



*The European Consumers' Organisation*

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**BEUC Response to the European Commission consultation on  
the Communication on the Management of Copyright and  
Related Rights in the Internal Market**

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Europese Consumentenorganisatie  
Organización Europea de Consumidores  
Organização Europeia de Consumidores  
Organizzazione Europea dei Consumatori

Neytendasamtök Evrópu  
Európai Fogyasztók Szervezete  
Evropska potrošniška organizacija  
Den Europeiske Forbrugerorganisasjonen

Euroopan Kuluttajaliitto  
Europejska Organizacja Konsumentcka  
Ευρωπαϊκή Οργάνωση Καταναλωτών  
Den Europæiske Forbrugerorganisation  
Den Europeiska Konsumentorganisationen

BEUC, the European Consumers Organisation, is the representative organisation of almost 40 independent consumer organisations from more than 30 European countries. BEUC is acting on behalf of consumers, *i.e.* of citizens in their activities of purchasers of goods and services. We attach great importance to a balanced regime of intellectual property rights in the public interest and the interest of private citizen. BEUC has also a long-standing interest in competition and has intervened on several occasions in competition cases.

We therefore welcome the opportunity to comment on the Commission's consultation on the Communication on the Management of Copyright and Related Rights in the Internal Market and strongly support the proposal of a legislative instrument to safeguard the functioning of the Internal Market.

**Community-wide licensing** - BEUC supports the Commission in its main conclusions that more common ground and a policy of good governance should be established to develop a Community-wide licensing for the exploitation of certain rights. It is essential to grant the user the freedom to choose the collecting society (one-stop-shop). One-stop-shops need to be arranged in a competitive manner to attain the most efficient solution.

BEUC considers the following competition elements as crucial:

- ❖ Article 82 EC must be fully respected;
- ❖ Territorial restrictions need to be eliminated;
- ❖ Monopoly structure must not be accepted unless clearly indispensable;
- ❖ Right owners need to be able to opt-out for specific rights, management of specific rights must not be bundled, individual administration possible;
- ❖ Residence clauses must be eliminated;
- ❖ Principle of non-discrimination.

BEUC also supports good governance through common rules:

- ❖ Clear published tariffs and distinction between administrative fees and copyright fees;
- ❖ Transparent, fair and accountable management of collecting societies;
- ❖ Representation of creators and users;
- ❖ Full statement of accounts as regards efficiency, operability, accounting obligations;
- ❖ External supervision of collecting societies.

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<sup>1</sup> See, for example, BEUC/X/026/2004 Case COMP/M.3333 — Sony/BMG.

BEUC views the following factors as fundamental to achieve a fair balance between collecting societies and users:

- ❖ Most importantly, contract law must not override exceptions granted by national copyright law;
- ❖ Appropriate and reasonable licensing conditions;
- ❖ Full transparency in respect of collected levies and remuneration of right holders;
- ❖ National and International dispute resolution mechanism accessible to consumers;
- ❖ Levies for personal copies shall not be extended to multi-functional devices.

**Digital Rights Management (DRM) Systems** – BEUC is a member of the High Level Group on DRM and has submitted its views on DRM deployment on various occasions and in length in its Position Paper on Digital Rights Management.<sup>2</sup> Here, we welcome in particular the fact that the Commission recognizes its duty to examine - within the context of Article 12 Contact Committee - whether acts permitted by the law are being adversely affected by the use of effective technological measures (so called “technological lock up”). We support also independent studies on this matter and are confident that the Commission will acknowledge that the current legal framework has serious flaws.

The following elements/risks need to be addressed to enhance consumer acceptance:

- ❖ Interoperability;
- ❖ Access to and use of content (lawful circumvention);
- ❖ Privacy and data protection;
- ❖ Transparency, information obligations, redress;
- ❖ Consumer rights in the digital environment;
- ❖ Anti-competitive use and effects of DRM;
- ❖ Phasing-out of levies.

**Individual Rights Management** – BEUC acknowledges the value that creators provide to the public. We always argued that rights of creators need to be fairly remunerated. However, we fear that in some Member States creators still lack adequate contractual protection. We therefore question the Commission’s conclusion that enough common ground exists and action is not needed. We urge the Commission to undertake further studies to evaluate the situation of artists’ earning and copyright in the context of digital technologies and in relation to collecting societies.

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<sup>2</sup> See BEUC/X/025/2004 Position Paper on DRM.