
Collective rights management in the digital single market

**DACS' response to the consultation on the
implementation of the EU Directive on the
collective management of copyright and
multi-territorial licensing of online music
rights in the internal market.**

Introduction

DACS welcomes the UK Government's involvement of collective management organisations (CMOs) in the implementation of Directive 2014/26/EU (herein the 'Directive') particularly in relation to the Copyright (Regulation of Relevant Licensing Bodies) Regulations 2014 (herein the '2014 Regulations').

About DACS

Established by artists for artists, DACS is a not-for-profit visual artists' rights management organisation. Founded over 30 years ago, DACS is a flagship organisation that campaigns for artists' rights, championing their sustained and vital contribution to the creative economy. We are passionate about transforming the financial landscape for visual artists through innovative new products and services, and act as a trusted broker for 80,000 artists worldwide.

In its support of artists and their work, DACS collects and distributes royalties to visual artists and their estates through four rights management schemes: Payback, Artist's Resale Right, Copyright Licensing and Artimage.

DACS is a member of the British Copyright Council (the BCC) and supports their response to this consultation.

Executive Summary

Key points

- Transposition option 2 is DACS' preferred option.
- The definition of 'rightholder' under the Directive is very broad and could encompass rightholders from outside of the EU. This can lead to discrimination of European rightholders who may not receive reciprocal treatment internationally.
- Rightholders should be free to determine what 'non-commercial' is for the purpose of licensing their works.
- The Government should not implement the optional provision that allows for the Member State to determine the use of non-distributable funds as this should be decided by the general assembly of members.
- The Government should bear in mind that any costs to CMOs resulting from the incorporation and ongoing compliance with the stipulations under the Directive will ultimately be borne by members and rightholders more generally and should therefore be kept at a minimum.
- DACS welcomes the IPO to act as the national competent authority.

General Comments

Whilst DACS has endeavoured to provide comprehensive answers to the questions in this consultation, it should be appreciated that our response is influenced by our remit of representing rightholders in artistic works.

DACS observes that this consultation paper consolidates meetings that the IPO conducted with CMOs and other stakeholders in the past year. However, we would like to flag that the questions in this consultation can by no means be an exhaustive analysis of the stipulations under the Directive considering that some provisions of the Directive do not feature in the questions even though they may have severe implications on the effective running of CMOs. For example, Article 6(4) of the Directive stipulates that CMOs shall allow their members to communicate with them by electronic means, including for the purposes of exercising members' rights. We understand this to include voting at annual general meetings, yet it is difficult to envisage how this would operate in practice when taking into account the number of voting members a CMO might have.

We think it is important for the Government to take into account all provisions of the Directive and their potential implications before transposing them into national law in particular where the copy-out provision is chosen.

DACS does not have any alternative funding and therefore all costs to DACS, including costs to comply with the Directive, will be borne by rightholders. The Government should ensure that it does not impose additional costs onto CMOs, for example costs of financing a national competent authority. Instead the Government should also provide as much support to CMOs to help minimise costs and must provide simple, concise and clear guidance notes on how the legislation will work, in particular how it will interact with other and/or overlapping legislation like company law. It is envisaged that certain stipulations will be duplicated as they already form part of existing UK company law and the Government should issue

Proposals for Implementation

1. Please say whether and why you would prefer to implement using Option 1 or 2?

DACS' preferred method for implementation is Option 2 – to copy out the Directive into a new set of regulations. This method will provide the greatest clarity provided that:

- There are no conflicts with existing company law; and
- The language of the Directive is transposed appropriately into national law and not simply copied out verbatim where the European use of a term may not have the same legal meaning under UK law. Verbatim copying of different legal concepts creates systems that may differ from Member State to Member State which will not ensure an equal playing field across Europe. This was a problem in the transposition of the Resale Right Directive 2001/84/EC (the 'Artist's Resale Right Directive') where for example the subject matter of the Artist's Resale Right was defined differently to the UK national definition of an artistic work, but was nevertheless copied verbatim creating a differentiation between the two.

2. How important is it to retain those aspects of the 2014 Regulations that go beyond the scope of the Directive?

We do not think that aspects of the 2014 Regulations that go beyond the scope of the Directive should be retained. This would amount to gold plating and would not be in the interests of maintaining a level playing field between CMOs nationally and internationally, in particular as some UK CMOs are not subject to the 2014 Regulations.

3. What is your best estimate for the overall cost of (a) implementation and (b) ongoing compliance with this Directive?

DACS will incur certain costs for the implementation and ongoing compliance with the Directive as follows:

Legal costs:

- Expert legal advice on redrafting Articles of Association
- Expert legal advice on governance restructures

Staffing costs:

- Remuneration of new Board directors
- Remuneration of full time, part time or contractual staff fulfilling functions required under the Directive

Operating costs:

- Costs incurred for the running of annual general meetings including printing costs, venue hire, transcription and other services
- Increasing remit of customer relationship management software or purchasing new customer relationship management software
- Costs to cover external overheads

Proposals for Implementation

Management costs:

- Cost of recruitment of additional Board directors
- Costs of recruitment of full time, part time or contractual staff
- Compliance with transparency and reporting obligations

Governance costs:

- Adapting the Code of Conduct
- Amending company documents
- Filing documents such as appointment of Board directors
- Providing governance for annual general meetings

DACS estimates the overall costs in implementing the structures and processes required under the Directive will amount to around £150,000 with increased annual operating costs to ensure ongoing compliance with the requirements under the Directive. These estimates do not take into account any more substantial changes to DACS' current operating systems that may be necessary due to the specific implementation of the Directive into national law.

4. If Option 2 was the preferred option, as a CMO would you consider retaining a revised code of practice as a means of making the new rules accessible to members and users?

DACS prefers Option 2 and we would consider retaining a revised code of practice in the form of our Code of Conduct. DACS has invested significant resources in developing our Code of Conduct in line with the BCC Principles of Collective Management Organisations' Codes of Conduct (the 'BCC Principles').

We believe maintaining the Code of Conduct will help to ensure best practice and it may provide a useful tool to make new rules accessible to members, rightholders in general and users. However, considering the extent of changes required under the Directive the Code of Conduct alone may not necessarily fulfil the need for clear and direct communication as implied in the question.

Title I: General provisions: Scope and definitions

5. Given the definitions of “collective management organisation” and “independent management entity”, would you consider your organisation to be caught by the relevant provisions of the Directive? Which type of organisation do you think you are and why? Please also say whether you are a micro-business.

DACS does not fulfil the requirements of a micro-business as defined in the 2014 Regulations because DACS has more than ten employees and an annual turnover which is higher than €2 million.

DACS is a not-for-profit rights management organisation which is controlled by its members and therefore is not an independent management entity ('IME'). DACS as a company fulfils the conditions for a collective management organisation as set out in the Directive. However, it is important to understand the activities DACS carries out on behalf of its members and rightholders in artistic works as this will have implications on the subsequent answers in this submission, seeing that the relationship between the respective members and rightholders differs according to the rights that DACS utilises on their behalf.

At present DACS manages four different revenue streams for visual artists:

Artist's Resale Right

DACS is a collecting society by virtue of regulation 14(5) of the Artist's Resale Right Regulations 2006 as amended in 2012 (the 'Artist's Resale Right Regulations'). As such DACS collects resale royalties due to artists when their works resell in the art market fulfilling the conditions under the Artist's Resale Right Regulations. The right is compulsory collective which means that artists have to use the services of a collecting society to collect their royalties from the seller and the agent involved in the sale who are jointly and severally liable for the payment of the resale royalty.

Between the introduction of the right on 14th February 2006 and 31st December 2011 DACS was considered to be the default collecting society under regulation 14(2) of the Artist's Resale Right Regulations. This meant that artists who had not mandated a collecting society to manage the right on their behalf were automatically represented by DACS. In the beginning of 2012, when the Artists' Collecting Society ('ACS') started to manage copyright on behalf of artists, the Government no longer supported DACS' default status, which led to a fracturing of the representation of non-mandated artists, the majority of royalties due to these now being held by the liable party or ACS. The mandate for DACS to manage this right for artists is therefore contained in the Artist's Resale Right Regulations and confirmed by an agreement in cases where artists actively transfer the management of this right to DACS. DACS treats these mandating artists as Artist's Resale Right members of DACS under the Code of Conduct.

Copyright Licensing

DACS has individual copyright licences in place for primary reproductions and uses of DACS' full rights members. Artists and other rightholders grant an exclusive licence to DACS, usually in their entire repertoire, for all their exclusive rights under copyright law to exploit these through DACS' individual and collective licensing activities in all formats. This includes all rights listed in section 16 of the Copyright, Designs and Patents Act 1988 ('the CDPA') for which DACS negotiates licence agreements with individual users exploiting specific works by individual members.

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Artimage

Artimage is DACS' new activity and it is closely linked with Copyright Licensing. Artimage is a digital image resource where artists and other rightholders can deposit high resolution images of their works with DACS who then hire and lend out to parties wanting to reproduce these works. The agreements DACS puts in place with artists wanting to join for this activity are non-exclusive licences authorising DACS to license the reproductions of works on a similar basis as with the individual copyright licensing covering the exclusive rights in section 16 CDPA.

Payback

DACS operates a collective licensing scheme called Payback. Through Payback DACS distributes royalties it receives from third parties like the Copyright Licensing Agency ('the CLA'), the Educational Recording Agency ('ERA'), and cable retransmission schemes in cooperation with the BBC, BBC Worldwide and the Irish Music Rights Organisation ('IMRO') amongst others. In the majority of cases DACS issues licences to the end-user through these third party organisations as our agent. This means that DACS, as the principal, issues collective licences for photocopying and scanning, and also the educational recording of broadcasts of artistic works and their inclusion in TV programmes subject to cable retransmission services. Payback claimants are asked to grant DACS an exclusive licence for the secondary copying of their work to reflect the licences granted to users under the ERA and the CLA scheme. By doing so Payback claimants become Payback members as stipulated in DACS' Code of Conduct.

For all of DACS' activities, DACS does not only represent our own members that we have a direct contractual relationship with, but also artists and rightholders we represent through our reciprocal agreements with our international sister societies. 'Members' who join one sister society in one country automatically join the sister society network and enjoy equal representation in all countries covered as is afforded to their own direct members.

DACS manages copyright or a related right on behalf of more than one rightholder which DACS believes to be for the collective benefit of the relevant group of rightholders for all four of DACS' activities. However, the Payback distribution scheme appears to be the activity that sits most easily with the requirement of collective benefit under Article 3(a) of the Directive.

The activities listed above are also DACS' main purpose, because DACS was established by artists for artists to protect and manage the rights of artists.

6. If you are a rightholder or a licensee, do you either have your rights managed or obtain your licences from an organisation which you think is an independent management entity (IME)? If so, could you please identify the organisation, and explain why it is an IME.

This question applies to DACS' Payback scheme only insofar as DACS obtains a licence from the rightholder in order to collect royalties.

DACS cooperates with authorised representatives such as picture libraries. We believe that most picture libraries will not fall within the definition of an IME but there is a possibility that some do manage copyright

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‘for the collective benefit of... rightsholders as its sole or main purpose’ as per Article 3(b) of the Directive and as such could be termed an IME.

In addition it is likely that some of DACS’ sister societies would be considered an IME, especially those outside the European Economic Area (‘EEA’), as these can be organised on a for-profit-basis. This would be particularly relevant for DACS’ individual copyright licensing activities, however seeing that the concept of an IME follows European definitions in a European Directive we are unsure in how far this qualification can apply.

Subsidiaries

7. Do you have subsidiaries? Which of the Directive’s provisions do you think would apply to them, and why? Please set out your structure clearly.

DACS does not have any subsidiaries.

Rightholder

8. Who do you understand the “rightholders” in Article 3(c) to be?

‘Rightholders’ have been distinguished in the Directive from ‘members’, however we understand that a rightholder can be either a member or a non-member. As such, ‘rightholders’ under Article 3(c) of the Directive could form any of the following categories:

- A member of DACS with voting rights under company law
- A member of DACS without voting rights but having signed a membership agreement with DACS for any of DACS’ activities outlined above
- A person who is a member of DACS through a reciprocal or unilateral agreement with a sister society (European or international)
- A person with copyright in their artistic work under national legislation who is not a member of DACS but entitled to a share of rights revenue, i.e. for Payback or Artist’s Resale Right
- A person with copyright in their artistic work under non-domestic legislation who is not a member of DACS or a member of a sister society and who is entitled to a share of rights revenue

In this respect it is clear to see that the term ‘rightholder’ is an umbrella term that does not distinguish between the relationships rightholders may or may not have with a CMO.

We also note that this definition of rightholder does not exclude a person who has rights under legislation outside of the EU. The National Treatment Rule under the Berne Convention for the Protection of Literary and Artistic Works (‘the Berne Convention’) gives the creator of a work enjoyment of the same rights as a national of the country in which protection is claimed. A rightholder under the Directive can therefore be any person whose works originate in one of the 167 states that are signatories to the Berne Convention.

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Following the definition in Article 3(c) of the Directive, a rightholder can be a natural or a legal entity and to qualify as a rightholder it is not even necessary to own copyright or a part of it but simply to be entitled to a share of rights revenue resulting from the exploitation of copyright. This is a very broad term that will create uncertainties for CMOs considering the stipulations under the Directive.

9. If you are a CMO, what are the practical effects of a relatively broad definition of “rightholder” for you?

The broad definition of the term rightholder under the Directive will cause DACS practical problems that will result in DACS spending considerable resources, which will be detrimental to DACS’ members. DACS would have a legal responsibility to an extensive number of people as the term rightholder extends beyond DACS members, and could even be a person outside of the EU. This legal responsibility would have a significant impact on DACS’ operational costs (such as purchasing new software to cope with an unknown number of people’s queries); staffing costs; governance costs and legal costs.

As an example, DACS currently collects royalties on behalf of non-members for Artist’s Resale Right because of its compulsory collective nature. DACS spends substantial resources, including staffing costs and operational costs, to locate the beneficiaries of the royalty in order to make a distribution.

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Representation of rightholders

10. What do you consider falls in the scope of “non-commercial”?

Under Article 5(3) of the Directive, rightholders shall be able to grant licences for non-commercial uses and therefore we think it should be the rightholder who decides whether a use of their work is commercial or non-commercial. We do not consider ‘non-commercial’ to be a term that we can define by stating categorically what will and will not fall within the scope of this term as this would not be exhaustive. For example, public museums may be generally classified as a non-commercial entity especially where they do not charge entry fees. However, not all activities of public museums can be classified as being non-commercial: for example the production and sale of merchandise. Generally non-commercial activities may under certain circumstances turn into commercial ones depending on the specific outcome. For example a member of the public might browse a digitised collection made available on a non-commercial basis, but if they click through to the museum’s online shop and purchase a poster, this may make the activity commercially relevant.

The very fact that a CMO will put a licence in place and charge a fee for the rightholder represented by the CMO, means that there is a commercial element to this activity. It is therefore a matter between the CMO and their members and rightholders represented if they wish for the CMO to be involved in a certain activity or not.

DACS shares the concerns of the Educational Recording Agency (ERA) that the application of Article 5(3) of the Directive is potentially contradictory to the exception provisions in section 35 and paragraph 6 Schedule 2 CDPA. ERA’s licensing scheme is operated for rightholders who have chosen to license their rights with ERA rather than allowing the exception to apply. To understand non-commercial in any other way as outlined above would mean that ERA’s licensing scheme is undermined if Article 5(3) of the Directive permits rightholders, who have authorised ERA to license copyright works for educational uses, to offer non-commercial licences for the same works.

We therefore believe that a rightholder or member should decide which uses they consider to be non-commercial and which uses they would prefer to license themselves, rather than trying to create universally applicable definitions that undermine the effective functioning of CMOs and ultimately prejudice the interests of rightholders.

11. If you are a CMO, to what extent do you already allow members scope for non-commercial licensing? Please explain how you do so?

For Copyright Licensing and Artimage, DACS already allows members to licence their work on a non-commercial basis. They can grant a licence without collecting a fee.

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Artist's Resale Right does not allow for non-commercial licensing as the royalties accrue on sales rather than a licence, which will be a commercial purpose. Artist's Resale Right is inalienable and cannot be waived.

Payback members can opt out of the licensing of their works however it would be operationally impossible for DACS to allow members to pick and choose works to license on a non-commercial basis, as explained in our answer to question 12.

12. What will be the impact of allowing rightholders to remove rights or works from the repertoire?

DACS already allows Copyright Licensing and Artimage members to remove works from their repertoire. This is manageable due to the transactional nature of the licences put in place by DACS with users.

Artist's Resale Right is inalienable and cannot be waived. As such, removal of works from the repertoire is not possible by law.

For Payback, which is the only revenue stream where DACS represents non-members and members for the licensing of their works, individual works can be opted out of the collective licensing scheme, but this undermines the value of substantive collective licensing. Whilst the opting out of a publication of a photocopying scheme is relatively clear and transparent, it is more difficult to opt out a specific artistic work which may be reproduced in multiple unspecified publications. So for example, the same work may be embedded within a number of publications included in the photocopying scheme and it will be practically impossible to communicate that the work cannot be copied wherever it is reproduced. Removal of individual artistic works from this scheme therefore undermines the certainty that blanket licensing gives to users and rightholders and will also cause an environment in which opted-out works risk being copied nonetheless, therefore facilitating copyright infringement.

13. Under what circumstances would it be appropriate for a CMO to refuse membership to a rightholder i.e. what constitutes "objective, transparent and nondiscriminatory behaviour"?

We consider that 'objective' behaviour requires the CMO to act in a manner that is clear and rational, exercising a reasoned thought-process. 'Transparent' behaviour should entail providing the rightholder with a clear procedure and if membership is refused, with a reason for the refusal, demonstrating justification of the 'objective' behaviour. We believe that 'non-discriminatory' behaviour requires the application of the same conditions to any applicant.

DACS demonstrates 'objective, transparent and non-discriminatory' behaviour by clearly formulating the conditions of membership on the basis of grants of rights that enable DACS to carry out the specific rights management services for which the rightholder wishes to join DACS as a member. DACS refuses membership to a rightholder where their repertoire predominantly consists of works that infringe other rightholders' copyright. The reason to object on this basis is because it would be impossible for DACS to

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operate within the law if licensing infringements of other rightholders' works. We would be transparent in giving this objective reason for refusal. This would apply to all rightholders.

14. What should “fair and balanced” representation in Article 6(3) look like in practice?

A 'fair and balanced' representation of members in the decision making process is one which is reasonable, legitimate and equal: 'fairness' should take into account the quality of an individual decision-maker, and 'balance' should look at the decision making body as a whole. We believe that a representation of the different rightholders represented and concerned by the activities of the CMO should be guaranteed in order to achieve a fair and balanced representation.

The decision making process at DACS is twofold: through the annual general meeting of DACS' company law members and through a supervisory Board of non-executive directors.

DACS' annual general meetings provide a scenario in which the general assembly of members as detailed in Article 8 of the Directive can exercise a decision making process. DACS provides voting rights to Copyright Licensing members as they have provided DACS with the greatest transfer of their rights, provided that they have elected to become a member of DACS under company law. DACS currently has 901 Copyright Licensing members, all of whom are simultaneously Payback members and 617 of whom are also Artist's Resale Right members. As such they are a fair and balanced representation of the different categories of members, as per Article 6(3) of the Directive.

DACS' Board of directors governs DACS and each director is recruited on a transparent and open basis. Over the last 30 years we have established that the best formula for the Board is a 50/50 split between artist and non-artist Board directors. As such, 6 of our 12 current Board directors are DACS members with two of each being recruited from the Copyright Licensing, Artist's Resale Right and Payback services.

Non-artist Board directors are recruited according to their skills and expertise in areas such as law, business and the art market. The Board directors who are DACS members have a range of practices as artists whilst two Board directors are beneficiaries of artist estates. Individually, each Board director is a legitimate decision maker, therefore a 'fair' representation of members, and together the Board fully reflect our members and provide a 'balanced' representation.

15. What do you consider to be an appropriate “regular” timeframe for updating members' records?

Article 6(4) of the Directive states that a CMO shall regularly update member records. DACS obtains records of its members when they sign their membership agreements with DACS. We will contact members on an annual basis in respect of their tax status and use this opportunity to update any changes to the records that are returned to us. Where a member has contacted DACS to declare a change of their details, DACS considers 5 working days to be an appropriate 'regular' timeframe for updating their records.

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Rights of rightholders who are not members of CMOs

16. Is there a case for extending any additional provisions in the Directive to rightholders who are not members of the CMO? If so, which are these, why would you extend them and to whom (i.e. non-members in ECL schemes, mandating rightholders who are not members, or any other category of rightholder you have identified in answer to question 7)? What would be the likely costs involved? What would be the impact on existing members?

We do not think that there is a need for extending any additional provisions in the Directive to rightholders who are not members of DACS as this would mean that existing members would increasingly subsidise the cost of DACS administering the rights of non-member rightholders. We think that the level of protection afforded to non-member rightholders under Article 7(1) of the Directive is sufficient.

The General Assembly of Members

17. Which of the discretionary provisions of Article 8 do you think should be adopted?

Article 8 of the Directive gives flexibility to the way CMOs can operate. We believe that all discretionary provisions should be adopted to give CMOs the ability to exercise freedoms in delegating power back to the supervisory function. In many cases the supervisory function is better placed than the general assembly for executing decisions as they meet more frequently, they have more of a consistent interaction with the detailed workings of the CMO and the purpose of the supervisory function is to act in the interests of members.

At DACS the supervisory function is carried out by the Board of directors, which meets at least four times a year and which is briefed accordingly about the activities and income and expenditure of DACS in the preceding quarter. The Board of directors makes sure that DACS remains within our remit, is prudent and compliant with our obligations under the law and is compliant with our agreements with members and third parties. The Board of directors is further advised by specialist sub-committees which are comprised of Board directors and members of the staff team enabling a scrutiny of the activities and compliance of DACS as a CMO which goes far beyond what the general assembly of members could hope to monitor and decide upon.

18. Do you have an existing supervisory function that complies with the requirements in Article 9? If not, can you give an estimate of the likely costs of compliance?

Article 9(1) of the Directive states that the supervisory function will 'continuously monitor the activities and the performance of the duties of the persons who manage the business of the organisation'. As outlined above, the body that falls within this remit is DACS' Board of directors.

DACS' Board has 5 sub-committees, each represented by up to 5 Board directors and additional members of staff. These are:

- Legal Committee
- Finance and Audit Committee

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- Finance and Audit Committee
- Business Development Committee
- Remuneration Committee
- Communications Committee

In our opinion DACS' supervisory function is in compliance with Article 9 of the Directive.

19. Which of the Directive's provisions are existing requirements under UK company law?

DACS does not feel qualified to advise the Government on company law and therefore cannot give a detailed response to this question. Nevertheless we are aware that there is some overlap for example the requirement in Article 8(10) of the Directive for the CMO to allow those voting at the general assembly to appoint a proxy is also contained in company law.

DACS is concerned that there may be more provisions of the Directive that overlap with UK company law, and specifically that there may be instances in which the two conflict. We think it is important that the Government undertakes a thorough compliance exercise and that CMOs can be instructed on what process to take if a conflict between the Directive and national legislation arises or where stricter measures are imposed by either legislation.

Management of rights revenue

20. If you do not already have a distribution system that complies with the provisions of Article 13, can you say what the cost of implementing the requirements will be?

DACS operates distribution systems that are generally compliant with the provisions of Article 13 of the Directive but we will have to revisit some of the distribution time frames stipulated in Article 13(1) and 15(3) of the Directive, as well as the provision that the general assembly of members shall decide about the use of non-distributable amounts. DACS is currently reviewing the Payback distribution scheme, which may result in substantial costs, especially where it is necessary to implement new systems.

Currently DACS' Board of directors determines the use of non-distributable amounts. DACS will comply with Article 13(5) of the Directive by providing the general assembly of members with the opportunity to make the decision on the use of these amounts at our annual general meetings.

Compliance with Article 13(6) of the Directive cannot be determined on the basis that it is a discretionary provision, however DACS does not think that the Government should exercise the discretion to determine the use of non-distributable amounts as this will go against the aims of the Directive to give more decision-making powers and protection to rightholders

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21. What are your organisation's current levels of undistributed and non-distributable funds, as defined in Article 13?

DACS does not have any non-distributable funds for Payback or Copyright Licensing/Artimage. On occasions it can occur that a member of DACS for Copyright Licensing disappears, dies, or that a beneficiary cannot be found. In these instances undistributed amounts will be held until the statutory limitation period expires and the existence of funds will be advertised on DACS' website. So far DACS has never experienced undistributed funds to become non-distributable as a rightholder was found and/or came forward.

Artist's Resale Right operates differently as we collect royalties on behalf of all qualifying rightholders and we search for non-members for the duration of the statutory limitation period of six years as per section 4 of our Artist's Resale Right distribution policy in **Appendix 1**.

DACS' level of non-distributable Artist's Resale Right royalties after six years of searching for the relevant rightholder is as follows:

Amount collected		Amount that was non-distributable on:		Amount that was non-distributable after 6 years as a percentage of amount collected:
2006	£1,196,721	31st December 2012 in respect of royalties collected in 2006	£3,446	0.29%
2007	£ 2,937,598	31st December 2013 in respect of royalties collected in 2007	£10,836	0.37%
2008	£3,299,019	31st December 2014 in respect of royalties collected in 2008	£12,928	0.39%
2009	£2,428,672	31st December 2015 in respect of royalties collected in 2009	n/a	n/a

As can be seen from these figures DACS takes the obligation to pass royalties on to their rightful owners very seriously and has been very successful in doing so since the Artist's Resale Right was introduced. DACS invests considerable time and resource in searching for rightholders, which not only benefits them directly but also helps to improve the landscape art market professionals operate in as it improves certainty where a resale royalty is due on a sale of a work by a specific artist.

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22. What is your estimate of the current size and scale of non-distributable amounts that are used to fund social, cultural and educational activities in the UK and elsewhere in the EU?

DACS does not distribute any non-distributable amounts to social, cultural or educational funds. We are not in a position to give any further estimates.

23. Do you collect for rightholders who are not members of your CMO? If so, how much of that rights revenue is undistributed and/or non-distributable? If you collect for mandating rightholders who are not members of your CMO, to what extent do those rightholders have a say in the distribution of non-distributable amounts, and what do you think of the Government exercising its discretion in relation to those amounts?

DACS collects revenue for rightholders who are not DACS members for Artist's Resale Right.

DACS searches for beneficiaries of the royalty using diligent and careful search methods. Within this period, these amounts are undistributed. However this amount fluctuates daily and will also take into account those undistributed royalties that will never become non-distributable, for example where the entitled rightholder is identified but DACS has to hold the royalties, for example: missing Withholding Tax Declarations, where an estate is going through probate, or where a payment does not reach the minimum amount yet to qualify for distribution (£10 for UK and £15 for international payments).

The amount of rights revenue from Artist's Resale Right that is non-distributable is as above in our response to question 21.

Currently DACS returns non-distributable amounts after the six year statutory limitation period to the art market professional who paid the royalty to DACS. As mentioned in our response to question 20 DACS' general assembly of members will decide on the allocation of these funds in the future. At this stage it cannot be envisaged how non-member rightholders in the area of Artist's Resale Right can be involved in this decision process if they are unknown to DACS and cannot be found.

As stated previously, DACS does not think that the Government should exercise its discretion in relation to these amounts – this will take away decision-making processes from rightholders.

Another area where DACS collects revenues for rightholders who are not members of DACS is Payback, as explained above. The distribution system in its current form means that the funds DACS collects from the blanket licensing schemes it participates in are distributed 100%, which means that there are currently no funds that are undistributed and/or non-distributable.

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24. What should be the criteria for determining whether deductions are unreasonable’?

‘Deductions’ under Article 12 of the Directive relate to management fees and administration costs, however DACS notes that in the context of Article 13 of the Directive, ‘deductions’ would also concern deductions for social, cultural and educational activities.

The intention of deductions made under Article 12 of the Directive is to enable DACS to operate effectively for the benefit of rightholders. It is necessary to determine reasonableness of deductions proportionately and objectively, bearing in mind indirect functions of CMOs such as representing the views of members and rightholders to Governments and lawmakers, which CMOs engage in for the benefit of all rightholders.

The relationships between rightholders and DACS are often influenced by intermediaries, such as picture libraries or other similar organisations. These intermediaries are not subject to regulations and it is often between the intermediaries and the rightholder where the largest deductions are being made, and where the amount of these deductions is not based on proportionate and objective criteria or have a corresponding benefit to the rightholder.

DACS is aware that deductions mentioned in Article 13 of the Directive for social, cultural and educational funds are currently being made in other territories and for these to be reasonable, they should benefit all rightholders whose works are concerned by the relevant licensing schemes generating these royalties, not just those who reside in the specific territory where the deduction is operating. For example in countries where levy systems justify the free use of all works available in this country which will automatically include works by foreign nationals, deductions made from these levy compensations should benefit all rightholders concerned and should not solely fund national social, cultural and educational activities benefitting only national rightholders.

25. Are there any pros and cons to be particularly aware of in case the Government exercises the discretion?

DACS does not see any benefit or rationale in the Government exercising its discretion to decide on the use of non-distributable funds. The intention of the Directive is to benefit rightholders and as such the decision for the use of non-distributable amounts should be made by rightholders.

Management of rights on behalf of other CMOs

26. Is there currently a problem with discrimination in relation to rights managed under representation agreements? If so, what measures should be in place to guard against this?

There is not currently a problem with discrimination in relation to rights managed under representation agreements within Europe.

However, as stated in our response to questions 8 and 9 above, the Directive will benefit rightholders outside of Europe where national laws of those countries may not have to provide similar standards. As a result, there is a risk that European CMOs and rightholders will be discriminated against having to grant foreign nationals equal treatment that is not reciprocated on an international level.

Title II: Collective management organisations

Relations with users

27. What do you consider should be the “necessary information” CMOs and users respectively should provide for in licensing negotiations (Article 16(1))?

DACS believes that ‘necessary information’ is the information needed for a CMO or a user to effectively operate with the view to providing and obtaining a licence respectively, including clear communications on terms and conditions, pricing and use. In particular, the use of a work is very important as this enables a CMO to apply the correct pricing and put the correct agreement in place, however what can be deemed ‘necessary’ may vary with the intended use. For example, a university seeking a collective licence for reprographic works may be required to collect data on how their reprographic tools such as photocopiers are being used, which they would need to be informed about from the outset, and likewise the university would need to know from the licensor what works are excluded from the licence.

DACS considers ‘good faith’ in Article 16(1) of the Directive to mean that the parties should deal with each other honestly and fairly. As such, DACS considers that information required from the CMO or the user by the other party will need to be for the purposes of the most efficient administration and management of the rights with the best possible protection of the rightholder, guaranteeing that the CMO can pay royalties efficiently to rightholders, whilst enabling the most flexible and straightforward use for the user.

DACS is aware, however, that a ‘user’ for the purpose of the Directive does not necessarily have to be an authorised user, which therefore means that a user could be infringing the rightholders’ rights. Considering that there will have been no contractual negotiation and/or relationship between the CMO and the unauthorised user it seems difficult to envisage how this requirement can be enforced or communicated. DACS believes that there may be value in the Government producing sector specific guidelines that may make these information exchanges more accessible.

28. What format do you think the user obligation should take and how might it be enforced? What is “relevant information” for the purpose of user reporting?

The obligation on users in Article 17 of the Directive is a useful provision that will support CMOs in their task to provide meaningful rights management services to their members, rightholders in general and users alike.

However, at this point it is very unclear how this provision will be transcribed into national law and how this would work in practice. Taking into account the definition of users under Article 3(k) of the Directive, a user is not necessarily a licensee with whom the CMO has a contractual relationship, but comprises persons and entities who carry out any of the exclusive acts under copyright. This would include infringing uses but also uses that may be covered by exceptions.

Article 17 of the Directive does stipulate that the information should be necessary for the collection and for the distribution of royalties, which will differ from sector to sector and even across DACS’ activities. It would be ideal if industry sector standards guidance notes were developed and made widely available to inform users about what is required from them. The industry standard guidance notes should include reporting systems that are clear and transparent, ensuring that users understand the need for the information requested and to avoid unreasonable requests for information.

Title II: Collective management organisations

It would further be advisable if any transposition into national law would not only be phrased as a positive right for CMOs to request information required for the stated purposes but also as defence for CMOs in cases where they are subject to complaints that collections and/or distributions were inaccurate or imprecise. Article 17 of the Directive acknowledges the concept that any collection and distribution of royalties can always only be as precise and accurate as the data it relies upon and that it is not in the CMO's sole power to obtain and/or create the data without the cooperation of the respective user or user groups.

Within DACS the specific information required from users will depend largely on whether they are users for the purpose of Payback, Artist's Resale Right or Copyright Licensing/Artimage. In each event the user needs to provide a certain set of information that would make the licensing activity and the distribution of royalties possible, as outlined in our response to question 27.

In particular in respect of Artist's Resale Right DACS has a precedent for the request of information from 'users' in the Artist's Resale Right Regulations. Regulation 15 of the Artist's Resale Right Regulations contains a positive right to obtain information by making a request for information necessary to secure a payment of the resale royalty. Considering that the resale royalty depends on certain conditions to be met (it has to be a resale under participation of an art market professional, it has to be resold for more than €1,000, etc.), the right to request information can be essential in establishing if the resale royalty is due and if so to whom and what it amounts to. Although DACS developed a Request for Information document that is supplied to art market professionals as a means to gather data to determine whether a resale royalty is due on a quarterly basis (**Appendix 2**), this system very much depends on the comprehensiveness of our database of art market professionals as well as the cooperation of such individuals and entities. DACS would not be able to send such a request form to an unknown gallerist or dealer, nor is DACS as a not-for-profit CMO in a position to verify the truthfulness of each submission considering that the right under regulation 15 of the Artist's Resale Right Regulations is a right to request information rather than to verify it. It should also be noted that regulation 15(4) of the Artist's Resale Right Regulations contains a defence for the "user" by limiting the obligation on the recipient of the request to do everything within his power to supply the information, which is phrased as a subjective criterion rather than an objective obligation.

DACS therefore believes that any implementation of the right to request information should be formulated in an objective and enforceable way.

Where DACS enters into licence agreements these agreements all contain provisions about DACS' right to request information from time to time as is necessary for the continuous compliance with the licence agreement as well as a right to audit the licensee with respect to the information given when requesting the licence and therefore the information the licence is based on. This right of audit is very often met with opposition from the licensee and seen as invasive. Having a positive right for requesting user information would therefore strengthen the position of CMOs to include provisions like this into their contracts.

Regarding the format of data, DACS would prefer to receive data from users in machine readable format.

Title II: Collective management organisations

29. What is the scale of costs incurred in administering data returns that are incomplete and/or not in a suitable format?

DACS does not hold any data specifying the actual costs incurred in dealing with incomplete or unsuitable formats of data. In the majority of cases these situations can be overcome through manual corrections and require manpower which drains DACS' resources. In the case of Artist's Resale Right the provision of incomplete data can result in a non-compliance situation with regards to the statutory obligations to pay resale royalties for certain secondary sales of works. These occurrences cause a direct cost for DACS for the provision of compliance and enforcement services. Furthermore, they cause damage to the art market landscape where some art market professionals/sellers gain an unfair advantage over compliant competitors as well as putting the rightholders at a financial disadvantage.

With regards to Payback, many rightholders engage with intermediary organisations who they have licensed some rights to, and these organisations sometimes act as gatekeepers for the data that the rightholder would need to make more complete claims that can benefit them directly.

Transparency and reporting

30. Which of the Transparency and Reporting obligations differ from current practice, and what will be the cost of complying with them?

The transparency and reporting obligations which DACS is currently complying with are those laid out in the 2014 Regulations, the BCC Principles and under company law. DACS' current practice is to publish an Annual Review and Annual Audited Accounts, which contain detailed financial statements and strategic reports. A copy of DACS' Annual Review and Annual Audited Accounts for 2013 is at Appendix 3.

DACS has identified new obligations for transparency and reporting under the Annex of the Directive. We have detailed the new obligations in a table below. Where sections of the Annex are not listed, DACS believes we are currently compliant with those transparency and reporting requirements. We have categorised new obligations as requiring low input (half a day's work); medium input (one day's work) and high input (more than one day's work):

Title II: Collective management organisations

Obligation differing from current practice	Change required	Input required
Annex 1(f): reporting remuneration	DACS will implement a reporting line to include the remuneration of DACS staff.	Low input
Annex 2(b)(vi): providing as a percentage the costs of the organisation compared to rights revenue	This will require analysis of all costs to rightholders, including those of sister societies and other CMOs, and displaying them in our Annual Review as a percentage of the rights revenue for that year.	Medium input
Annex 2(c)(iii): providing information on the frequency of payments	DACS will report on the frequency of all payments including sister society and other CMO distributions in the Annual Review. This would require any information on distributions made for whatever reason outside of the normal distribution periods and as such this could vary year on year depending on circumstances.	High input
Annex 2(c)(vi): reporting any non-compliance with Article 13(1)	This will require analysing where distributions have not been made within the timeframes in the Directive and reporting on these in the Annual Review. This will change year on year according to the circumstances around late distribution.	High input
Annex 2(c)(v): the total amount attributed to but not yet distributed to rightholders	DACS will have this data available but it would take time to analyse it and report on the data.	High input
Annex 2(d)(ii): breakdown of deductions charged to other CMOs	This will require DACS to analyse and report on the deductions made on rights revenue due to our sister societies and other CMOs	High input
Annex 2(d)(iii): breakdown of deductions charged by other CMOs	This will require us to analyse and report on the deductions made by sister societies and other CMOs on rights revenue due to DACS members	High input

Title II: Collective management organisations

31. What do you think qualifies as a “duly justified” request for the purposes of Article 20?

A person making a ‘duly justified’ request would need to have a legitimate interest in the information they are seeking. Any information given under Article 20 of the Directive would need to be within the scope of, and compliant with, national data protection laws.

DACS currently makes information available on its website such as artists represented, rights managed and territories covered, which fall within the remit of Article 20(a) and (b).

Title IV: Enforcement measures

37. How many licensees do you have in total? Of these, are you able to say how many are small and medium enterprises and how many have a bigger turnover than you do?

In respect of our copyright licensing activities DACS has over 2,000 licensees across a range of sectors, however the most prominent licensees are publishers, galleries and broadcasters. DACS also licenses works to auction houses and commercial galleries, many of whom could be small and medium sized enterprises. DACS does not collect any data on the turnover of our licensing customers, and nor is it justifiable to ask for such information from them. DACS will only ask for data that is 'reasonable and necessary' as per recital 33 of the Directive and therefore does not collect data on the size of their enterprise.

With regards to collective licensing administered by DACS' Payback scheme we refer to the submissions by ERA and CLA.

38. What do you think are the most appropriate complaints procedures for handling disputes and complaints between CMOs, users and licensees, including for multi-territorial disputes? Please say why.

The most appropriate complaints procedure, particularly for complaints by users and licensees, should be an internal complaints procedure with a back stop through a third party, for example the Ombudsman Service.

A further avenue could be mediation and arbitration bodies such as the Centre for Effective Dispute Resolution (CEDR), the IPO Mediation Service and the Copyright Tribunal. However, CMOs should also be granted the right to access the Copyright Tribunal for disputes with users and licensees. With regards to disputes between CMOs with a multi-territorial dispute relevant umbrella organisations exist that could provide complaints procedures, like CIAGP, CISAC or IFRRO. In addition WIPO could provide for additional mechanisms to hear complaints and resolve disputes.

In line with DACS' Code of Conduct, we operate an internal complaints procedure that is compliant with the BCC Principles. DACS' complaints officer is our Chief Operating Officer with a possibility of escalation to our Chief Executive and then to the Board of directors. DACS has also subscribed to the Ombudsman Service.

DACS thinks that this is the most appropriate procedure for handling complaints. We are aware however that in order to maintain a level playing field, the IPO must also look to ensure that other EU Member States have adopted a procedure under the Directive that is compatible and no less favourable than solutions implemented into UK law. This is to prevent CMOs in one country being inundated with complaints simply because it has a more favourable complaints system.

DACS is committed to resolve disputes outside the courts and will in all cases try to resolve any disputes through the normal complaints procedure or alternative dispute resolution. Our reciprocal agreements with sister societies but also our agreements with third parties, like CLA contain provisions to this respect.

Title IV: Enforcement measures

Options for a national competent authority

39. What is your preferred option for the national competent authority? Please give reasons why.

40. Bearing in mind the scope of its ongoing responsibilities, what would you consider to be an appropriate level of staffing and resources needed? Please give an upper and lower estimate.

41. How should the costs of the national competent authority be met?

We have chosen to answer questions 39, 40 and 41 together as per below:

The costs of the national competent authority should not be met by CMOs, as this cost would be directly borne by rightholders. As we have mentioned before, any extra cost that DACS incurs for the purpose of meeting the requirements of the Directive will be met entirely by use of rightholders' money – CMOs generally do not have alternative funding. We believe that the costs of the national competent authority should be met by the IPO, the European Commission or through other funding.

Should there be a need to recoup costs, DACS believes this could be achieved through a backstop power rather than categorically putting the costs onto CMOs and therefore the represented rightholders. Whilst CMOs will already be faced with increased costs through the implementation and continuous compliance with the Directive, the costs of the national competent authority should be seen as the Government's investment into the creative industries.

For this reason DACS would favour the IPO to be the national competent authority as the most cost effective choice and believes that this may well be through a dedicated team within the IPO. Taking into account the remit of the national competent authority and its task to monitor the compliance of activities in other Member States it will be preferable to appoint a body that is familiar with national differences and that can utilise existing contacts and established relationships to raise issues and discuss differences in an efficient and appropriate manner.

DACS has no opinion about the exact staffing of the team within the IPO but believes that this has to be organic with sufficient flexibility to run an efficient and cost effective service.

Appendices

Appendix 1: Artist's Resale Right Distribution Policy

Appendix 2: Artist's Resale Right request for information document

Appendix 3: Annual Review 2013 and Annual Audited Accounts 2013

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Artist's Resale Right Distribution Policy

1. Purpose of the policy

This policy sets out the rules followed by DACS for the distribution of Artist's Resale Right royalties. The policy aims to fulfil requirements of DACS' code of conduct, CISAC's professional rules and the UK Government's minimum standards for collecting societies.

2. Detailed policy

Introduction

Artist's Resale Right entitles artists and their heirs to a royalty each time their art work is resold for more than €1000 by an auction house, gallery or dealer, subject to certain conditions. Under the current UK regulations, the Artist's Resale Right can only be exercised through a collecting society. Artists and their heirs can mandate DACS to collect resale royalties on their behalf.

When DACS is notified of a royalty arising from a sale of art work by an artist who is not represented by DACS, or another collecting society, we will seek to collect the royalty and find the artist, or their heirs, in order to distribute the royalty to them.

Through its UK and international agreements DACS is mandated to collect resale royalties on behalf of many thousands of visual artists across Europe.

Royalty rates are set in the law and cannot be negotiated. DACS will balance efficiency with fairness in our distribution policies.

1. Charges made on royalties

1.1. DACS charges a 15% administration fee on royalties arising from UK art sales and 0% on royalties paid to DACS by our sister societies for licences issued overseas.

1.2. DACS' administration fees are reviewed and approved by the DACS Board of Directors on an annual basis.

1.3. Withholding tax (where applicable)

2. Distribution timetable

2.1. DACS distributes Artist's Resale Right royalties every month. Payments are made by the last working day of the month, but usually on the 15th.

2.2. The distribution pays out royalties from Artist's Resale Right invoices which are paid on or before the last working day of the previous month.

2.3. DACS pays all beneficiaries who meet the following criteria:

- We hold their correct and current bank/payment details



- We hold their current address details
- They have completed DACS' withholding tax declaration process
- Are not a member of one of our sister societies (royalties are paid to sister societies on a quarterly basis.)
- The total payment amount reaches the payment threshold for the relevant payment type. These are:
 - BACS payments: £10
 - Cheque payments: £10
 - International payments: £15

2.4 Where the payment due does not reach the payment threshold, the royalty is held until other royalties are received and the payment threshold is reached.

2.5 If payment is returned by the bank due to incorrect details, the payment will be held by DACS until the beneficiary has been contacted and has provided us with the correct payment details. Their account will be put on hold until the issue is resolved. Once resolved, the payment will be issued in the next scheduled distribution.

3. Royalty calculation

3.1. DACS calculates and pays royalties to individual rightsholders based on the portion of the royalty they are entitled to receive. For example, an artist may be the sole rightsholder in a copyright work therefore receiving 100% of the royalty (after administration costs are deducted), or two beneficiaries may have inherited the resale right therefore receiving 50% of the royalty (or another agreed proportion).

4. Undistributed royalties

4.1. DACS has six years from the time it collects a resale royalty to find and pay the royalty to the artist or heir. If we are unable to find the rightful owner of the royalty within this time the royalty is returned to the person who paid it, less DACS' administration charge.

4.2. DACS has a small team dedicated to locating artists and beneficiaries for whom we have received Artist's Resale Right royalties but who are not DACS members.

Our active monitoring of upcoming auction sales means we begin researching artists and beneficiaries who are not already DACS members prior to the sale taking place. This helps ensure that we have located them long in advance of us actually receiving the royalty.

Research is undertaken on a regular basis and the team work collaboratively on cases using a variety of research methods, including many subscription-only online UK and international resources, as well as obtaining Wills and other relevant documentation. We use external companies who specialize in tracing heirs in cases which are particularly difficult.

DACS also works closely with our international sister societies to identify the most efficient and cost effective way to find artists and their beneficiaries.



5. Royalty statements

5.1. Royalty payments are accompanied by a statement which includes:

- The date of the sale of the work
- Whether the sale was made by an auction house or a gallery
- The title of the work
- The resale price
- The resale royalty
- DACS' administration charge any other deductions (e.g. withholding tax)
- A R-185 form (only applicable if withholding tax has been deducted)
- The net royalty.

3. Applicability

This policy applies to all artists and beneficiaries who have mandated DACS to collect and pay their Artist's Resale Right royalties and non-members for whom DACS collects royalties.

4. Related policies/ more information

- [DACs' Code of Conduct](#)

This policy is reviewed on an annual basis.

Feedback on this policy can be directed to our Chief Operating Officer at info@dacs.org.uk.

Last updated: September 2013

«Primary Contact»

«AMP»

«Street1»

«Street2»

«Street3»

«City»

«County»

«Postcode»

27 March 2015

Dear «Primary Contact»,

Artist's Resale Right Information Request: «QRFI field data»

The Artist's Resale Right means that when you sell a work by an artist for €1,000 or more a royalty may be due on the sale price.

«QRFI Text»

This is our quarterly request asking you to declare any sales of works by an artist:

- who is either living, or has been deceased less than 70 years.
- who is (or was if they are deceased) a national of the European Economic Area.

and which you have sold in the UK:

- as a resale on the secondary market (i.e. not the first sale of the work direct from the artist).
- between «QRFI field data»
- and for a price at or above the qualifying threshold of €1,000.

Please complete the enclosed submission form and return it to us using the freepost envelope provided. To help you submit your request you can find a range of tools, calculators and FAQs on our website at www.dacs.org.uk/for-art-market-professionals.

Alternatively you can submit your qualifying sales using our online form which is quick and easy if you have a small number of items to submit. Otherwise email a spreadsheet to arrsubmission@dacs.org.uk.

This is a formal request and in accordance with the UK Artist's Resale Right Regulations 2006, you are legally obliged to respond to this request within 90 days of receipt. Even if you have no eligible sales to declare, we need you to tell us by completing the enclosed 'Declaration of no qualifying sales' form.

If you have any queries relating to your submission, please get in touch.

Yours sincerely,



Daniel Rudd
Artists' Services Manager

**Established by artists for artists,
DACs is a not-for-profit visual artists'
rights management organisation.**



Declaration of no qualifying sales in the period «QRFI field data»

Please note that unless we receive a no qualifying sales return form, we feel obliged to issue further reminders until we can be certain that no qualifying sales have taken place.

«Primary Contact»

«AMP»

«Street1»

«Street2»

«Street3»

«City»

«County»

«Postcode»

I confirm that the aforementioned company has made no transactions which would generate a resale royalty during the period «QRFI field data» inclusive.

To the best of my knowledge, the information I have provided is accurate and true. I understand that DACS reserves the right to make appropriate enquiries to validate this submission. I agree to give supporting evidence if required.

Name: _____

Signature: _____

Position: _____

Email: _____

On behalf of: _____

Date: _____

Please return using the enclosed pre-paid envelope or send to:
Artist's Resale Right, DACS, 33 Old Bethnal Green Road, London E2 6AA

I would like to receive future requests for information via email ☐

Email: _____

For more information please visit www.dacs.org.uk or phone 0845 410 3 410.

**Established by artists for artists,
DACs is a not-for-profit visual artists'
rights management organisation.**

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Liliane Lijn
Artist
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Established by artists for artists, DACS is a not-for-profit visual artists' rights management organisation.

We are passionate about transforming the financial landscape for visual artists through innovative new products and services, and act as a trusted broker for 80,000 artists worldwide.

Founded 30 years ago, DACS is a flagship organisation that campaigns for artists' rights, championing their sustained and vital contribution to the creative economy.

In its support of artists and their work, DACS collects and distributes royalties to visual artists and their estates through Payback, Artist's Resale Right and Copyright Licensing.

You can find out more about our work on behalf of visual artists at www.dacs.org.uk

Introduction from Gilane Tawadros, Chief Executive

DACS
Annual Review 2013



Thirty years ago this year, DACS was established by artists for artists. A generous grant of £7,400 from the Gulbenkian Foundation provided seed funding for DACS, enabling it to become the organisation it is today - a trusted broker for 80,000 artists and estates worldwide and a champion for their contribution to the creative economy.

In 2013 alone DACS paid a total of over £14 million in royalties to over 19,000 visual artists and estates and importantly, these monies go back to artists with no strings attached. At the same time, we have continued to work closely with the Government to ensure visual artists' rights are protected, both now and in the future.

In support of its mission, DACS has established a research and innovation arm to roll out a number of ground-breaking enterprises that will help artists and artists' estates financially whilst also making their work accessible to a wider audience. The first of these new services, Artimage - the only digital resource to showcase and license modern and contemporary art, was launched at the beginning of June 2014.

In recent decades the significant growth and success of the UK's visual arts community has generated enormous benefits both nationally and internationally. While it is

widely acknowledged that a thriving visual arts sector is integral to the social and economic well-being of society, it is vital to underscore the extraordinary, inspiring and essential contribution made by artists.

At a time when the median wage for a fine artist is £10,000, and when the current financial climate places further pressure on earnings, DACS has set itself an ambitious mission to transform the financial landscape for artists. Our vision for the future is to extend the breadth and ambition of our support for artists and their estates through a new charitable arm – the DACS Foundation.

The DACS Foundation is dedicated to supporting artists in a variety of ways including providing small-scale but transformative funding; archive management and legacy planning initiatives and education activities aimed at helping artists safeguard their rights and the integrity of their practice. The DACS Foundation will also be actively engaged in building a public discourse on the value of artists to society through an on-going programme of debates, symposia and publications. Our aim is to champion and ensure the sustainability of contemporary visual art today for the benefit of future generations.



Alex Turnbull
The Estate of Kim Lim and William Turnbull
© Brian Benson 2014

A message from Mark Stephens, Chair

DACS
Annual Review 2013



For thirty years DACS has tirelessly campaigned to champion artists' rights and secure income streams for artists. It has been my pleasure to see the organisation grow from one person in a tiny office in Whitechapel to a team of 40, about to move to new offices in east London, closer to the capital's largest art community.

The move to Bethnal Green, set amongst an ever growing hub of over 150 galleries and 1,000s of artists, will help save organisational costs while also offering a beautiful new space for DACS members to meet with the team and attend talks and presentations that we will programme from November this year onwards.

DACS continues to campaign and lobby on behalf of artists in key areas such as extended collective licensing and the Artist's Resale Right. The tension between government legislation, industry needs, and the interest of artists will always exist and we are here to help protect our members' rights and the royalties as best we can.

Our work in campaigning often requires the support of our members too and we are grateful that they are so engaged and active in this area. Earlier this year we circulated a survey on the Artist's Resale Right to collate evidence for the Intellectual Property Office and a European review that will take place next year. We received an overwhelming response which helped us to make clear the necessity of this kind of remuneration for artists and beneficiaries.

This year we also welcomed the findings of an independent review launched in November 2013 into the self-regulation of UK collecting societies and led by the former financial ombudsman Walter Merricks, CBE. The report published in June 2014 pleasingly found DACS to be compliant with both its own code of conduct and Government standards.

To assist the call for evidence, we asked our members, licensing customers, and the galleries, dealers and auction houses to take part in the review. We received hugely supportive comments from visual artists and artists' estates. Walter Merricks CBE commented: "there appears to be a high level of satisfaction with the way that DACS runs its affairs."

During the process of gathering the evidence for the Walter Merrick review we took the opportunity to consult with our members on proposed changes that would democratise the governance of the organisation. We received very supportive feedback and in February this year, our Board formally adopted our new governance structure that give our artists a greater stake in the

organisation in a variety of ways. We all appreciate that DACS is trusted by our members to manage their most significant economic and moral rights, so it is vital they have a voice in our decision-making process. These changes reflect an important progression in our transparency and accountability, which is critical to the public role of collecting societies, also emphasised by Walter Merricks CBE in his report.

In the spirit of being more open and transparent, we are organising the first AGM in ten years and DACS members will have the opportunity to vote on specific issues that affect them. In addition we are increasing the number of visual artists and estates on our Board in order to reflect the interests of the broad range of visual artists and estates we represent.

I am very excited by the prospect of these new developments as they will enable DACS to flourish as an artist focused organisation and fulfil our ambition, born over 30 years ago, to transform the financial landscape for visual artists and estates.



Kim Lim and William Turnbull
© Estate of William Turnbull.
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What does DACS do?

Payback

In 2013, a record 16,700 visual artists and estates claimed a share of £4.2 million in Payback royalties through DACS, with many receiving their royalty just in time for Christmas.

Payback is an annual scheme run by DACS which pays royalties to visual artists and estates whose work has been reproduced in UK books, magazines or on TV. These royalties come from collective licensing schemes and DACS negotiates a share of this revenue which we pay back to visual artists, estates and their representatives each year.

Payback is open to all kinds of visual artists for all types of published work from fine art and photography to design and illustration. Artists' estates and representatives can also apply for a share of this money.

Each year claimants have three months to submit their Payback claim. Royalty payments are then processed and paid to successful claimants in December.

Over the past year we have been working on improvements to our online systems resulting in a quicker and easier claim process. These enhancements have seen claimants receive their royalties much earlier than in previous years.

Also for the first time last year, claimants had the chance to apply for Dutch Public Lending Right royalties with just over 250 visual artists receiving a share of £200,000. DACS will continue to pay Dutch PLR royalties on an annual basis and registration for the next round will open this summer alongside Payback. We are also exploring if there are similar royalties available for visual artists from other European countries and we will keep claimants informed of any new developments.

Find out more at
www.dacs.org.uk/for-artists/payback

Artist's Resale Right

Last year, £8.4 million of Artist's Resale Right royalties were paid to over 1,400 visual artists and artists' estates.

The Right entitles artists and their heirs to a modest share of the sale price each time their work changes hands via an auction house, art dealer or gallery on the secondary market.

DACS represents over 48,000 artists and their beneficiaries for the Artist's Resale Right in the UK and in Europe through our network of sister societies. DACS collects and distributes royalties to eligible artists and beneficiaries, for sales taking place in the UK and also in Europe and we make royalty payments 12 times a year

The Right is currently upheld throughout the European Economic Area and in other countries worldwide including Australia and Mexico. At the end of last year DACS lent its support to a campaign calling for the Right to be recognised on a global basis. If successful this would be hugely beneficial for visual artists and their estates, ensuring all can benefit from sales of their work across the global art market be it London, Basel, New York or Hong Kong.

In the UK the Government has launched a call for evidence to learn more about how artists and estates are currently benefitting from the Right as well as the cost of administration for auction houses, galleries and dealers. In May 2014, we surveyed artists and estates about the Right and presented our findings to the Government.

We want to ensure the positive impact of the Right on artists' income, practice and livelihood is recognised by the Government - and that their royalties are protected. The Government will publish its findings later this year in September and we'll report on the outcomes on our website and via social media.

Find out more at
www.dacs.org.uk/for-artists/artists-resale-right

Copyright Licensing

Last year, our Copyright Licensing service paid £1.5 million to over 1,000 visual artists and artists' estates.

Each year we work with thousands of British and international customers who want to reproduce works by artists we represent. These uses range from e-Books, smartphone apps and computer games to exhibition catalogues, advertising and television.

We have been providing this service to artists and estates for 30 years, taking care of what can be a time consuming and complicated process.

Today we represent over 70,000 artists and estates. We also belong to an international network of sister societies in 29 countries, which means we can represent DACS members worldwide. DACS pays these royalties to artists and their estates four times a year in February, May, August and November.

Over the past 18 months and as part of an ambition to provide a portfolio of new and innovative services, benefitting both artists and users, DACS has developed Artimage – a digital image resource that showcases and license exceptional works of modern and contemporary art.

DACS has developed Artimage to showcase thousands of images from international artists including Francis Bacon, Peter Blake, Sandra Blow, Frank Bowling, Tracey Emin, Anya Gallaccio, Roger Hiorns, Damien Hirst, Roy Lichtenstein, Liliane Lijn, Richard Long, Yinka Shonibare, Andy Warhol and Jane and Louise Wilson, to name a few.

Launched at the beginning of June 2014 Artimage improves the user experience and speeds up production time for image licensing customers. It provides both the licence agreement and image file, creating a streamlined process for all publishing, merchandising and advertising needs.

Find out more at
www.dacs.org.uk/for-artists/copyright-licensing



Mat Collishaw
Artist
© Brian Benson 2014

DACS is passionate about transforming the financial landscape for visual artists through innovative new products and services, and acts as a trusted broker for 80,000 artists worldwide.

As a not-for-profit organisation we retain a percentage of the royalties we collect on behalf of artists and estates to cover our costs.

You can download a copy of DACS' annual audited accounts at www.dacs.org.uk

Royalties collected by DACS on behalf of visual artists and artists' estates from 1 January – 31 December 2013

DACS Revenue Stream		National gross collections £'000s	Amounts deducted for administration costs £'000s	DACS Administration Cost %	Net distributable royalties ** £'000s
Copyright Licensing	UK collections (incl. image hire + Infringements)	1,564	393	25	1,171
	Collections from overseas societies	237	36	15	202
Artist's Resale Right	UK collections	9,073	1,340	15	7,733
	Collections from overseas societies	540	(7)	0	547
Collective* Licensing	UK collections	5,666	1,020	18	4,646
	Other sources (inc. overseas societies)	428	77	18	351
Other overseas collections	Extended Collective	17	3	17	14
	Public Lending Right***	40	(29)	–	69
		17,565	2,833	18	14,733

* Collective Licensing: royalties collected through this revenue stream in 2013 will be distributed in 2014.

** Distributable royalties: These are royalties that have been invoiced by DACS during 2013. The royalty will become payable once payment has been received and DACS has all the necessary information from the artist or estate (for example correct taxation information and bank details). Please refer to DACS' distribution policies at www.dacs.org.uk/about-us/distribution-policies

*** Public Lending Right: It was agreed in 2013 that claimants would be charged an administration cost of 15% and an adjustment was made for royalties received from 2010 to 2013 which is incorporated into the 2013 charge.

Statement of distributable income from 1 January – 31 December 2013

£'000s

Distributable income still to be distributed at the beginning of the year		9,849
Plus: Net distributable income for the year in progress		14,733
Less: Amount distributed during the year	1) To the society's members	9,086
	2) To sister societies	5,117
Amount distributed in 2013		14,204
Amount at the end of the year	1) To be distributed	10,128
	2) Held in reserve	250*

* In 2013, the amount of £250,000 which is held in reserve for collective licensing claimants has been transferred from long-term creditors to other reserves. This sum has been set aside for unclaimed funds. While DACS is not aware of anyone who has not been paid, if a claimant does come forward then the money must be available. The directors consider this to be a prudent sum to hold in reserve for this eventuality.

DACS Income and Expenditure from 1 January – 31 December 2013

		£'000s	£'000s
Turnover			17,566
Less: Payable to rightsholders			(14,483)
			3,083
Total expenses	Professional fees	203	
	Advertising and promotions	65	
	Finance charges	12	
	Depreciation	292	
	Directors remuneration	48	
	Travel and subsistence	31	
	Other expenses	45	
	Occupancy	225	
	Research & business development	52	
	Office costs	216	
	Wages, salaries and other staff costs	1,861	
			(3,050)
Total other income	Interest and other income	127	127
			160



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We are governed by a Board of Directors who bring a wide range of talents and experience to DACS. The Board includes artists, estates, lawyers and other professionals who together ensure that DACS fulfils its mission to transform the financial landscape for visual artists and artists' estates.

In February 2014, the Board approved the adoption of new Articles of Association that have enabled us to give members a greater say in how DACS is run including new voting rights and increased representations of artists on the Board.

The Board currently comprises nine Board Directors. In accordance with our new Articles of Association, this year we will be recruiting a further three Member Directors to increase the representation of artists on our Board. This will mean we will have a total of 12 Board Directors (six Member Directors and six Non-Member Directors).

Appointment of the Board

Directors are recruited in accordance with a published description of the role and person specification, which we advertise widely among members and users of our services. We conduct a rigorous shortlisting process in accordance with diversity and equal opportunity practice, and interview selected candidates in a competitive interview process.

Under the Articles of Association, Non-Member Directors are appointed by the Board whereas Member Directors are voted in by ordinary resolution at the Annual General Meeting.

The Board is entitled under the Articles to appoint the Chair.

In 2013 DACS was delighted to welcome Cortina Butler (the Estate of Reg Butler), as a new Board Director.

DACS holds five Board meetings per year. Directors also participate in sub-committees of the Board: Business Development, Communications, Finance and Audit, Legal, and Remuneration.

DACS Board

Non-member Directors

Mark Stephens CBE (Chair)
Ian Coleman
Brendan Finucane
Matthew Flowers
Herman Lelie
Emily Thomas

Member Directors

Cortina Butler
Conor Kelly
Klaus Thymann

DACS

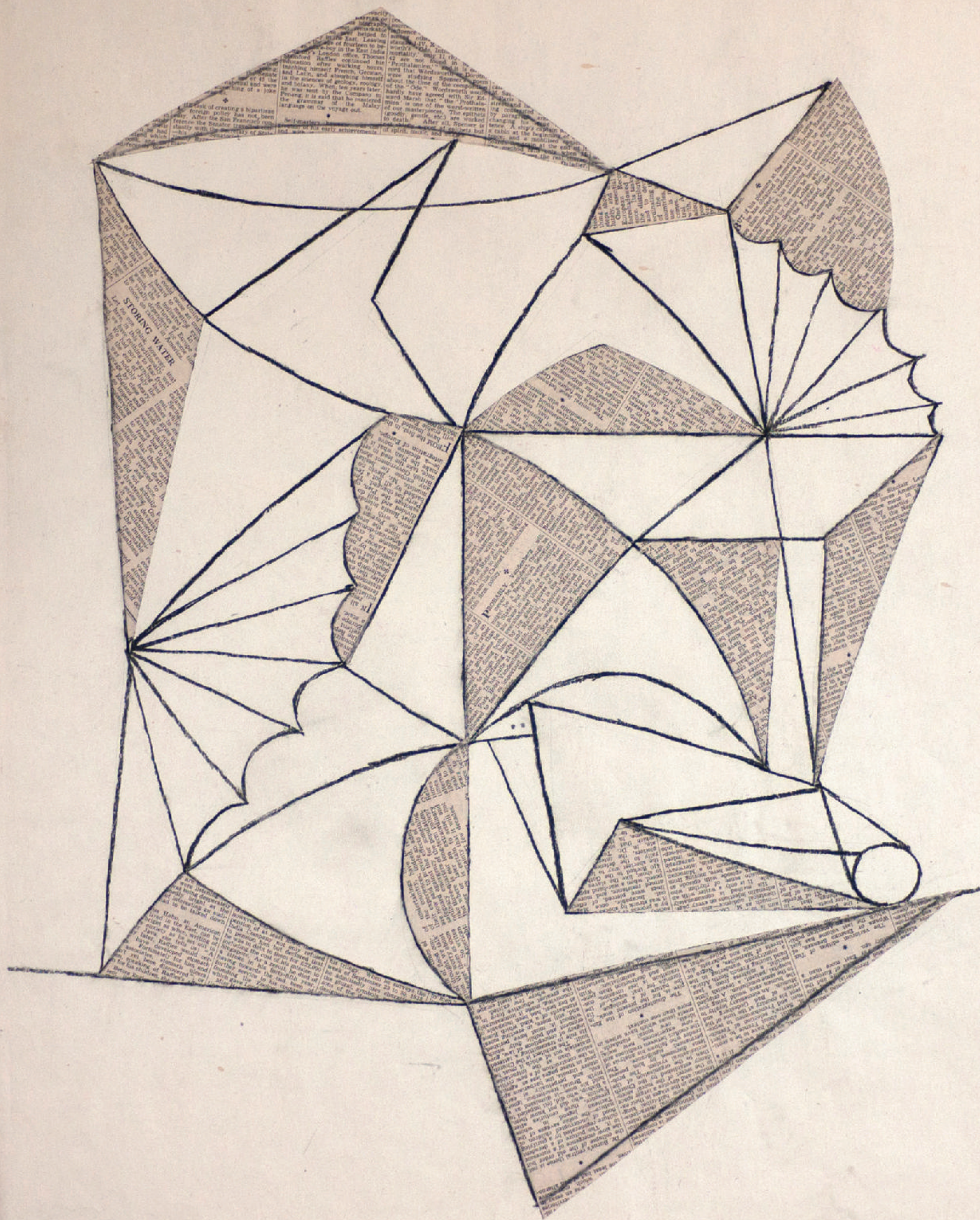
Annual Review 2013

Board of Directors

Board Directors' Remuneration 2013

Cortina Butler	£3,315
Ian Coleman	£4,420
Brendan Finucane	£4,696
Matthew Flowers	£5,525
Conor Kelly	£5,525
Herman Lelie	£4,420
Mark Stephens	£8,840
Emily Thomas	£5,525
Klaus Thymann	£5,525

You can find out more about our Board at www.dacs.org.uk/about-us/board-of-directors



Compliance Report

There were no formal complaints made to DACS during 2013.

DACS Complaints Procedure

While primarily aimed at members, we have taken a liberal attitude to its application, on the basis that we wish to hear from any individual who wishes to express their dissatisfaction about the service they have received from DACS.

We encourage staff to listen actively for opportunities to tell individuals about how they can complain formally as a means of expressing their dissatisfaction.

Procedure

If DACS does not perform to your satisfaction, we want to hear from you.

You can make your complaint by telephone, email, fax or letter by following this procedure:

Step 1

Address your communication to the Complaints Officer.

Step 2

If you remain dissatisfied with our response to your complaint, let us know so that we can refer the matter to our Chief Executive.

Step 3

In the event that you continue to remain dissatisfied with our response to your complaint, please let us know so that we can refer the matter to our Board of Directors, who will investigate the matter further.

Address your complaint to the Complaints Officer at DACS, 33 Great Sutton Street, London, EC1V 0DX or complaints@dacs.org.uk

At each stage of the complaints procedure, we will investigate the complaint thoroughly and objectively and will respond to you comprehensively within ten working days of receiving the complaint.

We will strive to maintain the standards set out in the complaints procedure. However, in the event that we are unable to respond within the timescales we will let you know without delay.

If you are not satisfied with the outcome of this complaints procedure, or if you consider that your complaint has not been correctly handled, you may refer your complaint to Ombudsman Services free of charge as a service provided by DACS.

Please note that the Complaints procedure is not intended to deal with complaints or concerns from licensing customers about DACS' licensing terms and conditions.

Complaints of this kind are dealt with by the Copyright Tribunal. For more information about the Tribunal, please visit www.ipo.gov.uk/ctribunal/ctribunal-about.htm.

For further information please refer to our Code of Conduct at www.dacs.org.uk/about-us/code-of-conduct



Kim Lim
Ring, 1972
© Estate of Kim Lim. All Rights Reserved, DACS
2014

The DACS team is committed to ensuring visual artists gain recognition and revenue from their rights.

You can find out more about our team at www.dacs.org.uk/about-us/staff

Company information and credits

Company Secretary

Tom Wilcox

Registered Office

33 Great Sutton Street
London
EC1V 0DX

Auditor

Lubbock Fine
Chartered Accountants
& Statutory Auditor
Russell Bedford House
City Forum, 250 City Road
London, EC1V 2QQ

Bankers

Co-operative Bank plc
4th Floor, 9 Prescott Street
London, E1 8BE

Scottish Widows Bank plc
PO Box 12757
67 Morrison Street
Edinburgh, EH3 8YJ

Santander Bank plc
21 Prescott Street
London, E1 8AD

HSBC Bank plc
Canary Wharf Commercial Centre
Level 33, 8 Canada Square
Canary Wharf
London, E14 5HQ

Nationwide International
Commercial Division
Hogarth House
136 High Holborn
London, WC1V 6PX

Photography credits

Portraits

© Brian Benson 2014

DACS

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F +44 (0)20 7336 8822

E info@dacs.org.uk

www.dacs.org.uk

Image credits:

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Liliane Lijn

ABC Cone, 1965. Poemcons Series.

© Liliane Lijn.

All Rights Reserved, DACS 2014.

Photography by Stephen White

Page 19

William Turnbull

Collage, 1949

© Estate of William Turnbull.

All rights reserved, DACS 2014.

Image courtesy Turnbull Studio.



Registered no. 01780482

DESIGN AND ARTISTS
COPYRIGHT SOCIETY

COMPANY LIMITED BY GUARANTEE

FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

LUBBOCK FINE
Chartered Accountants
3rd Floor, Paternoster House
65 St Pauls Churchyard
London EC4M 8AB

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

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**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

OFFICERS AND PROFESSIONAL ADVISERS

The Board of Directors

Mark Stephens CBE
Ian Coleman
Brendan Finucane
Matthew Flowers
Conor Kelly
Herman Lelie
Emily Thomas
Klaus Thymann
Cortina Butler

Company Secretary

Tom Wilcox

Registered Office

33 Great Sutton Street
London
EC1V 0DX

Auditor

Lubbock Fine
Chartered Accountants
& Statutory Auditor
Russell Bedford House
City Forum, 250 City Road
London, EC1V 2QQ

Bankers

Co-operative Bank plc
4th Floor, 9 Prescot Street
London, E1 8BE

Scottish Widows Bank plc
PO Box 12757
67 Morrison Street
Edinburgh, EH3 8YJ

Santander Bank plc
21 Prescot Street
London, E1 8AD

HSBC Bank plc
Canary Wharf Commercial Centre
Level 33, 8 Canada Square
Canary Wharf
London, E14 5HQ

Nationwide International
Commercial Division
Hogarth House
136 High Holborn
London, WC1V 6PX

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

STRATEGIC REPORT *(continued)*

YEAR ENDED 31 DECEMBER 2013

The Directors present the strategic report of the Company for the year ended 31 December 2013.

STATUS

Design and Artists Copyright Society is a Company limited by guarantee and does not have a share capital. The governing documents of the Company are its Memorandum and Articles of Association.

REVIEW OF THE YEAR AND FUTURE DEVELOPMENTS

Much of DACS' focus in the first part of 2013 was on embedding the late 2012 organisational restructuring designed to sharpen our client centricity and improve operational effectiveness. A further restructure was made in December 2013 to enable us to embrace new digital developments for the benefit of artists. DACS finished the year a more efficient and outward facing organisation better able to deliver its mission of transforming the financial wellbeing of artists and artists' estates.

The effort DACS puts into serving our stakeholders was reflected in the outcome of a customer service review conducted during the summer, which saw DACS achieving a Net Promoter Score of 66% and an overall satisfaction of 95%.

DACS has continued to look at the development of our services with the focus in 2013 on the development of Artimage, DACS' online image resource which will be launched in June 2014.

The UK Government progressed with their implementation of the recommendations which came out of the Hargreaves review of copyright. Most significantly, consultations were held regarding copyright exceptions as the Government seeks to introduce new exceptions and widen existing ones. DACS participated in all these consultations, seeking to ensure the rights of visual artists were not substantially weakened. It is anticipated that the resulting regulation will come into force in 2014, in addition to regulation introducing provisions for the management of orphan works schemes and extended collective licensing.

DACS' governance review neared completion during 2013. A significant number of artists responded to a stakeholder consultation held by DACS in the autumn which sought agreement from artists on a number of proposed governance changes, including the expansion of the DACS Board and the reintroduction of general meetings of members. The changes to DACS' Articles of Association and the enhancement of our members' rights will allow artists and their beneficiaries a greater say in how DACS operates in the future. The Governing Members of DACS adopted the new Articles of Association in February 2014.

Cortina Butler was appointed to the Board in May 2013 and all Board members accepted a two year extension to their terms of office in order to provide stability to the organisation as the new Articles of Association are adopted.

FINANCIAL KEY PERFORMANCE INDICATORS

In 2013 DACS' revenues increased 13% over 2012 figures, achieving a record £17.56 million. This increase was largely due to the extension of the Artists Resale Right to include the families and beneficiaries of artists (for 70 years after the death of the artist) impacting on DACS for the full year.

Reflecting the cost of collecting and distributing increased amounts of royalties to a greater number of artists and estates, DACS' expenditure increased in 2013 by 9% on 2012 figures. Significant investments in DACS' IT infrastructure and the DACS website have increased the level of depreciation being carried by the organisation. These investments have resulted in improved operational efficiency, the benefits of which members will experience over the coming years.

DACS retains a percentage of the royalties it collects on behalf of artists to cover our costs. DACS does not distribute a profit to shareholders and in 2013 DACS reduced the amount we retain from Payback from 19% to 18%. The benefit of this will be felt in our 2014 payment of collective licensing revenue. This represents a 7% reduction over seven years. These royalties are distributed annually.

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

STRATEGIC REPORT *(continued)*

YEAR ENDED 31 DECEMBER 2013

Artist's Resale Right administration charges remained at 15%. Artist's Resale Right royalties are distributed on a monthly basis to artists and their estates, with the exception of royalties payable to sister societies, which are distributed quarterly.

Administration charges placed on copyright licensing royalties remained unchanged at 25% for royalties collected directly by DACS and 15% for royalties collected by DACS' sister societies overseas.

The surplus of £160,218 on ordinary activities before taxation (2012 surplus: £21,448) reflects the transfer of a provision for late claimants of £250,000 from long-term creditors to other reserves. This sum has been set aside for unclaimed funds. Whilst DACS is not aware of anyone who has not been paid, if a claimant does come forward then the money must be available. The directors consider this to be a prudent sum to hold in reserve for this eventuality. Excluding this adjustment, the results would show a deficit of £89,782 which reflects the costs of reorganising DACS in order to optimise income for artists and artists' estates in the future.

DACS completed the purchase of a 999 year lease on a property in Bethnal Green, London, in February 2014 for a cost of £827,500, as part of an overall capital spend of approximately £2m to bring the building into use as DACS' office. Following our lease expiry DACS will relocate from Great Sutton Street to Old Bethnal Green Road in September 2014. The acquisition of a long-lease building follows a consultation with stakeholders and offers far superior value to commercial lets for DACS.

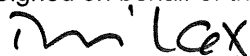
In respect of financial key performance indicators, DACS' success can be measured by the amount we are able to pay visual artists. In 2013 £14.73 million (being £14.48m as shown in the income and expenditure account plus the £0.25m provision described above) became payable to visual artists across all our revenue generating services, representing an increase of 14% on the 2012 figure of £12.92 million.

As always, the successes of 2013 owe much to the diligence of DACS' dedicated staff and Board of Directors. They share a passion and vision of the way in which DACS can work for the greater benefit of visual artists and artists' estates.

FINANCIAL RISK MANAGEMENT OBJECTIVES AND POLICIES

The Company undertakes regular reviews of its treasury management policies. DACS is not exposed to any concentration of exchange or credit risks and monitors cashflows as part of its day to day control procedures.

Signed on behalf of the Directors



Tom Wilcox
Company Secretary

Approved by the Directors on

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

DIRECTORS' REPORT

YEAR ENDED 31 DECEMBER 2013

The Directors present their report and the financial statements of the Company for the year ended 31 December 2013.

RESULTS

The profit for the year, after taxation, amounted to £141,033.

DIRECTORS

The Directors who served the Company during the year were as follows:

Mark Stephens CBE

Ian Coleman

Brendan Finucane

Matthew Flowers

Conor Kelly

Herman Lelie

Emily Thomas

Klaus Thymann

Cortina Butler

(Appointed 1 May 2013)

DIRECTORS' RESPONSIBILITIES

The Directors are responsible for preparing the Strategic Report, Directors' Report and the financial statements in accordance with applicable law and regulations.

Company law requires the Directors to prepare financial statements for each financial year. Under that law the Directors have elected to prepare the financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law). Under Company law the Directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the Company and of the surplus or deficit of the Company for that year.

In preparing these financial statements, the Directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and accounting estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Company will continue in business.

The Directors are responsible for keeping adequate accounting records that are sufficient to show and explain the Company's transactions and disclose with reasonable accuracy at any time the financial position of the Company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the Company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

STRATEGIC REPORT

In accordance with section 414C(11) of the Companies Act 2006 the Company has chosen to include information in relation to future developments and financial risk management in the Company's strategic report.

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

DIRECTORS' REPORT *(continued)*

YEAR ENDED 31 DECEMBER 2013

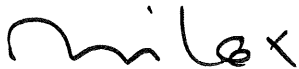
AUDITOR

Lubbock Fine are deemed to be re-appointed in accordance with an elective resolution made under section 386 of the Companies Act 1985 which continues in force under the Companies Act 2006.

Each of the persons who is a director at the date of approval of this report confirm that:

- so far as each director is aware, there is no relevant audit information of which the Company's auditor is unaware; and
- each director has taken all steps that they ought to have taken as a director to make themselves aware of any relevant audit information and to establish that the Company's auditor is aware of that information.

Signed on behalf of the Directors



Tom Wilcox
Company Secretary

Approved by the Directors on

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

**INDEPENDENT AUDITOR'S REPORT TO THE SHAREHOLDERS OF DESIGN AND ARTISTS
COPYRIGHT SOCIETY**

YEAR ENDED 31 DECEMBER 2013

We have audited the financial statements of Design and Artists Copyright Society for the year ended 31 December 2013. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice).

This report is made solely to the Company's shareholders, as a body, in accordance with Chapter 3 of Part 16 of the Companies Act 2006. Our audit work has been undertaken so that we might state to the Company's shareholders those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the Company's shareholders as a body, for our audit work, for this report, or for the opinions we have formed.

RESPECTIVE RESPONSIBILITIES OF DIRECTORS AND AUDITOR

As explained more fully in the Directors' Responsibilities Statement set out on page 4, the Directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

SCOPE OF THE AUDIT OF THE FINANCIAL STATEMENTS

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Directors; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the annual report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

OPINION ON FINANCIAL STATEMENTS

In our opinion the financial statements:

- give a true and fair view of the state of the Company's affairs as at 31 December 2013 and of its surplus for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been prepared in accordance with the requirements of the Companies Act 2006.

OPINION ON OTHER MATTER PRESCRIBED BY THE COMPANIES ACT 2006

In our opinion the information given in the Strategic Report and Directors' Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

**INDEPENDENT AUDITOR'S REPORT TO THE SHAREHOLDERS OF DESIGN AND ARTISTS
COPYRIGHT SOCIETY (continued)**

YEAR ENDED 31 DECEMBER 2013

MATTERS ON WHICH WE ARE REQUIRED TO REPORT BY EXCEPTION

We have nothing to report in respect of the following matters where the Companies Act 2006 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept, or returns adequate for our audit have not been received from branches not visited by us; or
- the financial statements are not in agreement with the accounting records and returns; or
- certain disclosures of Directors' remuneration specified by law are not made; or
- we have not received all the information and explanations we require for our audit.



Neil Williams (Senior Statutory Auditor)
For and on behalf of
Lubbock Fine
Chartered Accountants & Statutory Auditor

Date: 7/8/14

3rd Floor, Paternoster House
65 St Pauls Churchyard
London, EC4M 8AB

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

INCOME AND EXPENDITURE ACCOUNT

YEAR ENDED 31 DECEMBER 2013

	Note	2013 £	2012 £
TURNOVER	2	17,565,987	15,595,798
Amounts payable to artists		(14,482,939)	(12,922,656)
GROSS SURPLUS		<u>3,083,048</u>	<u>2,673,142</u>
Administrative expenses		(3,050,390)	(2,793,286)
Other operating income	3	<u>2,079</u>	<u>83</u>
OPERATING SURPLUS/(DEFICIT)	4	<u>34,737</u>	<u>(120,061)</u>
Interest receivable		<u>125,481</u>	<u>141,509</u>
SURPLUS ON ORDINARY ACTIVITIES BEFORE TAXATION		160,218	21,448
Tax on surplus on ordinary activities	7	(19,185)	10,511
SURPLUS FOR THE FINANCIAL YEAR		<u><u>141,033</u></u>	<u><u>31,959</u></u>

All of the activities of the Company are classed as continuing.

The Company has no recognised gains or losses other than the results for the year as set out above.

The notes on pages 11 to 18 form part of these financial statements.

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

BALANCE SHEET

AS AT 31 DECEMBER 2013

	Note	£	2013 £	£	2012 £
FIXED ASSETS					
Tangible assets	8		542,636		739,072
Investments	9		3,750		3,750
			<u>546,386</u>		<u>742,822</u>
CURRENT ASSETS					
Debtors	10	1,449,042		973,092	
Cash at bank		9,952,588		9,883,312	
		<u>11,401,630</u>		<u>10,856,404</u>	
CREDITORS: Amounts falling due within one year	11	10,843,389		10,385,632	
			<u>558,241</u>		<u>470,772</u>
NET CURRENT ASSETS					
			<u>1,104,627</u>		<u>1,213,594</u>
TOTAL ASSETS LESS CURRENT LIABILITIES					
PROVISIONS FOR LIABILITIES					
Other provisions	13		79,000		329,000
			<u>1,025,627</u>		<u>884,594</u>
RESERVES	16				
Other reserves	17		250,000		—
Income and expenditure account	18		775,627		884,594
MEMBERS' FUNDS			<u>1,025,627</u>		<u>884,594</u>

These accounts were approved by the Directors and authorised for issue on, and are signed on their behalf by:


Mark Stephens
Director

Company Registration Number: 01780482

The notes on pages 11 to 18 form part of these financial statements.

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

CASH FLOW STATEMENT

YEAR ENDED 31 DECEMBER 2013

	Note	£	2013 £	£	2012 £
NET CASH INFLOW FROM OPERATING ACTIVITIES	19		32,995		2,864,395
RETURNS ON INVESTMENTS AND SERVICING OF FINANCE					
Interest received		129,660		143,789	
NET CASH INFLOW FROM RETURNS ON INVESTMENTS AND SERVICING OF FINANCE			129,660		143,789
TAXATION			(15,762)		—
CAPITAL EXPENDITURE					
Payments to acquire tangible fixed assets		(77,617)		(396,995)	
NET CASH OUTFLOW FROM CAPITAL EXPENDITURE			(77,617)		(396,995)
INCREASE IN CASH	20		<u>69,276</u>		<u>2,611,189</u>

NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

1. ACCOUNTING POLICIES

Basis of accounting

The financial statements have been prepared under the historical cost convention.

Turnover

Individual Administered Rights

Individual Administered Rights are those that can be administered transactionally or on an individual basis. Income is recognised once the sale has been confirmed.

Collectively Administered Rights

Collectively Administered Rights are those that cannot be administered transactionally or on an individual basis. They are usually licensed under a blanket licensing scheme operated by a third party, and where there is uncertainty regarding the receipt of such funds, the income is recognised on a cash received basis only.

Artists Resale Rights

Artist Resale Rights are conferred by legislation, which allows DACS to collect income on behalf of qualifying artists on secondary sales made by art market professionals. Income under the Resale Rights scheme is invoiced once DACS has been informed that a sale has been made to a third party by the art market professional. DACS does review each sale and agree it with the art market professional. Revenue is recognised once the sale has been confirmed.

Research and Development

Research and Development expenditure is written off in the year in which it is incurred.

Depreciation

Depreciation is calculated so as to write off the cost of an asset, less its estimated residual value, over the useful economic life of that asset as follows:

Leasehold Improvements	-	10% per annum of cost
Office Equipment	-	25% per annum of cost
Fixtures & Fittings	-	15% per annum of cost
Computer Equipment	-	25% per annum of cost

Assets under construction comprises of software development costs, project management fees and directly attributable staff costs for the creation of computer software for the Company's use. Costs are transferred to computer equipment when a particular phase of the project is available for use. No depreciation is charged on assets under construction.

Operating Lease Agreements

Rentals applicable to operating leases where substantially all of the benefits and risks of ownership remain with the lessor are charged against income on a straight line basis over the period of the lease.

Pension Costs

The Company operates a pension scheme for the benefit of its employees. The scheme is a defined contribution scheme and the contributions are charged against profits as they are paid.

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NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

1. ACCOUNTING POLICIES *(continued)*

Deferred taxation

Deferred tax is recognised in respect of all timing differences that have originated but not reversed at the balance sheet date where transactions or events have occurred at that date that will result in an obligation to pay more, or a right to pay less or to receive more tax, with the following exception:

Deferred tax assets are recognised only to the extent that the Directors consider that it is more likely than not that there will be suitable taxable profits from which the future reversal of the underlying timing differences can be deducted.

Deferred tax is measured on an undiscounted basis at the tax rates that are expected to apply in the periods in which timing differences reverse, based on tax rates and laws enacted or substantively enacted at the balance sheet date.

Fixed asset investments

Fixed asset investments are included in the balance sheet at market value. The valuation is based on Director's estimate at the year-end since a formal third party valuation cannot be obtained without disproportionate expense.

2. TURNOVER

The turnover and profit before tax are attributable to the one principal activity of the Company.

An analysis of turnover is given below:

	2013	2012
	£	£
United Kingdom	16,293,954	14,417,245
Overseas	1,272,033	1,178,553
	<u>17,565,987</u>	<u>15,595,798</u>

3. OTHER OPERATING INCOME

	2013	2012
	£	£
Other operating income	<u>2,079</u>	<u>83</u>

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NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

4. OPERATING SURPLUS/(DEFICIT)

Operating surplus/(deficit) is stated after charging:

	2013	2012
	£	£
Research and development expenditure written off	52,404	109,233
Depreciation of owned fixed assets	292,117	254,982
Loss on disposal of fixed assets	—	818
Auditor's remuneration		
- as auditor	8,100	7,500
- for other services	11,491	16,350
Operating lease costs:		
- Other	104,100	104,100
	<u>104,100</u>	<u>104,100</u>

5. PARTICULARS OF EMPLOYEES

The average number of staff employed by the Company during the financial year amounted to:

	2013	2012
	No	No
Number of administrative staff	38	34
Number of management staff	4	5
Number of non-executive Directors (payroll)	9	7
	<u>51</u>	<u>46</u>

The aggregate payroll costs of the above were:

	2013	2012
	£	£
Wages and salaries	1,613,207	1,370,790
Social security costs	158,381	135,418
Other pension costs	60,691	57,013
	<u>1,832,279</u>	<u>1,563,221</u>

6. DIRECTORS' REMUNERATION

The Directors' aggregate remuneration in respect of qualifying services were:

	2013	2012
	£	£
Remuneration receivable	<u>47,610</u>	<u>45,759</u>

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NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

7. TAXATION ON ORDINARY ACTIVITIES

(a) Analysis of charge in the year

	2013	2012
	£	£
Current tax:		
UK Taxation		
In respect of the year:		
UK Corporation tax based on the results for the year	-	15,766
Foreign tax		
Adjustments in respect of prior periods	19,185	-
Total current tax	19,185	15,766
Deferred tax:		
Origination and reversal of timing differences		
Capital allowances	-	(26,277)
Tax on surplus on ordinary activities	19,185	(10,511)

A deferred tax asset of £7,530 (2012 - £1,606) has not been recognised in the accounts as it is uncertain whether the Company will make sufficient future taxable profits to utilise this asset. The asset arises due to losses generated by the Company in previous periods which may be offset against future taxable profits.

(b) Factors affecting current tax charge

The tax assessed on the surplus on ordinary activities for the year is higher than the standard rate of corporation tax in the UK of 20% (2012 - 20%).

	2013	2012
	£	£
Surplus on ordinary activities before taxation	160,218	21,448
(Deficit)/surplus on ordinary activities by rate of tax	32,044	4,290
Expenses not deductible for tax purposes	5,327	1,029
Movement in timing differences	(5,924)	14,284
(Over)/underprovision of tax in the prior year	19,185	-
Additional relief from potential R&D claim	(31,447)	-
Relief from tax suffered overseas	-	(3,837)
Total current tax (note 7(a))	19,185	15,766

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NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

8. TANGIBLE FIXED ASSETS

	Leasehold Improvements £	Office Equipment £	Fixtures & Fittings £	Computer Equipment £	Fixed assets under construction £	Total £
COST						
At 1 Jan 2013	46,577	141,416	78,137	1,170,795	–	1,436,925
Additions	–	2,191	9,818	32,060	51,612	95,681
Disposals	–	(149)	(176)	–	–	(325)
At 31 Dec 2013	<u>46,577</u>	<u>143,458</u>	<u>87,779</u>	<u>1,202,855</u>	<u>51,612</u>	<u>1,532,281</u>
DEPRECIATION						
At 1 Jan 2013	37,262	75,848	65,090	519,653	–	697,853
Charge for the year	4,916	24,012	7,521	255,668	–	292,117
On disposals	–	(149)	(176)	–	–	(325)
At 31 Dec 2013	<u>42,178</u>	<u>99,711</u>	<u>72,435</u>	<u>775,321</u>	<u>–</u>	<u>989,645</u>
NET BOOK VALUE						
At 31 Dec 2013	<u>4,399</u>	<u>43,747</u>	<u>15,344</u>	<u>427,534</u>	<u>51,612</u>	<u>542,636</u>
At 31 Dec 2012	<u>9,315</u>	<u>65,568</u>	<u>13,047</u>	<u>651,142</u>	<u>–</u>	<u>739,072</u>

9. INVESTMENTS

Other investments

COST	£
At 1 January 2013 and 31 December 2013	<u>3,750</u>
NET BOOK VALUE	
At 31 December 2013 and 31 December 2012	<u>3,750</u>

Fixed asset investments are valued by the Directors at market value as at 31 December 2013. The investments represent a painting by Simon Black which his widow donated to DACS, and a rug by Elaine Kowalsky.

10. DEBTORS

	2013 £	2012 £
Trade debtors	1,000,151	504,662
VAT recoverable	276,783	–
Other debtors	89,383	109,960
Prepayments and accrued income	82,725	358,470
	<u>1,449,042</u>	<u>973,092</u>

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
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NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

10. DEBTORS *(continued)*

The debtors above include the following amounts falling due after more than one year:

	2013	2012
	£	£
Other debtors	—	61,159
	<u>—</u>	<u>61,159</u>

11. CREDITORS: Amounts falling due within one year

	2013	2012
	£	£
Trade creditors	10,307,809	9,720,435
Corporation tax	4	15,766
PAYE and social security	48,408	60,302
Other creditors	329,971	512,908
Accruals and deferred income	157,197	76,221
	<u>10,843,389</u>	<u>10,385,632</u>

Included in trade creditors is a provision of £962,677 (2012 - £630,318) payable to artists and estates for primary uses once the related debts included within Trade debtors have been physically collected.

12. PENSIONS

The Company makes contributions to the personal pension policies of some of its employees. Contributions are charged to the profit and loss account as they are paid. The charge for the year ended 31 December 2013 was £60,691 (2012 - £57,013).

13. OTHER PROVISIONS

	2013
	£
Provision for lease dilapidation:	
Balance brought and carried forward	79,000
Provision for late claims:	
Balance brought forward	250,000
Movement for year	(250,000)
	<u>—</u>

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NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

14. COMMITMENTS UNDER OPERATING LEASES

At 31 December 2013 the Company had annual commitments under non-cancellable operating leases as set out below.

	2013		2012	
	Land and buildings £	Other Items £	Land and buildings £	Other Items £
Operating leases which expire:				
Within 1 year	91,088	-	-	833
Within 2 to 5 years	-	5,228	104,100	4,395
	<u>91,088</u>	<u>5,228</u>	<u>104,100</u>	<u>5,228</u>

15. RELATED PARTY TRANSACTIONS

During the year DACS received distributions of £5,438,760 (2012 - £4,663,793) from The Copyright Licensing Agency. The CEO of DACS, Gilane Tawadros is an observer on the Board of the CLA (2012 - Andrew Potter who is a director of The Copyright Licensing Agency was a former director of DACS.)

During the year the amounts payable to artists includes £709 (2012 - £677) payable to Klaus Thyman, a director of the Company.

During the year there were legal fees of £8,049 (2012 - £nil) for services provided by HowardKennedyFSI (formerly known as Finers Stephens Innocent), a partnership in which Mark Stephens CBE a director, is a partner. At the balance sheet date £187 (2012 - £nil) was due to Finers Stephens Innocent.

During the year, sales of £166 (2012 - £2,256) were made to Pallant House Gallery, a Company in which Brendan Finucane a director, is a director. At the balance sheet date £164 (2012 - £nil) was due from Pallant House Gallery.

During the year, sales of £712 (2012 - £1,173) were made to Angela Flowers Gallery Limited, a Company in which Matthew Flowers a director, is a director. At the balance sheet date £nil (2012 - £nil) was due from Angela Flowers Gallery Limited.

All the above transactions were on an arm's length basis.

16. COMPANY LIMITED BY GUARANTEE

Design and Artists Copyright Society is a Company limited by guarantee and accordingly does not have a share capital.

Every member of the Company undertakes to contribute such amount as may be required not exceeding £1 to the assets of the Company in the event of its being wound up while he or she is a member, or within one year after he or she ceases to be a member.

17. OTHER RESERVES

	2013 £	2012 £
Late claims reserve:	<u>250,000</u>	<u>-</u>

**DESIGN AND ARTISTS COPYRIGHT SOCIETY
COMPANY LIMITED BY GUARANTEE**

NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED 31 DECEMBER 2013

18. INCOME AND EXPENDITURE ACCOUNT

	2013	2012
	£	£
Balance brought forward	884,594	852,635
Surplus for the financial year	141,033	31,959
Transfer to late claims reserve	(250,000)	—
Balance carried forward	<u>775,627</u>	<u>884,594</u>

**19. RECONCILIATION OF OPERATING PROFIT/(LOSS) TO
NET CASH INFLOW FROM OPERATING ACTIVITIES**

	2013	2012
	£	£
Operating surplus/(deficit)	34,737	(120,061)
Depreciation	292,117	254,982
Loss on disposal of fixed assets	—	818
(Increase)/decrease in debtors	(499,314)	313,686
Increase in creditors	455,455	2,370,970
(Decrease)/increase in provisions	(250,000)	44,000
Net cash inflow from operating activities	<u>32,995</u>	<u>2,864,395</u>

20. RECONCILIATION OF NET CASH FLOW TO MOVEMENT IN NET FUNDS

	2013	2012
	£	£
Increase in cash in the period	69,276	2,611,189
Movement in net funds in the period	<u>69,276</u>	<u>2,611,189</u>
Net funds at 1 January 2013	9,883,312	7,272,123
Net funds at 31 December 2013	<u>9,952,588</u>	<u>9,883,312</u>

21. ANALYSIS OF CHANGES IN NET FUNDS

	At		At
	1 Jan 2013	Cash flows	31 Dec 2013
	£	£	£
Net cash:			
Cash in hand and at bank	9,883,312	69,276	9,952,588
Net funds	<u>9,883,312</u>	<u>69,276</u>	<u>9,952,588</u>

22. POST BALANCE SHEET EVENTS

In February 2014 DACS completed the purchase of a 999 year lease on a property in Bethnal Green, London, for a cost of £827,500, as part of an overall capital spend of approximately £2m to bring the building into use as DACS' office.