

**NOKIA intervention at European Commission Hearing on
The Governance of Collective Rights Management in the EU
Friday 23 April 2010**

**Panel 3
Relationship Between Collective Rights Managers and Commercial Users**

Nokia doesn't just make phones. We are also helping to lead the way in bringing innovative new digital services to consumers.

For example, Nokia Comes With Music gives unlimited downloads for a certain period, typically a year – at the end of which the consumer gets to keep and enjoy everything they have downloaded.

So, we have first-hand experience of commercial music licensing in Europe.

Nokia is advocating a Holistic Approach to the Digital Copyright Eco-system and we have presented our ideas in a Nokia White Paper¹ ...*summarized in the slide being shown here.*

Our key proposition is that access to legal digital content must be made easier and more attractive across a Digital Single Market in Europe.

We've seen good progress in reforming the earlier national-monopoly based copyright licensing regime, and the 2008 CISAC decision has been helpful.

But there is still more to be done. And we see three main areas:

First: We need to encourage innovation and investment in new business models for digital services.

We caution against “one-size fits all” thinking.

Traditional, static, tariff-based licensing terms that work for broadcasting and public performance *don't* sit comfortably with new business models for digital services.

We have to be able to negotiate *customized* licensing solutions for innovative new services.

Digital services generally need rights for the whole of Europe. So, repertoire has to be made available on a pan-European basis.

Licensing has to be streamlined and wasteful transaction costs minimized.

For example, separate mechanical and performing rights for digital services should be combined, or able to be licensed as a bundle.

Second: We believe an **efficient marketplace of rights** is in the best interest of both consumers and authors. This means willing licensors and licensees are able to negotiate and agree terms, and market-based negotiation should be the main approach for licensing digital services.

¹ http://www.nokia.com/press/ipr-information/position_papers

We are deeply sceptical about the notion of a “one stop shop”. Strictly interpreted, a “one stop shop” wouldn’t be sufficiently agile, flexible or competitive. We prefer to see **enough participants** to prevent monopoly leveraging – either at a national, or even EU level.

I want to be clear what we mean by “monopoly” in this context. We do not consider a licensor having sole control over a particular repertoire as being “monopolistic” - provided there are other licensors with competing, even though different, repertoires.

And, rights holders should only be able to ‘control’ their own repertoire. If terms cannot be agreed with one particular rights holder they should co-operate in removing works within their own repertoire from the service. One rights holder should not be able to prevent an entire service coming to market.

Transparency for rights clearance is also a prerequisite for a practical functioning market. Licensees need visibility as to the sources of different catalogues and content, and the Commission’s database project is a valuable contribution in this respect.

Third: We are keen to see the realization of a Digital Single Market

The single market must extend to digital goods and services.

According to a report published by The European Policy Centre on Monday, a Digital Single Market could create economic growth potential over ten years of 500 billion Euros - or 4% of EU GDP – that represents €1000 for every citizen!

Licensing should allow consumers to access digital services from anywhere within the EU.

But, the Digital Single Market will not happen if national interests prevail. We see some real risks here:

Licenses must encompass the full scope of service offered to consumers – including acts of private copying – and so exhaust later private copy claims at national level.

Private copy fees act as a disincentive for rights holders to grant full-scope licences if they see private copy fees either as a more lucrative or an additional source of revenue to licensing. This, in turn, is a disincentive for service providers to invest in new digital services. And, in the end, it is the consumer who loses out.

So, full-scope licensing is critical in the sense I have described here.

The more that content is made easily accessible through services that appeal to the consumer the less incentive there is for consumers to indulge in **piracy** by acquiring unauthorised copies.

Finally, a word about **cultural funding**. Nokia believes that the role of commercial licensing needs to be separate from the important work of cultural funding, and should not be handled by the same entity.

To sum up, and returning to the **holistic** approach I mentioned at the start, a better functioning licensing market would mean

- easier access to legal offers,
- improve consumer choice,
- reduce piracy, and
- increase revenue for authors and rights holders

Thank you for listening

Digital Copyright Eco-system

A holistic approach to change

