



Open Letter to Ministries and Permanent Representations

Brussels, 7 September 2017

Dear Sir/Madam,

RE: FAIR INTERNET coalition statement to the Presidency proposals regarding articles 13-16 of the draft Directive on Copyright in the Digital Single Market from 30 August 2017

The partners of the FAIR INTERNET coalition have read with great attention the compromise proposals put forward by the Estonian Presidency regarding the draft Directive on Copyright in the Digital Single Market (dated 30 August 2017).

They are very disappointed and concerned to see that the precarious situation of Europe's performers is not addressed at all by these compromise proposals, which show a regrettable lack of understanding of what is really needed to provide a meaningful protection to performers in the digital environment.

The provisions in articles 14-16 will not lead to any increased remuneration.

Most performers cannot just rely on the measures in the original Commission proposal, as amended by the Estonian Presidency, to improve their situation, as they typically sign their contract without a chance to improve its terms. That is the way the industry works. If performers want to work, they must sign what is before them. Their only freedom is not to sign and thus not get their next engagement.

Transparency measures may only be of use for a small minority of performers with enough leverage to negotiate on-going payments. However, this is not the case for the overwhelming majority of performers who simply sign buy-out contracts. Assuming that performers would seriously consider requesting a contractual readjustment (article 15) ignores the negative impact that any such request would have on the relationship with their producer, jeopardising further work opportunities in the industry, not to mention the amount of resources required to enter into a lengthy litigation process.

As regards the sharing of value from digital use of works/performances, the discussions - also in the Council - have focused so far on article 13 and the so called "value-gap", which will not – regardless of the final wording – address the needs of most performers. It will mostly benefit the corporate "creative" business who sign up performers and have the upper hand with respect to how they should be paid in return.

The FAIR INTERNET coalition therefore calls for a right for all performers to be paid when their performances are used online via on demand platforms such as iTunes, Netflix or Spotify. Such payment would be paid by the online platforms and be subject to mandatory collective management.

This is the only mechanism that can improve the livelihood of all performers in a meaningful way.

Comparable mechanisms already exist in European legislation. For instance, the right to equitable remuneration for broadcasting and communication to the public (e.g. TV and radio broadcasting) provides performers with a fair revenue share, irrespective of the terms of their contract.

The FAIR INTERNET proposal has already received support from within the European Parliament.

On 11 July 2017, members of the European Parliament Industry and Culture committees adopted opinions supporting the right of performers to receive an unwaivable remuneration for on demand use. Amendments tabled in the lead Legal Affairs committee also suggest broad political support.

The FAIR INTERNET coalition calls upon Member State governments to support a right to remuneration for all performers, in order to effectively rebalance copyright and ensure that Europe's performers are at last fairly rewarded for the on demand use of their performances.

More detailed and extensive comments by the FAIR INTERNET coalition to the draft Copyright Directive are included in the ANNEX here attached.

We rest at your disposal, should you require any further information.

Yours sincerely,

The FAIR INTERNET coalition



The Association of European Performers' Organisations, AEPO-ARTIS, represents 36 European performers' collective management organisations from 26 countries, 23 of which are established in Member States of the EU. The other countries represented are Norway, Serbia and Switzerland.

In most countries performers' rights are collectively managed for both performers who are members and those who are not members of the collective management organisation. Thus globally, the number of performers represented by the 36 member organisations of AEPO-ARTIS can be estimated between 400.000 and 500.000.

Contact: Xavier Blanc and Nicole Schulze | +32 2 280 19 34 | aepo-artis@aepo-artis.org



The International Federation of Actors (FIA) represents performers' trade unions, guilds and professional associations in some 65 countries. In a connected world of content and entertainment, it stands for fair social, economic and moral rights for audiovisual performers working in all recorded media and live theatre.

Contact: Dominick Luquer | +32 2 235 08 65 | dluquer@fia-actors.com



The International Federation of Musicians (FIM) is an international non-governmental organisation representing musicians' trade unions, guilds and associations in about 65 countries covering all regions of the world, which enables it to speak for hundreds of thousands of musicians. In the European Union, the European group of FIM counts 26 musician trade unions from 21 EU Member States, working both in live performance and in the recorded media.

Contact: Benoît Machuel | +33 660 625 494 | benoit.machuel@fim-musicians.org



The IAO is the umbrella association for 10 national organisations representing the rights and interests of Featured Artists in the Music Industry. It is a growing coalition whose main goals are transparency, the protection of intellectual property and a fair reflection of the value an artist's work generates.