

Jean Claude Juncker
President of the European Commission
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1049 Brussels



CC:

Mr Andrus Ansip, Vice President for the Digital Single Market
Mrs Mariya Gabriel, Commissioner for the Digital Economy and Society
Mr Tibor Navracsics, Commissioner for Education, Culture, Youth and Sport

Brussels, 11 December 2018

Subject: Open Letter to President Juncker: European Commission yet again fails to listen to the legitimate demands of performers in Europe

Dear President Juncker,

At a critical time for the future of copyright in the EU, the FAIR INTERNET campaign partners, jointly representing over 500.000 professional performers in Europe (singers, musicians, dancers, actors among others), wish to express their disappointment with respect to the European Commission's continuous lack of support for performers and their legitimate expectations regarding their remuneration for the online distribution of their performances.

Since the adoption in 2001 of the Information Society Directive, the value created by the audiovisual and music industries via online services has not truly benefitted performers, although they are at the root of all the music recordings and audiovisual works that are made available online.

Regretfully, the European Commission's proposal for a Directive on Copyright in the DSM, despite its knowledge of performers' situation and the clear commitment made in the 2015 Digital Agenda, puts forward very limited, after-the-fact provisions that may only redress individual situations and are likely to benefit only a few high profile performers who are already in a position to negotiate better contract terms.

Article -14 adopted by the EU Parliament in September 2018 provides all performers with a right to be paid a fair and proportional remuneration for all modes of exploitation, including for on-demand uses, and encourages Member States to achieve this aim also by way of statutory remuneration mechanisms. This fundamental principle clarifies that the remuneration of performers must be consistent with all revenues derived from the exploitation of their work and that such coherence may, where deemed appropriate, also be guaranteed by mechanisms that can counter the inherently weak bargaining power of individual performers.

We were disheartened to witness the Commission's lack of support for performers' in Europe, as it put on the trilogue negotiating table a so-called "exploratory compromise" regarding article -14 of the European Parliament. This document, at best, promotes the status quo and, at worst, suggests that lump-sum payments, such as those typically involved in blanket licenses and buy-out contracts, may de facto be deemed "fair and proportionate" – possibly denying all those agreements even the occasional benefit of articles 14 to 16.

This is simply not acceptable.

We urge the European Commission to support performers who remain routinely subject to the worse possible contractual practices, and resolutely back article -14 of the European Parliament.

Our organisations will not be able to support the Directive unless it provides a meaningful change to the current EU copyright and contract law to the benefit of performers.

We cannot miss out on this legislative reform. Waiting another 20 years is not an option.

Yours sincerely,

Xavier Blanc
General Secretary

Dominick Luquer
General Secretary

Benoît Machuel
General Secretary

Nacho Garcia Vega
President

