

BVMI welcomes MusicMonster.FM decision:

**The Appeal Court of Munich has created clarity in relation to the responsibility of stream ripping services**

Berlin, 23 November 2018 - BVMI welcomes the decision of the Appeal Court of Munich regarding the stream ripping service, MusicMonster.FM. Yesterday, in the proceedings brought by Sony Music GmbH against MusicMonster.FM, the Appeal Court decided that the service is unlawful and unlicensed. The Appeal Court specifically stated that the operators cannot rely on the personal copy exemption and are thus obligated to refrain from converting the tracks in question. Services like MusicMonster.FM are well-known for saying that they scan internet radio and then store songs for users according to their specified track lists. No licence is obtained from the rightholders. The Regional Court of Munich had already ruled at first instance, back on 26 September 2017, that the service is the creator of the copies. Stream ripping is an automated process in which the service itself, rather than the user, chooses the source from which the copy is produced. The court agreed with this description and ruled that the defendant could not rely on the personal copy exemption in Sec. 53 German Copyright Act. The court found that any exemption could thus be excluded and that it was clear that, in particular, rights of reproduction had been infringed. The Appeal Court of Munich has now concurred with this opinion and dismissed the defendant's appeal.

Dr. **Florian Drücke**, BVMI Chairman & CEO, commented: "This is a very important decision which helps bring further clarity in this area. Services are still trying to profit as freeriders, under the pretext of the personal copy rule, without obtaining licences. Hence, the industry will continue to take action against such brazen business models, which unfairly harm the legal digital market, mislead consumers and ignore the rights of artists' and their partners."

**René Houareau**, Managing Director Legal & Political Affairs at BVMI, said: "Recent case law on digital services shows that the courts now differentiate very clearly between legitimate and illegitimate business models and are holding rights infringing services accountable, to the benefit of rightholders and end users."

According to a recent study by IFPI Int., 38% of users worldwide act in violation of applicable copyright law in some way when consuming music. Stream ripping is the most common method of rights infringement (32%). This is where music streams are recorded and converted into downloadable files. This type of unlicensed use of music continues to represent a legal grey area in some cases in Germany. This decision by the Appeal Court of Munich will certainly create more clarity in this regard.

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