

Dear Madam,

Dear Sir,

WORKING PARTY ON INTELLECTUAL PROPERTY OF THE COUNCIL OF THE EU (8 MARCH '24)

Brussels, 7 March 2024

This Friday, the Working Party on Intellectual Property of the Council of the EU will prepare the participation of the EU delegation to the 45th Session of the WIPO Standing Committee on Copyright and Related Rights, which will be held in Geneva from 15 to 19 April.

During a full week of meetings on various matters, the SCCR will address once more the topic '**Copyright in the digital environment**', which has influenced its work for nearly ten years. Since the introduction of this initiative by **GRULAC** in December 2015 ([SCCR/31/4](#)), Member States have been provided with numerous testimonies and a respected, in-depth study (by leading experts, Chris Castle and Claudio Feijóo) showing that the streaming business model deprives performers of a legitimate share of the revenues generated by their creative work.

Last year, GRULAC proposed that this initiative should be included as a separate item on the agenda of the SCCR and that the WIPO Secretariat should be instructed to make proposals, searching for effective and fair solutions to secure authors' and performers' rights in the digital environment ([SCCR/43/7](#)). At the meetings in April, GRULAC will provide a detailed work plan to achieve these goals.

Numerous Member States have acknowledged the need to redress this unfair situation, and the WIPO Secretariat has expressed its readiness to assist the SCCR should it decide to take the issue further.

However, despite this topic being of enormous importance for performers and other creative individuals in the European Digital Single Market, **the EU delegation has been non-committal** for the last ten years. Much to the surprise of our performers after in 2019 the EU adopted the CDSM directive (2019/790) that recognised the weaker position of performers and authors and provides the principle of an appropriate and proportionate remuneration for our artists for when their works and performances are streamed.

As the paramount voice of performers in Europe, AEPO-ARTIS calls upon all EU Member States to **instruct the EU delegation to openly support the GRULAC initiative** and take up a proactive role in the work to be done. This is certainly needed in view of the monitoring of the transposition of Directive 2019/790 which is currently being carried out by the Commission.

Following exchanges of views with the WIPO Secretariat, it is now obvious that a **Recommendation on the implementation of WPPT article 10** constitutes the best solution. This Recommendation should provide a framework to secure remuneration to featured and non-featured performers during the exploitation period of their recordings, taking into account the role of collective management as a robust and efficient mechanism.

Unlike the negotiation of a new treaty, the drafting of a recommendation can be conducted in a flexible manner through the creation of a **working group** made up of delegates from countries and regions that, like the EU, have expressed interest and support for fair remuneration of performers in the digital environment.

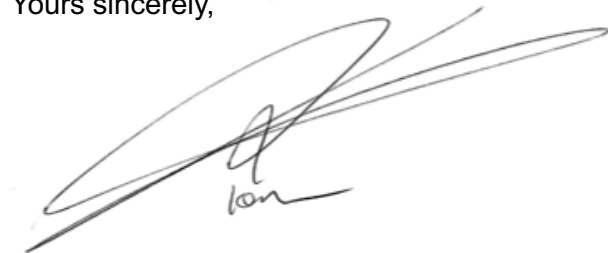
We are convinced that starting the work on such a recommendation without any further delay will also help to bring the original GRULAC proposal back to its essence, i.e. the question of fair remuneration for all artists. These last years, the focus of the studies, discussions and information sessions has been mainly occupied only with the music industry. The question of fair remuneration is however not limited to the music industry.

With this in mind, the EU should also openly support the proposal put forward by the **Delegation of Côte d'Ivoire** to conduct a **study on the situation of audiovisual authors and their remuneration** for the exploitation of their works (SCCR/44/7). The study should however not be limited to audiovisual authors. The scope of the proposed study must be extended to address the situation of actors too. This study should look in particular at the extent to which the 2012 Beijing Treaty has improved their fair remuneration of actors.

Finally, the same also applies to the third item which - with the explicit support of the EU - was added: **artificial intelligence** (SCCR/44/8). At WIPO the topic of AI is already widely discussed during the WIPO Conversation on Intellectual Property and Frontier Technologies. If the SCCR is to address AI as part of the "*Copyright in the digital environment*" topic, the focus should be put on the fair remuneration of right holders (and in particular authors and performers). With the final transparency rules in its recent AI Act, the EU still has already taken the first small steps in that direction and should not shy away from that challenge.

We wish you a fruitful meeting and remain at your disposal should you have any questions.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Ioan Kaes', with a large, sweeping flourish extending from the end of the signature.

Ioan Kaes

General-Secretary AEPO-ARTIS

AEPO-ARTIS is a non-profit making organisation that represents 39 performers' collective management organisations from 29 European countries. The number of actors, musicians and dancers represented by our 39 member organisations is more than 650.000.