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Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 1167

Mr E Mthethwa (EFF) to ask the Minister of Trade, Industry and Competition:

- (1) What (a) measures have been put in place to ensure that the (i) Independent Music Producers Rights Association and (ii) SA Music Producers Rights Association comply with approved distribution plans and (b) is the logic behind the requirement for any collecting society to provide proof of its membership of 50 plus while there is proof that they are collecting even on behalf of non-members;
- (2) Whether any collecting society has ever faced the music for non-compliance; if not, why not; if so, what are the relevant details? NW1439E

REPLY:

The Companies and Intellectual Property Commission (CIPC) advised as follows:

- 1) (a)(i) and (ii) The Companies and Intellectual Property Commission (CIPC) in its capacity as a regulator, performs post distribution verification to ensure compliance. The post distribution plan is implemented through the CIPC internal audit, which verifies monies collected and distributed to members. The verification process also makes recommendations to CIPC for continuous improvement by the Collecting Societies' business processes. In addition, the verification process is aimed at ensuring adherence to the 20% Administration Costs by Collecting Societies as required by the Regulations on Collecting Societies. CIPC approves the distribution plan submitted by collecting societies in accordance with the usage data / information received from the users of the sound recordings such as South African Broadcasting Corporation. The usage data also shows music repertoire played and the members of the collecting societies that owns such music repertoire. All these usage data / information is verified by the CIPC to ensure that monies are paid to the correct

members whose music repertoire was consumed. The usage data is the cornerstone of the distribution of the monies collected by collecting societies.

(b) The requirement of 50 membership plus is a legislative requirement in terms of the Copyright Act 98 of 1978 and the Regulations on the Establishment of Collecting Societies in the Music Industry, 2006. Any collection of royalties for non-members by any collecting society can be brought to CIPC's attention for investigation.

- 2) Yes, CIPC invoked regulatory remedies by refusing to re-accredit the Independent Music Performance Rights Association (IMPRA) after it failed to submit bank statements. Other non-compliances were dealt with in terms of the Regulations on the Establishment of Collecting Societies in the Music Industry, 2006 as it provides for such correction of non-compliance by Collecting Societies.

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