

**Greens' Conference on
Collective Rights Management Directive
16 May 2013**

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Thank you for giving us the opportunity to discuss with you today.

- Public Service Media organisations have always relied on collective rights management. The EBU therefore welcomes the proposal for a Directive and its objectives. Transparency and improved governance which contributes to efficient functioning of collective rights management organisations is essential. The proposal is clearly a step in the right direction, though we - in collaboration with the Copyright Users' Platform - propose a number of improvements to its transparency and governance provisions, as well as dispute resolution mechanisms.
- With regard to licensing we have essentially two main demands:
 - We call for a revised provision covering the exemption for broadcasters (currently in Article 33, Recital 35) from the multiterritorial licensing system, to be placed under Article 2 of the Directive.
 - It should be clarified that efficient licensing solutions which are in place, such as extended collecting licensing systems, can continue to exist. And Member States who wish to introduce such systems in the future should be able to do so.

The broadcasting exemption:

- We welcome the attempt by the Directive as proposed by the Commission to make a distinction between the specific needs of

broadcasters and those of online music providers such as iTunes in the area of music licensing for use in different countries ('multi-territorial licensing' under Title III).

- The Commission correctly notes that if Title III was applied to broadcasters it would in fact make licensing much more complicated for broadcasters' online services, contrary to the intentions of the Directive.
- In the area of music licensing, broadcasters primarily require a one-stop shop blanket licence with access to the global repertoire for music. This is because we do not only need to use the music online, but also in broadcasts. At present, collecting societies in the EU can grant us one licence, which allows us to use music both for our broadcasts and our online services, as needed through reciprocal agreements between collecting societies.
- **The exemption as currently drafted in Article 33 and Recital 35 does not fully cover broadcasters' current and future online content.**
- Recital 35 and Article 33 are not reflecting the existing practice of collecting societies, which do provide access to the global repertoire under a blanket licence, including for content that is offered online only.
- In addition, this approach fails to allow for growing audience preferences and technology developments, especially with the arrival of Connected TV, which will increase the possibilities for broadcasters to offer innovative and attractive online content.
- Many broadcasters have a duty to provide media content online. Providing a mix of linear TV and online content, including online-only content, is particularly important to reach older children and young adults, who might otherwise not be exposed to the educational and cultural benefits of public service broadcasting.
- Online-only broadcaster content is thus already a key part of broadcasters' activities and is set to become more important in a

convergent media environment. Saying that online-only broadcaster content does not go beyond normal broadcaster activities is not correct.

- **Broadcasters require a blanket license covering both online and offline content.** Obliging us to seek an additional licence for online only content from a collecting society potentially in another country would simply increase the administrative burden and complexity of rights clearance, contrary to the Directive's aims.
- **Mrs Gallo, in her draft report, has proposed an exemption from the scope of title III, under Article 2.** This is a coherent way to do it. However, the condition that online services covered by the exemption have to be ancillary to the offline service is too restrictive. This can also be addressed by amending the corresponding Recital 35 with a view to avoid the application of different rules for the licensing of broadcasters' offline and online services, and to clarify that ancillary online content also includes material that supplements, enriches or expands on the broadcaster's offline programming..
- **In this regard, Mrs Trüpel's amendment 73 to Article 33 provides for a better wording.** Her amendment 13 to Recital 35 clarifies very well that collective rights management organisations can continue to grant blanket licenses for the world repertoire to broadcasters for the music use in both their offline and online services.

Safeguarding ECL/mandatory solutions

- As Recital 16 of the proposed Directive indicates, the Directive should not affect national law on any aspects which are not regulated by this Directive. To avoid possible conflicts of interpretation of certain obligations under the proposed Directive namely the provisions under Article 5 on the rights of rightholders, it is therefore necessary to clarify explicitly that national regulations or other arrangements based on systems of extended or mandatory collective licensing remain unaffected.

- Mrs Gallo has presented a useful amendment 5 to clarify the situation.
- The draft ITRE report, however, provides for a better solution. A substantive provision in Article 2 (am. 5) clearly states that “the Directive does not interfere with any arrangements concerning extended or mandatory collective licensing.” This provision is complemented by a very useful Recital (am. 1);