

Consultation response form

Responding to the consultation

On this form, please provide your responses to the questions outlined in this document. You do not have to complete the whole form – please answer the questions that are most relevant to you.

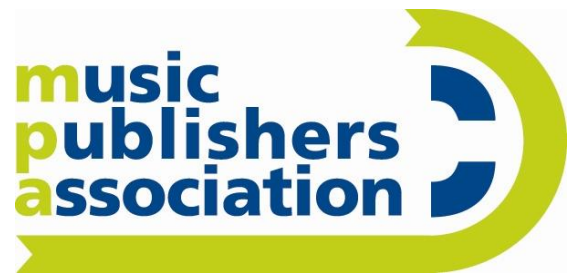
Please note: This consultation forms part of a publication exercise. As such, your response may be subject to publication or disclosure in accordance with access to information regimes (these are primarily the Freedom of Information Act (FOIA), the Data Protection Act (DPA) and the Environment Information Regulations 2004).

If you do not want part or whole of your response or name to be made public please state this clearly in the response, explaining why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system cannot be regarded as a formal request for confidentiality.

The closing date for responses is Monday 7 October 2013 at 12 midday.

About You and Your Organisation

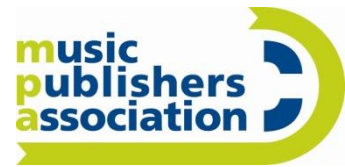
Your name	Harriet Finney
Job Title	Public Affairs Manager
Organisation Name	Music Publishers Association
Organisation's main products/services	Trade Association/Collection Society



MUSIC PUBLISHERS ASSOCIATION

**RESPONSE TO THE CONSULTATION ON THE REGULATION OF
LICENSING BODIES**

7th October 2013



MPA response to the consultation on regulation of licensing bodies

1. The Music Publishers Association (“MPA”) is a trade association representing and safeguarding the interests of its members, who are UK music publishing companies. The MPA also owns two collection societies:
 - The **Mechanical-Copyright Protection Society Ltd (“MCPS”)** is appointed by its members - publishers and other owners of musical works - to manage the mechanical rights in those musical works. MCPS licenses the mechanical right to music users, collects fees and distributes royalties to its members. These operations are contracted to PRS for Music as defined by a service level agreement.
 - **Printed Music Licensing Ltd (“PMLL”)** was set up in 2013 and manages the licensing of the copying of printed music in the UK on behalf of music publishers. Its Schools Printed Music Licence (“SPML”) covers the copying of printed sheet music in schools and is offered to schools exclusively by The Copyright Licensing Agency (“CLA”), acting as sole agents.
2. The MPA, PRS for Music and the CLA are all members of the British Copyright Council (“BCC”) and as such were involved in the development of the BCC “Principles for Collecting Societies’ Codes of Conduct”. Both the MCPS, through PRS for Music, and PMLL have Codes of Conduct based on these principles.
3. The MPA has not made a full submission to this consultation. We have, however, seen the responses submitted by both PRS for Music and the CLA. In addition we would like to make the following observations.

Response to Q1: Does the proposed definition correctly capture the type of body on which we consulted? Is it too narrow or too broad? What , if any impact, will this definition have on the various entities that are currently operating in the collective licensing market? Please give reasons for your answer?

We support the PRS for Music response to question 1 of the consultation that “The IPO have chosen to use the definition of “collective management organisation” from the CRM Directive. It is confusing to use this definition in association with the term ‘*relevant* licensing body’. In the UK ‘licensing body’ has very specific meaning in s.116 CDPA and it is different from ‘*relevant* licensing body’ in the context of the proposed regulations. Confusion is inevitable if CDPA uses two highly similar definitions for different types of organizations. It would make more sense to use the term ‘collective management organisation’ here in relation to statutory codes. This would be

more consistent with having published '*Minimum Standards for UK **Collecting Societies***' (*our emphasis*). In our view this would also set the system up more logically with the introduction and adaptation of the regulations for the purposes of the future implementation of the CRM Directive. "

In addition to this it is important to clarify that from the perspective of the music publishing industry, music publishers cannot be considered as carrying out the same activities as collective rights management organisations. Music publishers license rights that have been transferred to them on the basis of individually negotiated agreements. This important clarification has been noted in both the Council text and the Parliament text of the CRM Directive where the status of publishers has been explicitly recognised:

Council Text Recital 7da: *Book, music or newspaper publishers license rights that have been transferred to them on the basis of individually negotiated agreements and act in their own interest. Therefore audio-visual producers, record producers, broadcasters as well as publishers should not be considered "independent management entities"*

EP Text Recital 7f: *For the purposes of this Directive, collective management organisations should cover not-for-profit organisations which are authorised by more than one rightholder to manage copyright or related rights as their main activity and which are owned or directly or indirectly controlled by rightholders. Individual companies which, in the normal course of their business, are engaged on a commercial basis in the production of content or the licensing of rights (such as music publishers, book publishers or music companies) should not be covered by this Directive.*

In light of the above, it is vital that any definition used by the IPO in their Regulation of Licensing Bodies, recognises that music publishers should by no means be considered as bodies who perform activities and functions similar to traditional collecting societies.

Part 2 – Effect of a direction

4 (1) The relevant licensing body must **within 28 days** of the date on which a direction is made notify to the Secretary of State a code of practice that complies with the specified criteria and that it proposes to adopt in accordance with the direction.

MPA Comment: *28 days is an unreasonably short time frame. As detailed in both the PRS for Music and CLA responses, the period required by a CMO to implement a new code of conduct is likely to be longer than this - particularly if it is to include a consultation with members, rights holders and users. For a small CMO with a limited number of staff - such as PMLL- it would be impossible to meet such a tight deadline. We support the PRS for Music position that a period of at least three months is required.*

Part 3 – Information, sanctions and penalties

10. (1) The Secretary of State may impose a sanction or penalty of such amount as he considers appropriate on a relevant licensing body or on a director, manager or similar officer...

MPA Comment: *The imposition of sanctions or penalties on staff below the level of director in an organisation is not acceptable. We do not understand the reason for this and given that the terms under which the sanctions or penalties may be imposed are vague, we believe this would put unnecessary pressure on staff in an organisation.*

4. For further technical drafting comments we refer you to the submissions made by PRS for Music and the CLA.

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Chairman, MPA

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ABOUT THE MPA:

The Music Publishers Association (www.mpaonline.org.uk) is the trade association for music publishers in the UK, with over 270 members, representing nearly 4,000 catalogues covering every genre of music. Our members include all three of the UK's "major" music publishers, independent pop publishers, classical publishers, production music publishers and also printed music publishers. We estimate that our members represent around 95% of publishing activity in the UK.

The vast majority of our member companies are small or medium sized enterprises. Many of our member companies are multi-disciplinary music companies, operating not just as music publishers but as record labels, managers, promoters, producers, manufacturers, distributors and retailers.

The MPA is the owner of the Mechanical Copyright Protection Society (www.prsformusic.com) and of Printed Music Licensing Limited (www.printmusiclicensing.co.uk), which licenses the copying of sheet music in schools.