<u>Global Repertoire Database</u>

There is a broad recognition of the urgent need to improve the flexibility, transparency and efficiency of licensing the digital arena. The music industry inherently has a high degree of fragmentation of rights both between recording and publishing rights but also within those along territorial and ownership lines. The growth of legitimate digital exploitation across the EEA requires efficient and transparent cross-border licensing solutions. Rightsholders continue to look for ways to enable the marketplace but one of the key difficulties they and the industry face is the absence of workable trading platforms.

There is no single document, catalogue or searchable open database tool available to the user community, rightsholders or intermediaries (including those representing rightsholders or those aggregating rights on behalf of users) that details the several million songs and recordings that are commercially available in Europe. A comprehensive and up to date database confirming ownership and licensing information for publishing and sound recording repertoires would be invaluable to the various players in the industry seeking to develop innovative services and licensing solutions. Moreover, the lack of such a tool has impeded, and continues to impede, industry efforts to grow the marketplace for the legitimate distribution of digital media. The same is true for non-musical media/entertainment content. See Appendix I.

In recognition of this problem, there are numerous parties developing their own solutions. These initiatives are developing in isolation with the result that they (i) are focused primarily on the immediate needs of the relevant parties rather than addressing the general cross-border licensing needs of the industry (ii) are not all based on the same standard and interoperable datasets and (iii) treat the data itself (as opposed to the innovative technological platforms that would use that data) as proprietary information.

These initiatives have moved too slowly and are in many cases fundamentally flawed due to the lack of interoperability with which they are built.

What is the Global Repertoire Database

An Information and Rights Exchange or Global Repertoire Database would be a central repository of copyright and related rights providing basic information that identifies the relevant copyright work or sound recording, identifies the owner or owners of rights in that work or recording on a pan territorial basis, identifies the representatives of those owners (where applicable) on a pan territorial basis and provides a link between the data relating to copyright works and the data relating to sound recordings that embody those works.

Such a database would allow users to easily identify the rights they are exploiting in the context of any service and the owners or representatives they should approach for licences in order to operate their services legitimately. The database would also provide the raw data that would drive the platforms and processes necessary to administer licences including the user's reporting of exploitation and rightsholder's representatives' distribution of royalties to rightsholders. In doing this, the Global Repertoire Database would substantially improve the transparency, efficiency, simplification and harmonization of copyright licensing, as well as encourage innovation and competition in

both the development of consumer facing services and the development or licensing solutions and the aggregation of rights. See Appendix II.

What the Global Repertoire Database isn't:

There is a huge difference between copyright ownership data and the software platforms through which such data may be used or made available. The Global Repertoire Database would be limited to an open source repository of the data itself, leaving the industry free to innovate and create the software platforms and solutions required to run any services whether at the user end or the rightsholder or rightsholder representative end. The Golbal Repertoire Database would simply enable those platforms and solutions to be created using sound reliable data with less scope for disputes and complications

It is EMI's contention that there is no reason for copyright ownership data itself to be subject to any constraints, claims of proprietary ownership, restrictive access or control. The data at its source emanates from rightsholders, and rightsholders do not consider information about their ownership of copyright to be a matter for secrecy nor do they wish it to be difficult for users to identify the ownership of rights. Certain bodies seek to assert the proprietary ownership of the data in their possession. Most collection societies, including the umbrella body CISAC, contend that all electronic data pertaining to copyright ownership is owned by CISAC and its members. The contention is that access to this data has to be controlled by its proprietary owners. This approach creates barriers to innovation, competition and transparency.

The feasibility of building a Global Repertoire Database

+ The Data Already Exists

Most, if not all, copyright owners and administrators operating in Europe hold standardized electronic data pertaining to their copyrights. Copyright works are granted a unique identifier – the International Standard Works Code (ISWC). Sound recordings are granted a unique identifier - the International Standard Recording Code (ISRC). Outside of the music industry, similar identifiers exist. For example, the Film/Visual industry's audiovisual productions unique identifier - the International Standard Audio/Visual Number (ISAN). Similar systems operate in the field of book publishing and photographic libraries. The step forward that the Global Repertoire Database would provide would be for these unique identifiers and the associated rights and ownership information to be centrally available from a reliable source. Our proposal is for a repository of information relating to musical works and sound recordings but the principles and benefits that apply in relation to the music industry should also apply to other media and entertainment industries and, in view of the fact that digital services now offer, and will increasingly offer, broader choice of media to consumers, a Global Repertoire Database could form the basis for a true multimedia repository of data driving even greater efficiency and innovation in the digital space.

+ The Data is Already Linked

Much of the musical work and sound recording data is already being successfully linked and used in the traditional industry. For example, in the context of the physical audio product market segment, most collection societies in Europe hold details of the ISWC

and the linked ISRCs for the recordings that they have licensed. This linkage is in certain circumstances not limited to a national picture, and this is certainly true of those societies that currently operate so called European Central Licence Agreements with the recording arms of SONY, WARNER, UNIVERSAL and EMI. This linkage is also being made in the on-line marketplace by many of the major users (e.g. Apple) who are operating databases cataloguing the rights that they are exploiting in the context of their services. But the issue is (i) the data is being linked by individual entities and this is not always consistent and (ii) the data is not being made available freely or in a standard form to ALL users for ALL the available repertoire.

+ The Data is Already Exchanged

Much of the data is already being exchanged between many significant players in the on-line sector. By way of example, works copyright data is provided by publishers to collection societies and visa-versa through the Common Works Registration (CWR) data format on a daily basis. Royalty data is also exchanged between collection societies and some of the larger publishers via the Common Royalty Data (CRD) data format. However, even within these so-called "standard" formats, there are many localized and unnecessary variations that mean that between territories the formats are not standard at all.

For a number of years, a group of users, licensors, publishers and collection societies have been developing an all encompassing data-exchange format called Digital Data Exchange (DDex). But this has yet to be fully adopted by the industry at large as an acceptable standard.

So, whilst the data exists, is linked and is exchanged, there is currently no viable comprehensive data-exchange available to users, rightsholders or rightsholder representatives.

+ The Technology is Not Complex

EMI has significant first-hand experience of the relevant technological solutions, having designed, developed and implemented a complete new suite of business support systems for its business. Amongst many other functions, these systems support full cross border rights representation and licensing information for both publishing and master recording rights. EMI's experience is that the technology construct necessary to drive a pan-territory repertoire database is simple.

The system would consist of a web-service utility data exchange allowing for the simple search, identification and presentation of ownership and licensing information on the assets available for licensing in the digital industry across Europe. With the appropriate focus and support, such a database could be assembled from existing data relatively quickly and economically.

EMI is not proposing its own proprietary systems as the solution. In fact, EMI believes that the Global Repertoire Database has a greater opportunity of achieving support if the underlying IT solution is not dependent on proprietary systems operated by any of the traditional music industry players.

The benefits of a Global Repertoire Database

+ Efficiency, transparency and certainty

From a user perspective a common Global Repertoire Database:

- Provides a simple way for all to identify owners/licensing agents of repertoires.
- Will allow users to bring together efficiently and with certainty all the rights they require for the services they operate.
- For those users that require the clearance of rights in a limited number of works and/or recordings will provide much needed clarity and simplicity.
- For those users that require clearance of rights in a wide cross section of existing works and recordings will provide efficiency and transparency in licensing and reporting to rightsholders.
- Will provide certainty as to title – a single "source of truth" - and eliminate any confusion that might arise out of different rights managers maintaining incorrect, inconsistent or out of date pan-territory copyright ownership information.
- Could and should provide for dispute resolution mechanism to insulate users from possible negative implications in the extremely limited cases of ownership disputes. A predicate for such a system already exists in the IMPA Counter-Claim, Dispute & Infringement Proposal which has been adopted so far by PRS for Music and ASCAP.

From a rightsholder or rights manager perspective, a common Global Repertoire Database:

- Will enable greater efficiency in relation to the administration of rights by eliminating the need for 28 national societies to maintain different and incompatible databases.
- Will allow for consistent and transparent linking of information about sound recordings and publishing rights. Whilst the linking of this information is made in each territory by the relevant societies, this is not fully comprehensive and is more advanced in some territories than others.
- Will allow for a greater accuracy of usage identifications and resulting revenue distribution by reducing the need for manual matching of works against recordings.

+ Enabling innovation and competition

A common Global Repertoire Database frees up the participants in the industry to devote resources currently spent on building, maintaining and using proprietary and often incompatible databases towards developing the most compelling consumer facing and rights management services using one robust dataset.

- The lack of opaque barriers around the data would enable competition on a level playing field between rights managers based on the quality of administration services they could provide.
- Since the data drives much of the user's operational licensing compliance requirements (logging copyright assets used in their services and reporting activity), common and accepted data would remove the need for users to create

and maintain bespoke databases taken from a variety of different rightsholder sources, freeing up resources to focus on the consumer and business propositions as opposed to administrative requirements.

- A common and open access database would open up the industry to smaller players and new entrants offering consumer facing businesses, rights management services and other intermediary services increasing the scope for innovation and the size of the sector.

- Level playing field competition between rights managers would mean that those managers that provided the best services would naturally attract and aggregate repertoires of works and recordings. This aggregation should not only drive improvements in services offered to rightsholders but crucially reduce the number of licences that users would need to seek should they wish to license the global repertoires of works and recordings

+ Benefitting niche markets and cultural diversity

One of the beneficiaries of the digital environment is the so called "long tail", i.e. Works whose exploitation in the traditional music business is limited by the constraints of commerce and profitability. Such works would typically be anticipated to sell in such small numbers that they are not viable for distribution as physical products. The digital environment – particularly in the context of a pan-territory service - enables works to be made available notwithstanding relatively low anticipated sales. Currently, because of the absence of a comprehensive pan-territory database that links sound recording and publishing rights, these niche works are significantly less likely to be accurately remunerated than the more popular commercial works. This is because they are unlikely to be automatically linked in the current systems to sound recording data therefore requiring them to be manually matched by rights managers. Manual matching is not cost effective for low levels of usage and therefore does not often take place. A Global Repertoire Database would allow for central and comprehensive matching reducing transaction costs and enabling the distribution of income to niche works at the same marginal cost as popular works. This should result in a greater distribution of income to niche works and therefore encourage cultural diversity.

EMI Music Publishing
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Appendix I – The data exchange now
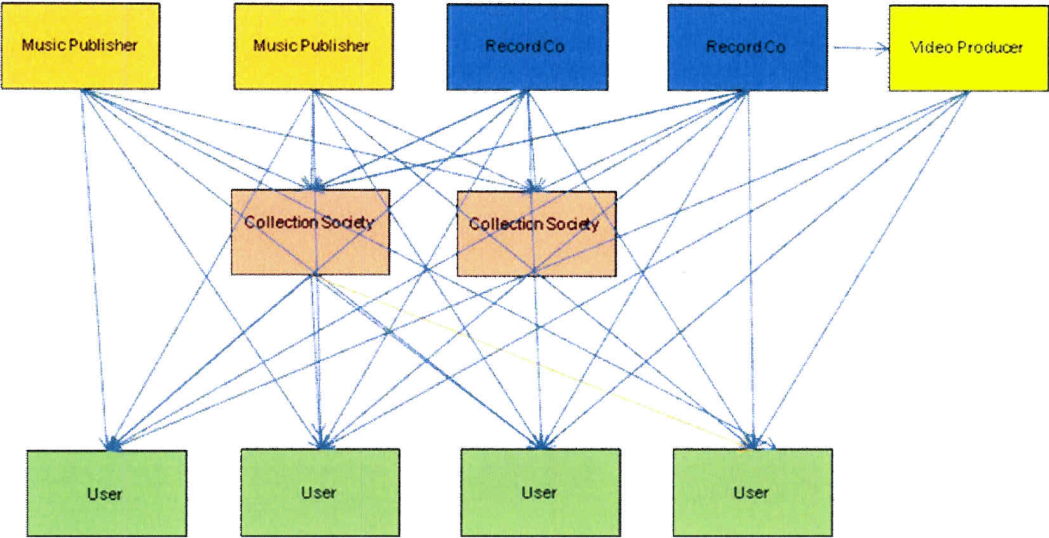
Appendix II – The Information & Rights Exchange/Global Repertoire Database