



the **dtic**

Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 4320

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

- (1) Whether, with reference to the Performers' Protection Bill in its current form, which seems to allow for the collection and payment of royalties to non-members by Collective Management Organisations (CMOs), he has found that the specified Bill explicitly permit CMOs to collect and distribute royalties to non-members; if not, what is the position in this regard; if so,
- (2) (a) what are the underlying reasons for the requirement that a CMO must have more than 50 members to obtain accreditation and (b) how does his department verify that accredited CMOs have more than 50 members, particularly in instances where CMOs also collect royalties on behalf of non-members;
- (3) what mechanisms does his department have in place to monitor and ensure that eligible performers who are non-members of CMOs receive their rightful royalties?

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REPLY:

- (1) **the dtic** is responsible for drafting the Performers' Protection Amendment Bill and the policy that informed the Bill.
- (2) (a) The policy position from **the dtic** will inform the requirements for the 50 members to obtain accreditation.



(b) When applying for accreditation with the CIPC, collecting societies are required to demonstrate that at least 50 members have joined the collecting society and have mandated the collecting society to act on their behalf in respect of licensing, collection, and distribution. This is stipulated in the Collecting Society Regulations, 2006.

There are instances where a sound recording features more than one performer or group of performers, and a user has discharged its obligation to pay a particular collecting society for such a group of performers. If some of these performers do not belong to the collecting society that has been paid, and evidence exists to that effect, such performers can claim their royalties from the collecting society in question. Such collection will not constitute non-compliance, as this is inherent in the design of the collective management mechanism.

- (3) Performers exercise their constitutional right to decide whether to join a collecting society. The collecting society is responsible and accountable only to performers who have joined the collecting society as members. Collecting societies pay royalties only to members whose music repertoire is being used or consumed. There is no automatic entitlement to a royalty based solely on membership. The CIPC monitors the payment of royalties to members and non-members, if any, by conducting audits after distribution by collecting societies.

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