

Joint statement from the Online Commerce Roundtable participants on "General principles for the online distribution of music"

The participants of the Online Commerce Roundtable set up by Commissioner Neelie Kroes¹ recognise that there are legal and other barriers to the online distribution of music which hinder consumers' access to legitimate online music offers and limit business opportunities. They support the development of further legitimate music services online. They recognise that online piracy is a corrosive factor which needs to be tackled by all relevant actors².

The participants are aware that a true Internal Market for digital music services in the EU is in the interest of all and agree that further changes are needed in the manner in which music publishing rights for online use are licensed. On the one hand, it is in the right holders' and authors' interest to achieve the greatest possible diffusion of their works in an efficient manner, whilst maintaining certainty that their rights are properly secured and paid for; on the other hand, consumers throughout the EU should be able to reap the benefits of cross-border music sales and pan-European access to legitimate sources of music in the online environment.

Participants realise that extensive fragmentation of rights and the lack of effective rights' clearance mechanisms create challenges to efficient and transparent music licensing. They recognise that such mechanisms facilitate the emergence of new business models and the deployment of multi-territorial online music services³. An open, fair and transparent licensing process that secures an appropriate level of royalties for right holders and authors is in the interest of all players and therefore of cultural diversity in Europe.

Without prejudice to any other alternatives, participants agree to explore in the near term the following ways forward, which could co-exist:

- The development of efficient licensing platforms including several collective rights managers offering multi-territorial licences for their repertoires. Such platforms would manage and, where possible, license the "online rights" (performing and mechanical rights) of all right holders willing to entrust them;
- The potential for the creation of licensing platforms which would manage the substantial bodies of repertoire and deliver pan-European/multi-repertoire licences to commercial users. Such platforms should be non-exclusive and non-mandatory.

Participants agree that innovative ways to ensure collective rights managers' administrative efficiency, transparency and quality of service should be explored. Right holders should be free to license directly, or through rights managers of their choice which would compete for their rights, their own repertoire to commercial users, subject to applicable EC competition law rules. Commercial users and content providers should make reasonable efforts to obtain the rights to offer pan-European music services to all European consumers.

Participants agree that a common framework for consolidating and maintaining accurate rights ownership information is needed as soon as possible in order to facilitate the identification, management and administration of the relevant rights pertaining to a music track at the global

¹ http://ec.europa.eu/competition/sectors/media/online_commerce.html

² See in this respect the Report of 26 May 2009:

http://ec.europa.eu/competition/consultations/2009_online_commerce/roundtable_report_en.pdf

³ The term 'online music services' should be interpreted as also covering mobile services.

level, as well as promote legal certainty and eliminate the risk of double payments. The participants are committed to working on common formats and standards and supporting the creation of modern systems of rights ownership information, to the benefit of all stakeholders. They will continue discussions on possibilities to improve the interconnection and interoperability of the existing databases.

The participants agree to consider appropriate measures so that open, transparent and non-discriminatory access to the rights identification data that are needed for efficient pan-European licensing purposes are a reality. Appropriate steps should be taken with a view to ensuring the continued accuracy of the data and avoiding possible duplication of information. The participants recognise importance of safeguarding confidentiality of commercially sensitive information.

Finally, the participants agree that objective, transparent and non-discriminatory criteria for the selection of entities entrusted to license online rights on a multi-territorial basis should be followed. These objective criteria should at least include the ability to secure an appropriate level of royalties for right holders; to manage and process efficiently all elements of a licence in accordance with the mandate granted; to accurately identify the rights; to meet certain technical standards; to ensure that royalty distribution is properly handled; to carefully monitor and enforce uses in each territory of the licence. Objectively justified concerns about the reliability, trustworthiness and/or track record of the entity concerned and the market conditions may also be taken into account.

These general principles are endorsed today by all the participants of the Online Commerce Roundtable. The participants would welcome the support from other industry stakeholders involved in the online distribution of music for these principles.