Sint-Niklaas, 10 May 2016

BSA/ The Software Alliance

Marnixstraat 32

2060 Antwerpen

Dear Sir/Madam,

Open Letter to BSA/The Software Alliance

Software licensing raises questions

Software licensing and compliance are key priorities for BELTUG's members. In particular, many companies and public organisations have serious questions about how license models are evolving with the growth of mobile devices and cloud services.

At the request of several of our members, we organise discussions with software publishers, as well as sessions for members to exchange know-how and experiences on software asset management and software contracts.

We wish to be clear that **we urge our members to use only properly licensed software**. At the same time, we call upon software publishers to clarify their policies and to provide clear, unambiguous and balanced licensing terms and conditions that are understandable to non-lawyers.

BELTUG members receive letters from BSA

Regularly, BSA/The Software Alliance targets a number of BELTUG members with letters urging them to identify themselves on the BSA/The Software Alliance website. According to these letters, profile activation would allow the responding organisation to download BSA/The Software Alliance tools that – so the letters assert - would help the organisation to manage its software licenses.

BELTUG fully recognises the right of software publishers to defend their intellectual property (IP) and to combat illegal use of their software. However, BELTUG cannot agree with some of the methods used by BSA/ The Software Alliance.

BELTUG's concerns with the letters and their message

Specifically, some of our concerns include (but are not limited to):

1. The tools are made available by BSA/The Software Alliance. The latter is, as a representative of its members, a potentially involved party in what could become a legal dispute over IP infringement. This creates a conflict of interest. Targeted organisations therefore cannot be expected to have blind faith in BSA/The Software Alliance's tools.

2. From our activities regarding software asset management, it is very obvious that software audit tools are generally complex and often targeted to specific publishers and/or software. BELTUG members would like to know how the tools from BSA/The Software Alliance match up to various software products and/or publishers.

3. It is not clear why a targeted organisation must identify itself on the BSA/The Software Alliance website to access the tools. The letters seem to suggest this registration is necessary to access the enterprise's BSA/The Software Alliance status. However, the letter does not explain what information is provided by this status nor how BSA/The Software Alliance intends to use the information stored in the activated profile. Enterprises are understandably reluctant to activate this profile without detailed information on the potential consequences of activation.

4. There would be more trust in the tools, and the call to use them would be more successful, if companies were confident that their data would not come in the possession of BSA/The Software Alliance. Why can't the tools be made available without identification?

5. A large majority of enterprises are bound to use best practices for both corporate and IT governance. It is therefore out of the question to install BSA/The Software Alliance tools without detailed technical, organisational and legal information concerning them. Several questions related to the use of these tools arise. These include, for example: (a) What is the exact functionality provided? (b) What is the logic used by these tools? (c) How can these tools be managed? (d) How and by whom are these tools supported? (e) Who is liable for any potential problems triggered by the installation and use of these tools? (f) What is the legal value of the information generated by these tools? (g) How is the information collected and used by BSA/The Software Alliance and/or its members? Companies must remain free to use the tools they find technically and commercially most accurate.

6. BSA/The Software Alliance has sent subsequent letters to companies that did not respond to the first letter. The title/subject line of the letters raises a lot of concern when received, because they mention 'dringende herinnering - risicoprofiel'. The letters state that, because the company didn't answer the first letter, it may be out of compliance with its software licenses. The letters also refer to the fact that the company has not made use of the BSA/The Software Alliance tools.

BELTUG's position on improving software licensing issues

In addition to our remarks concerning the recent BSA/The Software Alliance letters, BELTUG would also like to state the following regarding software licensing in general:

1. BELTUG urges software publishers to take a proactive approach regarding the tools used to manage software licenses. Currently, some BELTUG members feel the publishers themselves are facilitating illegal use by, for example, enabling non-free options by default during the installation of software products. Subsequently they instigate expensive litigation.
2. Organisations are faced with increasingly complex, opaque and volatile software licensing terms and conditions, which even software publisher representatives cannot explain in a coherent way. Therefore, BELTUG urges software publishers to deliver with their software clear, unambiguous and balanced licensing terms and conditions, understandable to non-lawyers. These should be stable and permanently accessible. Forcing unilateral changes in licensing terms and conditions without the explicit approval of the customer is unacceptable.
3. Transparency and honest & open communication are essential for solving customer/supplier conflicts. Most organisations want to be compliant but encounter major obstacles, many of which can be traced back to the complexity and inflexibility of the licensing schemes.

Taking all of these factors into account, BELTUG finds itself forced to recommend that its members not supply any information to BSA/The Software Alliance. **At the same time, we urge BELTUG members to use only properly licensed software and to always employ proper software asset management practices.**

To advocate for constructive cooperation between software publishers and their customers, BELTUG and its international umbrella organisation, INTUG, have also published a [Proposal for a Software Publishers' Code of Conduct](#), based on input from many different companies in different countries. Our aim is to support all parties to improve the situation and clarify the issues caused by unclear license model and agreements, in order to provide legal certainty and unambiguous software licensing contracts with a clear definition of responsibilities for both parties.

BELTUG remains available to BSA/The Software Alliance and the individual software publishers for an open dialogue on the software licensing issues affecting both the publishers and the users of software. We hope that this letter and the Proposal for a Software Publishers' Code of Conduct will be the first step towards developing a more mutually beneficial approach to an issue that is a priority for both sides of the user-supplier relationship.

The present is written without any detrimental recognition and whilst reserving all rights, both for BELTUG and for its members.

Yours sincerely,
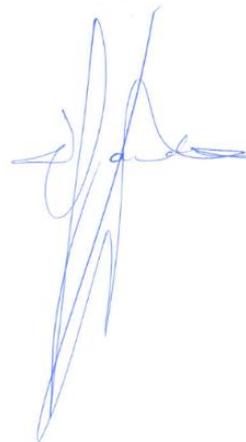
Danielle Jacobs
General Manager

About BELTUG

With over 1,200 members, BELTUG is the largest Belgian association of ICT managers. We defend the interests of our members with public entities and ICT service providers. Each year, we organise more than 30 events for exchanging experiences. BELTUG also plays an active role in INTUG, which represents business ICT users at the European and international levels. http://www.beltug.be