

Michel Barnier  
European Commissioner for Internal Market and Services  
BERL 12/181  
B - 1049 Brussels

Brussels, 11 June 2014

Dear Commissioner Barnier,

We, the undersigned European organisations, which voice and make visible the concerns of hundreds of thousands of professional authors and performers who make a living in the creative and cultural sectors, are writing to you with regard to the European Commission's discussion to reform the EU copyright acquis.

The Commission consultation opened once more the debate on private copying compensation schemes, which have been under constant attack by the ICT industry in recent years.

The hundreds of thousands of authors and performers, we represent, are deeply concerned with this fierce opposition. Private copying schemes remain an effective mechanism in today's environment and ensure that authors and performers receive fair compensation for the private copying of their works under the exception provided for by EU law.

Indeed, more and more copies are being made as the means by which individuals can make private copies of copyright protected content are greater than ever before. Yet the ability of rightholders to control and license acts of private copying continues to be unrealistic. In fact, consumers have long rejected the application of DRM technology, not least because of concerns vis-à-vis measures potentially in breach of fundamental freedoms. The exception provides the freedom to consumers to make private copies and a guarantee to rightholders to receive fair compensation for such acts.

It is also important to consider that the Court of Justice of the EU (CJEU) has provided important clarifications (e.g. Padawan, Opus, Luksan, VG Wort, Austro Mechana cases) on issues such as who should pay the levies, professional uses, where the levies are due, the fact that rightholders cannot waive their right to receive fair compensation pursuant to the private copying exception, the coexistence of a contractual authorisation and the private copying exception, reimbursement systems and funds supporting cultural and social activities. On a number of other aspects the Court's decision is still pending (i.e. in the Copydan case). All these decisions of the CJEU have contributed to a coherent system of private copying remuneration by providing answers to the most important issues that were raised and have confirmed the validity of the system in today's environment. Moreover, rightholders and their collective management organisations have provided all the necessary practical guidelines to implement case law in a smooth and streamlined way across borders.

The importance of private copying remuneration schemes has also been highlighted by the European Parliament. The Castex report recently stressed that the “private copying system is a virtuous system that balances the right to copying for private use with fair remuneration to rightholders”, and that “it is a system worth preserving”.

**Accordingly, private copying levies remain an effective mechanism to compensate rightholders for acts of private copying.**

Indeed, private copying remuneration is an essential part of the income collected for authors and performers. Private copying remuneration represents on average 5% of European authors’ revenue and more than 30% of the total amount collected by collective rights management organisations for performers. Moreover, in most EU countries private copying remunerations have a positive role in the development of cultural projects and on the social protection of authors and performers.

Currently the only missing element is the willingness of importers and manufacturers of recording media/devices, which are mainly non-EU companies, to fully comply with EU law as they seek further profitable margins by challenging this exception at the expense of European consumers and creators.

**We therefore urge the Commission not to put forward any policies in this review process which would negatively affect the level of remuneration. In particular, the current system should not be threatened by proposals aiming at reducing the scope of the reproduction acts covered. Such policy would have a disastrous impact on Europe’s creators.**

We remain at your disposal should you require any further information and are looking forward to hearing from you.

Yours sincerely,



**AEPO-ARTIS** – AEPO-ARTIS represents 34 European performers' collective management organisations from 25 countries, 22 of which are established in the Member States of the European Union. The other countries represented are Norway, Serbia and Switzerland. The number of performers represented by the 34 member organisations can be estimated between 400,000 and 500,000. For more information: [www.aepo-artis.org](http://www.aepo-artis.org)

**ECA** – Founded in 1995 the European Council of Artists represents the joint bodies of artists' associations in 28 European nation states and autonomous territories. ECA is an interdisciplinary and democratic forum with clear representative structures and works for the interests of the professional artists in Europe – visual authors (writers, composers etc) and performers from all disciplines – and for cooperation between them. The purpose of ECA is to help professional artists influence European strategies concerning European artists/creators, particularly their social and economic situation. For more information: [www.eca.dk](http://www.eca.dk)

**EFJ** – The European Federation of Journalists gathers 57 journalists' unions and associations in Europe representing 320,000 journalists in forty one countries. The EFJ supports its affiliates to foster trade unions and to maintain or create environments in which quality, journalistic independence, pluralism, public service values and decent work in the media exist.

**EVA** – EVA represents 24 European collective management organisations for fine arts, photography, illustration, design and other visual works for close to 100,000 authors. They manage for authors primary uses, the resale right and they collect and distribute remuneration rights. For more information: [www.evartists.org](http://www.evartists.org)

**EWC** – Founded in 1977 in Germany and newly constituted in 2006 in Belgium, the European Writers' Council is the federation of 50 national and transnational organisations of professional writers and literary translators in all genres in 34 countries including the EU as well as Belarus, Iceland, Norway, Switzerland, Turkey and Montenegro. EWC's members represent 433,000 individual creators, including more than 150,000 authors in the text-sector.

**FERA** – Founded in 1980, the Federation of European Film Directors represents 37 directors' associations from 29 countries. FERA speaks for approximately 20,000 European screen directors, who work in all formats and genres, promoting and defending their cultural, creative and economic interests both at the European and at the national level. [www.filmdirectors.eu](http://www.filmdirectors.eu)

**EuroFIA** – The European group of the International Federation of Actors represents performers' trade unions, guilds and associations in most of the EU and the EEA. It voices the professional concerns and interests of actors (in film, television, radio, theatre and live performance), broadcast professionals, dancers, singers, variety and circus artists and others, with the exception of musicians and visual artists.

**FIM** – The International Federation of Musicians (FIM) is the international NGO representing musicians' trade unions, guilds and associations globally, with members in about 70 countries covering all regions of the world. In the European Union, FIM counts 26 member unions in 21 EU Member States.

**FSE** – The Federation of Screenwriters in Europe (FSE) is the voice in Europe for more than 6,000 professional screenwriters working mainly in the film and television industry. It is a federation of currently 25 associations, guilds and unions of screenwriters in 20 countries.

**GESAC** – Founded in 1990, the European Grouping of Societies of Authors and Composers (GESAC) represents 34 of the main copyright management societies (authors 'societies) in the European Union, Iceland, Norway and Switzerland, administering the rights and remuneration of almost 800,000 authors, composers and writers in a variety of sectors (music, audiovisual, literary and visual and graphic arts) and music publishers. More information [www.authorsocieties.eu](http://www.authorsocieties.eu) and [www.gesac.org](http://www.gesac.org)

**SAA** – The Society of Audiovisual Authors (SAA) is the grouping of European collective management organisations representing audiovisual authors. Its members (25 societies in 18 countries) manage the authors' rights of over 120,000 film, television and multimedia screenwriters and directors. More information [www.saa-authors.eu](http://www.saa-authors.eu) Follow us on Twitter @saabrussels

**UNI Global Union** – Media Entertainment & Arts (UNI MEI) – represents 170 national unions & guilds affiliating more than 375,000 creators, technicians and other workers in the media, entertainment and arts worldwide. More information at [www.uniglobalunion.org/mei](http://www.uniglobalunion.org/mei)