



**COUNCIL OF THE
THE EUROPEAN UNION**

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ADDENDUM TO THE "I/A" ITEM NOTE

from : General Secretariat of the Council
to : COREPER /COUNCIL

Subject : Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/116/EC of the European Parliament and of the Council on the term of protection of copyright and related rights (first reading)
- Adoption of the legislative act (LA + S)
= Statements

Declaration by Sweden

Throughout the negotiations, Sweden has had strong reservations regarding the commissions proposal to extend the term of protection for sound recordings.

As regards copyright regulation in general Sweden has always stressed the importance of taking all relevant aspects and involved interests into account, in order to maintain a fair balance in the copyright system. We believe this to be essential if we are to successfully uphold respect for the copyright system in the future.

Extending the term of protection for sound recordings as proposed is neither fair nor balanced. It therefore risks undermining the respect for copyright in general even further. Such a development is very unfortunate for all those who depend on copyright protection to make a living.

Sweden believes there to be good reasons for measures aiming at improving the situation for those professional musicians and other artists who often operate under economically difficult conditions. Extending the term of protection will however not primarily be of benefit to this group.

Against this background Sweden regrets the decision to adopt the proposal amending Directive 2006/116/EC of the European Parliament and of the Council on the term of protection of copyright and certain related rights.

Belgian declaration

With regard to the proposal for a directive on the term of protection of copyright and certain related rights, Belgium believes that a term extension is not an appropriate measure to improve the situation of the performing artists. Furthermore, we believe that the negative consequences the proposal entails do not outweigh the advantages it brings. We can therefore not support this proposal.

It seems that the measure will mainly benefit record producers and not performing artists, will only have a very limited effect for most of the performing artists, will have a negative impact on the accessibility of cultural material such as those contained in libraries and archives, and will create supplementary financial and administrative burdens to enterprises, broadcasting organisations and consumers. Therefore, the overall package of the proposal appears, as demonstrated by a large amount of academic studies¹, unbalanced.

¹ See e.g. “The Proposed Directive for a Copyright Term Extension – A backward-looking package” Centre for Intellectual Property Policy & Management (CIPPM, Bournemouth University), the Centre for Intellectual Property & Information Law (CIPIL, Cambridge University), the Institute the Institute for Information Law (IViR, University of Amsterdam), and the Max Planck Competition and Tax Law (Munich); N. HELBERGER, N. DUFFT, S. VAN GOMPEL, B. HUGENHOLTZ, ‘Never forever: why extending the term of protection for sound recordings is a bad idea’, *EIPR* 2008, 174; S. DUSOLLIER, ‘Les artistes-interprètes pris en otage’, *Auteurs & Media* 2008, 426.

Finally, one has to observe that several initiatives which have clear links with and impact on the proposal, have recently been adopted or announced by the Commission in its Communication of 24 May 2011¹. These initiatives include for example a proposal for a directive on orphan works, a new initiative on collective management, and a new initiative on online distribution of audiovisual works. Taking into account this global approach of copyright issues in the internal market, we think that it would only be reasonable to re-examine the merits of this proposal in the context of this global approach.

¹ Communication from the Commission of 24 May 2011, A Single Market for Intellectual Property Rights Boosting creativity and innovation to provide economic growth, high quality jobs and first class products and services in Europe, COM (2011) 287