

ALAI-Executive Committee Meeting – March, 9, 2013 – Paris

Last developments

Círculo d’Autor – Portugal

Prepared by Carlos Reis Marques

crmarques@visapress.pt

Collective management at media sector

In January 2010 VISAPRESS, the Portuguese society for collective management of author's and related rights at media sector, began its activity.

Representing more than 100 media publications and covering the most representative national and regional newspapers as also magazines, VISAPRESS is a member of PDLN – Press Database and Licencing Network, since 2010.

VISAPRESS dedicated the first year of activity to develop its licensing model, beginning the licensing process during last quarter of that year with the opposition of some Press Clipping Agencies (PCA).

Due to the opposition of some PCA, it was presented a legal action against a national PCA.

The decision of the Portuguese court was against rightholders represented by VISAPRESS and in favour of the PCA. The basis of the decision was that the activity of clipping was not creating damaged for copyright protection and rightholderes interests. The judge declared that was not able to analyse more in detail the case due a lack of knowledge concerning the subject. Because of that an appeal was presented for a second instance court with the same general result. This unbelievable decision detracted all the protection of newspapers and magazines as works protected by copyright and go back 100 years.

In this moment VISAPRESS is presenting a new and more deep legal action against a collective of PCA, in which the multinational CISION is also presented.

With the creation of the Intellectual Property Court, at 2012, Portuguese rightholders are confident with a more informed decision.

New proposals for private copy and collective management legislations

Following European recommendations the Portuguese government began a discussion about new legislations concerning private copy and collective management.

The existing legislation concerning private copy was created in 1998 and it was always regarded as inadequate because it did not include digital equipment.

The proposal presented by the Portuguese government to a group of experts and entities representing rightholders and users, was appreciated in a very positive way. This new law proposal intends to create a new licensing model for reprography and the enlargement for digital equipment concerning the existence of a compensation fee calculated according to its storage capacity. Also relevant is that written works are now also eligible for that fair compensation.

With the European Directive about Collective Management Societies a need to implement it will arrive. Anticipating that moment Portugal began the discussion about a new law proposal.

The new proposal for collective management societies was also well received by collective societies and users, in general. This new law proposes a more open management practices and also creates conditions for pan-european entities representing rightholders interests in different countries. Another important modification is reflected in the creation of more straight relations between collective societies and users associations, to harmonize prices and licencing models.

A period of Parliament debate is now expected.