

European Commission: Commitments by Music Publishers and Collecting Societies Legally Binding

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The European Commission has made legally binding the commitments given by the five major music publishers (BMG, EMI, Sony, Universal, Warner) and thirteen European collecting societies (AEPI, AustroMechana, GEMA, MCPS, MCPSI, NCB, SABAM, SDRM, SGAE, SIAE, SPA, STEMRA, SUISA), the signatories of the Cannes Extension Agreement, regarding Central Licensing Agreements. The Cannes Extension Agreement is an agreement settling the relations between these two branches of the music industry. The collecting societies manage mechanical copyright (the right deriving from the production of physical carriers of sound recordings such as CDs) and the music publishers are members of these societies. The commitments ensure that record producers can continue to receive rebates from collecting societies on royalties paid in the context of Central Licensing Agreements (under such an Agreement, a record company can obtain a copyright license for the combined repertoires of all the collecting societies and covering the whole of the EEA or part thereof, from any collecting society within the EEA). These rebates are currently the only form of price competition between collecting societies. The commitments also ensure that potential entry by collecting societies in the music publishing or record production markets is not impeded.

The commitments offered by the parties successfully address two clauses of the Agreement about which the Commission had doubts regarding their compatibility with the EC Treaty's ban on cartels and restrictive business practices (Art. 81). The first commitment ensures that collecting societies can continue, under Central Licensing Agreements, to give rebates to record companies, paid out of the administration fees retained from the royalties which they collect on behalf of their members. The second commitment consists in the removal of a no-competition clause which would have made it impossible for collecting societies to enter the music publishing or the record production markets.

This Commission decision ends the proceedings concerning the Cannes Extension Agreement. However, if the parties to the Agreement were found to be in breach of their commitments, the Commission could impose a fine of up to 10% of their total turnover.

“Competition: Commission renders commitments by music publishers and collecting societies legally binding”, press release of 4 October

2006, IP/06/1311

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