



representing the
recording industry
worldwide

20th October 2015

Mr. Nikola Gruevski
Prime Minister of the Republic of Macedonia
Ilindenska str. 2
1000 Skopje
Republic of Macedonia

Sent by post and email

Dear Prime Minister,

Re: Amendments to the Law on Copyright and Related Rights, adopted on 26 August 2015 (published in OJ no. 154 of 04.09.2015, in force since 12 September 2015)

I am writing to you as the CEO of IFPI, the association representing the recording industry worldwide. IFPI has some 1.300 members in 63 countries, including both international major companies and independent record labels.

As you may already know, as right holders, our member companies rely on Music Licensing Companies (MLCs) for the collective management of their broadcasting and public performance rights, which have become an increasingly important part of the overall music industry revenue. IFPI works closely with the recording industry MLCs around the world. In Macedonia, we work with MMI, the MLC representing producers and performers.

We are aware that the Parliament has recently adopted amendments to the Law on Copyright and Related Rights, in a "short procedure", without consultations with the relevant stakeholders. We are deeply concerned that the amendments undermine the value of the rights of all right holders and the development of the Macedonian music market, which has significant potential for the Macedonian economy. Moreover, the new provisions are not in line with EU legislation or international treaties, namely Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations and WIPO Performances and Phonograms Treaty. These amendments would lead to a breach of Macedonian's obligations under the international copyright treaties that the country has signed and ratified.

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In particular, we are concerned about the following issues:

- 1. The cap on the remuneration for broadcasting, based on arbitrary criteria instead of the value of the rights in trade (*market value*), and based on an unjustified distinction between authors and related rights holders (Art. 137, point 4-5).**

It is a long established industry practice, recognized worldwide, that the broadcasting licenses are primarily determined by negotiations between the right holders and the users. Such licenses typically take into account the interests of the right holders, the users and the general public, taking into account the value of the use of the rights in the use in question. The EU Directive on Collective Rights Management 2014/26/EU specifically provides as much; according to the Directive, tariff setting should be based on the economic value of the use of the rights in trade (Article 16(2)(2)).

The cap which is introduced into the law, based on average monthly salary, and which groups the broadcasters according to the territorial scope of their operating license is not justified and does not have any basis in international treaties or EU law. It unfairly favours users and discriminates against music right holders. Its practical implementation would result in right holders' remuneration remaining way below the real value of the rights. The cap deprives artists, record companies, and authors of the possibility to freely exercise their rights and obtain fair remuneration.

- 2. Exemption from payment for public performance for certain categories of users (Article 137, point 12).**

The tariffs for public performance are typically tailored to take into account the interests of the users, by reflecting a number of criteria such as: the extent of use of music in the business, the size and nature of activity of the user, etc. The provision which exclude from payment certain users including craftsmen, museums and galleries, lodging entities, public transport and taxis, is not justified, even if it is motivated by social policy objectives. The stated argument that the use of music does "not have influence on the comfort of the end users" is wholly unsubstantiated. In fact, numerous academic studies prove the contrary. Music can significantly improve customer experience and increase sales and customer numbers.

Such exemptions from the obligation to pay remuneration for public performance of sound recordings are not in line with the EU rules, such as the Copyright Directive 2001/29/EC.

The IFPI urges the government to act promptly to overturn these amendments and bring the Macedonian Copyright Act in line with the EU law and the international standards of copyright protection. We ask that any new piece of legislation be adopted in accordance with the general principles of good regulation, which includes adequate consultation with the relevant stakeholders, including the MMI. . This is crucial, also taking into account the obligations of Macedonia under the Stabilisation and Association Agreement with the EU, which include the

commitment to implement the Directive on Collective Rights Management. It is also a necessary requirement in order to establish a functioning and sustainable music industry in Macedonia.

Please do not hesitate to contact me for any further questions or information.

Yours sincerely



Frances Moore

Chief Executive Officer
IFPI – Representing the Recording Industry Worldwide

CC: Dr. Gjorge Ivanov - President of the Republic of Macedonia
Mrs. Elizabeta Kanceska Milevska - Minister of Culture
Mr. Trajko Veljanoski - President of the Assembly of the Republic of Macedonia
Mr. Goran Sugareski - Political party SDSM
Mr. Ilija Dimovski - Political party VMRO-DPMNE
Mr. Talat Dzaferi - Political party DUI
Mr. Imer Aliu - Political party DPA
Mr. Aivo Orav, Head of Delegation of the EU
Mr. Jess L. Baily - U.S. Ambassador to Macedonia
Mrs. Isabelle Marchi-Barboux - Counsellor for Cooperation and Cultural Action,
Director of the French Cultural Center
Mrs. Michelle Osmanli – Executive Director, AmCham Macedonia
Mr. Bodan Arsovski – MMI General Manager