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Internal Market DG
Copyright Unit

By e-mail
Markt-E4@cec.eu.int

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Re: Consultation on the review of the EC legal framework in the field of copyright and related rights – HOTREC reply

HOTREC¹ welcomes the opportunity to comment on the Commission staff working paper on the review of the EC legal framework in the field of copyright and related rights (SEC (2004) 995). As a major user of copyright services – our sector pays half a billion Euros per year for copyright and neighbouring rights – we take a strong interest in copyright issues. In the context of the Commission staff working paper, we would like to limit our comments to one specific issue of direct concern to the hospitality sector: the definition of “public” for the purposes of “right of communication to the public”.

Where hotels make radio or television services available to their guests, the question of whether they are obliged to pay copyright and similar rights or not is dependent on the definition of a public. At present EC legislation does not define this concept, which is thus left for interpretation at the level of the Member States. In its working paper, the Commission does not see any need to reassess the current situation. HOTREC has consistently argued that, regardless whether the term public is defined by the Member States or by the EU, a hotel room audience should not be considered as a public.

In our view, a public is a group of persons who have no relation to each other save for the fact that they find themselves simultaneously at the same location. These persons are not in control of e.g. the television or radio performance they are presented with; they only have the choice to remain at the performance or to leave. It follows that a hotel room audience receiving television or radio services can never be considered as a public. The same interpretation has been made in various EU countries, including Austria, Germany, Ireland, Portugal, and Spain.

HOTREC and its national associations strive to gain acceptance for this position both at national and at European level.

Yours Sincerely,

Marguerite Sequaris
Chief Executive

¹ HOTREC is the spokesperson of the hotel, restaurant and café sector at European level. This sector boasts 1,5 million businesses and provides 7 million jobs in the EU alone. HOTREC brings together 36 National Trade and Employer Associations representing the interest of the sector in 22 different European countries.