

ECSA, the European Composer and Songwriter Alliance, represents 36 organisations of Composers and Songwriters in 25 European countries and is the voice of composers and songwriters at a European level.

3 July 2008

Dear President Barroso,

We wrote to you on June the 5th and are sending this extra letter in the hope that there is still an opportunity for you to meet with us. The Composer and Songwriter communities urgently wish to discuss with you the potential action that DG Competition may be proposing following the CISAC "Statement of Objections".

The European Commission is in danger of taking a decision that will cause irreparable harm to the creation of music across Europe. It will lead to drastic reduction in the income of millions of creators worldwide, thus preventing most of them from earning a living from their work. Competition between Authors' Societies for users on price will result in a race to the bottom on copyright royalties' value.

This damage will not only affect composers and songwriters finances – it will ultimately reduce consumers' choice and further increase piracy; it will create confusion and legal uncertainty for users on all present and future licensing deals; it will do major damage to your cultural policy and severely reduce the ability for Europe to produce cultural goods of any value in the international market.

We are each individual members of our national Authors' Society but we are acting here independently from them, partly to demonstrate to you that these societies are not the faceless bureaucratic monoliths portrayed by the complainants. We are the owners and beneficiaries of "mutual" institutions, without whom none of us would have managed to have a successful career or even a career at all. Authors' Societies should not be compared with conventional businesses since their role is to simply collect and distribute money from their licenses to their members - the creators. They are not for profit collectives of authors and publishers and are a product of Civil Society not commercial imperative. Even more importantly for "creativity", the Collection Societies offer equal access to an international marketplace, to all music writers. This means that a ballet composer in Poland will be paid for the use of her music in a UK advertising campaign in exactly the same way that the Gibb brothers will be paid for the use of 'Night Fever' on a local Warsaw radio station. DG Internal Market understood these issues and would appear to disagree with DG Competition.

Europe is composed of a diversity of countries and cultures and the network of European authors' societies is vital to the dynamism of European culture. Your administration's decision risks creating major difficulties for smaller societies who represent less mainstream repertoires. If they are no longer able to offer access to the worldwide repertoire as a result of rights being removed from the reciprocal agreements they will no longer have the volume of business to support their own local writers. National authors societies are not only the

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Guardians of local repertoire and Cultural Diversity but just as importantly, they are the only people capable of local licensing all of the world's repertoire to local offline music users. This is a core activity that Authors Societies undertake in licensing the smallest hairdressing salon in Helsinki to the Benicassim festival attended by over 100,000 Spanish and European music fans and sending that revenue to all the relevant authors worldwide. DG Culture understands these processes and also appears to be out of step with DG Competition.

It would appear that DG Competition have little understanding of the economic consequences of their heavily leaked thoughts. They perceive competition as the sole solution to every problem and try to prejudicially brand the Societies as "monopolies". If, as the DG Competition is appearing to suggest, the Societies are required to 'compete' with one another across national boundaries on price, the whole system will collapse. Major rights holders will withdraw their repertoires and either place them with an agency or agencies giving them the return they expect or they will look towards direct licensing themselves. Following the "Recommendations" of DG Internal Market, the four 'Major' publishers have already withdrawn their rights from the reciprocal representation agreements as regards digital distribution and have placed them with a number of different societies, of their choice, for pan European licensing.

Anybody who has been awake during the last ten years knows full well that digital technology and even more importantly digital convergence means that radical change in the licensing of musical rights will have to take place. The question is one of how to manage this change.

Authors accept that users and consumers of music need to be born in mind when planning these changes, but they in turn can not continue to drive down the value of creativity to zero. Politicians of all backgrounds acknowledge the importance of Intellectual Property and the role that creativity needs to play in a "Knowledge Economy" across Europe. It is therefore particularly unhelpful if the commission allows a narrowly scoped and short-sighted legal instrument, shape the future of music creation in Europe. Members of the European Parliament clearly see these issues and once again it is DG Competition which is out of step.

It is here Mr Barroso that we need political leadership. Hundreds of thousands of small and medium size businesses, both writers and publishers, are likely to be wiped away without your help. We believe this will be a lasting disaster for all Europeans, culturally, socially and economically. We urge you to take a pause at this point and to bring together parties including DG Internal Market, DG Culture, DG Information Society as well as DG Competition with the Collection Societies and us, the Authors, to formulate a positive way forward for the role creativity and music in a digital Europe.

Yours faithfully,

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Laurent Petitgirard
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On behalf of ECSA

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