



British Academy of Songwriters,
Composers & Authors

IPO CONSULTATION

Collective rights management in the Digital Single Market

8th November 2015

IPO Consultation on the Draft Regulations implementing the CRM
Collective rights management in the Digital Single Market

I. ABOUT BASCA

BASCA, the British Academy of Songwriters, Composers and Authors, is the single voice for British music creators as the professional association for music writers of all genres in the UK.

BASCA works to foster a sense of community amongst songwriters, lyricists and composers, and to campaign on their behalf in the domestic, European and international political arenas. As the only association in the country made up entirely of music writers, the organisation has an unparalleled insight into the issues affecting music creators in the UK today. We work closely with our members, keeping them informed in a constantly changing environment via our publications, websites, seminars and professional networking events. BASCA also presents the Ivor Novello Awards, British Composer Awards and Gold Badge Awards annually.

Membership of BASCA is open to working songwriters who are members of a royalty collection society, such as PRS for Music, BMI or ASCAP.

BASCA Fellows: John Adams, David Arnold, Sir Malcolm Arnold, John Barry, Don Black, Pierre Boulez, Sir John Dankworth, David Ferguson, George Fenton, Sir Elton John, Barry Gibb, Maurice Gibb, Robin Gibb, Sir Andrew Lloyd Webber, Sir Paul McCartney, Sir Peter Maxwell Davies and Sir Tim Rice.

For more information about us, please refer to the following website: www.basca.org.uk.

2. QUESTIONS

We will be answering the following questions:

1. Do the draft Regulations correctly implement the Directive?

6. Do you agree that the draft Regulations provide for an effective, proportionate and dissuasive sanctions regime?

BASCA welcomes the long-awaited implementation of the CRM Directive. It is acknowledged that the UK CMOs already have high standards of governance and transparency making them world leaders in their business and administrative practices. The CRM Directive should enable all other CMOs within the European Union to achieve similar standards, which in turn will also benefit UK writers.

We believe the draft Regulations, by taking the route to ‘copy out’ the Directive into UK law as far as possible, correctly implement the Collective Rights Management Directive. This will require revoking the existing regulations requiring UK collective management organisations to have codes of practice based on minimum standards set by the Government – The Copyright (Regulation of Relevant Licensing Bodies) Regulations 2014 (“the 2014 Regulations”).

The Regulations also take advantage of discretionary provisions where these gave useful flexibility; we therefore would like to welcome the increased importance of members in CMOs and the opportunities to participate and engage more in the operations of CMOs (such as through the General Assembly). The Regulations also retain some provisions of the 2014 Regulations where these provided important protections outside the scope of the Directive, such as a requirement for CMOs to have a complaints process for licensees as well as members and we agree this is a positive inclusion.

Our main areas of concern rests on the sanctions regime. Since CMOs are owned by their members, any sanctions on the CMO will be a financial burden to the members. We would like to emphasise the inability of CMOs to absorb costs: as they are member organisations all costs will be passed on to their members to the detriment of their income. A cost placed on a CMO is a cost to its individual members. It is suggested that sanctions can be imposed up to the value of £50,000 (Regulation 36). This option is not found in the Directive itself; rather there is a reference to the need for sanctions to be appropriate.

In terms of the proportionality the only direction the Directive gives is that they must be proportionate, yet £50,000 fine would be a large cost even for a UK music CMO never mind the smaller CMOS. The sanctions that already exist in the Code of Conducts are a voluntary system and enshrining those elements in statutory obligations seems heavy handed and goes far beyond the scope of the Directive itself. We would urge a re-think about the extent of these sanctions to ensure it is not individual members who are punished for a poorly behaving CMO.