

Att: Commissioner Henna Virkkunen
Executive Vice-President for
Tech Sovereignty, Security and Democracy
European Commission

2024-12-13

Joint letter regarding the need for a legislative proposal on rules and boundaries of international application of EU law on copyright and neighbouring rights

Dear Commissioner Virkkunen,

First of all, we would like to warmly welcome you as the new Executive Vice-President for Tech Sovereignty, Security and Democracy in the European Commission with responsibility for the EU copyright and neighbouring rights policy.

We look forward to working closely together with you and your services to further improve the copyright and neighbouring rights framework to address new challenges, as well as opportunities, raised by market and technology developments.

We address you jointly to reiterate our strong encouragement and support for the Commission to introduce legislative measures on rules of international application and reciprocity for copyright and neighbouring rights in relation to third countries, in the light of recent high-profile case law from the Court of Justice of the European Union.

Since the RAAP judgment from September 2020 (C-265/19), music producers and performers from third countries may receive remuneration from Member States of the EU, even though European producers and performers will not receive corresponding remuneration from the use of their music in such countries, thus creating an economic imbalance for the EU. The Court clearly stated that it is up to the EU legislature to change the current situation and noted that “the need to safeguard fair conditions of involvement in the recorded music business” constitutes an objective in the public interest capable of justifying a limitation of the rights of nationals of third countries which do not grant a remuneration right or only grants it partially.

The Kwantum judgment from October 2024 (C-227/23) further disrupts copyright and neighbouring rights protection in relation to third countries and, in our view, risks severely undermining the EU’s bargaining power and international trade policies.

It is within the Commission's power to ensure conditions of fair competition between right holders, as well as users, in the EU – vis-à-vis third countries – and at the same time encourage third countries to introduce the same rights, thereby strengthening the competitiveness of the EU and its Member States by safeguarding a level playing field.

The need for an economic foreign policy for today's realities ensuring reciprocity is highlighted in the Political Guidelines for 2024-2029. As stated in your mission letter, the priorities are not standalone areas of work but are all interconnected. The choices made now by the Commission will shape the EU's economic foreign policy in the field of copyright and neighbouring rights for years to come. If the Commission does not find a solution in the near future, it may result in extensive consequences for EU right holders, users of content and affected businesses and industries. Thus, we urge the Commission to prioritise putting forward a legislative proposal on rules and boundaries of international application of EU law on copyright and neighbouring rights.

We and all our services stand ready to offer the Commission our constructive support.

Yours sincerely

Pierre-Yves Dermagne
Deputy Prime Minister and
Minister of the Economy and Employment
Belgium

Jakob Engel-Schmidt
Minister of Culture
Denmark

Sari Multala
Minister of Science and Culture
Finland

Rachida Dati
Minister for Culture
France

Teun Struycken
Minister for Legal Protection
The Netherlands

Gunnar Strömmer
Minister for Justice
Sweden