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English only

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## EBU Comments

### on the Online commerce roundtable report on "Opportunities and barriers to online retailing"

Insofar as the online music licensing market is concerned, the above-mentioned report's focus is entirely on the difficulties for *music retail* services, such as iTunes, in obtaining so-called 'multi-territorial' licences. Obviously, such services apparently based on new business models may require new licensing methods. However, as indicated by SACEM in the report, *absolute care must be taken that the process of creating such new licensing methods does not impair in any way the effective licensing structures which already apply for other users of music copyright, notably for national broadcasters*. Given that broadcasters are not engaged in music retail services, but are massive users of musical extracts in their programmes and, consequently, in continuous need of collective licensing for the necessary rights for (all) their services, it would be a serious step in the wrong direction to undermine the one-stop shop approach that has proved, for several decades, to be beneficial to both broadcasters and right-holders alike. This is even more valid for the digital world, because the more new media platforms that are created, the more consumers will legitimately expect broadcasters to offer their services on these platforms too, and this will increase the need for extending and reinforcing the collective management regime insofar as the use of music by broadcasters is concerned.

In the light of the foregoing, *it is of paramount importance to differentiate between the (new) licensing needs of the online retail shops and those of broadcasters as audiovisual media service operators (both linear and non-linear)*. This fundamental difference is set out in greater detail in the Annexe attached hereto. Given that a well functioning system of collective rights management for broadcasters' services already exists, the clearance of music rights by broadcasters should not be made more complicated by fragmenting those rights or repertoires between different societies. Such complications would seriously cripple the possibilities for broadcasters to offer legal online services which are widely recognized as being the best approach in the fight against piracy. This means that, if the withdrawal of rights and/or repertoire from the *petits droits* collecting societies by music publishers for the purpose of licensing to music retail services were to lead to a fragmentation of rights (i.e. those which broadcasters need) over several societies and/or management entities and, subsequently, to higher fees and transaction costs for broadcasters, then *legislative safeguards* would be required to prevent such rights fragmentation.

Otherwise, this development would create new obstacles that block or inhibit the broadcasters' ability to make European productions available across all media platforms and via non-linear means, which obstacles would ultimately be to the detriment of consumers, musicians and the society as a whole.

Annexe:

[http://ec.europa.eu/competition/consultations/2008\\_online\\_commerce/ebu\\_contribution\\_en.pdf](http://ec.europa.eu/competition/consultations/2008_online_commerce/ebu_contribution_en.pdf)

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