

Commission Decision of 4 October 2006 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/C2/38.681 — The Cannes Extension Agreement) (notified under document number C(2006) 4350) (Only the English, French and German texts are authentic) (Text with EEA relevance) (2007/735/EC)

COMMISSION DECISION

of 4 October 2006

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the EC Treaty and Article 53 of the EEA Agreement

(Case COMP/C2/38.681 — The Cannes Extension Agreement)

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(2007/735/EC)

On 4 October 2006 the Commission adopted a Decision relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003⁽¹⁾, the Commission herewith publishes the names of the parties and the main content of the Decision, having regard to the legitimate interest of undertakings in the protection of their business interests. A non-confidential version of the full text of the Decision can be found in the authentic languages of the case, which are in this case the same as the Commission's working languages, at Directorate-General for Competition's website at the following address: http://ec.europa.eu/comm/competition/antitrust/cases/index/by_nr_77.html#i38_681

- (1) This Decision is addressed to Elliniki Etairia Prostatias tis Pneumatikis Idioktisias A.E. (AEPI), Gesellschaft zur Wahrnehmung mechanisch-musikalischer Urheberrechte m.b.H. (AustroMechana), BMG Music Publishing International Ltd, Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA), Mechanical-Copyright Protection Society Limited (MCPS), Mechanical-Copyright Protection Society Ireland (MCPSI), Nordic Copyright Bureau (NCB), Société Belge des Auteurs Compositeurs et Editeurs (SABAM), Société pour l'Administration du Droit de Reproduction Mécanique des Auteurs, Compositeurs et Editeurs (SDRM), Sociedad General Autores y Editores (SGAE), Società Italiana degli Autori ed Editori (SIAE), Sony/ATV Music Publishing Europe, Sociedade Portuguesa de Autores (SPA), Stichting Stemra (STEMRA), Schweizerische Gesellschaft für die Rechte der Urheber musikalischer Werke (SUISA), Universal Music Publishing Group and Warner Chappell Music Ltd, hereafter referred to as 'the parties to the Cannes Extension Agreement'.
- (2) The subject matter of the procedure was the Cannes Extension Agreement, an agreement among the 18 companies (13 of which are copyright collecting societies managing mechanical copyright in music and five major music publishers, members of

these collecting societies) concerning the relations between them in the management of mechanical copyright of music licensed to record companies for the reproduction of sound recordings on physical carriers. In its preliminary assessment, the Commission expressed concerns under Article 81 of the EC Treaty and 53 of the EEA Agreement about two clauses of the Cannes Extension Agreement. The first was a clause that provided that before granting a rebate to a record company in the context of a Central Licensing Agreement, a collecting society needed the written consent of 'the relevant member'. The second was a clause that provided that collecting societies may never enter either the music publishing or the record production markets. The Commission's competition concerns were that the first clause could have the effect of making it very difficult or even impossible for collecting societies to grant rebates to record companies and that the second clause could prevent potential competition by collecting societies in the music publishing and record production markets.

- (3) The Commission considers that the commitments offered by the parties to the Cannes Extension Agreement are sufficient to address the identified competition concerns. In particular the parties have reformulated the clause referring to rebates to the effect that a collecting society may decide to offer a rebate paid out of the administrative expenses that it retains from royalties due to its members by a simple decision of its competent body with no need to obtain the written consent of the 'relevant member'. The parties have deleted the clause preventing collecting societies from entering the music publishing and the record production markets and have undertaken not to enter into a similar agreement in the future.
- (4) The decision finds, in view of the commitments made binding on the parties to the Cannes Extension Agreement, that there are no longer grounds for action by the Commission.
- (5) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 18 September 2006.

- (1) [OJ L 1, 4.1.2003, p. 1](#). Regulation as amended by Regulation (EC) No 411/2004 ([OJ L 68, 6.3.2004, p. 1](#)).