private copy remuneration in particular is feasible and if so to submit according proposals promptly.

III. The German Bundestag furthermore asks the European Commission to present a legislative proposal as swiftly as possible on the basis of which publishers across Europe can – in line with what has been practiced frequently in the Member States to date – participate in the existing statutory remuneration entitlements of authors. The German Bundestag asks its President to transmit this decision to the European Commission.