INTRODUCTION

The MU represents 33,000 musicians in the UK, the vast majority of whom work as freelancers on single or temporary contracts. As such, the MU can offer a unique perspective on the problems that self-employed workers face.

The MU recently commissioned a report based upon the work of UNESCO around the Status of the Artist entitled “Status Quo…?” The MU response to the green paper is informed by the “Status Quo…?” report which accompanies this submission.

The Musicians’ Union (MU) supports the submission made by the International Federation of Musicians (FIM) as appended to this paper and would like to make some additional comments:

1. **What would you consider to be the priorities for a meaningful labour law reform agenda?**

   That all workers, regardless of their employment status, have the right to freely enter into collective agreements that set out minimum pay and conditions; and that this right should not be impeded by legislation including but not limited to competition law. Furthermore, that there is recognition of the artist as being distinctly different from other workers as set out in the “Status Quo…?” report which accompanies this submission. Considering musicians as a separate entity will increase understanding of their conditions and their social and economic contribution. The current working conditions and social security regime in the UK can put musicians at a disadvantage to workers in other sectors.

2. **Can the adaption of labour and collective agreements contribute to improved flexibility and security of employment and a reduction in labour market segmentation? If yes, then how?**

   Collective agreements and minimum terms and conditions regardless of employment status improve security. The music industry in the UK is a sector that is already sufficiently flexible. Musicians are engaged and employed on a kaleidoscope of differing terms and conditions, one-off or short term contracts and contracts terminable with little or no periods of notice. Greater security for workers in this sector would lead to an increase in sustainable careers and social stability.

5. **Would it be useful to consider a combination of more flexible employment protection legislation and well-designed assistance to the unemployed, both in the form of income compensation (i.e. passive labour market policies) and active labour market policies?**

   In the UK the social security system for musicians is not “fit for purpose”. Too many musicians are paying for social security benefits including income compensation which they are unable to claim. In many cases musicians are paying all 3 levels of
National Insurance (NI) payments, class 1 NI being deducted from their pay by the employer, and yet find that they do not qualify for loss of income compensation during the erratic and unpredictable periods of unemployment which typify a musicians working life. The French system of “intermittence du spectacle” comes closest to addressing this problem.

6. **What role might law and/or collective agreements negotiated between the social partners play in promoting access to training and transition between different contractual forms to support upward mobility over the course of a fully active working life?**

Working musicians need to have continued access to the training and accompanying transitions of the music industry enabling the evolution of their skills base at the same rate as the evolution of the industry itself. Funding and all other initiatives which enable professional development for all involved in the music industry must be constant and not depend on levels of funding applied to outside endeavours from other industries and sectors (ie funding of the Olympics in the UK may have an impact on arts funding levels). The investment in sustainable training either by law or collective agreements will result in social, economic and cultural benefits. One way that this could be achieved would be by applying a set levy to music industry employers which would contribute to a training fund giving workers access to appropriate training.

7. **Is greater clarity needed in Member States’ legal definitions of employment and self-employment to facilitate bona fide transitions from employment to self-employment and vice versa?**

Here in the UK even amongst employees there are sub-categories. For instance employees with less than a year’s employment have no employment rights and employees over the age of 65 lose their employment rights.

Equally there are many sub-categories of self-employment, these include but are not limited to:

- Economically dependent workers engaged on single contracts
- Economically dependent workers signed to exclusive contracts
- Economically dependent workers engaged by many contractors

As part of the work that the MU has carried out in support of the UNESCO “Status of the Artist” treaty we have identified the need to recognise musicians as a separate entity. In that respect we would welcome a clearer definition of “cultural workers”. We believe that “cultural workers” should enjoy employment rights regardless of their employment status and that a clear distinction should be draw between “cultural workers” and “service providers”.

8. **Is there a need for a “floor of rights” dealing with the working conditions of all workers regardless of the form of their work contract? What, in your view, would be the impact of such minimum requirements on job creation as well as on the protection of workers?**
We prefer the use of the term “glove of rights” as it infers that these rights would accompany the musician throughout the wide spectrum of engagements that he/she might undertake. Furthermore, we would like to highlight a particular problem that musicians who are engaged on exclusive contracts face. Musicians in self contained groups who enter into contracts with record companies are in almost all cases engaged on an exclusive basis which prevents them from working for any other company during the term of the contract. These exclusive contracts do not offer the protection of minimum pay and conditions and may not even guarantee a regular income of any kind. Therefore, the musician will often find that the contract that they have signed fails to deliver any regular income whilst also preventing the musician from working elsewhere. We would like to see minimum terms and conditions not less than the prevailing minimum wage and working time regulations apply to musicians who are engaged on exclusive contracts.

11. How could minimum requirement concerning the organisation of working time be modified in order to provide greater flexibility for employers and employees, while ensuring a high standard of protection of workers' health and safety? What aspects of the organisation of working time should be tackled as a matter of priority by the Commission?

Musicians often spend many hours between rehearsals and performances which are unpaid. These periods which are commonplace in the sector have become known as “captive time”. The musicians are unable to undertake other engagements during these periods whilst in almost all cases the periods are not long enough to be able to allow the musician to return home. Equally, many musicians who work on touring shows spend long periods travelling, in some cases this necessitates travelling on free days yet this is neither financially compensated nor included in the calculation for free days as set out in the Working Time Regulations. We believe that “captive time” should be financially compensated, and travel on free days should count towards working time when calculating free days.

12. How can the employment rights of workers operating in a transnational context, including in particular, frontier workers, be assured throughout the Community? Do you see a need for more convergent definitions of “worker” in the EU Directives in the interest of ensuring that these workers can exercise their employment rights, regardless of the Member State where they work? Or do you believe that Member States should retain their discretion in this matter?

We agree in principle with the freedom of movement of labour, goods and services throughout the EU. Nevertheless, we believe that this freedom should not be used by employers to exploit workers and undercut the resident labour market. This is a problem that particularly affects “cultural workers” in the UK. We believe that employers should not be allowed to engage or employ “cultural workers” for less than the minimum pay and conditions as laid out in the relevant collective agreements prevailing in the Member State that the worker is visiting.