

ARTICLE 9

Copyright Policy

Approved by the ISM Council on 29 May 2012

Background

As part of its governance review the ISM has looked at the ISM's current role in receiving income relating to members' copyrights and performances. Currently the ISM has this role in relation to educational recordings of broadcasts (through ISM's membership of the ERA) and also in relation to windfall payments the ISM has received for many years in relation to the retransmission abroad of UK television programmes by cable. It also is conceivable that the ISM may in future be able to secure additional income by representing the membership as a whole in relation to new areas of copyright and performances exploitation, in a similar way as has been done for cable income. In all these cases the income is or would be not attributable to individual members and is or would be received for specific general usage by the ISM for the ISM's general purposes, including to subsidise subscriptions.

The new Articles of Association which were adopted on 13 April 2012 ("Articles") deal with the above in Article 9: Article 9.1.1 dealing with the ERA income, Article 9.1.2 dealing with cable income and Article 9.1.3 dealing with possible future income streams. The reason for Article 9 is to ensure that the ISM has the authority it needs from ISM members in order to continue to benefit from the ERA and cable income revenue streams and also future revenue streams where these relate to the ISM's role as a representative body in collecting income which is not attributable to individual members and which arises generally and not through collective licensing nor by virtue of the exercise of members' individual rights.

Copyright is a complex area particularly in the context of music rights where a member of the ISM may also be a member of one or more collecting societies (e.g. PRS) or membership organisations (e.g. MU). It is also a fast-moving area of the law. Accordingly the Council of the ISM have determined that a binding policy should be issued as regards how ISM will exercise its rights under Article 9 in order to give certainty to members in certain key areas. In addition the ISM has consulted with the PRS who collectively manage (as owner of the relevant ERA, cable retransmission and other applicable rights in their respective musical works), copyright for those ISM members who, in their capacity as composers, are also PRS members. The PRS have confirmed that Article 9 is consistent

with membership of PRS and in particular (i) that the provisions of Article 9 do not conflict with any obligations ISM members may have to the PRS in relation to their compositions and that ISM members are entitled to be members of both the ISM and the PRS without restriction, and (ii) that in light of the revised Articles and this policy ISM's rights under the Articles do not diminish or take away: rights that ISM members may have granted or assigned to the PRS or which they may grant or assign to the PRS in the future as a condition of membership of the PRS or otherwise; or benefits to which ISM members may be or become entitled by virtue of their membership of PRS, including, as regards any interest PRS may have in relation to income from the ERA and cable transmissions, their rights to participate in distributions of such income from time to time made by PRS to or for the benefit of the composers of the musical works in PRS' repertoire.

Policy Principles

The ISM confirms and undertakes for the benefit of its membership that in exercising its rights under Article 9 the ISM will abide by the following policy principles:

1. The exercise of ISM's rights in Article 9 will not be undertaken by the ISM in a manner which would put a member in conflict with any obligations he/she may owe now or in the future to any collecting society or membership organisation (e.g. the MU, the PRS, Equity) or which would directly or indirectly (i) conflict with rights the member may have granted or assigned to others or (ii) deprive the member of income which he/she may be individually entitled to receive from any collecting society or membership organisation by virtue of the grant or assignment of rights or should he/she choose to individually license any rights (e.g. grand rights in the case of a composer) that are not assigned or licensed to a collecting society or membership organisation.
2. Specifically as regards Article 9.1.3 it is confirmed that this Article will only ever be invoked by the ISM in relation to income which is not attributable to individual members and is received for specific general usage by the ISM.