



Jean-Claude Juncker

President, European Commission

Andrus Ansip

Vice-President, Digital Single Market

Günther Oettinger

Commissioner for Digital Economy and Society

London, 20 June 2016

European Commission

Rue de la Loi 200

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Dear President Juncker, Vice-President Ansip and Commissioner Oettinger

Artists and the Value Gap

Recently the IFPI, which represents the Major Labels in the music industry (Universal, Sony, Warner), has sought our support for a letter reinforcing their arguments on the 'Value Gap'.

The Labels are seeking Transparency, a fair share of value and a duty of care from the Platforms; almost exactly the same things that artists have been campaigning for across the value chain.

The Value Gap concerns the zero or extremely small payments for the exploitation of copyrighted works when platforms use 'safe harbour' exceptions to copyright law in all or part of their service offer.

It is difficult to argue against the Value Gap and the headline figures are stark. YouTube is the largest platform and therefore this debate is often characterised as the 'YouTube Question'.

Usage on YouTube is indeed vast and in terms of functionality it is all too close to services which pay up to ten times more. YouTube argues that there are key and fundamental differences in their consumer proposition that justify their business model as not comparable with what the record labels call 'fully licensed' services. YouTube states that it is 'fully licensed'. This is clearly confusing.

From the creative perspective, two things are clear:

First, that in spite of the unique promotional opportunities given by YouTube as a platform, the proportion of commercial content usage on YouTube is difficult to reconcile against the proportion of revenue that usage delivers back to artists.

Second, it is interesting to observe the Labels now making very similar demands from YouTube that artists have been asking of *all* stakeholders in the digital market.

When we have made our demands previously, the Majors have consistently stated that care must be taken here not to allow the legislative process to be hijacked as a proxy for commercial negotiations between counterparties.

However with digital, we have entered into a world of value-share business models as opposed to the buy-sell world of physical retailing and this requires a level of trust that has changed the dynamic in the market and that needs legislative help to build.

If we are sharing the value we collectively generate then neither platforms nor labels should be able to use contractual gymnastics to remove value from the table and deny the stakeholders further down the value chain their fair and legitimate share from the use of their works.

As an artist organisation, we are told in bilateral conversations on both sides of the Value Gap that Non Disclosure Agreements (NDAs) around the Labels' licenses mean that meaningful progress with individual companies towards a fair and transparent market cannot be discussed with artists.

Equally in discussions at trade body level, we are told that competition law prevents a 'whole of market' solution.

This makes it clear to us that legislative intervention is absolutely necessary at this stage if the true opportunity of the digital economy is to be opened up to consumers in a way that does not fundamentally prejudice all creators building careers today.

We have recommended to artists across the globe that they support the Labels in their quest to review value-gap legislation on Safe Harbours both in Europe and the USA.

However we must be careful to make sure that this review includes the whole value chain and that the results are not just to pass value one link down the chain where it stops with the Majors.

Artists have always been told to support our intermediaries when lobbying - that we will be 'looked after' if only we play along. We were not looked after in the wake of the copyright term extension campaign and we must make sure that this travesty is not repeated in the current copyright review.

Yes we must pull together to 'grow the cake' as we are constantly told, but not to address how that cake is being cut at the same time would be to cut the artists' slice out of the picture.

We are interested that the Major Labels have now demonstrated that the problems they encounter are illustrative of those in the wider value chain and we very much hope this helps us come to a common view as to the best way forward for both Labels and artists as well as platforms and of course consumers.

It is ever-more clear that for a healthy commercial and cultural future for Europe, the copyright review must have at its heart:

1. Transparency through the value chain where we have a financial interest
2. A Fair Share of Value being generated by our work
3. A Duty of Care from our intermediaries through the value chain
4. Updated remuneration rights to reflect the realities of consumer behaviour in digital

The IAO has long campaigned for these 4 pillars to be at the heart of the copyright review.

The Major Labels have now called for 3 of them to help resolve the Value Gap from their perspective, but the fourth - remuneration rights - must not be forgotten.

Without these we face a digital future in which it is very difficult to see how creators can build sustainable careers.

The International Artist Organisation is an umbrella body that brings together the Music Artist Organisations of 10 countries across Europe representing over 15,000 artists

The FAC (UK)	GAM (France)	Musikerforbundet (Sweden)
CoArtis (Spain)	FACIR (Belgium)	CAFAM (Croatia)
GramArt (Norway)	Domus (Germany)	Muusikkojenliitto (Finland)
Dansk Artist Forbund (Denmark)		

Yours sincerely



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President
International Artist Organisation