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Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 1731

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

- (1) Whether he has investigated the SA Music Performance Rights Association (SAMPRA) for collecting royalties of non-members without an explicitly expressed mandate and/or consent; if not, why not; if so, what are the relevant details of the investigation;
- (2) what (a) are the reasons that his department has participated in endorsing the use of collected royalties towards developmental programmes and/or projects and (b) statutory provisions in the SA Performers' Protection Act, Act 11 of 1967, does SAMPRA and his department rely on;
- (3) in terms of compliance relating to the accreditation of collecting societies under the needle-time regime, what steps will be taken by the commissioner in case there is sufficient evidence that the collecting society pays royalties without issuing statements and for non-members too? NW1788E

REPLY:

I have been advised by the Companies and Intellectual Property Commission as follows:

1. No, the Minister of Trade, Industry and Competition has not investigated SAMPRA. Investigations are done through formal complaints from interested parties. Interested parties have to submit factual evidence in order to launch an investigation. SAMPRA concluded reciprocal agreements with other Collecting Societies entitling SAMPRA to collect for foreign members. Local non-members fall outside the scope of the Companies and Intellectual Property Commission's (CIPC) regulatory framework as they are not members of any accredited Collecting Society for this rights administration.
2. (a) and (b) It is not clear from the question which developmental programmes/projects are referred to. Collecting Societies are allowed to have

developmental programmes/projects as per the Regulations on Collecting Societies and not the Performers Protection Act, 1967 (Act No. 11 of 1967). The Regulations on Collecting Societies 2006 allow a Collecting Society to set aside a portion of the proceeds for the promotion of creative arts and culture and for welfare purposes of the performing artists. Such portion shall not exceed 10% of the amount to be distributed in any one year.

CIPC plays an oversight role within the scope of the Regulations for Collecting Societies. The Regulations on Collecting Societies apply to both CIPC and the Collecting Societies. The Collecting Societies in complying with the regulations on collecting societies can do certain activities without requesting approval from CIPC, it will be upon CIPC to verify compliance on such activities.

3. The Collecting Society Regulations of 2006 provide remedies if there is non-compliance. Such remedies make provision to allow the Collecting Society to remedy such non-compliance. As mentioned above, local non-members fall outside the scope of the CIPC's regulatory framework as they are not members of any accredited Collecting Society for this rights administration.

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