

Brussels, 24 May 2022



Dear Madam, Dear Sir,

As record companies and music publishers working every day with thousands of recording artists, songwriters and other music professionals throughout Belgium and across Europe, we are committed to nurturing the talents and developing the careers of songwriters and artists, as well as driving the development of the Belgian music market.

For that reason, we are seriously worried about an amendment (new Article XI.228/10-11), proposed by the Belgian Government on the implementation of Article 18 of the EU Directive 2019/790 on Copyright in the Digital Single Market ("the DSM Directive"). This amendment was tabled extremely late in the process without a proper assessment of its impact being carried out. It is currently under discussion at the *Commission de l'Économie de la Chambre*.

The proposed amendment would encroach unreasonably upon the freedom of contract and severely disrupt the way music rights are licensed to digital music services such as Spotify, Deezer, and many others used on a daily basis by Belgian consumers.

Despite the serious effect the proposed new right would have on the digital music market in Belgium, no impact assessment has been made or evidence provided as to the need for such a measure.

Had an impact assessment been made, it would undoubtedly have concluded that the proposed disruptive measure is not justified - evidence shows that today songwriters and performers receive a larger share of industry sales revenue than ever before. This is a fact that we celebrate as the main investors in songwriters, recording artists, and their music.

If adopted, the proposal would hinder the development of the digital music market in Belgium to the detriment of artists, songwriters, the wider music value chain and the economy as a whole. The only winners would be the collective management organisations managing such new rights.

We urge you to reject the proposal and to faithfully implement the DSM Directive as agreed by the EU legislature.

We enclose to this letter more detailed arguments on why the proposal should be rejected and remain at your disposal for any questions or additional information.

Yours sincerely,

**IMPF** - IMPF serves as a global network and meeting place for independent music publishers to share experiences and best practices; IMPF represents the interests of the independent music publishing community internationally and aims to ensure a favourable environment for artistic, cultural, linguistic, and commercial diversity.

**IFPI, representing the recording industry worldwide.** IFPI is the organisation that promotes the interests of the international recording industry worldwide. IFPI and its National Group network has over 8,000 members across more than 70 countries. There are over 70 IFPI offices, National Groups and Affiliated MLCs. IFPI's mission is to promote the value of recorded music, campaign for the rights of record producers and expand the commercial uses of recorded music in all markets where its members operate.

**IMPALA, the European association of independent music companies,** represents close to 6,000 music SMEs across Europe. Its mission is to grow the independent music sector, return more value to artists, promote cultural diversity and entrepreneurship, improve political access and modernise perceptions of the music sector.

**The proposed amendment to Article XI.228/10-11 in the Belgian law should be rejected because:**

- Such a new additional, “unwaivable”, and collectively managed right to remuneration was thoroughly discussed and dismissed by the EU legislature during the negotiations on Article 18 of the DSM Directive. The EU legislature concluded that it would interfere with the freedom of contract that is envisaged in Article 18.2 in the DSM Directive. It would complicate licensing at a time when licensing should be made more effective and streamlined and would have a serious negative impact on the ability of producers and publishers to continue investing in Belgian music.
- The way record companies contract with artists is unique to the industry. While there are certain basic contractual protections record companies need in order to support their investment in content, these contracts are generally flexible and adjustable depending on the commercial success of the project to ensure that all parties involved benefit.
- Therefore, when implementing the DSM Directive, it is critical that Belgium leaves as much scope as possible to allow for freedom of contract to support the flexible approach that benefits all parties and meets unique industry practices. This is key to fostering Belgium’s national music sector and ensuring the continued investment of the record companies and music publishers in Belgian artists, songwriters and music.
- We wholeheartedly agree that performers must be remunerated fairly, but a collectively managed remuneration right would not help achieve that objective. An additional remuneration right would not generate any additional revenue for performers whose recordings are not streamed or downloaded in the first place. The only beneficiaries of such a right would be the incumbent performers’ collective management organisations, which deduct high administration costs before paying anything to artists.
- To impose collective management in this day and age is to impose a 19th century solution on a 21st century economy. It would create disincentives against investing in new and innovative business models that do benefit artists and songwriters.
- Artists’ revenues are increasing year-on-year as a recent IFPI study shows, thanks to new digital business models. Introducing an additional right payable by platforms would make it less likely that new digital services would launch and operate in Belgium, which would be an impediment to the proper functioning of the Digital Single Market, limit the reach of Belgian artists and songwriters and deprive Belgian consumers of the full range of options to enjoy and interact with the music they love.