

Statement by Alessandra Silvestro on behalf of ICMP.

ICMP (International Confederation of Music Publishers) is the international umbrella trade association representing the interests of the music publishing community globally. The constituent members of ICMP are national, regional and international classical and popular music publishers' associations from Europe, North and South America and Asia-Pacific. Included are the leading independent international, regional and national music publishers, as well as the four multinational music publishing companies.

Music publishers as members of collecting societies recognize the value of collective licensing in particular in areas not realistically licensable by writers /publishers such as for example off line public performance (licensing of establishments such as bars and restaurants just to be clear), in cases where users may need a blanket license (e.g. broadcasting and simulcasting), unaltered re-transmission of broadcasts, in cases such as those where levy collections are required and generally in cases of well established business models. Generally speaking, the value of collective licensing to members is relative to how well or badly the efficiencies of scale are administered.

Music publishers also greatly value the dynamics introduced by the 2005 Recommendation on on line music licensing and to a certain extent the CISAC decision and in particular in fostering multi-territorial licensing and reiterating the need for healthy competition in licensing and for implementation of internal market rules vis a vis members and users. There is no question that just after the Recommendation was adopted a series of new cross border licensing models has emerged that would not have seen the light of day otherwise. New business models were given the opportunity to benefit from an agile and more flexible system of licensing.

MORE is now needed to :

1 CREATE DYNAMICS THAT FACILITATE THE ROUTINE EXTENSION OF THE BENEFITS OF THE RECOMMENDATION TO CONTINENTAL EUROPEAN REPERTOIRE AND

2 TO PROMOTE TRANSPARENCY AND GOOD GOVERNANCE of collecting societies according to common standards so as to promote a level playing field and comparable levels of services and accountability of societies vis a vis their members.

Under 1) Some believe for example that if membership agreements/ licensing mandates were no longer exclusive (as they remain in the overwhelming majority of cases), music publishers would not even need to consider withdrawing relevant rights, but could exercise such rights directly when the nature of the license requested and the business model pursued would be best suited with direct licensing. Additionally, non exclusive mandates would give writers/composers more choice and could facilitate the simultaneous licensing of the key rights needed for on-line licensing, i.e. mechanical and public performance on all repertoire by societies or rightholders.

Another important area where progress could be envisaged is that of the GEMA categories (i.e. scope of rights granted), which should be reviewed and made more granular and fit for today's world. This was one of the ideas pursued by ICMP and GESAC in their common Declaration signed back in 2006. On this very topic, the two organizations agreed, among other things, that it makes sense to at least review the GEMA categories by form of exploitation so that the on-line category would be distinguished in interactive and non interactive exploitation thus forming two new categories whereby each one will include the different rights required for the corresponding exploitation. How would these more granular categories help? They would do because they would allow for targeted direct or collective licensing and limit the need of

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rightholders considering withdrawal of larger rights. I am sure there are other possibilities, additional options that one could consider and discuss. *What is clear is that there is a need for standard practices and definitions, perhaps bundling of relevant rights which will result in licensing efficiencies in the market place.*

As far as transparency and good governance are concerned, The GESAC/ICMP Declaration also refers to the need to promote membership in collecting societies by all music publishers, minimum representation on boards of Directors, minimum transparency and accountability of Collecting Societies to rightholders. Unfortunately, according to a monitoring exercise carried out by the ICMP Secretariat recently, most of these principles, which are hardly ground-breaking, remain unenforced by many, though not all of the local societies. ICMP understands and shares the view that collecting societies should benefit from a level playing field at European level so as to be subject to comparable rules of operation, transparency requirements, governance and scrutiny by competent authorities. It is not right that some societies should be able to benefit from lower required standards than others; additionally, improved and harmonized standards will facilitate the task of comparing collecting societies' services and levels of efficiency and accountability.

One way or another the fact remains that the on line environment requires flexibility and agility in licensing. Many new experimental services do not actually fit into licensing schemes pursued by some societies. It is our view that users are not only interested in a low number of transactions, but also in speed, granularity of repertoire, transparency of repertoire so as who owns it and can license it for any combination of territories to unleash the full potential of new business models.

The issue of transparency obviously include that of transparency of repertoire and here I would like to refer to some of the results of the on-line commerce roundtable on pan European music licensing under the auspices of the then Commissioner for Competition, Mrs N. Kroes'. One of the principles agreed within that framework by representatives of all relevant stakeholders was to create a database of right ownership information or at least interconnect existing data-bases in the short term.

ICMP strongly supports the idea of accurate information on right ownership being put together. Any such data-base should be publicly available, and not be proprietary and achieve a level of accuracy beyond the current. It should provide transparent information and services to users that may wish to license all or just part of the available repertoire.

To conclude I can say that ICMP remains open to discuss possible solutions that can facilitate orderly licensing of all repertoire in the on-line world in a speedy and flexible enough manner to respond to users legitimate needs and requests and that benefit rightholders.