Dear Member of the European Parliament

Re: Global Music Creators Support for the Forthcoming Copyright Directive Vote:

I am writing to you in my capacity as the President of CIAM, the International Council of Music Creators. CIAM is the world's largest alliance of songwriters and composers. We represent over five hundred thousand professional music creators across five continents and since 1966 we have served as their global voice.

I want to begin by thanking you, on behalf of CIAM's membership worldwide, for taking the time to consider our concerns in relation to the draft Copyright Directive. Every one of CIAM's members, not simply those living in the EU, is a strong supporter of this Directive and each has an interest in the European Parliament's vote on 12 September. Europe is an important market for their works, irrespective of the country from where their music originated.

Europe is often referred to, and rightly, as the cradle of western culture. It is no surprise, therefore, that the global community of creators should be watching the European Parliament. The enlightened EU initiative that was GDPR has already influenced changes in policy in other major economic areas. It led many frankly to re-examine their own privacy provisions, their effects on citizens and then to propose changes in response. We profoundly hope that you are able to support this Directive's text which, by empowering the creative community, may encourage other nations to follow Europe's lead.

CIAM's members welcomed the enlightened stance of the Copyright Directive, evident in Article 13 and in the text of Chapter 3 (Fair remuneration in contracts of authors and performers) as adopted by the European Parliament Legal Affairs Committee (JURI). These texts are game-changers for the creative community.

There is good evidence that the narrow vote of earlier this summer was largely influenced by powerful non-EU technology interests in a cynical, automated and wildly inaccurate campaign. The cultural and creative industries add EUR 509 billion to GDP, provide 7.5 % of the EU's work force and significantly contribute to the EU economy. Authors and performers are the bedrock of these important industries. Unlike those dominant multi-national corporations that fought so fiercely against, in particular, Article 13, Europe's creators are taxpayers.

Further, evidence shows that policies in support of the creative industries drive economic growth. Such an economic driver is important not just for the smaller EU economies, but every developing nation whose work may be exploited globally, and enjoyed by the millions of citizens in the EU, but currently see little economic benefit.

As music creators, we all recognize that Article 13 is a carefully crafted provision to rebalance laws that were originally introduced to protect technology "minnows" in a developing industry. These now vast technological

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behemoths are no longer in their infancy and no longer need such legislative protection. In truth, many of these monopolies have accumulated unprecedented financial power, much of it generated by the unpaid exploitation the works of creators.

Article 13 is simply a sensible, rebalancing device to require the payment of equitable licence fees. As music creators we will continue to oppose strongly those who cynically use the argument of freedom of expression to claim that this Directive will "break the Internet as we know it". Freedom of expression is the cornerstone of creativity: as creators, we cannot and would not support legislation that would limit it in any way.

We also fully support the Directive's Chapter 3, laboured over by you and your colleagues with such care in the Legal Affairs Committee. The so-called "transparency triangle" (Articles 14, 15, 16 and 16a) has been strengthened by the Committee and is supported by all creators in all sectors. The provisions have the ability to transform the livelihoods of tens of thousands (perhaps hundreds of thousands) of authors and performers. We ask you to adopt them, together with the Directive as a whole.

The Committee endorsed in its report a principle of equitable and appropriate remuneration which would ensure that "authors and performers receive fair and proportionate remuneration for the exploitation of their works" including online (Article 13c). This is a very positive and historical step forward to ensure a fair remuneration for creators.

Article 14 provides transparency obligations to the benefit of creators that are at an "appropriate level of transparency" in every sector. This has the potential to be of inestimable benefit to the creator community.

Profit-driven enterprises routinely place the interest of their shareholders above those of creators who actually provide the wealth. We are calculatedly viewed, in accounting terms, as merely a cost of operation. The music industry is dominated by three major companies that had a combined market share of 63.4% across publishing and recording in 2017[1]. To date what payments for our work that have been made by the digital distributors have often been given on an *ex gratia* basis, with little or no usage information to accompany the money. Our commercial partners, (in the case of my members, their music publishers), oblige us to sign contracts where non-negotiable terms only obligate the publishers to share the wealth with individual composers when money can be "directly and identifiably" attributed to individual musical works. This contract term, common to all our agreements, functions as an inbuilt disincentive for these companies to maintain accurate data. So even where a

[1] https://musicandcopyright.wordpress.com/2018/05/15/umg-and-wmg-make-recorded-music-market-share-gains-sony-outperforms-in-publishing/

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payment is made, the creators cannot be assured of their rightful share. Article 14 will halt the practice of corporations routinely sidestepping their obligations to creators who have entrusted them with their rights.

What Article 14 could give us represents the kind of accounting that should in any event be standard as a matter of good practice within any company with third party accounting obligations. It would also promote confidence and enable young creators to make better informed decisions about their future commercial partners. Creators have long had a role in board management at the not-for-profit collecting societies (or CMOs) which recently were obliged to deliver improved accounting and management transparency via the Collective Rights Management Directive. We have no such influence when it comes to those corporations to whom we assign or license our valuable copyrights. As a result we look to you, our European Parliamentary representatives, to come to our aid.

Article 15 (the contract adjustment mechanism) embraces concepts that protect authors and performers from unfair enrichment, giving us an opportunity to challenge the abuses that routinely arise from unequal bargaining positions. Influenced by the so-called "Best Seller Rule" already present in Germany's copyright statute, such a provision has already been seen to work to good effect for creators. We welcome the fact that Europe is taking a step (we hope) that expressly addresses the imbalance inherent in discussions between creators and corporations across the negotiating table.

Article 16 establishes a dispute resolution procedure that aims at ensuring the effectiveness of both the transparency provisions and the contract adjustment mechanism. Who can object to the creation of a system of affordable access to justice to a constituency rarely able to meet the usually high costs of seeking justice and redress?

We fully support **Article 16 (a**), the "right of revocation", which the Committee introduced. Such a right would serve as a complementary compliance mechanism in relation to the provisions within the "transparency triangle". It would improve the bargaining position of creators and provide certainty to users and consumers that copyright revenues actually benefit those who created the works. It would also greatly contribute to cultural diversity, since unexploited works (especially niche and regional music, literature and audio-visual works) could be re-published, thereby becoming accessible to citizens again.

Article 16 (a) also has the effect of promoting competition, obliging assignees and licensees actively to exploit the copyright works entrusted to them. Failure in this respect would give the creator the ability to explore fresh commercial partnerships by publishing their work on their own or offering it to another publisher.

Even the United States of America, not always sensitive to pro-creator cultural policy, can boast a statutory copyright provision that firmly placed the creator at the centre of the legislative process. In 1976 the US Congress expressed concerns over exactly the inequities that appear to be exercising the European Parliament in this regard. As a result Congress created for authors and performers an inalienable right to reclaim the copyright in their works by terminating the rights grant on the express term that such a right cannot be overridden by contract. The 1976 House report accompanying (amendments to) the Copyright Act judged the termination provisions "needed because of the unequal bargaining position of authors, resulting in part from the impossibility of determining a work's value until it has been exploited." H.R.Rep. No. 94-1476, at 124 (1976).

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Thoughtful, fair and balanced empowerment of authors and performers (such as the terms as already drafted in Articles 14 to 16a) can only serve to improve the health of an important industrial sector, and reinvigorate the EU as a global economic powerhouse in the cultural sector. The provisions would be especially important for young creators of the future. CIAM's younger members, who will succeed myself and my colleagues in the work we do, have never had the benefit of incomes generated during the analogue age as have their more senior peers.

On behalf of music creators worldwide, I thank you for taking the time to consider our perspective and I respectfully ask you to support the Copyright Directive and its essential provisions for authors. We hope that the interests of all creators may be considered in the face of pressures to which you have been, and may be again, subjected by those opposed to good sense and fairness in the exploitation of our work.

Yours faithfully

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President

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