Report of consultation on the exercise of rights of performers and producers in the audiovisual sector

IRIS 2020-3:1/11

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On 31 January 2020, the European Commission published a Summary Report of a targeted consultation that was conducted concerning the exercise of rights of performers and producers in the audiovisual sector. The purpose of the consultation was to gather relevant information and data on the exploitation of rights in the audiovisual market in relation to the term of protection, including on the exploitation of audiovisual works over time. The consultation was held from 29 July to 31 December 2019, and was addressed to those engaged in the management of rights in the audiovisual sector.

The Report first sets out those who replied to the consultation, with the "overwhelming majority" of contributions coming from Germany, and most of them from audiovisual performers or their representative organisations. There were contributions from other member states, including from audiovisual producers, distributors, sales agents, and providers of audiovisual content (broadcasters, video-on-demand platforms, cultural heritage institutions) or their representative organisations.

Notably, the Report sets out some preliminary trends that were observed from the consultation: first, the audiovisual performers who replied indicated that their rights were generally transferred through an employment contract or through a combination of a contract of transfer of rights and an employment contract. A slight majority of them considered that only a small proportion of the audiovisual works in which they had performed were still exploited after 50 years, while others reported that some of the films in which they had performed were still exploited after 50 years. Secondly, most of the producers that replied obtained rights from authors and performers through contracts of transfers of rights while others mentioned that they also benefited from legal presumptions. The Report stated that "they generally reported that their films generate most revenues during the first 5-10 years of exploitation and cease to generate significant revenues after 20 years." Thirdly, the Report noted that providers of audiovisual content (such as broadcasters and online platforms) explained that their offers included different types of audiovisual content (old or more recent films, for example) depending on their respective business models. Respondents in this category highlighted difficulties regarding the clearance of rights for films. They also stressed that there was a lack of information on the ownership of rights.

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Finally, the Commission stated that it would carry out a “deeper analysis” of the replies received to the targeted consultation, and that the results would be analysed in preparation of a report assessing the possible need for an extension of the term of protection of the rights of performers and producers in this sector, as required by Directive 2011/77/EU on the term of protection of copyright and certain related rights (see IRIS 2011-9/6).

European Commission, Summary Report of the targeted consultation on the exercise of rights of performers and producers in the audiovisual sector

https://ec.europa.eu/digital-single-market/en/news/summary-report-targeted-consultation-exercise-rights-performers-and-producers-audiovisual

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