

CODE OF BEST PRACTICE RELATING TO DISPUTES OVER RELINQUISHMENTS APPROVED BY THE BOARD OF THE MPA ON 14 MARCH 2013

The suggestion for this Code came out of discussions at the Operations Group. It has benefitted from the input of and guidance from colleagues at PRS for Music.

1. Overview

- 1.1 The amount of money in limbo due to disputes between Publishers is said to be approaching £5million in the UK, one market alone. To extrapolate a figure for the world would be difficult, but a figure of £30million is conceivable. In addition, the management of these thousands of works represents a large cost for the Publishers and for the Societies. At Societies this means, in particular probably, higher commissions. Even if there were to be a streamlining and deduplication of the process, the scale of the problem remains, as do fundamental concerns which are worthy of attention.
- 1.2 The very existence and success of the music publishing industry depends on the creative talent of the writers and the promotional skills of rights holders. These parties must surely be free to conclude fixed length or rolling term or option based agreements with administrators or subpublishers, and then elect to move their songs to a new home later on at the conclusion of their agreement term (and with due regard to retention period and post term collection period). The collection societies require conclusive confirmation before switching on the administration rights of the new subpublisher or administrator and this almost always requires a process that asks the former administrator whether they confirm they do relinquish.
- 1.3 There can be said to be a range of conduct amongst publishers in this regard. It surely must be inadvertent and unintended that some publishers do not reply to such requests in a timely fashion, or at all.

What follows is a proposal for a voluntary code of best practice which would lead to:-

- A reduced amount held at Societies
- An amount released and ultimately repatriated to writers and rights owners
- Sub publishers allowed to receive and commission monies
- Lower administration costs for Societies and Publishers
- A fair and even playing field

2. Code of Best Practice

- 2.1 The Society will inform the parties ("New Publisher", "Old Publisher") in accordance with its duplicate claims and disputes policy of a potential dispute as to ownership of a work or catalogue. Both Publishers should conduct research into the dispute as early as possible.
- 2.2 In the event that the research indicates that there is a dispute, then both parties shall forthwith ask for substantiating paperwork to be supplied to them by their respective head office (office holding original signed agreements).

- 2.3 Each party shall provide to the other contractual or other paperwork so that there can be comparison as early as possible.
- 2.4 If one party provides a full chain of title and is the only party that can, then the other party should relinquish.
- 2.5 Relinquish promptly and, in this respect, both parties shall work together to ensure that the process of registration/reregistration, in the name of the New Publisher, of the work(s) or catalogue of works in question is carried out expeditiously.
- 2.6 Relinquish in a manner that allows the New Publisher and the Old Publisher fully to perform the duties and enjoy the benefits of their contract and the accompanying expectations – for example the right of the Old Publisher to collect pipeline royalties to which it is entitled and the right of the New Publisher actively to promote the work(s) or catalogue of works in question.

Speed in dealing with disputes is of the essence – sometimes reasonable delay may be justified for operational reasons such as exigencies of royalty accounting deadlines.

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