INTRODUCTION

ICMP has worked throughout 2011 to support the global music publishing community and promote the interests of its members. It has furthered the industry agenda by engaging with key stakeholders at international, regional and local level, while also defending it against new and emerging challenges.

The work programme has included dialogue with policymakers, peers and media and ICMP has sought to communicate its position through a range of initiatives including events, speaker platforms, position papers, media outreach, meetings and partnerships.

In addition, during 2011 ICMP held an internal review of its governance structure in order to ensure an equitable and fair representation on the Board of Directors. Proposed changes have been made to the bylaws which will be reviewed at the ICMP General Assembly to be held in Cannes in January 2012.

This 2011 Annual Report groups ICMP activities in nine sections and elaborates the actions taken under each to advance the interests of music publishers globally.
Chapter 1  Upholding Copyright
   Working with WIPO
   Working with the EU
   Working with ICMP Members at national level

Chapter 2  Driving Antipiracy and Enforcement
   Anti-Counterfeiting Trade Agreement (ACTA)
   Working with the European Union
   Sharing best practices with Members

Chapter 3  Consolidating Musical Works
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   • Working with the EU on Collective Rights Management Issues
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1. Upholding Copyright

Protecting and promoting copyright, particularly in light of the online challenge, is a core objective for ICMP. Upholding the rights of artists to receive fair compensation for their work and of finding a workable system for collecting payment continues to be the subject of wide discussion. ICMP has participated at both global and regional level working with WIPO and the EU and also at a national level in countries around the world.

1.1 Working with WIPO

ICMP enjoys consultative status at the World Intellectual Property Organisation (WIPO) which takes a global lead on intellectual property (IP). ICMP works closely alongside the organisation and has participated in a number of events over the past year to advance the interests of music publishing.

Influencing the Committee on Copyright and Related Rights

ICMP attended both meetings of the Standing Committee on Copyright and Related Rights (SCCR) this year and has followed the debate closely.

We were pleased that agreement was reached in October 2011 to reconvene negotiations on the Audiovisual Treaty. This will bring much needed legal certainty and we will keep members informed of progress on the “statements” of interpretation of three articles of the treaty as well as the final outstanding issue on transfer of rights between performers and producers.

On the proposal for a treaty on the Visually Impaired (VIPs), ICMP presented its view on the WIPO ‘Chairman Paper’ on definitions and examples of limitations. We also welcomed the discussion in November/December on limitations and exceptions to copyright. A deadline of 29 February 2012 has been set for submissions and written comments on the draft treaty ahead of the SCCR 24 in the spring of 2012 and a recommendation to the General Assemblies is planned for September 2012.

Instrument to protect traditional knowledge and folklore

ICMP continues to work on this dossier following discussions that took place in June. Texts are expected to be submitted to the General Assembly in 2012.

International Music Registry

ICMP receives regular communiqués on the International Music Registry which provides a forum for representatives of the various music sectors worldwide to address the challenges associated with music rights in a digital environment. ICMP withdrew from the steering committee this year however, to instead lend full support to the Global Repertoire Database. (see later section).

1.2 Working with the EU

During 2011 ICMP has continued to cooperate closely with the European Union institutions on the issue of copyright and in particular has stayed in close contact with the Copyright Unit of the European Commission. It has also encouraged lobbying at member state level through the national Music Publishing Associations (MPAs).

ICMP welcomed the European Commission’s strategy for Intellectual Property Rights (IPR) which was released on 24 May and deals with several issues to ensure that IPR are covered comprehensively. In particular, it recognises that creators and publishers take considerable commercial risks and publishers provide up-front investments to produce and disseminate creative works,
and that an effective IPR policy must be backed by appropriate enforcement measures. It emphasises the importance of IPR legislation as a tool that regulates and optimizes the relationship between creators, service and content providers and consumers.

ICMP particularly valued the fact that the strategy acknowledged the contribution of copyright-based, creative industries to the EU GDP as drivers of innovation and economic growth.

The Commission has compiled a report on the IPR Enforcement Directive and how well it is working, together with a consultation and a public hearing and ICMP has participated in both. A report on the application of the EU Directive on Copyright will also be carried out in 2012 and ICMP will work closely with the Commission in providing information and evidence.

1.3 Working with ICMP Members at national level

ICMP responded to a range of member requests for advice and help in the area of copyright and Creative Rights Management (CRM) during 2011 as different jurisdictions around the world seek to update their legal framework in line with emerging trends and growth of online content.

Some examples are:

**Bulgaria:** ICMP has sent several communiqués to the Bulgarian Parliament on the subject of amendments to its Copyright Bill. In particular we have concerns around private copying levies, cable transmission and retransmission on the internet, and collective rights management. We also wrote to Commissioner Barnier alerting him to the situation and received a response outlining the Commission’s intention to address these issues at European level.

**Korea:** ICMP contacted the Korean collecting society, KOMCA, about its plan to introduce a “bonus point” for Korean domestic works, which would give its members unfair advantage over others in terms of royalty distribution. We also got in touch with the Korean government and the EU Delegation in Korea to object. Following our interventions the Korean Ministry of Culture cautioned against the initiative due to international pressure and the plan has not been implemented.

**Poland:** ICMP was in dialogue with both the European Commission and the Polish collecting society ZAiKS on the subject of VAT. ZAiKS considers itself exempt from VAT which is detrimental to publishers and our intervention prompted the Commission to raise the issue with the Polish authorities. We have been pleased to note that following discussion it has been concluded that collective management organisations should indeed be subject to VAT.

We also lent specific support to members in India and the Netherlands. In addition, in Canada, Japan and South Africa, we have supported members in lobbying in favour of term extension of copyright and this work is ongoing.
2. Driving Antipiracy & Enforcement

Mass theft of creative content online is threatening the livelihoods of songwriters and composers, and the inability to receive a fair reward for their work is undermining their incentive to create new works. Without a culture of creativity which values creative artists and recognises their rights over their work, we risk a scenario where investment in innovation declines and with it both jobs and growth. Furthermore, we threaten the very future of cultural diversity. ICMP has been working throughout 2011 to support initiatives to combat piracy being taken by ACTA, the EU and individual countries.

2.1 Supporting the Anti-Counterfeiting Trade Agreement (ACTA)

ICMP has supported the ACTA negotiations throughout. We have sent several communiqués to the European Commission during the process, including to President Barroso and to the Trade Commissioner, Karel De Gucht and the Internal Market Commissioner, Michel Barnier. We have also followed up on the discussions between the Council of Ministers and the Parliament on the issue and lobbied the Parliament in favour of a positive outcome when the report is voted in early 2012.

ACTA comes into effect

Representatives of eight governments – Australia, Canada, Japan, South Korea, Morocco, New Zealand, Singapore and the United States – signed the Anti-Counterfeiting Trade Agreement (ACTA) in Tokyo on 1 October. It marks a significant achievement in the enforcement of intellectual property laws and creates a legal foundation for a first-of-its-kind alliance of trading partners, representing more than half of the world.

As well as improving cooperation on enforcement among partners, ACTA harmonises the approach to IP theft, in particular the proliferation of counterfeiting and piracy on a global scale, and provides a mechanism for the parties to work together towards the common goal of effective IPR enforcement. The proposals are being examined in the EU and ratification is expected shortly. Other signatory countries have started the ratification process and have two years in which to ratify the agreement.

2.2 Working with the European Union

Participating in the EU Observatory on Counterfeiting and Piracy

In May 2011 the Commission published a proposal for a Regulation extending the tasks of the European Observatory on Counterfeiting and Piracy which it established in 2009. As part of the IPR strategy, the Observatory would now cover all categories of IPR including responsibilities for the design and organisation of public-awareness campaigns, training measures for enforcement authorities, research on enforcement and detection systems and coordinating international cooperation.

ICMP has had an ongoing dialogue with the Commission officials responsible for the initiative and shared with the Commission the campaigns our members carry out at national level to raise awareness.

The European Observatory on Counterfeiting and Piracy has commissioned a study that seeks to assess the scope, scale and impact of counterfeiting and piracy in the EU and to develop key indicators of piracy and counterfeiting that can be used across the EU in future analysis.

Following our ongoing engagement with the Observatory, ICMP was asked to provide background information to assist with the study. We met with the consultants undertaking the work, in March 2011 and they subsequently came back with specific requests and questions. We have since provided any information we have on the scale and size of counterfeit and piracy markets and the harms from counterfeiting/piracy in the EU and internationally.
Contributing to Stakeholder Consultation on IP enforcement

ICMP has contributed to the EU stakeholder consultation on the revision of the 2004 IPR Enforcement Directive. We have also been in regular dialogue with the European Commission and participated in the public hearing on the Directive in June.

We have continued to emphasise the need for effective measures against piracy and strong enforcement, and supported any enforcement initiatives carried out both at EU and national level.

The Commission is considering revising the eCommerce directive in 2012. This is important to music publishers as it contains provisions on the so-called safe harbour provisions for Internet Service Providers. ICMP contributed to the public consultation of the revision of the Directive in 2010 and continues to engage with the Commission and other stakeholders, and participate in relevant conferences and discussions.

Monitoring Customs legislation on enforcement of IPRs

ICMP has continued to follow the initiatives from DG Taxation in the area of IPR and a proposal for a new Customs Regulation to strengthen enforcement was introduced in May. This is ongoing and it is now being examined by the European Parliament and Council of Ministers.

Maintaining pressure on VAT

ICMP has continued to urge policy makers to introduce a reduced rate of VAT for music discs and online music. The European Parliament adopted a resolution in November calling on the European Commission to propose measures to modernise the European VAT regime to boost the digital single market. In particular, it states that all cultural goods should benefit from the same reduced VAT, regardless of delivery mode. ICMP will be following up on this initiative.

2.3 Sharing best practices with Members

The ICMP working group established in 2010 to share best practice on issues surrounding anti-piracy and IP enforcement continues to work together along with ICMP Member Organisations.

An Internet Piracy report published by the US MPA in October demonstrates the impact of US-based pirate sites. It lists unique visitor traffic for sheet music, guitar tab and lyric websites and reveals that lost revenue from US customers is $2.8 million per month – $33.6 million per year. The report suggests that worldwide traffic is likely to be two or three times this figure.
3. Consolidating Musical Works

ICMP believes that in order to develop legitimate online services and preserve the value of copyright, multi-territorial licenses are needed. We consider that collecting societies should benefit from a level playing field. This means comparable rules of operation, transparency requirements, governance and scrutiny by competent authorities which will promote competition in the internal market, protect copyright and ensure accountability to rights holders. Work has been undertaken at both global and EU level during 2011 to reinforce our position.

3.1 Supporting the Global Repertoire Database

Throughout 2011 ICMP has been stressing the advantages of a Global Repertoire Database (GRD) during its various meetings with European Commission officials. We emphasise how the growth in digital music has heightened the need for such a tool as there is currently no one, single catalogue detailing the millions of musical works available around the world.

We have also conducted research among our members on the potential benefits of GRD and the opportunity it presents for innovative licensing technologies, certification of licensing infrastructures, and electronic data management. The GRD will rely on receiving data from existing stakeholder databases in order to create an authoritative and complete picture and ICMP is encouraging its members to provide all information they hold.

Involvement in Scoping Study

In 2011 ICMP officially joined the Global Repertoire Database Working Group, having already been linked to it from the outset through a committee of the Board.

ICMP is one of the core group of representative organisations involved in the GRD Stakeholder Engagement and Scoping Study launched in September. The 20-week industry-wide consultation, which includes publishers, songwriter associations, collecting societies and digital retailers, is to determine the technical, data, business process and organisational design aspects of the GRD, as well as to articulate the approach to governance and funding.

The organisations involved in the study play a critical role in ensuring that it is scoped appropriately and that plans for its creation are structured in such a way that the whole community becomes engaged and is part of the successful implementation and maintenance of a GRD for musical works.

As part of the study discussions have taken place with a wide range of stakeholders and we have met with both WIPO and the European Commission to discuss GRD and each has expressed a strong interest in the project. We also participated in the Digital Assembly organised by the European Commission in June, at which the GRD was one of the topics of discussion.

ICMP maintains an ongoing dialogue with the Commission and provides information to key officials in both DG Internal market and Information Society. A meeting was held with Lorena Boix, Deputy Head of Cabinet of Commissioner Kroes – the Commissioner responsible for setting up the Roundtable on music licensing which was the origin of the GRD. ICMP also provides a regular information cascade service throughout its membership on all pertinent aspects of the GRD. The GRD publisher representatives to the various strands are Pekka Sipila, Jane Dyball, Guy Henderson, Andrew Jenkins, Neil Gaffney, Sharon Boyse, Stephen Clark, Frederic Schaeren, Kevin O’Byrne and Ger Hatton.

ICMP looks forward to the conclusions of the Scoping study which will determine the way forward for the GRD.
4. Advocacy towards Institutions and Regulators

It is essential for ICMP to foster and maintain strong relationships with governmental institutions and regulators if it is to be fully engaged in the decision making process and consulted in advance of legislative proposals or decisions.

During 2011 we have continued to be plugged-in to the debate on key issues relevant to our sector and contribute the music publishing position in order to help shape policy decisions. We have followed the WIPO, ACTA and European Parliament (EP) debates and votes and built stronger working relationships by holding meetings in particular with EP Members sitting on the Culture, Internal Markets and Legal Affairs committees. In addition we have continued to participate in all events, meetings and hearings throughout the year.

ICMP has held meetings with Commission officials including Michel Barnier, Commissioner for Internal Market and Services; Kerstin Jorna, Deputy Head of Cabinet of Commissioner Barnier; Maria Martin-Prat, Head of Unit Copyright and in charge of the IP Strategy in DG Internal Market; and Lorena Boix Alonso, Deputy Head of Cabinet of Digital Agenda Commissioner Neelie Kroes.

We have also been in touch with each of the EU Presidencies during 2011, meeting with the attachés dealing with copyright in both the Hungarian and Polish Permanent Representatives in Brussels to convey our positions ahead of their Presidency tenure.

In addition during 2011 ICMP has met with organisations working across the same set of issues including IMPALA, IFPI, GESAC, IFFRO, IPA, and CISAC.

4.1 Engaging in the development of an EU IPR Strategy

The Commission’s IPR strategy, launched in May 2011, is a key initiative for the music publishing industry and includes elements on a host of issues pertinent to our sector including orphan works, CRM, IPR Enforcement, private copying levies and revision of the EU laws on copyright, including exceptions and limitations. An impact assessment is being carried out by the European Commission and depending on the outcome, legislative proposals will follow in spring 2012.

ICMP attended the Commission’s public hearing on the revision of the IPR Enforcement Directive held in June. The hearing followed the public consultation to which ICMP had contributed and the Commission made it clear that the intention of the revision was to provide clarity – not to make ISPs police the internet or undermine the fundamental rights of ISPs and users.

• Working with the EU on Collective Rights Management issues

ICMP has maintained regular contact with the Commission services in charge of establishing the first EU legislative framework on collective rights management as a part of its wider IPR strategy. We have also carried out monitoring exercises on how collecting societies work in the EU.

We held a successful meeting with Commissioner Barnier, responsible for Internal market policy in January 2011, and also met separately with the Commissioner’s Deputy Head of Cabinet, Kerstin Jorna, in May. In addition, ICMP met with the Commission Head of Unit Copyright, who is in charge of drafting key proposals of the IPR Strategy, including CRM, Maria Martin-Prat, in order to put its views across.

Our own Working Group – which comprises ICMP, IFPI and GESAC – meets regularly and looks to agree a common position with which to approach the institutions.

A proposal for a Directive is expected in early 2012 and ICMP is engaged with both the Commission and Parliament on this issue.
Data protection

Proposals for the EU’s new data protection directive are due to be presented in January 2012 and ICMP has been following the preparatory consultation closely. The new law is intended to modernise the current data protection legislation and provide a robust framework that will give internet consumers more powers.

Orphan Works including Europeana

ICMP welcomed the publication of a Commission proposal on Orphan works in May 2011. It followed pressure placed by ICMP and others on consecutive presidencies in recent years. The proposal covers works published in the form of books, journals, newspapers, magazines or other writings, including works embedded in them as well as audio, audiovisual and cinematographic works in film institutes and archives.

The proposal follows the Commission’s work on Europeana, the European Digital Library, which ICMP has been a part of, responding to the project and signing the Memorandum of Understanding.

ICMP has voiced its concerns to several policy makers about the Recommendations of the Reflection Group on how to speed up the digitisation and online accessibility of cultural material which has fed into the debate on orphan works. We have particular concerns around the possibility for cultural institutions to digitise the material and make it available in the case where rightsholders do not exploit their material directly, and on the proposal to make out-of-distribution works available for free.

Member state delegations are submitting their own amendments to the directive and ICMP has followed this input closely. We have sent two letters as a result, both co-signed with other industry stakeholders. In October we sent a letter to the Council Working Group on Orphan Works voicing our concerns about a report drafted by the Finnish Delegation of the Council, which included a proposal on extended collective licensing. In December we wrote to the copyright attachés in each of the Member State Permanent Representations, re-stating our position on orphan works and stressing the need for a truly diligent search for rightsholders before a work is declared “orphan”. We stressed that any initiative under consideration must respect the EU copyright acquis and fully comply with the so-called “three-step-test” articulated in EU Law and International Treaties.

Term extension

ICMP has maintained continual pressure on the need to reform copyright term over the past year and was delighted when the Directive extending the protection of term for sound recordings in the EU from 50 to 70 years was adopted in September this year.

We were particularly pleased with the decision in relation to the harmonisation of co-written works as some 60-70-% of music is co-written, and the decision will lift barriers to trade, counter the disparity between different Member States and give clarity to thousands of composers and lyricists across Europe.

The move narrows the copyright protection gap with other sectors and regions of the world and strengthens Europe’s ability to compete internationally. It will also facilitate licensing, enhance the functioning of the internal market and provide additional funding to be re-invested in the creative industries.

Since the adoption in September ICMP has been working with members at national level to identify those countries where co-written works are not harmonised in the EU. We have encouraged them to contact their societies to ensure that they are up-to-date and that their administration systems comply with the new law. We have also been in contact with Member States to identify when within the two year period they intend to transpose the Directive into national law.

In addressing those countries that voted against changes to their Term laws or abstained, we worked closely with IFPI and will continue to exchange relevant information with such stakeholders on implementation developments. The Midem meeting in Cannes in January 2012 will provide an excellent forum to outline our follow up on the status. We will also review actions to date - including the specific work we have undertaken with local music publishing associations in Canada, Japan and South Africa on the issue of Term.
• **Audio Visual policy**

In recent years ICMP has contributed to a number of public consultations on audiovisual works and how to manage transparency and interoperability of digital rights management. It has also attended a Commission public hearing.

This autumn ICMP responded on behalf of its members to the Commission Green Paper on online distribution of audiovisual works and emphasised the need to recognise copyright as the basis for creativity and innovation. The Commission will now examine responses to this along with specific questions it posed directly to ten member states on the audiovisual media services directive. It will then take all responses into account when drafting its proposal on collective rights management which is due in the first half of 2012.

• **Net Neutrality**

Following an open consultation to which ICMP had contributed, a Communication on net neutrality was published by the Commission in April of this year, assessing the responses received. ICMP supports active cooperation between ISPs, rightsholders and public authorities and believes that the principle of net neutrality must not be used to prevent ISPs from implementing network management techniques to protect against the theft of creative works and other unlawful online activity. However, the Commission felt that more information was needed and is due to publish a report shortly on the evidence gathered by the EU Telecoms Regulator, BEREC. Based on this report the Commission will then decide if additional measures are required.

Meanwhile, the European Parliament has adopted a resolution calling on the Commission to take a stronger stance in ensuring that net neutrality is respected, and this December EU ministers adopted conclusions on the open internet and net neutrality.

• **Private Copying Levies**

ICMP strongly supports the principle of fair compensation to rightsholders for harm caused by mass private copying of protected works, as recognised by the EU. We have urged that private copying levies be set at a level that ensures fair and adequate compensation for rightsholders. We have actively lobbied in favour of harmonisation of a private copying levies system in the EU and are currently carrying out our annual assessment study on the different systems which provides an update on Copying Levy legislation both in the EU and at international level.

An EU legislative proposal is expected in 2012 and ICMP has welcomed the appointment of the high level mediator - Antonio Vitorino, former EU Commissioner for Justice and Home Affairs. He is tasked with exploring possible approaches to harmonise the methodology used to impose levies, improve the administration of levies, tariff rates and the inter-operability of the various national systems in the light of the cross-border effects that a disparate levy system has on the internal market. ICMP will be meeting with him in 2012.

4.2 **European Economic and Social Committee**

The latest in the European Economic and Social Committee (EESC) own initiative opinions on Copyright came in May 2011. The Opinion was narrowed specifically to ‘Copyright in the Music Sector’ and contained many inaccuracies and incorrect assumptions.

ICMP sent several communiqués to the EESC calling for the revision of the Opinion and joined forces with GESAC, IFPI and other stakeholders to point out inaccurate facts and assumptions. This is of particular importance as while the opinion is not binding, policymakers do take it into account and it is crucial that the ICMP position and concerns are conveyed.
4.3 List of submissions, comments and consultations

ICMP submitted a response to the European Commission Consultation on Data Protection Regulatory Frameworks (January)

ICMP submitted a response to the European Commission Consultation on IP Enforcement (May)

ICMP submitted a response to the European Commission Consultation on Audiovisual Works (November)

Letters to Governments of Bulgaria, India, Brazil, Netherlands, Poland, Korea, Japan, South Africa, Canada on various issues as raised by national MPAs.

Communiques to EU President, Trade and Internal Market Commissioners.

Joint Letters to EU Council and Copyright Attaches (Orphan Works)

Communiques (joint and singular) to EESC on own initiative report.

5. Supporting Members

An essential part of ICMP’s work each year is the provision of support to our members around the world in exerting further pressure in relation to the challenges they face at national and international level. Here is an example of the kind of work we are engaged in and the areas we have covered this past year.

5.1 Representing members’ interests to CISAC and collecting societies around the world

Working with collecting societies has been a crucial part of ICMPs work in 2011. A meeting was held between CISAC and ICMP at MIDEM in January on the issue of compliance of collecting societies with the Professional Rules and Compliance programme. Regular contact is maintained in order to keep open lines of communication and continue to address key issues.

ICMP works to ensure that its members are accepted in collecting societies, have a better representation on the board and are not discriminated against. A list was submitted to CISAC, itemising issues with collecting societies across four key geographies and we continue to work with CISAC regional directors in these territories and meet to work through issues and create a better environment for music publishers. Some specific issues include:

Latin America

We are following this region closely as CISAC claims that publishers have no interest in actively participating in the governance of societies. We have been taking up issues individually with local publishers and looking to determine the exact situation in the region. Discussions are ongoing in:

Argentina and Mexico – where only authors and composers are allowed to be members of collecting societies;

Chile and Peru – where music publishers can only be Administrative members;

Columbia – where music publishers are in discussions with the society, SAYCO, over a range of issues, and in particular its refusal to allow music publishers to manage their rights of communication to the public and serious problems in terms of transparency, distribution and accountability;

Paraguay – where a meeting has been convened with the four major local publishers to discuss their concerns that APA doesn’t have a payment scheme that enables entities to collect and legally distribute rights;
Venezuela - where there is no music publisher representation on the board;

Dominican Republic and Ecuador - where in addition to the fact that publishers are not allowed to be Board members of the societies, there are serious problems in terms of transparency, distribution and accountability.

Europe

ICMP has worked with local MPAs in:

Croatia and Hungary - where there is only one music publisher on the board of the local collecting society;

Poland and Latvia - where publishers are not allowed to be board members;

Lithuania - where CISAC has agreed to assist the collecting society in revising its statutes and asked ICMP for its input;

Slovenia and Romania - where fundamental problems have prompted ICMP to encourage round-table discussions with a wide range of interests as a step to finding a solution;

Spain - where ICMP has worked closely with local publishers and is also actively following the structural changes the collecting society is undergoing;

UK and France – where long-standing issues existed around ‘non-flow’ of rights between the French and UK collecting societies and the French use of rights they were not granted. ICMP played a key role in bringing the issue closer to resolution by convening a meeting in London between the UK MPA and SACEM.

Mediterranean/Africa

ICMP met with NORM at Midem in January to discuss collective management in Africa, and follow up is ongoing.

In Lebanon, Madagascar and Egypt – publishers have concerns over lack of transparency and ICMP is working with members to bring specific concerns to CISAC;

In Israel - we have requested an update on the review of Professional Rules and have also sent a letter to ACUM (the collecting society) raising concerns over the fact that it relies on a legal opinion according to which the composition and the lyrics in any musical work are two separate subject matters of copyright. We are also following up with local publishers on other issues: the fact that ACUM is positioning itself against rightsholders (including publishers) in antitrust proceedings and in law suits.;

In Turkey – ICMP is monitoring the situation following the Turkish Ministry of Culture's instruction to the collecting societies, MESAM and MSG, to halt royalty payments to sister societies and sub-publishers for the broadcasting/public performance or the use of foreign works.

Asia

There is ongoing discussion between ICMP and the CISAC board over the new royalty distribution policy for Korean domestic works as elaborated in the previous chapter.

5.2 Support on diverse issues

Brazil: ICMP wrote to Brazil’s Minister of Culture on the subject of the WIPO discussions on exceptions and limitations to copyright. We favour a flexible international instrument rather than a Treaty to ensure access to content for the visually impaired - Brazil, by contrast, was in favour of a Treaty - despite the fact that its national law appears to cover exceptions and limitations to copyright, and ICMP sought to understand the reasons behind this.

Bulgaria: ICMP wrote to EU Internal Markets and Services Commissioner, Michel Barnier to draw his attention to changes in the Bulgarian Copyright and Related Rights Act which were detrimental to the creative industry. We highlighted how the Act could
hinder the effective working of the Internal Market at a time when the Commission is making significant efforts to enhance Intellectual Property Rights. We also drew the Commissioner’s attention to the deletion of important provisions on copyright levies on reproduction equipment, the lack of remuneration for simultaneous usage of work via the internet, and to the reorganisation of Collective Management services which will stifle competition. In its letter of response the Commission stated that it will be looking at our specific concerns at European level and that once all the proposals as defined in its IPR Strategy, are published, it will study the Bulgarian situation carefully to ensure compliance with EU legislation.

**Canada:** ICMP brought the inadequacies of the Canadian Copyright Bill to the attention of those people involved in the EU-Canada trade agreement. We contacted MEPs sitting on the delegation for relations with Canada as well as Commission officials responsible for trade relations with Canada. In addition to raising publishers concerns about the Bill, which fails to protect rightsholders’ rights.

**Japan, South Africa and Canada** - we lobbied in favour of term extension and this is ongoing.

**India:** ICMP has contacted the Indian Parliament to voice its concerns over some of the provisions in the Amendments to the Indian Copyright bill which is currently under review. We have also contacted the press to raise concerns about two court judgements which ruled that Indian rightsholders cannot claim royalties or license fees from broadcasters for works played on the air after agreeing to have their music included in sound recordings. This implies that the Indian Performing Rights Society cannot collect royalties on behalf of the artists whose work is included in the recordings being played and is detrimental to rightsholders. The Bill to amend the Indian Copyright Act has recently been blocked by the Government.

**Israel:** ICMP has been working with its Israeli members on a number of issues. In particular we have been in contact with ACUM, Israel’s collecting society, to raise concerns over the fact that the legal position views the composition and lyrics in any musical work as two separate subjects as far as copyright is concerned. This is long-standing issue which we continue to follow and have also brought to the attention of CISAC.

**Korea:** Following a proposal by KOMCA, the Korean collecting society, to introduce a “bonus point” for Korean domestic works that would have given members an unfair advantage over others in terms of royalty distribution, ICMP contacted KOMCA, the Korean government and the Delegation of the European Union to the Republic of Korea to protest. As a result, the Korean Ministry of Culture has cautioned against adopting the change due to international pressure, and it has not been implemented.

**Poland:** ICMP has been working with its Polish member since 2005 to address the fact that the Polish collecting society, ZAiKS, considers itself exempt from VAT. This has been detrimental to publishers who have been the only VAT payers and has had far-reaching consequences for the sector. ICMP mounted a concerted campaign over several years and placed pressure on ZAiKS, the Polish Government and the European Commission. Finally this year, in what has been a major achievement for ICMP and the Polish MPA, the European Commission confirmed that ICMP was correct, and that collective management organisations should indeed be subject to VAT. A resolution has now been reached and the Polish authorities have repealed the legal provision that had formerly exempted ZAiKS from VAT.

**Slovenia:** A roundtable set up with other rightsholders organisations is working together on a sustained basis to support the Slovenian collecting society as it seeks to deal with difficult legislative issues and restructure the organisation. This represents a significant work commitment for ICMP working with CISAC, BIEM, BMI, ASCAP, IMPA and PRS and is ongoing.

**Turkey:** ICMP wrote to the General Directorate of Copyright and Cinema Directorate, Ministry of Culture and Tourism, together with CISAC and BIEM in April raising concerns over the fact that it had ordered its collecting societies, MESAM and MSG, to halt royalty payments to sister societies and sub-publishers for the broadcasting/public performance or the use of foreign works. The order came amidst an investigation into MESAM for alleged double royalty payments, and the General Director claimed payments are ‘illegal’. A special “Commission” has now been created by MESAM and MSG at the General Directorates’ request and will investigate performing royalty payments between 2011 and 2010 and put forward concrete proposals.
6. Engaging with wider Stakeholders

Ensuring that ICMP maintains a regular dialogue with wider stakeholders is important in keeping up-to-date on the different issue areas and understanding where points of agreement and dissent lie. By engaging with stakeholders who could represent potential allies or partners and listening to those who hold a contrary position we ensure that we are well prepared when engaging with regulators and institutions on key industry issues.

6.1 The Bilbao Process: ICMP, GESAC, IMPA and IFPI Working Group

Following the agreement in 2010 to create a working group to address the medium and long-term structural issues relating to licensing, all parties met several times during 2011. They have now established common policy positions including on licensing, the facilitation of licensing and data processing activities, and these will be used in outreach with stakeholders.

6.2 Ongoing structured and adhoc meetings

During 2011 ICMP continued to have regular contact and hold meetings with other stakeholder groups important to the music publishing sector. These included a meeting with the International Publishers Association (IPA) to discuss issues of common interest including WIPO, the Global Repertoire Database and the International Music Registry. Regular meetings were also held with IMPALA, IFRRO, ECSA, GESAC, IFPI, CISAC and BIEM.

6.3 Coalition on dot.music

ICMP has been an active member of the international coalition of stakeholders working to ensure that the generic top level domain name (gTLD) for music (the .music domain name) will be used wisely and appropriately once it becomes available. This is an ongoing process.

6.4 ICMP meeting with NAMM

ICMP Secretary General, Ger Hatton met with Joe Lamond, CEO and Betty Heywood, International Relations of NAMM during the Frankfurt Musikmesse in April and discussed the opportunity to host an ICMP event during a future NAMM.
7. Events

ICMP maintained its presence at events during 2011. As well as involvement and participation in key industry events it took advantage of speaking opportunities at meetings, conferences and debates organised by the EU and International Institutions and also provided and organized meeting opportunities for ICMP members. We also ensured that key ICMP members were involved in panel discussions at wider fora drawing key players from the music publishing and creative industries.

7.1 External events

CISAC European Committee conference in Prague - ICMP Secretary General, Ger Hatton was a speaker at the CISAC European Committee conference in Prague in April and focused her talk on the challenges facing the music industry and the role of ICMP. She addressed issues including the Anti-Counterfeiting Trade Agreement, copyright protection, WIPO, orphan works and the importance of IPR enforcement.

ICMP represented at transmitCHINA 2011 - Catharine Saxberg, Executive Director of the Canadian Music Publishing Association attended the transmitCHINA event in September and represented Canadian music publishers, ICMP and the Ontario Government. The event gathered those involved in the creative content sector from across the globe and was a useful step in building relationships in the world’s largest market.

C4C (copyright for creativity) – Erika Mann MEP invited ICMP and other stakeholders to a special dinner event in the European Parliament entitled “Copyright and Creativity in the Digital Age: The Shared Needs of Creators, Archivists, and Educators in Altering, Copying and Combining Creative Works”. The event was hosted by Copyright for Creativity (“C4C”) in one of the European Parliament Salons on 21st June.

Kangaroo Group – ICMP has participated in the Kangaroo Group set up by MEPs to raise public awareness, share best practice and work towards the completion of the Internal Market through harmonised provisions and enforcement of IPRs.

Intellectual property forum – ICMP took part in the forum’s November launch event which was also attended by Victoria Espinel, IP Enforcement Coordinator of the US Administration. The IP Forum was established by Marielle Gallo MEP, to facilitate constructive debate among interested parties and explore different ways of protecting IPRs and securing appropriate remuneration for creators.

SAA conference on audiovisual authors online – ICMP was among a wide range of stakeholders that attended the SAA conference this year. The event seized on the digital revolution and digital single market, and was addressed by Kerstin Jorna, Deputy Head of Cabinet of Commissioner Barnier, who spoke on the Commission IPR strategy.

E-commerce conference – ICMP was present at the annual E-commerce conference in November which gathered stakeholders including e-commerce businesses and policy makers for an authoritative debate on the state of play and future directions for e-commerce.

EESC conference – ICMP participated in several conferences organised by the European Economic and Social Committee including, one on IPR Enforcement and another on the Digital Single Market.

7.2 Internal Events

International Publishing summit at MIDEM in January

ICMP hosted the third edition of the International Publishing Summit in association with MIDEM in January in a meeting that attracted a high member turnout. Now a key fixture in the industry calendar the event provided an opportunity for members from around the world to meet and discuss key issues.
The first panel discussion focused on “The next 200 years of music publishing – Projecting yourself into the future”. Moderated by ICMP board member Jane Dyball of Warner/Chappell Music, the panel featured Ed Averdieck of Real World, Laurence Le Ny of Orange France, Arnold Mabunda of Gallo Music publishers, Hartwig Masuch of BMG Rights Management and Mary Megan Peer of Peermusic.


This year the panel discussions were also relayed via social media, with enthusiastic tweets and blogs during the event. The debate on 200 years of publishing was also uploaded on Youtube.

Debate at Frankfurt Musikmesse

ICMP hosted a panel discussion during the Frankfurt Musikmesse in April to debate “New models for selling printed music online”. In a session moderated by Nicolas Riddle, CEO of Edition Peters Group, panelists including Elisabeth Bihl, Executive Director of Canadian Music Centre, Canada; John Thirkell, COO of PureSolo, UK; Kathleen Marsh, CEO of Musicnotes, USA; Peter Grimshaw, Founder and Director of BMG Innovation, Australia; and Dr. Peter Hanser-Strecker, Chairman of Schott Music, Germany debated how publishers are now reinventing their models and using a variety of platforms to make straightforward digital versions of their works available to musicians.

The debate heard how Publishers are offering this on their own dedicated sites, and also by partnering with retailers and others. These initiatives are opening new doors for publishers, their partners and end-users alike.

Central and Eastern European Music Publishing Congress in Warsaw

The 12th Central and Eastern European Music Publishing Congress (CEEMPC) was held in Warsaw in September and gathered 78 delegates from Israel, Turkey, Latvia, Russia and countries of central and eastern Europe. The CEEMPC is an important event for ICMP and is the world’s largest forum for music publishers concerned with the region. The importance of dialogue between music publishers and collecting societies was a central theme and a joint ICMP/BIEM meeting allowed music publishers and collecting societies to engage in an open discussion on various issues including the Global Repertoire Database, licensing and governance of collecting societies.

Speakers and moderators included Andreas Schubert, Chairperson of the Polish Music Publishers Association, Janusz Jakubowski Polish MPA, Krzusztof Guzowski, Chief Expert at the Intellectual Property Rights & Media Legal at the Polish Ministry of Culture and National Heritage, Jan Baldyga, ZPAV Anti-Piracy Coordinator, Olga Kim, Deputy General Director of Legal Affairs at S.B.A. Music Publishing, Russia, Crispin Evans MMG music, Mitko Chatalbashev, CISAC, Dr. Peter Toth ARTISJUS, Dr. István Szilágyi from peermusic, Hungary, Keith Harris, Director of Performer Affairs at PPL, Darjo Rot from SiPO, Slovenia, Sharon Boyse from Sony/ATV, Neil Gaffney of EMI, Albert Pastore, Senior Legal Counsel at Nokia, Catherine Kerr-Vignale of SACEM and Ger Hatton, Secretary General ICMP.

CISAC/ICMP/IMPA on CWR in London

CISAC, ICMP and IMPA met in London in March. Robert Neri of Bug Music and Jennifer Le and Frederic Schaeren of peermusic attended under the ICMP umbrella to discuss data issues and the Common Works Register.

World Copyright Summit held in Brussels in June

ICMP was pleased to participate as both a member of the Advisory Committee and official Sponsor of the 2011 World Copyright Summit.

Under the theme ‘Create, Connect and Respect,’ the World Copyright summit attracted 750 delegates involved in the creative industries drawn from 59 countries. It comprised two days of panel sessions with speaker platforms ranging from European Commissioners to the US IP Enforcement Coordinator, Victoria Espinel, and WIPO Director, Francis Gurry.

The music publishing industry was well represented. Stephen Navin of the UK MPA moderated a session on ‘The role of ISPs in the creative eco-system’; Olga Kim, S.B.A. Music Publishing Ltd. Russia delivered a speech on ‘The benefits of copyright compliance
– Russia’s experience’; and Nicolas Galibert, Chair, ICMP, President, Sony / ATV Music Publishing France and Andrew Jenkins, Executive Vice President International, Universal Music Publishing Group UK spoke at a session devoted to ‘New solutions - An update on European online licensing’. In addition, Neil Gaffney, Executive Vice President & Head of European Society Relations, EMI Music Publishing UK addressed the Summit on ‘New solutions – Global copyright management databases’ while Ralph Peer, CEO, peermusic USA, highlighted ‘Collective management – Solution provider for the digital economy.’ Antony Bebawi General Counsel EMI spoke on Cloud.

A publishers’ dinner was held during the Summit, attended by the ICMP board and all publisher members. Indian scriptwriter, poet and lyricist Javed Akhtar was the invited guest.

ICMP also hosted Bureaux and Board meetings over the two-day period.

Board and Popular and Serious Bureaux meet in Rome

ICMP held its Board, Popular and Serious Bureaux meetings in Rome in November in honour of long serving board member, Mimma Guastoni who is retiring. A joint meeting of ICMP, Italian Music Publishing Association (FEM) and the Italian Collecting Society (SIAE) was also held.

During a cocktail reception and dinner hosted by SIAE and FEM in La Casa del Cinema, Ralph Peer, made a speech acknowledging Mimma’s significant contributions to ICMP and the music publishing community, both in her native Italy and globally, and Nicolas Galibert made a presentation to Mimma on behalf of ICMP toasting her many years of service.

Meeting with GESAC on EBU issues in relation to CRM

ICMP and ECSA have met with GESAC to discuss its plans with the European Broadcasting Union (EBU) to establish a licensing mechanism for musical works used in non-linear broadcast-like services. ICMP participated to two meetings in November and December at which all parties exchanged views and worked towards achieving a common position.

Other meetings

- Ger Hatton took the opportunity of a private visit to Mexico to meet with the Board members of the Mexican MPA - EMMAC.
- Coco Carmona and Ger Hatton attended the General Assemblies of the UK and France MPAs.
- Ger Hatton was a guest of the Norwegian MPA - NMFF - on the occasion of its 75th anniversary celebration in Oslo.
8. Communications

ICMP considers the communications element of each of the activities it undertakes and employs a range of tools including print and online media, reports, newsletters and banner advertising to carry its messages.

8.1 External

ICMP produces a bi-monthly newsletter, Global Briefing which summarises global news and initiatives relevant to the music publishing industry. The newsletter has a wide subscription base and receives consistently positive feedback.

News and ICMP statements and positions are regularly uploaded on the ICMP website and banner campaigns highlighting specific industry initiatives are run once every month. ICMP has also established a presence on LinkedIn and uses it to communicate news and industry positions.

In addition a total of 8 weeks of banner advertising on ICMP issues and positions was placed on leading EU news portal, euractiv.com. Over 70,000 impressions were recorded.

8.2 Internal

ICMP produces a series of International Reports for Boards of MPA’s outside of Europe, summarising key developments at WIPO, ACTA and EU level.

An Annual Report elaborating the ICMP achievements for the year is produced for the Annual General Meeting.

8.3 Media relations

ICMP maintains contact with music trade, Brussels and international media throughout the year. Press releases and opinions are issued in response to key global initiatives and letters are written in response to articles. As well as disseminating to our targeted list of media, we post news stories on our website on a regular basis. Letters and comment from ICMP appeared in a number of publications during 2011 including Financial Times, Music and Copyright, European Observer, Euractiv and European Voice, Music Ally, Sound Box and the Times of India.
9. Governance and Membership

9.1 Governance issues

A working group was established during 2011 to review the ICMP value proposition. The group, which comprised Neil Gaffney, Heinz Stroh, Nicolas Galibert, Andrew Jenkins and Ger Hatton, made some recommendations to the board to allow for a fairer representation of all ICMP members. Changes to the by-laws will be discussed and voted at the AGM in January 2012.

ICMP General Assembly

ICMP held its General Assembly in Cannes on 23 January, the Sunday before MIDEM. A high number of members were in attendance with ICMP’s music publisher associations from around the world including Europe, the United States, South Africa, Canada, Japan, Australia. The agenda featured updates on WIPO, ACTA and key legislative developments. In addition the meeting welcomed Haji Taniguchi, Chairman of MPA Japan and Peter Hebbes, General Manager, and Catherine Gerrard, Chair, of AMPAL Australia who each presented on the state of the market and issues arising in the Asia Pacific region.

A total of three physical board meetings were held in 2011: in Cannes on 23 January, in Brussels on 9 June and in Rome on 7 November. In addition, monthly Board conference calls were held throughout the year.

Pop and Serious Bureaux meetings were also held in Cannes in January, in Brussels in June and in Rome in November.

Working Groups of the Board

The Working Groups have continued to operate during the past year:


Membership: works to promote new applications for membership. Members are Ralph Peer, Neil Gaffney, Andrew Jenkins.

Illegal Websites: providing a platform for the sharing of information and best practice in dealing with infringing websites. Members are Lauren Keiser, Jake Kirner, Coco Carmona and Ger Hatton.

9.2 Membership

ICMP welcomed several new members during the course of 2011:

- The Slovenian Music Publishing Association (SiPA)
- Two new Associate members from Israel: Media Men Group (MMG) and EMI Music Publishing (Israel)
- A new Associate member from the Lebanon: Rotana Music Publishing

In December ICMP revamped the “members” and “board members” sections of the website so that members will be able to view all current and archived documents at any time. In future instead of sending heavy emails with attachments, the latest documents will be uploaded on the website.

The new section is divided into seven easily navigable sections: Press, Policy, Projects and Reports, Legal, Miscellaneous, Events, Board. Members will receive alerts when new content of particular note is uploaded.