



Call for Evidence Submission

European Commission Call for Evidence: Review of the Copyright in the Digital Single Market Directive / Targeted initiative for a better copyright environment for European creativity and innovation

APOLLON supporting document

APOLLON is the collective management organisation responsible for protecting the neighbouring (related) rights of Greek featured and non-featured musicians. As a member of AEPO-ARTIS, APOLLON aligns with the broader positions of the European performers' community, and submits this document to set out its own perspective grounded in the realities faced by performers in Greece.

We welcome the Commission's Call for Evidence. We note that it brings together two distinct exercises, the review of the CDSM Directive and the targeted initiative, and while we recognise that the two are interconnected, we address them in turn. We do so deliberately, because the review of the CDSM Directive is already in motion, and we hold serious reservations about the robustness of the evidence currently being assembled in that exercise.

Part one: Review of the CDSM Directive

1.1 The current approach to gathering evidence

The Call for Evidence states that it seeks to gather the information needed to support the review of the CDSM Directive and to obtain feedback on the difficulties associated, in particular, with applying and enforcing copyright and related rights against the backdrop of technological change, as well as possible responses.

As we read it, this means the Commission intends to gather material beyond what its appointed researchers are already collecting in the ongoing review, a process expected to culminate in the report foreseen by Article 30 of the CDSM Directive, anticipated around the end of 2026.

APOLLON endorses this without reservation and regards it as indispensable. The existing evidence-gathering exercise leans heavily on a survey that, in our assessment, suffers from significant methodological shortcomings and cannot produce evidence of the standard a comprehensive and dependable review demands. The questions put to performers are, quite simply, too intricate for the great majority of them to follow.

The practical consequence is that performers have no realistic way of stating, in their own terms, whether the CDSM Directive has helped them and, if so, how much. Performers ought to be the principal source of evidence; as matters stand, they are in effect shut out of the process.

To address this, APOLLON, together with its fellow AEPO-ARTIS member organisations, offers to collaborate with the Commission in designing a streamlined questionnaire, in a form the Commission finds acceptable and that performers can readily understand, and to help distribute it through the CMO network.

That network has already shown what it can achieve. Working from a questionnaire developed with an independent academic researcher, CMOs gathered responses from 9,542 musicians, which underpinned the publicly available report *Streams and Dreams* (part 2) to date, the most rigorous evidence-based study of the CDSM Directive's effect on musicians.

1.2 Principal observations on how the CDSM Directive has worked in practice

APOLLON draws the Commission's attention to the findings of the two publicly available reports cited above. In short, implementation has not delivered meaningful gains for performers. Specifically:

1. **Article 18** has been poorly transposed in Greece and in most Member States. As a result, the objective of securing appropriate and proportionate remuneration for performers has not been met.
2. **Articles 19 to 22** overlooked a basic practical truth: performers are afraid to assert their rights. They fear it will harm their prospects of future work ("blacklisting") and/or sour ongoing contractual relationships. The Directive has therefore fallen short of its aim of protecting performers, who were acknowledged to be the weaker party to the contract.
3. There is clear evidence that **lump-sum contracts remain standard practice**. The Directive set out to change this and, on that measure, has not succeeded.
4. Separately, **Article 17** has brought no benefit to the vast majority of performers, the exception being Member States that added measures to ensure OCSSPs pay remuneration to CMOs.
5. None of this is beyond repair. If Article 18 were transposed effectively at the national level, appropriate and proportionate remuneration could realistically be achieved. But if Member States continue to delay, further EU-level legislation will be needed.

1.3 The situation in Greece

The Greek experience illustrates, in stark terms, the broader failures set out above. In Greece, no meaningful steps have been taken towards the genuine protection of musicians. The mechanisms envisaged by the CDSM Directive, and in particular the guarantee of appropriate and

proportionate remuneration under Article 18, have not been translated into any practical improvement in the position of Greek performers.

In practice, the streaming platforms and the phonographic producers remain the gatekeepers of the entire ecosystem. They control access to the market, the terms on which performances are exploited, and the flow of revenue, leaving performers with little or no leverage to negotiate fair terms or to assert the rights the Directive was meant to secure for them.

The conduct of producers is especially damaging. They continue to rely on **buy-out agreement practices**, under which performers are required to surrender their rights in exchange for a single, one-off payment, and in many cases for nothing at all. The effect of these practices on non-featured performers is devastating: they are left entirely unprotected and, as a rule, receive no remuneration whatsoever for the ongoing exploitation of their performances. The very category of performer the Directive identified as the weaker party is, in the Greek context, the category left with the least protection.

These structural weaknesses make Greek musicians acutely vulnerable to the disruption now being driven by generative AI. As AI-generated content floods the market, performers who already receive no fair share of revenue from traditional exploitation face the prospect of being displaced altogether, without consent, without remuneration, and without any effective remedy. Unless decisive action is taken, there will be no sustainable ecosystem left in which artists can earn a living and continue to create. APOLLON therefore urges the Commission to recognise that, in markets such as Greece, the combination of unchecked gatekeeper power, buy-out practices and the rapid spread of AI content poses an existential threat to the profession.

Part two: Targeted initiative for a better copyright environment for European creativity and innovation

2.1 Challenges concerning AI and the use of performances

What follows should be read as work in progress, given how fast generative AI is moving. Beyond the obvious technological and, to a degree, legal shifts, what most concerns performers is the even faster pace of commercial developments, which largely proceed without their consent and may amount to an infringement of performers' related rights.

2.1.1 Control over performances

Generative AI has laid bare just how little real control performers have over how their performances are used, including the basic ability to decide whether to authorise, prohibit or license a given use. This bears directly on performers' relationship with the Article 4 text and data mining exception, which was adopted before generative AI emerged and was never conceived with such uses in mind.

The exception works only where rightholders can reserve their rights, yet performers usually have no practical way of doing so. They rarely control either the location (websites, repositories and the like) or the asset itself (metadata or digital files), which makes giving effect to a reservation all but impossible in practical and technical terms.

Legally, performers' rights over the normal exploitation of their recordings and audiovisual performances are, in most cases, transferred to producers, broadcasters, streaming services and other intermediaries (together, "producers"). This creates genuine uncertainty as to whether performers even have the legal standing to invoke the reservation in Article 4(3) once, for instance, the exclusive reproduction right has been validly transferred to a producer or other intermediary.

In effect, the Article 4 reservation mechanism turns not on the performer's own choices but on decisions made by others further along the value chain.

These problems are bound up with the broader questions of licensing and remuneration set out below.

2.1.2 Licensing of performances

Commercial licensing deals covering the use of copyright/related-rights-protected content for generative AI are being struck at speed, notably between major record labels and AI music generators such as Suno and Udio.

Performers, however, are generally neither involved in negotiating these deals nor asked to agree to them, even though their performances are part of the content being licensed.

It is true that performers' exclusive rights may have been transferred to producers by contract, enabling the producer to authorise or prohibit traditional exploitation of recordings. But it cannot simply be assumed that those contracts contain provisions extending to GenAI uses, for reasons that include the following:

1. The overwhelming majority of contracts pre-date GenAI and were drafted with no thought of such uses.
2. In some Member States, contract terms purporting to transfer rights over unknown forms of exploitation are invalid and unenforceable.
3. In some Member States, contracts not made in writing are unenforceable. In the music sector, 64% of session musicians typically agree their recording sessions verbally, and 43.5% have never signed a written contract (see *Streams and Dreams* – part 2). Even featured artists may have no written contract, or only one covering the bare essentials.

On this point, we refer the Commission to the European Parliament study *Contractual Arrangements Applicable to Creators: Law and Practice of Selected Member States*, which explains, among other things:

"2.1.3. Determination of the scope of rights transferred. A number of countries have introduced mandatory contractual provisions in their copyright laws to ensure that contracts determine more precisely the exact scope and terms of the rights transferred (including issues such as category of rights, geographical scope, duration, future works, unknown forms of exploitation, etc.). Authors can claim the nullity of a contract if certain of these mandatory items have not been laid down in it."

Further questions arise around **personality rights**, which in many Member States stay with the performer and may not be transferable in the way economic rights are. Where GenAI systems can reproduce or imitate a performer's voice, likeness or other distinctive features, it should not be taken for granted that a licence from the producer alone provides a sufficient legal basis for every such use.

A parallel point applies to **moral rights**. In many Member States, performers keep moral rights protecting their performances against distortion, mutilation or other prejudicial treatment. Where

GenAI systems can manipulate or replicate performances in ways that may offend those rights, it should not automatically be assumed that a producer's licence is enough to authorise them.

Licensing is often spoken of as the "solution" to the harm GenAI may cause performers and authors. APOLLON urges the Commission to study the Contractual Arrangements Applicable to Creators report closely. It makes plain that the validity and reach of existing licensing arrangements cannot be presumed and call for careful scrutiny.

This may be an unwelcome conclusion in so far as it "complicates" the licensing solution. But the rights of performers and authors must not be brushed aside, and infringement of those rights must not be tolerated merely because respecting them is inconvenient for producers' commercial arrangements.

2.1.3 Remuneration of performers

Licensing is repeatedly held up as the answer to using copyright-protected content for GenAI. Yet even if one assumes valid licences are in place, which, for the reasons given above, APOLLON does not accept is always so, that still leaves a separate question unanswered: do performers actually receive any remuneration from these arrangements?

The current contractual framework was never built to channel revenue arising from GenAI. The vast majority of performers' contracts predate these technologies and say nothing about remuneration for AI-related uses. So even where licensing generates revenue, there is no clear route ensuring performers share fairly in the economic value drawn from their performances.

For the performers who are entitled to royalties, mainly featured musicians, the problem of imbalanced contracts is well-documented. Articles 19–22 of the CDSM Directive were meant to fix this, but have largely failed, chiefly because performers are reluctant to enforce their rights for fear of blacklisting or damaging their working relationships. In theory, transparency, contract adjustment and ADR could help; in reality, for most performers, these are not practically or commercially viable options.

The picture is worse still for non-featured artists and actors. Their performances are being exploited without consent, and, in the case of at least one major record label, it has been said openly that there is no intention to remunerate them at all.

For these reasons, licensing deals between producers and GenAI providers will not, on their own, deliver appropriate and proportionate remuneration to performers.

A mechanism that would both facilitate licensing and guarantee that performers are paid would be an **unwaivable right to remuneration, subject to mandatory collective management**. Such a right would give users legal certainty, ensure licensing revenues are shared fairly with performers, and sidestep the impossible task of renegotiating millions of existing contracts that were never meant to cover generative AI.

We also support a mechanism that provides for immediate, fair, and proportionate remuneration for past uses of copyright-protected works by providers of GenAI models and services, as proposed in the European Parliament resolution of 10 March 2026 on copyright and generative artificial intelligence - opportunities and challenges.

2.1.4 Access to information and transparency

Every right depends on access to information to be exercised at all. Without transparency, performers cannot tell whether their performances have been used to train AI, whether they appear in any generated output, whether a rights reservation has been honoured, whether licences have been concluded, or whether remuneration is owed.

The same opacity surrounds licensing agreements. Despite Article 19, performers generally have no idea which licences have been concluded, on what terms, or whether any remuneration has been paid. As a result, they are routinely unable to check whether they are receiving a fair share of the economic value their performances generate.

Current transparency rules fall short of meeting these concerns. Even when information is supplied, it is often aggregated and cannot identify the individual performances that were actually used.

It is also unrealistic to expect this to be handled on a case-by-case basis, with individual performers each demanding to see the relevant data. The better approach would be for CMOs to receive that information, process it on their members' behalf and report back to them. This could be reinforced by a mechanism under which a failure by AI providers or deployers to give full transparency triggers a rebuttable presumption that copyright/related-rights-protected work or other protected subject matter has been used, as proposed in the European Parliament resolution of 10 March 2026 on copyright and generative artificial intelligence - opportunities and challenges.

2.1.5 AI-generated impersonations

Generative AI systems are increasingly able to reproduce or imitate a performer's voice, appearance, mannerisms and other distinguishing traits. This raises concerns that reach well beyond the traditional bounds of copyright and related rights.

The protection currently available to performers differs significantly from one Member State to another and may rest on a complex mix of personality rights, privacy rights and moral rights. Performers consequently lack effective and harmonised protection against unauthorised AI-generated impersonation.

APOLLON considers that performers should have the right to control the commercial use of AI-generated reproductions or imitations of their identity and performance characteristics, and to obtain appropriate remedies where such uses occur without authorisation.

2.2 Single equitable remuneration after the RAAP judgment and questions of international reciprocity

APOLLON regards this as a complex matter, the debate being confined to Article 8.2 of the Rental Directive, that deserves careful and thorough consideration, with proper regard to the particular circumstances of all 27 Member States. In this connection, APOLLON welcomes the Commission's confirmation, in the "Consultation strategy" section of the Call for Evidence, that "the views of all affected stakeholders will be taken into account, in order to ensure a comprehensive assessment of the impact of possible policy measures."

2.3 Scientific research

As matters relating to scientific research and access to research outputs fall largely outside APOLLON's area of expertise and representation, we offer no comment on those aspects of the Call for Evidence.

Part three: The need for legislative action

3.1 New challenges and pre-existing challenges

APOLLON welcomes the Commission's decision to explore a targeted initiative for a better copyright environment for European creativity and innovation. The existing legal framework is not properly equipped to handle the challenges thrown up by new forms of exploitation of performances in the GenAI context. For that reason, APOLLON considers that legislative action at EU level is needed to tackle the AI-related issues identified in this submission.

At the same time, it is equally clear that Chapter 3 of the CDSM Directive has not secured appropriate and proportionate remuneration for performers when their performances are exploited by traditional means. As regards traditional exploitation, no additional EU legislation would be necessary if every Member State transposed Article 18 effectively by introducing additional mechanisms that guarantee performers appropriate and proportionate remuneration. The Greek experience set out in section 1.3 above is a clear illustration of what happens where this does not occur.

In the report that is to follow the ongoing review of the CDSM Directive, we urge the Commission to state plainly that Member States which have not yet put in place a mechanism guaranteeing appropriate and proportionate remuneration must do so without delay. Where transposition continues to fall short of Article 18, the Commission should deploy appropriate enforcement measures to secure compliance with Union law.

3.2 Policy-making grounded in reliable evidence

On more than one occasion, research commissioned by the European Commission has yielded insufficient, unreliable and methodologically flawed results regarding the positions of performers and other stakeholders.

By way of illustration, the Study on contractual practices affecting the transfer of copyright and related rights and the ability of creators and producers to exploit their rights itself acknowledged that it had attracted a "low number of contributions to the survey from music performers (a total of 39, out of which only eight answered the entire questionnaire, having transferred rights)."

Participation at that level makes it very hard to draw any meaningful conclusions about performers' actual experiences.

By contrast, Streams and Dreams (part 2), commissioned by IAO, based on a survey circulated with the help of AEPO-ARTIS members and authored by an independent researcher with relevant expertise, drew 9,542 responses from musicians. Likewise, the "Acting Fairly?" report attracted 2,382 responses, again from a survey distributed with the support of AEPO-ARTIS members.

APOLLON is concerned that the ongoing review of the CDSM Directive is fundamentally compromised. The survey now being used to collect information from performers carries serious methodological weaknesses and is far too complex. It is unrealistic to think it can capture performers' experiences accurately. Moreover, for no apparent reason, CMOs are given no opportunity to comment on the impact of Articles 19–22.

In the interests of transparency, we ask the Commission to acknowledge that its research to date has not drawn sufficient input from performers themselves, and that, without such input, evidence-based policy-making is not possible.

3.3 Consultation strategy

APOLLON welcomes the Call for Evidence and the Commission's commitment to evidence-based policy-making. We would, however, urge particular care in the design of consultation exercises.

Before launching consultations or commissioning research, the Commission should engage with relevant stakeholders to make sure the proposed topics and questions are understandable, relevant and genuinely capable of producing meaningful evidence in practice. Equally, researchers should consult representative organisations and other stakeholders when developing questionnaires and evidence-gathering methods, so that the relevant respondents can actually take part effectively.

Given the considerable public funds invested in commissioned studies and consultations, the Commission should ensure that the researchers it engages bring not only methodological expertise but also a sound understanding of the sector. Consideration should be given to appointing independent academics either to carry out the research themselves where possible, or at the very least to play an integral and continuing role in any research project, keeping it focused on the right issues.