



EUROPEAN COMMISSION
Competition DG

Information, communication and multimedia
Media
The Head of Division

42-117-1197-10002

MVO / File -

Brussels,
Comp/C2/AA/LVP
D/944/ (2004)

20.12.04 D000879

M. Gerrit Schohe
White & Case,
62 rue de la Loi
B-1040 Bruxelles
Fax: 02/219 16 26

**Subject: Case DG Comp C.2 - 38440 – Universal Music v. BIEM
(Request for information)**

Dear M. Gerrit Schohe,

1. As you know, the Commission continues the investigation of the issues raised in case COMP C2 28.440 – Universal Music v. BIEM.

2. On 6 September 2002, BIEM replied to the complaint lodged by Universal Music before the Commission. In its reply, BIEM explained (point 27) that *“all BIEM societies have undertaken to conclude reciprocal representation contracts with all BIEM societies. All reciprocal representation contracts correspond to the same model...”*

For the purpose of the investigation, BIEM is requested to provide the Commission with a copy of the model contract quoted above.

3. On the other hand, BIEM explained (point n° 36 of its reply) that *“the underlying policy of Article 7 of the BIEM Statutes is to provide a homogenous legal environment, which is indispensable to enable societies to exchange their repertoires.”* BIEM is kindly requested to substantiate this assertion.

4. Your reply will be covered by the provisions of Article 28 of Regulation No 1/2003 concerning professional secrecy. It may yet become necessary at a later stage of the procedure in this case to grant access to the file to other parties. Access is not, however, granted to the business secrets of other undertakings or to confidential information. May I therefore ask you to:

- (a) identify the information (documents or parts of documents) contained in your reply which you regard as business secrets, and the confidential documents whose disclosure would injure you;
- (b) substantiate in writing your claim(s) that information constitutes business secrets or is confidential;

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11. Office: J-70 1/74. Telephone: direct line (32-2) 2968623. Fax: (32-2) 295 01 28.

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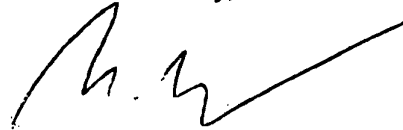
- (c) give the Commission a non-confidential version of your reply in which business secrets and confidential passages are deleted and replaced by a non-confidential summary, where possible, or an indication “[BUSINESS SECRETS]” or “[CONFIDENTIAL]” as the case may be.

If your reply contains *business secrets or other confidential information*, you are requested to provide two versions of your reply, one for the Commission’s confidential file, and one which may be given directly to other parties during the access to file procedure. If you do not provide a non-confidential version, I will assume that your reply does not contain such business secrets or confidential information.

5. You may reply by mail or by fax (+32 2 295 01 28) or email (greffe-anti-trust@cec.eu.int). In all correspondence please quote reference case Comp/C2/38440 Universal Music v. BIEM. You are required to supply the information requested, and I would ask you to do so no later than January 7th, 2005.

6. Should you have any question about this request you may contact Mr Alain Andries by telephone +32 2 295 17 24.

Yours faithfully,



Dr. Herbert Ungerer

Enclosures

- ✓ Extracts from Council Regulation (EC) No 1/2003

Extracts from Council Regulation (EC) No 1/2003

(Official Journal L 1, 04.01.2003, pages 1-25)

Article 18(1):

In order to carry out the duties assigned to it by this Regulation, the Commission may, by simple request or by decision, require undertakings and associations of undertakings to provide all necessary information.

Article 18(2):

When sending a simple request for information to an undertaking or association of undertakings, the Commission shall state the legal basis and the purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided, and the penalties provided for in Article 23 for supplying incorrect or misleading information.

Article 18(4):

The owners of the undertakings or their representatives and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution shall supply the information requested on behalf of the undertaking or the association of undertakings concerned. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.

Article 23(1)(a):

The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1 % of the total turnover in the preceding business year where, intentionally or negligently:

(a) they supply incorrect or misleading information in response to a request made pursuant to (...) Article 18(2).

Company: White & Case
Address: 62 rue de la Loi
1040 Bruxelles
Belgique

(city)

(date)

FAX

To: European Commission
Competition DG
Antitrust Registry
B-1049 Brussels

Telephone: _____
Fax: (+32-2-)295 01 28

From: _____
Telephone: _____
Fax: _____

(Name and function)

Number of pages: 1 page

Subject: Case COMP/ 38440 – Universal Music v. BIEM

Message:

I hereby confirm receipt of the fax sent by the Commission on _____ (date)
in respect of the above-mentioned case. I have noted the deadline for replying to your
questionnaire of _____ (date).

Yours faithfully,

(signature)