

Mr Alexander Schaub
Director General
DG Competition

cc: Mr Herbert Ungerer
Head of Unit C-2
DG Competition

cc: Mr Pierre Chambu
DG Competition- C-2

L-0502-210-SC

Brussels, 13 June 2002

Dear Sir,

Re: The hospitality sector, the management of collecting bodies for copyright and neighbouring rights and competition concerns

We are writing to you in your capacity as Director General of DG Competition. As you know, every establishment in the hotel, restaurant and café sector must pay large fees to copyright and neighbouring rights collecting bodies (which represent the interest of authors, artists and similar) for live, background music, as well as, in certain countries, for the use of radio and television in guestrooms, etc.

HOTREC, the European trade association representing hotels, restaurants, cafés, discothèques and similar establishments, acknowledges that authors, performers and the like are entitled to a fair compensation for the music played in hotels, restaurants, bars and similar establishments. However, the system of collective management of rights in most European countries is monopolistic, not transparent and many competent bodies agree amongst themselves about the geographical distribution of the collecting of fees. This lack of competition results in a situation where these establishments are faced with very high fees and one-sided contracts with no possibility whatsoever to negotiate.

In November 2000, the Unit “Copyright and neighbouring rights” of DG Internal Market held a hearing on the issue of the collective management of rights. This hearing took place on the basis of a study carried out by Deloitte & Touche on behalf of DG Internal Market. We explained to them that most of our member associations:

- complained that the various fees for copyright and similar are too high;
- complained that, although they are negotiating with the collecting bodies, they are not negotiating on an equal footing;
- complained that collecting bodies are abusing their dominant positions;

- called for the freedom to provide, and consequently obtain, services across the borders to also apply to the services provided by the collecting bodies;
- called for the strict application of EU and national competition rules to the collecting bodies;
- called for more transparency on the part of the collecting bodies;
- called for simplified procedures alleviating to a maximum the administrative burdens imposed on small enterprises;
- called for recourse to new technology to alleviate to a maximum the administrative burdens imposed on small enterprises;
- called for a regrouping in “single shops” of the procedures relating to the collection of fees for various rights, and
- last but not least, called for dispute settlement systems, which are easy, speedy and affordable by small enterprises or associations.

So far, we have not received any precise answer to our questions, notwithstanding several letters to the Unit concerned (copy of the latest of which is attached, together with the vague response received recently).

We do know that investigations under the competence of DG Competition require great discretion. However, we would appreciate to know if any investigation is in progress in relation to the management of the collecting bodies for copyright and neighbouring rights, to which our European association and/or our national associations could contribute usefully.

We thank you very much for taking our request into consideration.

Yours sincerely,

Marguerite Sequaris
Secretary General

ANNEXES (3)

- Letter from HOTREC to Mr Bolkestein and Mr Reinbothe of 10 April 2002
- Letter from Mr Reinbothe to HOTREC of 6 June 2002
- HOTREC Brochure « Did you know that when you have a beer with your friends you also pay for the music ? »