



30 April 2013

COMMISSION PROPOSAL ON COLLECTIVE RIGHTS MANAGEMENT AND MULTI-TERRITORIAL LICENSING OF RIGHTS IN MUSICAL WORKS FOR ONLINE USES

BUSINESSEUROPE welcomes the broad objectives of the Commission proposal to improve transparency, accountability, efficiency of collective rights management organisations (CMOs) in the EU and ensure fair treatment by national CMOs for rightholders (and their CMOs) in all Member States. It also supports the objective of facilitating multi-territorial licensing of the rights of authors in their musical works by CMOs.

A well-functioning copyright legislation and collection practice are key for creativity and innovation. Companies can often find themselves in the position of both rightholders and users. The current non-transparent, seemingly random and nationally fragmented system is an obstacle to the development of new business models, the evolution of the single digital market and multi-territorial licensing.

Taking into account the rapid removal of physical borders by online developments, a single EU approach is needed to benefit creators, service providers, users, consumers and the European economy as a whole.

BUSINESSEUROPE will focus its comments on general issues tackled in the proposal and the recent compromise presented by the Irish EU presidency.

The directive should raise the standards in terms of transparent, accountable and efficient collective rights management across Europe. The requirements for reliable, coherent and comparable reporting of collections, distributions, costs, commission rates and any deductions from rights revenue are broadly consistent with the principles of good governance and reflected in the Irish EU presidency compromise proposal.

In particular, we welcome the focus on transparency, the recognition that collecting societies are and should be appropriately accountable to their members, and the basic principle that rightholders should have freedom of choice about whether and how to participate in collective management of their rights. A well-defined framework needs also to take into account the importance of the role of users in the process of price-setting to avoid unilaterally set and undesirably high prices in licensing agreements, low quality of offer and lower dissemination of culture. This will allow CMOs to compete in terms of efficiency.

Market-based solutions should be the leading consideration when negotiating licensing agreements between collecting societies, rightholders and users in cross-border licensing. The Irish presidency compromise proposal takes these considerations into account to some extent in Article 15. However, tariffs of rights should reflect only the



economic value of the use of rights in trade. All other criteria affecting tariff setting should be removed from the proposal.

Reporting from users in the digital environment and beyond is required to identify the use of protected works. Without such reporting, the distribution of authors rights and related rights would continue to be hampered by the lack of data necessary to ensure the proportionate and analytical distribution of the effective use of content. The increase of devices and the dissemination of copyright works require that CMOs obtain timely and accurate data from users on their use of works. We believe that this should be always addressed in the contractual agreements between the parties, in line with the principles of fairness and timeliness. Therefore, the new article 15a in the Irish presidency compromise concerning obligations on users should be removed.

The possibility of alternative dispute resolution procedures alongside normal court procedures is positive and should contribute to a faster and more cost-effective dispute settlement.

Regarding the need to make the online market work, we support the chosen model for multi-territorial online licensing of musical works. Re-aggregation of repertoire in hubs should result in simplification of licensing for users and cost-savings for rightholders. Rightholders should keep the freedom of choosing another CMO to handle cross-border licensing in cases where the first preferred CMO will not be able to handle this by itself.

Finally with the advent of new technological means, the legal framework should remain flexible enough and allow options for new kinds of services, e.g. bilateral agreements between rightholders and users.

BUSINESSEUROPE is committed to continue working with the European Parliament, the Council and the Commission on this important issue during the legislative process.
