



# GLOBAL BRIEFING

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“My idea is that there is music in the air, music all around us; the world is full of it, and you simply take as much as you require.”

Edward Elgar, English Composer (1857 - 1934)

## INTERNATIONAL

### US urges EU to adopt ACTA

Speaking at a conference in Brussels on 16 February, US Ambassador to the EU, William Kennard, stressed his government’s eagerness to see the European Parliament (EP) pass the Anti-Counterfeiting Trade Agreement (ACTA) this year.

Ambassador Kennard underlined the US determination to pursue IP infringements through legal means, and described the US stance on anti-piracy laws as “somewhere in the middle” between the French model of cutting off internet access for persistent offenders and those regimes promoting a totally free file-sharing environment.

### EU and Korea FTA to have strong provisions on IP rights protection

The Free Trade Agreement between the EU and Korea, which will come into effect on July 1st, will carry strong provisions on intellectual property rights protection including an extension of patent rights for pharmaceuticals and data exclusivity. The chapter on IP carries clear criminal liability provisions for online intellectual property infringements including not only copyright, related rights and trademarks, but also designs, services marks, layout designs of integrated circuits (in chip production), geographical indications, plant varieties and the “protection of undisclosed information”.

## North America

### IIPA submits recommendation to USTR “Special 301” review

The International Intellectual Property Alliance (IIPA) submitted its annual “Special 301” review to the US Trade Representative on 15 February. The alliance of seven member associations, among which ICMP Member the NMPA, aims to protect creative industries, reduce piracy and challenge barriers to US copyrights in order to boost US exports, create jobs and drive economic growth.

U.S. trade law ("Special 301") requires an annual review of intellectual property protection and market access practices in foreign countries. IIPA is recommending that 13 countries be placed on the 2011 Priority Watch list - Argentina, Canada, China, Costa Rica, India, Indonesia, the Philippines, Russia, Spain, Thailand, Ukraine and Vietnam.

## Europe

### European Commission hires UK consultancy to come up with a methodology to measure piracy and counterfeiting

RAND Europe has been commissioned by the European Commission, DG Internal Market & Services, to consider the current levels of counterfeiting and piracy trade in the EU; the nature in which these goods enter and exit the EU marketplace; and the social and economic implications of IPR violations. The researchers will review estimates and methodologies in existing literature, and develop and apply an objective methodology to quantify the scope, size and impacts of counterfeiting and piracy in the EU, which can be reproduced in subsequent years. Measuring the extent of counterfeiting and piracy is

challenging and there are limitations to current estimates of the size and impact of these practices throughout the European Union.

### **Conference outlines Priority Actions for Single Market Act**

A conference held in Brussels on 8 February debated priorities for the Single Market Act revival and placed Growth and Jobs as the driving criteria. Attended by several Commissioners including President Barroso and Internal Markets Commissioner Michel Barnier as well as MEPs, representatives of the Hungarian Presidency and experts from the world of business, unions and consumer groups, the conference explored the need for equitable and sustainable growth with social assessment and cohesion.

Commissioner Barnier called for 12 of the 50 actions in the Consultation Document to be prioritized and adopted by next year to mark the 20th anniversary of the Single Market in 2012. He called for input by all stakeholders and ICMP will be sending a submission as part of the ongoing consultation process. Priorities are likely to include: Enforcement of existing rules; E-Commerce as a driving force for SMEs, the digital agenda and intellectual and industrial property; and Taxation – both corporate and indirect.

## **National and Members News**

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### **Bulgaria: Concerns continue over Copyright and Related Rights Act**

ICMP continues to voice its concerns over the proposed Bulgarian Copyright and Related Rights Act which is due to have its final vote in plenary shortly. The process to amend the Bulgarian Copyright and Related Rights Act began last spring and the amendments proposed are seen as detrimental to rightsholders. The main points of controversy of the Bill concern the remuneration for private copying levies and the re-organisation of collective rights management organisations.

Since May 2010, ICMP has sent numerous communiqués to the Bulgarian Government expressing the problems with the proposed bill and outlining its infringement of EU competition rules. Our last correspondence was in January 2011 to the Standing Committee on Culture, Civil Society and Media, expressing once again our unease about the Bill and urging them to take the concerns of the creative sectors in Bulgaria and internationally into account immediately. The draft Bill is however on course for adoption though it would appear that a significant number of Bulgarian MPs are also voicing forceful opposition.

Working with our Bulgarian members ICMP will seek to pursue action at EU level if the bill passes in plenary.

### **Mexico: SACM and EMMAC merge activities**

Sociedad de Autores y Compositores de Mexico (SACM) and Editores Mexicanos de Musica (EMMAC) – the Music Publishing Association of Mexico and ICMP's newest member - have combined their strengths to create a joint initiative licensing domestic and foreign musical works from all around the world. The new structure will facilitate current and future new business models, and make musical content available to users legally and at reasonable rates.

The uses licensed by EMMACSACM include music for communication and/or public performance without download (streaming), in any format such as webcasting and simulcasting, podcasting, vodcasting, as well as musical works download for Internet and Mobile Phone applications.

EMMACSACM will also ensure that the rights of holders remain intact, and that they will individually receive what is owed to them.

### **Australian Federation Against Copyright Theft (AFACT) considers appeal**

The Australian Federation Against Copyright Theft (AFACT) is considering appealing to the High Court following the victory by iiNet in its piracy battle with Hollywood. AFACT had hoped to convince the court that iiNet authorised online copyright breaches when it refused to pass notices of infringement to its customers. If they appeal, their main hope is riding on the fact that iiNet's repeat infringer policy did not entitle it to protection under safe harbour provisions that the United States has negotiated with its main trading partners. Arthur Emmett, the Judge in the case said that "Even though the Copyright Owners are not entitled to the relief claimed in this proceeding, it does not follow that that is an end of the matter. It is clear that the questions raised in the proceeding are on-going." Should the matter go to the High Court, it is unlikely to be settled for at least another year.

### **Norway: MPA appoints new Secretary General**

The Norwegian Music Publishers Association has appointed Cathrine Ruud as its new Secretary General. Ruud is well equipped to handle the issues facing the industry, particularly in relation to copyright law and she also has a great personal interest in music and looks forward to working for the NMFF. Cathrine will shortly take up her post in the Association's new offices at Kongens gate 4 in Oslo.

## **ICMP news**

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### **ICMP - IPA talks**

ICMP Secretary General, Ger Hatton, met recently in Geneva with Jens Bammel, Secretary General of the International Publishers Association (IPA) to discuss the common interests of both organisations regarding WIPO and other issues relating to publishers and the broader rightsholder community. ICMP is a member of the IPA and sits on its Copyright Committee. While there Hatton took the opportunity to meet with Nick Ashton-Hart to discuss the ongoing work of the Global Repertoire Database and the International Music Registry.

## **Other news**

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### **IFPI publishes digital music report 2011**

A comprehensive overview of the global digital music sector is provided in IFPI's Digital Music Report 2011, published on 20 January. The report shows that consumer choice for accessing music via digital channels continued to grow in 2010. New easy-to-use subscription models, such as Spotify, Deezer and Vodafone, expanded to complement the hundreds of download services already available to fans. Record companies have also partnered with ISPs and mobile operators to offer music services in Ireland, Taiwan, Italy, South Korea, Denmark, Norway and Sweden.

Digital music revenues grew in 2010, accounting for 29 per cent of record companies' trade revenues.

Despite these developments, however, digital piracy continues to massively erode industry revenues, hitting jobs, investment in new music and consumer choice. The report comprehensively reviews the scale and impact of the problem.

The complete report can be found here: <http://www.ifpi.org/content/library/DMR2011.pdf>

### **International Music Score Library Project continues to ignore copyright infringement**

IMSLP, a repository of public domain sheet music, is still making sheet music available for download around the world. While some of the music may be old enough to have outlived copyrights, a considerable portion of it is from later and current composers, a fact that those running the site continue to ignore. Those downloading music are expected to be aware of, and obey, any local copyrighting laws that may

vary from those in Canada, where the site is hosted, despite the fact that the site owners try to use the democratisation of classical music argument.

### **EMI chief optimistic about future of music industry**

In a recent interview with the LA Times, EMI's chief Roger Faxon was upbeat about the sector that he has worked in for more than 30 years and its ability to evolve and grow.

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**"We have to look at music not as a thing but a set of rights that we manage into every possible channel,"** said Faxon. **"The ability to link recorded music and music publishing is essential to making that transition."**

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He rejected the idea that the focus should be on one model or one supplier and preferred to place the focus on bringing value to the many different ways in which consumers connect with music.

### **World Copyright Summit announces speaker line-up**

The World Copyright Summit, in Brussels on 7-8 June, will gather creators, political leaders and key industry players to exchange ideas and debate the future of intellectual property and the Summit programme announced EU Commissioners, Michel Barnier and Neelie Kroes; Croatian President and music composer Ivo Josipović, French visual artist Hervé Di Rosa; and EMI Group CEO Roger Faxon among the speakers who will emphasise the need for constructive dialogue on the importance of copyright protection and the distribution of creative works in the digital era.

As it is being staged in the home of the EU institutions, the 2011 Summit will follow closely some of the important legislative initiatives taking place in the fields of copyright, collective licensing and the digital economy both in Brussels and at global level. ICMP sits on the Summit Advisory Committee.

Further details of the conference, programme and registration can be found at:

[www.copyrightsummit.com](http://www.copyrightsummit.com)

### **New mapping of cultural and creative sectors in the EU and China**

KEA, a Brussels-based research and advice centre specialised in cultural and creative industries, has just completed a study on "Mapping the Cultural and Creative Sectors in the EU and China". The report, which provides an overview of the cultural and creative sectors in the EU and China together with a database of the "key stakeholders", was commissioned by MOFCOM (the Chinese Ministry of Trade) and the European Commission as part of the 'EU-China Project on the Protection of Intellectual Property Rights' (IPR2). IPR2 supports the use of IP as a tool for business development between IP based industries including culture and creative industries.

The culture and creative industries ("CCIs") have become a priority sector in both the EU and China. The CCIs are contributing to 2.45% of the Chinese GDP and 2.6% of the EU's GDP and haven proven to be a significant economic sector and act as drivers of competitiveness and growth.

## **Upcoming meetings and events**

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### **ICMP:**

**ICMP panel at Frankfurt Musikmesse, 6 April 2011, Frankfurt, Germany**

### **OTHER:**

**Save-the-Date 7 & 8 June 2011: CISAC World Copyright Summit in Brussels**