



THE GLOBAL VOICE
OF MUSIC
PUBLISHING

Brussels, 22 December 2015

Mr Heiko Maas
Minister of Justice and Consumer Protection
Mohrenstraße 37, 10117 Berlin
Germany

Re: Draft Amendment of the German Copyright Law

Dear Minister,

I am writing to you on behalf of the International Confederation of Music Publishers (ICMP) concerning your plans to change Germany's copyright law, in particular regarding your proposals on publishing contracts.

ICMP is the world trade organisation representing music publishers around the world. Our members are music publishers (rightsholders) who engage in numerous commercial transactions on behalf of composers and authors in Europe and beyond.

The proposals you set out would affect the work of our music publisher members and the authors and composers they represent everywhere. For your information, our member in Germany is Deutscher Musikverleger-Verband (DMV).

ICMP is deeply concerned about your wish to introduce a termination right for authors which can be exercised only five years after the delivery on a work by work basis (see paragraphs 40a and 40b of the draft proposal). While we agree that authors must be adequately rewarded for their work; we disagree with the approach set out in your proposal. The proposal is not only impractical but would also destroy the mutually beneficial relations between publishers and rightsholders, which have thrived for many decades. In short, it would have disastrous consequences for the music industry.

Music publishers discover, nurture, develop and promote authors and composers. Their core business is licensing, through which they can ensure that the works of the authors and composers find a commercial outlet. They can also guarantee that creative output is rewarded by arranging contracts and protecting copyrighted music. The economic importance of the licensing of intellectual property rights is crucial. Music publishers are only able to invest if they are compensated for their rights. Developing talent is after all an expensive business.

Your proposal would make it extremely difficult for German composers and lyricists to profit from their music in other countries than Germany. In the majority of the countries across the world, a full and complete ownership of rights is assumed for the term of copyright. The uncertainty

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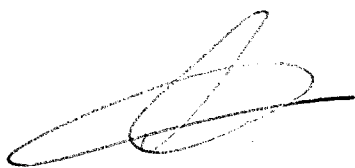
brought by the 5 year period after which authors can decide to withdraw rights from publishers will bring disincentives to publishers when entering into publishing agreements with German authors. To invest in new markets and promote new emerging talent, a secure legal framework needs to be in place. Without adequate reward, the creative instinct would largely go unrealised, and new talents will be left undiscovered.

Your proposal would also have particularly negative consequences for classical and contemporary music. Music publishers often act as patrons for authors, with business considerations, which are of crucial importance for any company, fading into the background. The fact that a classical music publisher will have no certainty of being able to retain the rights to a given work after five years will effectively make it impossible for it to continue holding rights over works even if it places a sense of cultural responsibility over business constraints. Music publishers often invest over generations until their investments are repaid. One only has to look at today's famous classical music composers, who were completely unknown at the beginning of the 20th century, and have only recently become very well-known and respected for their work. This nurturing of talent will be impossible under your proposals.

We are convinced that the optimal way to ensure that authors are adequately rewarded and protected from the exploitation of their works is to have (i) the freedom to grant their rights to their choice of representative (whether it is a CMO or a music publisher or any third party); (ii) effective copyright protection; and (iii) effective IPR enforcement. Please note that in music publishing agreements, composers and lyricists receive shares for all forms of use, either according to the provisions of the national collecting societies or via publishing agreements, which always provide a percentage of shares. In addition, it is important to take into account that the distribution system of music collective management society in Germany (GEMA) *de facto* act as minimum wages for authors.

In light of the above, ICMP urgently requests that you take into account the specificities of the music publishing industry and exempt this sector from the provisions of the termination proposal.

Kind regards,



Coco Carmona
Director General

CC:

Prof. Rolf Budde, member of ICMP, CEO and Owner of BUDDMUSIC, President of DMV
Götz von Einem, member of ICMP, Senior VP Business & Legal Affairs BMG Rights Management