



Dr Ros Lynch
Director Copyright & IP Enforcement
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14 November 2014

IPO questions on territoriality

Dear Ros,

UK Music is the umbrella body representing the collective interests of the UK's commercial music industry, from songwriters and composers to artists and musicians, studio producers, music managers, music publishers, major and independent record labels, music licensing companies and the live music sector.

We welcome the practice of the IPO to consult on their position in preparation of discussions at international and European level. UK Music and its members are reassured about the continuing opportunities to input in the policy discussions at European Union level, in particular given the increasing activities of the new Commission in the near future.

The UK music industry is of huge global significance. The industry contributed £3.8 billion to the economy in 2013. Music exports account for £2.2 billion.¹ We represent a globally facing sector whose contribution to growth is supported by the enjoyment of music in both the UK and abroad. Music licensing business models are required which factor in the consumption of UK produced content overseas.

We have produced evidence, namely "A Year of Innovation – Licensing Works: A Report by the Music Industry" which was published in September 2013, that deals in part with issues relating to cross border access of copyright works.² We resubmit this report to Government.

UK Music said in its response to the IPO's Call for Views on Copyright in Europe, from October 2013, "Given the global nature of music licensing, we believe the licensing expertise of UK right holders can be of use in European countries, thus cementing the leading position of the UK in the digital business of multi-territorial and multi-platform deals."³ In this response we also stated "we expect that the directive on collective rights management and multiterritorial licensing of

¹ <http://www.ukmusic.org/research/measuring-music/>

² <http://www.ukmusic.org/assets/general/YEAROFINNOVATION-WEB.PDF>

³ http://www.ukmusic.org/assets/general/Copyright_in_Europe_-_Call_for_Views_-_UK_Music_FINAL.pdf

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rights in musical works for online uses will contribute to already existing multi territorial licenses” and look to the implementation of this measure into UK law.⁴

In our view, barriers to cross border use of copyright works can be, and is being, addressed through existing licensing mechanisms. As the UK Government stated in their response to the European Commission Review of Copyright Rules in February 2014, it “is not convinced that specific actions that will enhance content availability across borders at EU level have yet been identified.”⁵

The existing copyright framework has been enabling the development of numerous music licensing models at UK and European level. Any interference with the underlying commercial business arrangements by policy makers between right holders and commercial users will only disrupt the now well established market for online music. For a list of available digital services worldwide please see: www.pro-music.org.

It must also be considered that such disruption could in particular have a particularly adverse effect on the small and medium sized business which make up around 92% of companies within the music industry. For example, a key reason for territorial licensing among independent record companies is to retain the freedom and flexibility of choosing the best local partner with whom to enter into licensing arrangements. Independent labels frequently acquire rights in sound recordings for only one or a few EU member states, mainly due to their expertise in that genre or market. Therefore rights are typically licensed to different record companies in different countries, according to which label there is best placed to exploit the recording. It is likely that substantial advances would have been paid to acquire exclusive territorial rights for a period. To remove territoriality could mean that the investment was worth little.

Licenses are available, including at pan European (for example *PRS for Music* operates various licensing schemes for composers and songwriters) as well as at a global (record companies regarding the rights of record producers and performers) level. Our members are working on further streamlining of the processes.

The scope of the roll out of new services is based on business decisions of online music service providers. This is down to their assessment of criteria, amongst others the respective market of online music (e.g. depending on broadband as well as credit card penetration), the taxation level, consumer protection laws and the language in the member state (including the local music scene).

A further important factor for our members is the possibility to enforce our rights at national and European level. Online infringement is a European and global issue and in our response to the European Review of Copyright Rules consultation we asked for further activities both regarding the cross border application of injunctive relief under Art 8 (3) Information Society Directive and the position of Information Society Intermediaries under the e-Commerce Directive of 2000.⁶ A legitimate market which contributes to the European economy can only prosper in the absence of competing unlicensed and illegitimate offers.

We recognise the summary of the positions of authors/performers and record producers/ music publishers in the European Commission Report on the responses to the Public Consultation on the Review of the EU Copyright Rules.⁷ The summary reflects the view of our respective members. They have in common that they conclude changes to the copyright framework will not contribute to the cross-border availability of services in the single market. The market is already delivering with multiple services and millions of songs available to European citizen.

⁴ http://www.ukmusic.org/assets/general/Copyright_in_Europe_-_Call_for_Views_-_UK_Music_FINAL.pdf

⁵ <http://webarchive.nationalarchives.gov.uk/20140603093549/http://www.ipso.gov.uk/response-eucopyrightrules.pdf>

⁶ http://www.ukmusic.org/assets/general/UK_Music_EU_Consultation_Final.pdf

⁷ http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/docs/contributions/consultation-report_en.pdf

Individual UK Music members will also be submitting specific information in relation to your request for feedback. Many of your specific questions deal with issues such as prices where we do not hold specific information.

Yours sincerely,



Jo Dipple
CEO, UK Music

Annex

UK Music's membership comprises of:-

- AIM – Association of Independent Music - representing over 850 small and medium sized independent music companies
- BASCA - British Academy of Songwriters, Composers and Authors – BASCA is the professional association for music writers and exists to support and protect the artistic, professional, commercial and copyright interests of songwriters, lyricists and composers of all genres of music and to celebrate and encourage excellence in British music writing
- BPI - the trade body of the recorded music industry representing 3 major record labels and over 300 independent record labels.
- MMF - Music Managers Forum - representing 425 managers throughout the music Industry
- MPG - Music Producers Guild - representing and promoting the interests of all those involved in the production of recorded music – including producers, engineers, mixers, re-mixers, programmers and mastering engineers
- MPA - Music Publishers Association - with 260 major and independent music publishers in membership, representing close to 4,000 catalogues across all genres of music
- Musicians' Union representing 30,000 musicians
- PPL is the music licensing company which works on behalf of over 90,000 record companies and performers to license recorded music played in public (at pubs, nightclubs, restaurants, shops, offices and many other business types) and broadcast (TV and radio) in the UK.
- *PRS for Music* is responsible for the collective licensing of rights in the musical works of 100,000 composers, songwriters and publishers and an international repertoire of 10 million songs
- UK Live Music Group, representing the main trade associations and representative bodies of the live music sector