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Coco Carmona, Director General  
International Confederation of Music Publishers  
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CC:

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Brussels, 11 March 2016

Subject: Open letter on ICMP's press release of 7 March 2016

Dear Mr. Jenkins, dear Mrs. Carmona,

On behalf of the ECSA Board, we wish to express our surprise and dismay regarding ICMP's recent public statement "*recommending that ICMP members also consider other licensing possibilities outside of SGAE*". Whilst SGAE is in the process of reform and sorting out internal issues, we are confident that the transposition of the Directive 2014/26/EU in Spanish law will ensure that SGAE adheres to the same rules and principles as fellow European societies and as such operates under the highest efficiency and transparency standards.

Having said that, we also wish to remind you that composers and songwriters in Europe assign their performing and mechanical rights exclusively to collective management societies with the exception of the UK where only the performing right is exclusively assigned. Taking this into consideration, we question on which legal basis ICMP members in Spain can engage in licensing activities outside of SGAE, or license directly, whilst the repertoire and the rights representing these repertoires are exclusively assigned to SGAE. The latter is the only body mandated by the community of European composers and songwriters to manage and license their rights.

ECSA was a strong proponent of Directive 2014/26/EU which provides greater transparency, accountability and governance standards with regards to how CMOs should operate. In the discussions and negotiations accompanying the adoption of the Directive, ECSA stated publicly

several times why the exclusive assignment is vital for the community of composers and songwriters. Given ICMP's recent public recommendation for direct licensing, which not only ignores but violates the exclusive assignment, we allow us to remind you why music creators in Europe support the exclusive assignment to CMOs and why the latter should be the only authority responsible for licensing and managing the rights of music creators.

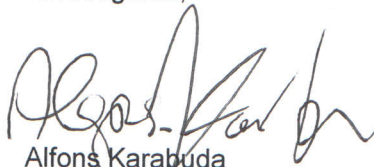
The exclusive assignment of rights to CMOs is a cornerstone of the diversity of Europe's music repertoire and represents a protection for composers and songwriters. It ensures:

- Transparency for music writers – whilst it is right to say that societies vary in the quality of their services in accounting, they are far more transparent than almost any music publisher; direct licensing entails that authors do not receive information from their publishers on the terms of the agreement with users and that they do not have the possibility to hold their publisher accountable for its actions due to the significantly weaker bargaining position of the author in comparison to the publisher
- Certainty of repertoire – CMOs know they have the performing right for the entire catalogue of their members' works, a system which allows granting blanket licenses frequently called for by users.
- Equal treatment of repertoire – all works are paid at the same rate for similar types of usage, regardless whether they are published by majors, indies or self-published by the author; the same goes for non-domestic repertoire.


To conclude, ICMP's public recommendation to license outside of SGAE stands in contrast with what European music creators want. ECSA and its international allies have stated their opposition to direct licensing multiple times and we wish ICMP would respect the views of music creators.

We would welcome a discussion with you and SGAE in order to ensure that the rights of music creators are managed both fairly and efficiently by SGAE.

Kind regards,



Alfons Karabuda  
President



Patrick Ager  
Secretary General