



FINAL 23rd April 2010

Public Hearing on Governance and Transparency of Collective Management of Rights

Panel 2 Relations between societies

I thank the Commission for inviting *PRS for Music* to present its' perspective to today's hearing to update on the standards for governance and transparency underpinning the relationships between collecting societies.

As reinforced by the previous panel, as a collecting society we owe a fiduciary duty to our members and to act in their interests.

The startpoint for PRS is its members, and achieving the best for them. That gives us three key priorities:

- 67,000 composers, songwriters and music publisher members and growing rapidly - a record 10% new members joined PRS last year: - they are the next generation of successful songwriters who are the foundation of tomorrow's European creative and digital economy, and its culture.
- Our online revenues were over £30M (€33M) in 2009, a third of which came from multi-territory licensing. Over 40 major music and audio-visual services are licensed by *PRS for Music* and over 1400 other entertainment and online sites. We are enabling a growing legal online and mobile market in which millions of consumers have the choice of accessing legal music services and in which creators are paid.
- Our members' music is fantastically creative and successful across the world and their collective strength makes our repertoire an export in economic terms. One third of all performing rights income (£166M) (€184M) is international revenue paid to the writer members.

Collecting societies are accountable to their members to ensure their rights are managed effectively, and that informs our approach to our relations with other societies and our focus on transparency.

Relations between societies

During the process of the renegotiation of bi-lateral agreements following the CISAC decision, PRS introduced a new framework agreement to determine the scope of appointments for cable retransmission rights, satellite and online mandates and introducing a contract based on service levels, flexibility and transparency between us and the contracting society.

Through much more specific documented commitments we can define minimum service levels and mutual transparency obligations:

- **Licensing information:** Obligation to provide key information on the licences that have been issued, so that we can track royalties and receipts, we can assess

market penetration and we can highlight areas for enforcement of unlicensed business

- **Service level commitments** for the frequency and timing of distributions, at a granular level, per type of exploitation
- **Administration costs** Specific commitments on administration costs in relation to each type of exploitation, in order to check these service levels are being met. This is non-discriminatory: the administration costs for PRS are identical to those a society would charge to its own members and to other societies, but the process leads to more clarity
- **Music reporting data:** Disclosure of the information and data used for processing music reports and commitments in respect of data requests to licensees, in order to provide quality data which in turn leads to quality distributions
- **Distribution rules:** obligations to disclose the distribution rules applied to each form of exploitation
- **Reporting between societies:** adoption of latest standards and formats for inter-society reporting, and where they are not in place, a commitment to adoption of the technology and formats for automated information exchange on payments. This helps us track royalties due to our members
- **An annual performance review,** and commitment to set revised year targets ensuring the contract is a dynamic and evolving process

Many of these contracts have now been in place for over a year and the first review process has been completed. We are in a transitional phase but it has already led to some practical adjustments in the information flows, which will be more helpful going forward. We are optimistic that this will lead to the positive development of new types of relationships which are beneficial for our respective members, and also for us as collecting societies in delivering more effective services to each other.

The major publishers' rights management models have also brought high service standards and levels of transparency as conditions of partnering for mechanical rights, and in doing so they have also contributed to a more commercial service-led approach to rights administration contracts in the music collecting society world.

Enhancing commercial standards of rights management is still compatible with the structures of mutual representation, solidarity and cultural support which the collecting society network represents. This can be achieved when those relationships are based on open channels of information and better levels of knowledge. As a result we think relationships between collecting societies are developing and adapting, in a mutually beneficial and trusted way.

In conclusion, greater transparency is being delivered by the market.

We believe collective licensing should be a solution to the many challenges of online cross border licensing in the digital agenda. We believe that collective management of rights is of great benefit to creators and to users because as a platform for clearing multiple volumes of rights it can deliver efficiencies and economies of scale in the management of rights to both sides. Collective licensing is pro-competitive, for example it allows new music and audio-visual services using a variety of new business models to enter the market on a level playing field and compete with each other for consumers. It is effective by providing one stop shops or a limited number of hubs or portals for licensing. Collective management should be the choice of the rightsholders, made on a voluntary basis, and consistently striving for more transparency and efficiency in how collecting societies work is key to this.

What efforts could be made to further develop the benefits of collective licensing?

1. Co-operation is essential to bring forward efficiency developments or to develop new licensing frameworks to address fragmentation. New platforms are likely to be based on shared investments in new business models and consolidation of some operations, and this could include the creation of hubs or portals for licensing rights. These sorts of projects could realise economies of scale and efficiencies between societies, in a way which positively changes the goal posts on transparency and governance. To happen they need an environment which is conducive to cooperation, in which competition and cooperation are coexistent.
2. If there is regulation on the governance of collective rights management then it should be proportionate, targeted, measured and evidence-based, and to be informed by what is already underway in the market.