

**ICMP SUBMISSION IN RESPONSE TO THE PUBLIC CONSULTATION OF THE
REFLECTION GROUP ("COMITÉ DE SAGES") on
BOOSTING CULTURAL HERITAGE ONLINE**

September 30 2010

ICMP (International Confederation of Music Publishers) is grateful for the opportunity to respond to the consultation of the Reflection Group ("Comité de Sages") on boosting online cultural heritage in Europe. ICMP is the international umbrella trade association representing the interests of the global music publishing community. The constituent members of ICMP are classical and popular music publishers' associations from Europe, the Middle East, North and South America, Africa and Asia Pacific. Included are the leading independent international, regional and national music publishers, mainly SMEs, throughout the world, as well as the four multinational music publishing companies.

We have taken the liberty to answer in this format, as there are many questions that we are not in a position to answer but, we wanted, nevertheless, to lend our support to the European Commission's commitment to preserve and distribute cultural heritage in the EU and foster its online presence.

ICMP has previously contributed to a plethora of consultations aimed at preserving Europe's rich and diverse cultural heritage and making it available to all on the Internet and more specifically, in light of this submission, has responded and been party to the European Digital Library project, *Europeana*, Audiovisual, Music/Sound and Text Sectors -Specific Guidelines on Due Diligence for Orphan Works.

Music is an integral part of our cultural heritage and is unanimously considered to be capable of representing a specific society as one of the paramount expressions of its culture. Music publishers have a long tradition of promoting cultural diversity and cultural heritage by providing accessibility to broader markets, doing so through established commercial networks created by sub-publishing relationships among independent publishers, and internal networks in internationally based firms.

In the Internet age, innovative solutions are needed in order to maximise the benefits of European cultural and creative industries and promoting and boosting cultural heritage online is a fundamental and necessary step towards the achievement of that objective. The digitisation of creative and cultural industries is of paramount importance to music publishers and, indeed most publishers are already engaged in the digital production and distribution of both existing and newly-created works.

The digitisation process raises some concerns however, specifically regarding the digitisation of in-copyrighted works and orphan works. In relation to this, and reiterating our recognition of the benefits of digitisation processes in general, we would like to highlight the following:

- ICMP supports the creation of digital libraries based on respect for copyright and related rights, economic and moral rights of authors;
- ICMP believes that rightsholders must retain ultimate control. Prior rightsholder authorisation to the digitisation of a work is essential. Any project envisaging any use of copyrighted material without prior authorisation would have to be preceded by consultation with music publishers, before any digitisation takes place;
- Rightsholders must also be able to exercise their rights efficiently, including their right to refuse digitisation, and this must not impose any undue administrative burden;
- ICMP supports digitisation aimed at works in the public domain that complement commercial offerings. Classification of a work as commercially or non-commercially available should take account of the situation in individual countries.
- Orphan works should also be eligible for inclusion in digitisation initiatives and due diligent search must precede any qualification of a work as "orphan". In this regard, ICMP fully supports, and was a signatory party to, the EU Memorandum of Understanding on Diligent Search Guidelines of June 2008;

In addition to the above comments, we also note that in any current or future scenario, collaboration with rightsholders will ensure that public interest and commercial projects, including those undertaken by non-profit publishers, will complement one another, and furthermore we support partnerships between private rightsholders and public institutions.

Finally, ICMP would like to state that IP theft remains the single most important issue facing our sector. A policy aimed at fostering creation and dissemination of existing and new cultural creations must address this issue effectively.

ICMP remains at your disposal for any further clarification or comments.