

19 June 2007



European Commission
Internal Market and Services DG

Response by COPYSWEDE and KLYS to “Call for comments” dated 17 January 2007 regarding the EU Commission Recommendation (2005/737/EC)

COPYSWEDE and KLYS are umbrella organizations with 18 member organizations that together represent the authors and performing artists in Sweden. Against this background, it is natural in the first instance to present a number of general comments from the viewpoint of artistic and cultural policy. We would like in particular to emphasize the following points.

In the view of COPYSWEDE and KLYS, it is of the utmost importance to raise at a political level the issues addressed by the recommendation. The political process serves as a guarantee that the stakeholders concerned will be able to participate in and influence legislative and standard-setting processes. On that basis, COPYSWEDE and KLYS feel that use of a “light touch” in the way that the recommendation provides – as the Commission has decided – is not an appropriate instrument.

On the basis of the recommendation, it is not possible to form a clear idea of how the Commission has envisaged how a future system for licensing of music rights in on-line services should function in practice – especially in the light of the Commission’s objective of inducing rightholders, via the collective rights administration societies, to issue licences for the entire EU area. This objective does not appear realizable, given that the Commission’s actions may, it is anticipated, bring about a splitting up of repertoires in a way that makes it considerably more difficult for users and also in the long term substantially erodes the conditions favouring cultural diversity in Europe. A non-binding recommendation in the area of cross-border on-line music services has, as far as COPYSWEDE and KLYS have been able to determine, created considerable uncertainty among both rightholders and users as regards systems of regulations and other conditions affecting pan-European licensing. In the area contemplated, the recommendation will bring fragmentation of rights administration and to a certain degree a concentration of certain limited repertoires. No rights administrator is likely to be able to issue a comprehensive licence regarding a world repertoire for use on-line in the EU. The fear is thus that the Commission’s ambition to make it easier for the European industry to provide content to commercial services on-line is more likely to result in the opposite outcome.

COPYSWEDE and KLYS regard the uncertainty that the overall effect of the Commission’s actions have produced to date in this area as a matter of great seriousness. The risk is that technological and commercial developments will be held back, and COPYSWEDE and KLYS also fear that the position of cultural workers in Europe may be jeopardized. The commercial operators who in future will be forced to acquire limited repertoires from several different rights administration societies and record companies will – driven by commercial interests – possibly be satisfied with the most in-demand repertoire, in the absence of the possibility of obtaining a licence for a worldwide repertoire.

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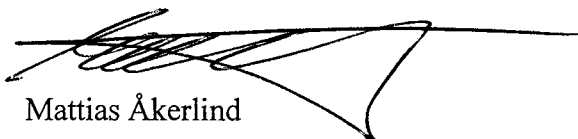
COPYSWEDE ÄR EN EKONOMISK FÖRENING FÖR KONSTNÄRSORGANISATIONER NÄR DET GÄLLER BEVAKNING AV UPPHOVSRÄTT I NYA MEDIER, BLAND ANNAT VIDEOGRAM, KABEL-TV OCH SATELLIT. I COPYSWEDE INGÅR FÖLJANDE MEDLEMSORGANISATIONER: BILDKONST UPPHOVSRÄTT I SVERIGE (BUS), FÖRENINGEN SVENSKA TECKNARE, FÖRENINGEN SVERIGES KONSTHANTVERKARE OCH INDUSTRIFORMGIVARE (KIF), SVERIGES LÄROMEDELSFÖRFATTARENS FÖRBUND (SLFF), NORDISK COPYRIGHT BUREAU (NCB), SVENSKA ARTISTERS OCH MUSIKERS INTRESSEORGANISATION (SAMI), SVENSKA TONSÄTTARENS INTERNATIONELLA MUSIKBYRÅ (STIM), SVENSKA FOTOGRAFFERS FÖRBUND, SVENSKA JOURNALISTFÖRBUNDET, SVENSKA MUSIKERFÖRBUNDET, SVERIGES DRAMATIKERFÖRBUND, SVERIGES FÖRFATTARFÖRBUND, SVERIGES YRKESMUSIKERFÖRBUND (SYMF), TEATERFÖRBUNDET.

FÖRENINGEN INNEHÅR F-SKATTEBEVIS. REGISTRERINGSNUMMER FÖR MERVÄRDESKATT: 01769602-003601.

Under Article 151 of the Treaty of Amsterdam, the EU “shall always take cultural aspects into account” in the work of its institutions and in so doing strive “to respect and to promote the diversity of its cultures”. The UNESCO convention on protection of cultural diversity sets out guiding principles, one of which states that the parties may agree on measures to protect and promote the diversity of cultural expressions in their territory. It is clear that the approach adopted by the Commission has led to serious shortcomings in this respect. Because an evident risk exists that important issues will not be illuminated from all sides and because the current situation has if anything created insecurity and confusion, rather than positive conditions, COPYSWEDE and KLYS are of the view that work should start on producing a directive in the area.

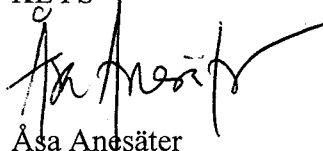
COPYSWEDE and KLYS would in particular like to emphasize the importance of work on the continued process of achieving the purpose of the recommendation, for example via a directive, taking into account the effective and established arrangements for collective rights administration that have been developed in Sweden and the rest of the Nordic region on the basis of the rules on extended collective licences in copyright legislation. This method of administering sole rights via collective rights administration has been recognized in the past at the EU, for example see the Infosoc Directive (2001/29/EG), and it is very important that this should be respected as a way of achieving the objective of the recommendation. In the view of COPYSWEDE and KLYS, it is extremely desirable that in its work in the future, the Commission should ensure that the measures that may be taken in order to achieve the Commission’s objective in the recommendation are not fashioned in such a way as to conflict with or obstruct the successful models – for both rightholders and users – that have been established in Sweden on the basis of the extended collective licence.

On behalf of
COPYSWEDE



Mattias Åkerlind

On behalf of
KLYS



Åsa Anesäter