The Creators' Viewpoint
(Translation)

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If we speak about the viewpoint of creators, it means the viewpoint of all the creators. The CISAC represents not only the authors of music, but the authors of all kinds of works – audiovisual works, literary works, works of art and, of course, also musical works. We represent 209 societies around the world in 108 countries. I am very happy to be here in Budapest to attend this ALAI congress. At present, Budapest is an important city for us. It is here that we inaugurate this month our regional bureau for Europe – basically for Eastern Europe – which will be based in Budapest.

However, let me turn to our topic today. As Tarja has said, the creators are not in the position to decide on the methods of distribution of their works to the public. They may influence such a decision, they may participate in decision making, they may authorize, they may prohibit, but they certainly do not take decisions alone.

Certain questions have been posed to you today, such as: "But what do the creators and their organizations do in order to make distribution – legal distribution – possible of their works through the digital networks, allowing at the same time for the creators to receive the remuneration which is due to them?"

I am going to discuss the following three questions this morning very briefly, and I hope that, through this, I will give answer to this question:

– I will speak about the way we give world-wide authorizations which takes into account the global dimension of the digital networks; in particular that of the Internet.

– I will then speak about a project – some of you may know – which is called the Common Information System; it allows to better identify – through the application of standardized numbers – the works and the owners of rights.

– Finally, I will speak about our participation in the working out of "Digital Rights Management Systems".

You know that, until recently, it was quite simple for authors' societies to know the cases where their authorization was needed. Either public performance or reproduction of works was involved. It was not so easy to enforce the rights concerning such uses, but theoretically it was not complex.

Nowadays, with the use of digital networks, these two basic rights tend to mix up in an inseparable way, since, even if we just listen to a musical work through the Internet without making a permanent copy, there are acts of reproduction that technically are indispensable. If we consider these new technological developments and the new forms of exploiting works, we have to apply new methods.

The more so since there are also other problems. Digital distribution means global distribution. Even if it is feasible to reduce the access of works to users in certain geographic zones, in practice, this is quite difficult. It is understandable, therefore, that the various producers and distributors seek word-wide authorization from authors' societies setting aside the traditional principle of territoriality. This principle meant that, for example, a Hungarian radio station had to ask for authorization from ARTISJUS, the Hungarian authors' society; there was no need to take into account what was happening in Australia or Chile.

With the Internet, this is not possible anymore, and therefore it is necessary to create new systems through which the world-wide repertoire of works may be made available for the entire world. This is a new task even if authors' societies were able to give license for the world repertoire also in the past; the big difference was that those licenses were territorially limited. Before the Internet, the authorizations granted by ARTISJUS here in Hungary only were valid for the Hungarian territory. All this is complicated by the big volume of repertoire administered by authors' societies.

In the databases of CISAC societies, there are between 2 to 6 different musical works. And there are some 2,500,000 persons or entities – authors, compositors, publishers – whose data are also included. If we take the combinations of all this, the data to be handled – even at the national level – are extremely complex. If we add to this the global dimension, the outlines of an information nightmare, and a methodological nightmare, emerge. To respond to this challenge we have to go beyond what we have done so far; we do so through the application of the principles of the Common Information System based on standardized identification of musical works, audiovisual works and literary works.

How is it possible to respond to the challenge of world-wide authorization? Authors' societies traditionally have developed a system of mutual reciprocity agreement which permits to an author society to authorize the access of their users to the global repertoire. I do not elaborate on this system; the majority of the ALAI audience here knows it at least as much well as I do.

The Internet has changed the situation since it requires authorizations valid for the entire world. The societies of CISAC and BIEM have developed new frameworks for this in the form of the so-called Santiago and Barcelona agreements. The Santiago agreements were adopted in Santiago de Chile at the 2000 congress of CISAC, and the Barcelona agreements were adopted officially during a meeting of BIEM held in Barcelona.

The Santiago agreements – as well as the Barcelona agreements – are model agreements, framework agreements; the CISAC and BIEM societies, of course, are not obliged to apply all of their stipulations; they only contain principles. What do they permit? They permit – in the case of the Santiago agreements for public performance, and in the case of the Barcelona agreements, for mechanical reproduction – to an authors' society to authorize, for the entire world, the use of the repertoire that it controls. And it controls for the entire world the repertoire of those societies with which it has agreements on the basis of a Santiago or Barcelona agreement. What is involved is a supplementary layer on our system of reciprocal agreements which allows us to respond to the need of worldwide authorizations.

It is to be noted that this system is not totally satisfactory yet, since there are still certain societies that are not yet party to the networks of Santiago and Barcelona agreements, and, therefore, in practice, the repertoire to which users may get access though it is not fully complete. However, the member societies of CISAC and BIEM are of the view that this is better than doing nothing in waiting for a perfect solution; this makes, at least, possible for the interested authors to grant authorization for the use of their works in legitimate digital services.

These model agreements determine the principles and the basic rules, but they do not concern the financial aspects of the authorizations that the various societies grant. Each society fixes the tariffs for the authorizations granted by it.

As I have promised, I am going to say some words about our participation in technological standardization at the international level. This concerns the digital rights management (DRM) about which we will certainly speak a lot at this congress.

It seems to me important to indicate that, even if we have certain reserves about it, the authors' societies obviously are not against the application of DRM systems as a matter of principle. These systems permit the development of technological means to control and monitor the use of protected works in the framework of the new services. We participate very actively in the working out of these technological means. Our own CIS project for the identification of works by standardized numbers, such as the ISWC numbers for musical works (International Standard Work Code) – as the ISBN numbers for books – contribute, and I think greatly, to the applicability of these digital rights management systems.

These technological solutions permit to authors' societies to obtain the information necessary for collecting remuneration and distributing it to the owners of rights to whom it is due. Thus, we are rather in favor of these techniques subject to the condition – of course – that they are developed in cooperation with us. And not only with us, but with all those who are partners in the digital distribution of contents. The authors' societies can't afford being just simple spectators of these

developments. The need for their participation also follows the ever clearer recognition of the fact that the creators are the origin of everything; without the authors and their creations there is no "content" to be distributed.

At the same time, we also have some problems with the DRM systems. The first one is that sometimes there is a trend to try to present them as an alternative to collective management. We are not afraid of the rivalry; we are aware of our advantages and the usefulness of the services we offer both to our members and to the users of works. At the same time, we think that this rivalry sometimes confuses the policy makers. The second problem is that there is also a trend to believe that authors' societies may not even be necessary in the future. This is a dangerous illusion, because the digital rights management systems only relate to the technological aspects, and they alone are not suitable to take care of the interests of the authors in relation to some powerful users and of the control and promotion of the authors' repertoire.

The DRM systems, as you know, if you have tried to use them, at least in Europe (in North America, it is both more simple and more varied), they are not very easy to use. There is a need for a lot of steps, such as the downloading of software, the application of supplementary modules, obtaining certain authorizations, restarting the computer, and if you can settle this within an hour, you are a champion of technology. Our further problem is that the technologies for digital rights management are in general proprietary; they are not open; they require supplementary expenses which, of course, the authors and the users of the digital services have to cover; and this is a problem which should be dealt with.

In spite of all these problems, how can we give some coherence to all this? We believe that we have to find a system where all the different economic models may be able to function. In a way, this is the objective of the MI3P project which we are carrying out in cooperation with IFPI and RIAA in order to find a more secure environment where no matter what kind of services content providers develop, the owners of rights can feel that they are duly protected.

It is then necessary that the authorization is respected at all the levels, including those of the devices, the recording material, the licensing terms, etc. We trust very much the MPEG 21 system which is linked to ISO, in the framework of which, in a consensual manner, the owners of rights, the service providers, the telecommunication firms, but also the technological enterprises try to establish an environment in which, on the one hand, the access to works is easy and agreeable for the users, and on the other hand, from the viewpoint of the owners of rights, such access is offered in a secure manner. Our important contribution – beyond our work in the MI3P and MPEG 21 projects – is to make it sure that the databases of our member societies be already compatible with these efforts, through making it possible that the identification of works and owners of rights take place in an automatic way.

I am going to speak only briefly about the MI3P, since there is much information on it on the web-site of CISAC and certainly also on that of IFPI. This is a joint project of CISAC, IFPI, RIAA and BIEM. I would like to only indicate how things may function in the digital future. We have the creators, the content providers – to use this barbaric expression – and we have an entire system that permits the circulation of information. It seems that with these means – MI3P, MPEG 21 and the like – we can proceed with complete confidence in the information society.

We are engaged to carry out these important tasks with all the actors of the chain of digital contents. With all of them, even with those whose position is not quite favorable for authors' societies. They tend to forget about all our efforts in modernization in order that the digital environment do not appear as a menace for creativity, for creations and even for the cultural industries, but that it rather offer a chance, an opportunity for the public to have access to ever more varied contents, thanks to those technologies that permit getting rid of the constraints of the physical world. Thank you, ladies and gentlemen.