

## **Competition: Commission renders commitments by music publishers and collecting societies legally binding**

*The European Commission has made **legally binding** under EC Treaty competition rules the commitments given by the five major music publishers (BMG, EMI, Sony, Universal and 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 commitments ensure that record producers can continue to receive rebates from collecting societies on royalties paid in the context of Central Licensing Agreements. These rebates are currently the only form of price competition among collecting societies. The commitments also ensure that potential entry by collecting societies in the music publishing or record production markets is not impeded. The Commission had been concerned that two clauses of the Cannes Extension Agreement may have violated the EC Treaty's ban on cartels and restrictive business practices (Article 81) but has now closed the case in the light of the commitments.*

Under a Central Licensing 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. Central Licensing Agreements are an example of how competition among collecting societies for the granting of pan-European licenses can function, to the benefit of all involved.

The Cannes Extension Agreement is an agreement between thirteen European collecting societies managing mechanical copyright (the right involved in the production of physical carriers of sound recordings, such as CDs) and the five major music publishers, which are members of these societies. The Agreement settles a number of issues regarding the relations between the two groups of companies.

The commitments offered by the parties to the Agreement concern two clauses of the Agreement on which the Commission had expressed its concerns. The first commitment ensures that collecting societies may continue, in the context of Central Licensing Agreements, to give rebates to record companies, paid out of the administration fees that they retain from the royalties which they collect on behalf of their members. Rebates are currently the only element of price competition in this market. The second commitment consists in the removal of a no-competition clause, which would have prevented collecting societies from ever entering either the music publishing or the record production market.

The Commission decision, based on Article 9 of the procedural Regulation 1/2003 on the implementation of the EC Treaty's competition rules, takes into account the outcome of consultations on the commitments offered by the parties to the Agreement. This decision ends the proceedings concerning the Cannes Extension Agreement. However, if the parties to the Agreement were to break their commitments, the Commission could impose a fine of up to 10% of their total turnover without having to prove any violation of the EC Treaty's competition rules.