



Finnish Musicians' Union

Brussels, 02 December 2021

Dear Mr Antti Kurvinen,
Dear Minister of Science and Culture,

We are writing to express our concerns regarding the draft law proposal on the transposition of **Directive 2019/790 on Copyright and Related Rights in the Digital Single Market** (DSM Directive), which the Finnish Government is currently discussing.

FMU, the Finnish Musicians' Union, is a trade organisation for professional musicians. It has expertise in matters related to contracts, copyrights, social security and other issues that have come up during its 100 years of existence – and it is there to help its more than 3.600 members.

IAO, the International Artist Organisation, is the umbrella association for 10 National coalitions advocating for the rights and interests of the Featured Artists in the music industry. It was established to represent featured artists and lobby both for fair and balanced rights, and also for a fair share of all value stemming from the artists' works.

AEPO-ARTIS is a non-profit making organisation that represents 37 European performers' collective management organisations from 27 different countries, including the Finnish organisation Gramex.

We have serious reservations about the how the current draft aims at implementing the articles 17 and 18 of this DSM Directive.

Although **Article 17** aims at ensuring that large online content sharing service providers (OCSSPs) such as Youtube, Facebook and TikTok can no longer hide behind the safe harbour of the e-commerce directive, Section 55a of the current draft strongly limits the scope of this liability.

Where article 17,1 clearly puts the obligation on all Member States to change their laws so that it is clear *that an online content-sharing service provider performs an act of communication to the public or an act of making available to the public for the purposes of this Directive when it gives the public access to copyright-protected works or other protected subject matter uploaded by its users*, the current draft lacks this precondition. This means that there is a risk that the entire positive effect of this article will be eroded. This would facilitate copyright infringement and undermine licensing and enforcement of rights in ways that would unreasonably prejudice the legitimate interests of right holders.

Regarding the implementation of **Article 18**, we find it worrying that the current draft makes no effort whatsoever to introduce an effective mechanism that can guarantee the fair remuneration for authors and performers for the online exploitations of their works and performances. Recently the **European Parliament** adopted - by a clear majority - a Resolution on the status of the artist in which it expresses its dissatisfaction with the fact that only a few Member States have seized the opportunity provided by Article 18 to implement appropriate remuneration mechanisms and urges the Member States to translate the article 18 into **effective** remuneration mechanisms.

We are convinced that this objective can best be achieved when performers are protected with **an unwaivable remuneration right for online exploitations**. This mechanism already exists in all EU member states for certain exploitations and in those countries where it has been made applicable to online exploitations, it has proven to be an **effective** remuneration mechanism. And this not only in relation to commercial online streaming platforms such as Spotify or Netflix, but also for the online content-sharing service providers addressed by Article 17. For all kinds of online exploitations,

the introduction of a unwaivable remuneration right that performers can obtain through their collective management organisations is the best - if not the only - solution to guarantee that performers receive an appropriate and proportionate remuneration.

We urge you to take the above into account to ensure a correct implementation of the DSM Directive that respects both holding large online platforms accountable and offers effective remuneration to all performers.

We are available to provide you with further text and explanation if desired.

With kind regards,



Ahti VÄNTTINEN
Chairman
FMU



Nacho GARCIA VEGA
President
IAO



Ioan KAES
General-Secretary
AEPO-ARTIS