

The relevance of traditional Collective Management
Organisations in the digital age

Current challenges and future possibilities

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This master's thesis is carried out as a part of the education at the University of Agder and is therefore approved as a part of this education. However, this does not imply that the university answers for the methods that are used or the conclusions that are drawn.

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ABSTRACT

The relevance of the traditional collective management organizations has come to question in the digital age. Since the beginning of the internet the CMOs have faced an enormous change in their operations and critics have put them in the spotlight, for being unable to provide efficient services for their members. This called for the EU to regulate them by competition. This study seeks to profile the main challenges they are facing as well as the possibilities to stay relevant in a dynamic and competitive music industry. To do so, relevant theory and interviews with first class leading professionals from within the CMO system have been used to evaluate the current situation. The paper concludes that there is a lot of areas that CMOs need to improve should they wish to remain on top of their game, to the benefit of the average creator.

“It is a different future... You know what? That makes sense, doesn't it? Because we have such a changing world and the digital revolution is enormous. How can a collecting society continue to do what is has always done”?

~Graham Davies, PRS Director of Strategy

List of Abbreviations

CMOs - Collective Management Organizations (synonyms: societies, collecting societies)
GESAC – European Grouping of societies of authors and composers
CISAC - International Confederation of Societies of Authors and Composers
WIPO - World Intellectual Property Organisation
DSP - Digital Service Provider
PRS - Performing Rights Society (United Kingdom)
MCPS - Mechanical Copyright Protection Society (United Kingdom)
BIEM - International organisation for mechanical rights societies
TONO - *Norwegian* performing rights organization
JASRAC - Performing Rights Society (JAPAN)
GEMA - Society for Musical Performing and Mechanical Rights (Germany)
ASCAP- American Society of Composers, Authors and Publishers
SGAE - Spanish Society of Authors, Composers and Publishers
SACEM - Society of Musical Authors, Composers and Editors (France)
IFPI - International Federation of the Phonographic Industry
CELAS - Centralised European Licensing and Administrative Service
PAECOL - Pan-European Central Online Licensing
PPL - Phonographic Performance Limited (United Kingdom)
EU -European Union
EC - European Commission
BUMA – Dutch Performing Rights Society
SOCAN – Canadian Authors Rights Society

Table of Content

ACKNOWLEDGEMENTS	2
ABSTRACT	3
LIST OF ABBREVIATIONS	1
1 INTRODUCTION	8
1.1 MOTIVATION	8
1.2 INTRODUCING THE TOPIC.....	8
1.3 PROBLEM HYPOTHESIS AND RESEARCH QUESTIONS	9
1.4 LIMITATIONS AND DELIMITATIONS	11
2. THEORETICAL BACKGROUND	12
2.1 BACKGROUND OF COLLECTIVE MANAGEMENT FOR COMPOSERS AND AUTHORS RIGHTS	12
2.1.1 <i>The civil society: a prerequisite to CMOs</i>	12
2.1.2 <i>The statute of Anne</i>	12
2.1.3 <i>The first copyright bureau</i>	13
2.1.4 <i>CMO for author’s rights and their purpose</i>	13
2.2 OPERATIONAL FUNCTIONS.....	14
2.2.1 <i>Operational functions of a national CMO</i>	14
2.2.2 <i>CISAC’s professional binding rules</i>	14
2.2.3 <i>Legislative framework and CMOs</i>	15
2.2.4 <i>Author’s rights in collective management</i>	15
2.2.5 <i>CMOs as “bearers” of culture</i>	16
2.2.6 <i>Reciprocity and Solidarity</i>	16
2.2.7 <i>Licensing music in the analogue world</i>	17
2.2.8 <i>Arguments against blanket licensing through CMOs</i>	19
2.3 DIGITALIZATION	19
2.3.1 <i>Explaining digitalization</i>	19
2.3.2 <i>Characteristics of digital content</i>	19
2.3.3 <i>Characteristics of new vs old music economy</i>	20
2.3.4 <i>Streaming and dissemination of music</i>	21
2.3.5 <i>Borderless Internet</i>	22
2.4 CMOs IN THE DIGITAL ERA.....	22
2.4.1 <i>The Santiago agreement</i>	23
2.4.2 <i>BIEM Barcelona Agreement</i>	23
2.4.3 <i>The European Commission’s 2005 Recommendation</i>	23
2.4.4 <i>Explaining Recommendation</i>	24
2.4.5 <i>Option 3</i>	24
2.4.6 <i>Arguments for competition</i>	24
2.4.7 <i>Arguments against competition</i>	25
2.5 ISSUES FOR CMOs IN THE ONLINE WORLD.....	27
2.5.1 <i>Rights withdrawal and complexity</i>	27
2.5.2 <i>Big data: non efficient data processing</i>	29

2.5.3 Slow speed.....	31
2.5.4 New, non-traditional entrants.....	31
3. METHODOLOGY.....	33
3.1 METHODOLOGY AND INTERVIEWS	33
3.2 PROCESS AND ISSUES IN INTERVIEWS.....	35
3.2.1 confidentiality	35
3.2.2 Matching interviewer to the respondent.....	35
3.2.2 Interview with acclaimed professionals	35
3.3 THE INFORMANTS.....	36
3.4 THE INTERVIEW PROCESS	36
3.5 ANALYZING THE INTERVIEWS	37
4. INTERVIEW RESPONSES.....	39
4.1 TOPIC 1: FRAGMENTATION OF RIGHTS.....	39
4.2 TOPIC 2: COMPETITION AND CMOS	41
4.3 TOPIC 3: DATA PROCESSING.....	44
4.4 TOPIC 4: OTHER	48
4.4.1 New entrants.....	48
4.4.2 Future possibilities	49
5.DISCUSSION	51
5.1 WHAT CHALLENGES ARE THE TRADITIONAL CMOS FACING IN THE DIGITAL ERA?	51
5.2 HOW CAN THEY STAY RELEVANT IN THE FUTURE?	54
6. CONCLUSION.....	57
REFERENCES	59
APPENDIX.....	66
-LIST OF INTERVIEW QUESTIONS.....	66
TRANSCRIPTS.....	70

1 Introduction

1.1 Motivation

The first time I was acquainted with a Collecting Management Organisation was at the age of 14, when I decided to participate in a European music contest and won the first prize with my band. Quite naturally, I could not care less about the nature of the music business at that stage of my life. I was lucky enough to have family members who were involved professionally with theatre and have been living off their creative art for decades. The advice they gave was that I must ensure that there is a legal ‘protection’ for my music through a collecting management organisation in order to receive remuneration from the public use of my music on the radio, TV and from sales (CD,DVD sales). My response was: “Is there such thing”? The feeling after my first pay was overwhelming, I found the whole idea of getting paid for making music, (that I would make anyway) simply too great. Shortly after this development I realised that I had an additional economic incentive to develop my creativity. I could use some of this remuneration to purchase a new computer and music equipment to record more demos.

During my Master study, a lot of discussions were focused on the challenges the CMOs are facing because of digitization, however, a lot of that knowledge could not be found in books and holistic academic writings. This is quite paradoxical, as according to CISAC in 2017 the CMOs for composers, authors, performers and producers collected worldwide revenues of €8.6 billion, from which European CMOs accounted for 58.4% of global collections. These revenues exceed the collections of the recording industry, which has always been the central focus point in many books about digitalization in the music industry. CISAC’s numbers are not marginal and indicate the importance of CMOs in the music economy.

1.2 Introducing the topic

The CMOs are known for being non-profit organizations, traditionally responsible for collecting and distributing income from revenue streams for composers, lyricists, arrangers, translators and their publishers and supporting the development of creativity.

For approximately a century, these societies operated within their own national territory and worldwide through collaboration with foreign CMOs (their “sister societies”), to send money back and forth for the use of music made by foreign artists within their national borders. The functioning of this network was based on “reciprocal representation agreements”. In this framework, all CMOs would collaborate for the mutual interest of their domestic rights holders and were considered natural, de-facto monopolies in each of their respective countries.

Throughout their long background, they proved that they were pioneers, not only for initiating the rights of the creators but also for adapting to new technologies that disrupted the traditional business models; from sheet music to gramophone, radio, portable cassettes and CDs - they made

sure there would be remuneration whatever the business model was. Evidence suggests that the CMO network in the analogue world was a practical and cost-effective system. It ensured that businesses around the world had access to music and revenue streams from public use and sales would be remunerated back to the rights holders. In essence, everyone was benefiting from that system.

With the arrival of the Internet, European regulators instigated a new legal regime based on competition and reviewed the role of CMOs. The rationale behind this decision aimed to encourage CMOs to become more efficient whilst creating a dynamic digital market where music and services would bloom in the so-called European Single Market.

As an immediate effect, there was a fragmentation of rights for online music and can CMOs no longer license the world repertoire. Critics have argued that the difficulties have now been increased with regards to a concept of an efficient and competitive CMO and a dynamic, culturally diverse music market.

At the same time, with the Directive of 2014/26/EU on ‘Collective Management of Copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market the’ the EU wanted easy, ‘one-stop-shop’ for licensing music online in addition to more efficient services and transparency in CMO operations. In essence, the EU has forced the CMOs to trigger an online “alter ego”; on the one hand forcing them to operate as they always have with i.e. physical sales and reciprocal representation, but on the other, act as competitors in the online sphere.

1.3 Problem hypothesis and Research Questions

If the EU decided to regulate the CMOs by competition and operate in a fragmented online market, this in theory could allow the most dominant groups, like the biggest CMOs or new, non-traditional competitors to overtake their operations. Such possibility would be unimaginable in the analogue world. As the music market is evolving to become almost entirely dependent on digital methods of distribution and consumption of music, the question becomes clear: what would the relevance of CMOs be in that world? Should they become obsolete or irrelevant, what would the impact be on creativity and cultural diversity? The second part of this hypothesis could be more positive: throughout the process of adapting to competition there may be possibilities to identify their own weaknesses and re-think collective management in order to stay relevant in the future.

This study has two main objectives. First, to identify the current challenges CMOs face in the digital era by using theory and evaluating its validity with ‘straight from the source’ interviews with leading professionals. Based on the findings, the second objective is to discuss the possibilities for CMOs to stay relevant in a music industry that depends entirely on digital distribution and is regulated by competition. To do so, two main questions have been selected after many moons of collating relevant theoretical sources:

- 1) What challenges are the traditional CMOs facing in the digital era?
- 2) How can they stay relevant in the future?

1.4 Limitations and Delimitations

This study focuses only on European CMOs for composers and authors rights which are subject to European policies. With regards to the interviews, the informants, although having international experience due to the nature of their responsibilities and background, they all work for a big and lucrative CMO (PRS and MCPS). The view on the given topics of a smaller, regional CMO executive would be desirable as it may have been relatively different. That was not possible due to time and financial constraints. The interviews took place during the summer break of academic year 2015/2016, as part of a work experience at PRS for Music in London, UK. The idea has initially been to join a second CMO for work experience and by entering their world, increase the chances of feedback as a fellow worker. It is unlikely that directors and leading professionals will have long interviews by phone with any postgraduate student out there. An example could be the rejection for an interview via Skype by a leading professional from Switzerland, popularly known for his contribution to technology and innovation.

To the best of the author's knowledge, the field of collective management of author's rights in Europe lacks academic quantitative research with regards to the issues this paper aims to address. This has created certain limitations in terms of justifying a problem area with numerical data. It is the objective of this study, to identify certain problem areas in an abstract way and encourage future researchers for a quantified approach.

Finally, during the collection and evaluation of the supporting theory new information was discovered that was related to the broader context of the topic. The CMO operations fall in the category of music and copyright, which is a fairly complicated subject related to law, economics culture, technology, politics, even philosophical matters. As this is a postgraduate study, certain boundaries have been set since it is not possible to analyse the realities of these areas which are in much discussion and in many cases, much dispute.

2. Theoretical background

2.1 Background of collective management for composers and authors rights

This part of the chapter seeks to profile the role and purpose of the collective management organizations in the analogue world. It begins with the background of authors rights until their establishment in nineteenth century Europe, followed by an overview of their operating structure and business model.

2.1.1 The civil society: a prerequisite to CMOs

In order to understand better the concept of a CMO, it is important to provide a definition of civil society, as it is the foundation that has allowed the development of such organisations throughout the years. Organisations that support the rights of the creators would not have existed without recognition from the national and international law. Scholte (2001) reviews the term 'civil society' in epochal order: first, it was used in 16th century English political thought, whilst a couple of centuries later the Hegelian idea of a civil society focused on the market and the relationship of an individual with property as a connection to personal freedom. More contemporary approaches conceptualize the term with an affiliation to the non-profit and non-commercial sector in society (Scholte, 2001).

2.1.2 The statute of Anne

From the very beginning of copyright law the main objective was to encourage people to be creative. It was established in Great Britain in 1710, with the Statute of Anne and focused on literary works. This provided the first ever legal protection for books and other writings for fourteen years after a work was first published. According to Kretschmer and Kawohl (2004), such legislation aimed to encourage literate and educated writers to compose and write useful books.

On the other side of the sea, in France, copyright with relation to music was not by any means a tool to defend authors' rights at the beginning. Music was reserved for the royal families but as soon as a market developed outside their courts and the people seized the means of its production, music became more like a commodity and the establishment of copyright was hence regarded as a fight of capitalism against feudalism (Attali, 1985 p.52).

2.1.3 The first copyright bureau

Some decades later the first copyright bureau was established in France. During that time, the writers were usually forced to give up on their natural right, eliminating any future revenue for the author of a theatrical play. It was Pierre Augustin Caron de Beaumarchais, who refused these terms and sought support from his peers. They believed in the principle that as long as an artistic work generates revenues in its lifespan, then they must be related with that author during that lifespan (Piaskowski, 2010 p.171). Beaumarchais and twenty other writers created a bureau for theater legislation, which was later established the Société Des Auteurs et Compositeurs Dramatiques (SACD) in France, 1777. With the statute of the 21st of July 1793, there was a stronger protection of intellectual property rights in place and purchasing rights with a one-time fee for all future use of a theater play was forbidden (Piaskowski, 2010 p.175). This development marked the beginning of a more coherent copyright law, which was then extended for music .

2.1.4 CMO for author's rights and their purpose

When Ernest Bourget along with P.Henrion and V.Parizot, refused to pay extra for having to listen to their own music being performed at Les Ambassadeurs, a small café with live music in Paris, the three men referred to the law of 1791 - that they had in fact the right to be compensated for the use of their works. Their following action was to sue the manager and claim damages. The court ruling in 1848 in their favour and the support of the court of appeals in 1849 concluded that all musical works must be protected under the law. (Attali, 1985 p.77). This development in France became a strong incentive to form the first union for the protection of music creators funded by a publisher named Jules Colombier, in 1850. A year later, on February 28th 1851, more writers (publishers were excluded from this initiative) created a union that would become known as SACEM. (Piaskowski, 2010 p.172)

The statement below declares their main objective and purpose:

“...to defend the common rights of all composers and lyricists, with or without the co-operation of their publishers, in relation to the owners of public establishments where their literary and musical works are performed” (Wallis, 2004 p.103)

The reasons that lead to this development appeared to be necessary because the system of patronage (usually aristocrats supporting/funding artists) - was overtaken by a market economy in the 1800s. At that time, the use of printed sheet music was popular and was distributed for the purpose of domestic performances, usually for parlour piano and voice (Laing, 2004 p.70). That meant that it could be used inside a house or, as mentioned above with the case of Ernest Bourget, used at pubs and cafeterias, hence public performances.

2.2 OPERATIONAL FUNCTIONS

2.2.1 Operational functions of a national CMO

There are three main pillars that CMO operations are laid upon. According to the World Intellectual Property Organization (2017), these are:

a) The administration of rights: where the CMO collects and keeps track of personal and ownership information about their members and their musical works. This may require active communication with their own members and sister societies who, upon request, may either confirm or query, for example, the correct share split for writers affiliated with different societies and publishers. The CMOs also play an important role with regards to counterclaim issues. In certain situations they may enquire additional information from sister societies to find a resolution. In that sense, they are the traditional gatekeepers of IP data because of their established international network of reciprocal agreements.

b) The licensing of rights: the CMO negotiates the terms of a licensing deal with users who need music. The CMO will discuss the terms of that deal and a fee for that license. Those who seek licenses vary, from digital service providers, websites, TV and Radio stations to public concerts, museums and cafeterias. The CMO must also be active with regards to the enforcement of rights, for example, to investigate and identify businesses (offline and online) that use music but do not have a license. Finally, the CMO must ensure that certain businesses must send usage reports, from which distribution is determined.

c) The collection and distribution of revenue to rights holders: the CMO is responsible to collect the revenue from all their licensing agreements on behalf of local and foreign authors and distribute it accordingly. The basis for a fair distribution may be complicated to estimate, but societies use the logs of music played on i.e. Spotify or TV/Radio stations, to split the revenue and send it out to the rights holders they represent. These operating functions serve as one bundled service for their members.

2.2.2 CISAC's professional binding rules

CISAC, is the International Confederation of Societies of Authors and Composers. CISAC has developed a set of agreement rules and organizational tools that all its members (239 authors' societies in 123 different countries) must comply with. Koskinnen-Olsson and Lowe (2012) summarize these as follows:

- No discrimination between members of sister societies regarding collection and distribution of royalties
- An agreement on commission charges

- Cultural and social deductions for the support of local music (10% on average)
- Data exchange programmes
- Active communication between their departments
- Negotiating the terms of the use of music with the users (e.g. TV - Radio - Public Stores - Streaming Services)
- Issuing licenses

2.2.3 Legislative framework and CMOs

European CMOs have two types of regulations, one that comes from the state and another one that must conform with the European Commission. As mentioned at the beginning of the chapter, the concept of a civil society is very significant and the state governments are responsible for the enforcement or amendment of those rights. Regarding music and authors' rights, although regulated on a national level, in practice they reach a global audience and hence the applicability of those rights is inevitably also international. (Koskinnen-Olsson and Lowe, 2012 p.15). Following from that, on EU level, a survey has shown that even between EU member states there are considerable differences between member states with regards to how they regulate those rights and the system of rules that national CMOs have to follow (Guibault and Van Gompel, 2010, p.125). The scope and impact of these differences will be discussed in the last paragraphs of the chapter and interview analyses.

2.2.4 Author's rights in collective management

In their article for WIPO, Koskinnen-Olsson and Lowe (2012) give a description of the two main rights within a CMO:

-Performing right: Public performance of music via analogue and digital means, such as TV and Radio stations, streaming, live concerts, background music at public places (bars, cafeterias etc.). The performing rights societies are usually assigned this right from composers, lyricists, arrangers, translators etc. by agreement (Koskinnen-Olsson and Lowe 2012, p.20).

-Mechanical right: The right to 'mechanically' reproduce and distribute a sound recording. In the analogue world, these were linked to physical sales (CDs, vinyl records etc.). A digital sale or 'download' is also considered a sale but it involves a smaller percentage of performing right. When an artist is published, the publisher traditionally claims from the mechanicals rights Koskinnen-Olsson and Lowe 2012, p.20).

The percentage division between mechanical and performing may vary from country to country regarding downloads and streaming Most often a stream is 75% performance and 25% mechanical while a download (sale) 75% mechanical and 25% performing (Lindvall, 2014)

More rights outside authors' societies:

-Neighbouring/related rights: these are the rights of the performing artists and producers (legal entities, usually record labels and broadcasting organizations). They are not the original authors but have contributed with their own aspect of musicianship. These rights are also subject to the international treaties. The Rome Convention (1961) extended the same reciprocal principles of the Berne Convention for performers, music producers and broadcasters and as of 2016, 92 countries have joined this treaty according to WIPO (2017).

2.2.5 CMOs as “bearers” of culture

The role of the national CMO as a contributor to cultural diversity is well known but the ways societies have developed mechanisms to support this, can differ quite a lot. In their working paper, Laing, Schroff and Street (2015) focused on such differences and noted that although most CMOs support creative activities and cultural events, usually associated with niche repertoires (i.e. contemporary classical, jazz) in order to promote young/unknown talent, the market tends to neglect these efforts, something that is shared by GESAC (Laing et.al, 2015 p.17). Those initiatives seek to improve the quality of culture - not simply to give an economic reward to creativity, which indicates a strong element of solidarity for the minority genres and artists who can otherwise struggle to develop their creativity (Laing et.al, 2015 p.16) For example, SACEM's model, traditionally supported by the French governments, has always been viewed as the most noble towards cultural diversity. They have been implementing laws whereby income from levies on private copying is used to encourage new creativity and have airplay threshold to non-francophone music, ensuring the support of domestic talent. Except their domestic affairs, France has also been using the word 'cultural exception' during international trade negotiations to defend this principle (Laing et.al, 2015 p.17). The model of France is the strongest in that regard, but more CMOs have similar agendas as part of their cultural diversity policies (such as TONO in Norway).

2.2.6 Reciprocity and Solidarity

SACEM's approach on collective management of rights gradually sparked initiatives from other countries to form similar institutions in their territories. The performing right, in many ways, promoted the notion of reciprocity: in order to protect the rights of creators whose music was performed outside national borders, the cooperation between national collectives was necessary. As a result, the Berne Convention was signed in 1886 and the author's rights were officially recognised by law, whether that was a public performance or a sale (sleeve notes and mechanical reproduction). Each country that signed the treaty had to agree on the same reciprocal terms and implement it into national law (Laing, 2004).

The Berne Convention provided two types of copyright protection for the member countries:

a) 'National treatment', where foreign authors would be treated equally like domestic authors (Laing, 2004 p.73)

b) 'reciprocal agreement', where the foreign author would receive the same protection as in their own country. Laing (2004) provides an example for the second, with the private copying levy that exists today in some European countries. In practice, that means a writer can receive remuneration from private copying only from countries that also include copyright levies in their national law (Laing, 2004 p.73).

Reciprocity required the overcoming of differences between the signatory states. The process of adaptation of the French model was not embraced very quickly due to different perceptions on the principle. Other countries were sceptical on the performing right - particularly the United Kingdom. British publishers could not agree because in their view a music performance was a way to promote a work to boost sales of sheet music (Laing 2004 p.72). This disagreement caused SACEM to react by reporting the UK to the committee of the Berne Convention requesting that the UK should collect and remunerate French artists, whose music was performed publicly in British territory, like France agreed to do for all foreign writers. This difference between SACEM and PRS proved at an early stage, that the collective management of rights is a complex area to operate in because each country might have different views on the matter, which may be affected by ethno-cultural reasons.

Since national CMOs used to only operate within their own geographical territory, the need for the use of services outside their territory was essential for collecting revenue. The principle of reciprocity in fact derives from the statute of Anne, as in Great Britain foreign residents were granted the same protection of rights with British nationals and all international copyright conventions followed on the same principle (Wallis et al., 1999 p.13). Today, when a member of TONO writes a song that becomes very popular in Spain, SGAE (TONO's sister society) collects the remuneration on behalf of TONO and vice-versa. Wallis (1999) describes this system subject to universal supply principles, such as the letter post, electricity, telecommunications, drinking water and transportation. He suggests that the element of solidarity is very strong in such system and is applied in two senses: one between CMOs (and their reciprocal agreements) and one between their members (Wallis et al, 1999 p.15) All members are treated more or less equally. They charge the same flat rate percentage of revenues that they collect regardless of quantity or profitability. Although this flat fee does not reflect cost differences of collection, it has purposely been used for solidarity with the less popular artists, whose income is much harder to monitor than the popular ones. Therefore the costs to monitor the use of music are not in proportion to popularity. Whenever the data is poor (for example, a cafeteria playing background music and paying an annual fee), then distribution is determined by analogy (Wallis et al, 1999). Then the CMOs must 'guesstimate' how much of that money coming from the cafeteria should go to the small and the big artist. The type of music source is also being taken into consideration. It is more likely that revenue from an Opera Concert Hall will not go to a black metal band, so they divide it by sector before it is distributed.

2.2.7 Licensing music in the analogue world

'Blanket licenses' has been the popular term in the music industry to describe the bulk of rights licensed in one agreement (an all-you-can-eat musical buffet). This has been a standard practice for CMOs since their advents. Although the performing right became part of the French national

law, it would not be possible for each writer to monitor where their music was performed individually; having an organisation that included a big variety of writers would simplify the process of granting access to music, covering not just some songs, but providing the whole repertoire. What that meant in practice was that there was a 'win-win' situation for the CMO (on behalf of rights holders) and the users (bars, cafés and other public venues) (Wallis, 2004 p.103-4). The CMO would make sure that there would be a negotiation and financial settlement before giving the user access to use songs for public performances. In addition, by having to go to only one place (national CMO), the users made sure that they could use all the music that they wanted legally.

These terms would eventually establish a national and natural monopoly, because there was no other strong authoritative source that a user could get access to music from legally. Such de-facto monopoly was tolerated by the anti-monopoly agencies throughout the analogue era because licensing from a 'one stop shop' was very practical for the users to do business deals (Laing, 2004 p.72). National governments were also on the same track for a long time and accepted the monopoly of the CMOs because they took upon themselves the responsibility to support and promote culture in the society (Wallis et al. 1999, p.12). Another argument for blanket licensing is that it can significantly reduce transactional costs for both licensor and licensee since there is only a one-time fee. Then the user can have all the music out there, covering national and international repertoire. From there on, there is very little extra cost to add i.e. additional repertoire once an initial investment for setting up the licensing structure has been made. (Towse, 2012, p.7). This practice has also been encouraged from the state courts around the world. According to Katz (as cited in Towse, 2012) it worked as a defensive mechanism against unauthorised use. Should there have been individual licensing practices, this fragmentation would create a considerably bigger risk of copyright infringement.

Finally, another argument for blanket licensing is about solidarity. When CMOs negotiate a deal for a license collectively, the repertoire includes individual creators (smaller or niche artists) that their best way to receive a reasonable reward for the use of their works is by being part of a bigger repertoire (including high-profile and low-profile earners). The view of Kretschmer (as cited by Towse, 2012 p.12) is that individual would be forced to accept a much lower fee on a 'take it or leave it' basis. If a CMO was to start issuing individual licenses or different categories of licenses based on individual artists, for example: one license for the super earners, one license for the small earners and so on - that would indicate a clear discrimination between members and produce large imbalances in terms of economic and cultural value (price and repertoire).

In summary, the evidence suggests that blanket licensing that included all types of music has been working relatively well in the analogue world. Except reducing transaction costs for both rights holders and users, it has also been a convenient way to collect funds even when the rights holder had not been identified - it was all inclusive. Consequently, it ensured stable money flow in a market economy and cultural diversity in society and in commerce, as a service could offer the local market all the foreign repertoire. This system ensured the promotion of creativity and provided incentives for musicians, publishers and other actors contributing to the development of musicianship, to essentially, keep creating and producing music.

2.2.8 Arguments against blanket licensing through CMOs

KEA European Affairs (2006) presented the arguments against blanket licensing practices as per below:

- It creates national monopolies: an anathema to competition authorities
- It reduces competition for price and services
- Their position as de facto monopolies minimizes their incentives or willingness to adapt to new market realities and invest for efficiency.
- They have always been associated as “just another tax” with negative image from small businesses.

(KEA, 2006 p. 31)

There is very small evidence regarding arguments against blanket licensing in the analogue world. A lot of them started appearing after digitalization and were related to proposed policies based on competition. These shall be discussed more thoroughly in the second part of the chapter, which focuses more on legislation with regards to competition in the digital world.

2.3 Digitalization

The paper has so far projected the concept and purpose of a CMO in the analogue world. This chapter first portrays brief concepts of digitalization. The second part of the chapter discusses legislative developments and their effects on the traditional CMO operations. A summary of issues for CMOs will be presented at the end of the chapter.

2.3.1 Explaining digitalization

There have been many ways digitalization has been explained in contemporary literature, but the most common concept around the area of digitalization is highly related to the Internet and the digitalization of content (Wikström, 2013 p.8).

2.3.2 Characteristics of digital content

As means of cultural products, digital content falls in the category of information goods (Wikström 2013), for the true value simply lies on the information (the intangible) and not the physical product that used to carry that information (the CD, USB sticks etc.). From an economics perspective, information goods are also referred to as ‘public goods’ because they have no “unique” economic value (Towse 2004 p.58). For example, listening to a song on the

ipod or smartphone does neither hinder another person from listening to the same song, nor decrease its value after it has been consumed.

Morreau (2009) summarizes the characteristics of digital content with two properties:

- It is very cheap (almost zero cost) to reproduce.
- It is non-rival, because once it has been copied it can be shared with anyone who has access to the same online network.

Another approach supporting the above come from Shapiro and Varian (as cited in Brynjolfsson and McAfee, 2014 p.57), who note that in the online world information is costly to produce but very cheap to reproduce. An example here can be the costs to produce a hollywood movie which (maybe be in millions of dollars) but the costs to reproduce them into digital files are practically close to zero.

2.3.3 Characteristics of new vs old music economy

The scale of disruption becomes apparent when looking at the differences between the old and the new economic model in the music industry. Wikström (2013) outlines the elements of the 'new' (online) vs 'old' (offline) music economy as per below.

The old music economy consisted of three elements:

- a) Companies had control over their physical products and hence reducing their unauthorized use.
- b) The recorded music economy depended entirely on sales of physical products (i.e CD's cassettes etc.)
- c) Technological innovation barriers prevented the average creative amateur to take part in the music market.

On the other hand, the new music economy altered all the above with:

- a) High connectivity and low control; a song uploaded on Youtube or in any other website can be shared by anyone who has Internet access. Once that song enters the abyss of the online world, it can be reproduced and shared infinitely while tracking down its usage and how many times it has been copied becomes very difficult to estimate.
- b) The vast dissemination of content on the internet created an economy based on digital services (software) which aggregate content instead of machines (hardware) that manufactured physical products for sale purposes on per item basis.
- c) Ease of access to technological innovations, allowed for an increased number of amateur

creators to make more music and participate in the global market, every time they, for example, upload their music on digital services, such as Youtube, Soundcloud and a lot more. This development is also related to ‘Moore’s Law’ in 1971, which suggested that computers would become twice as efficient every eighteen to twenty-four months while becoming less costly (Gibbs, 2015)

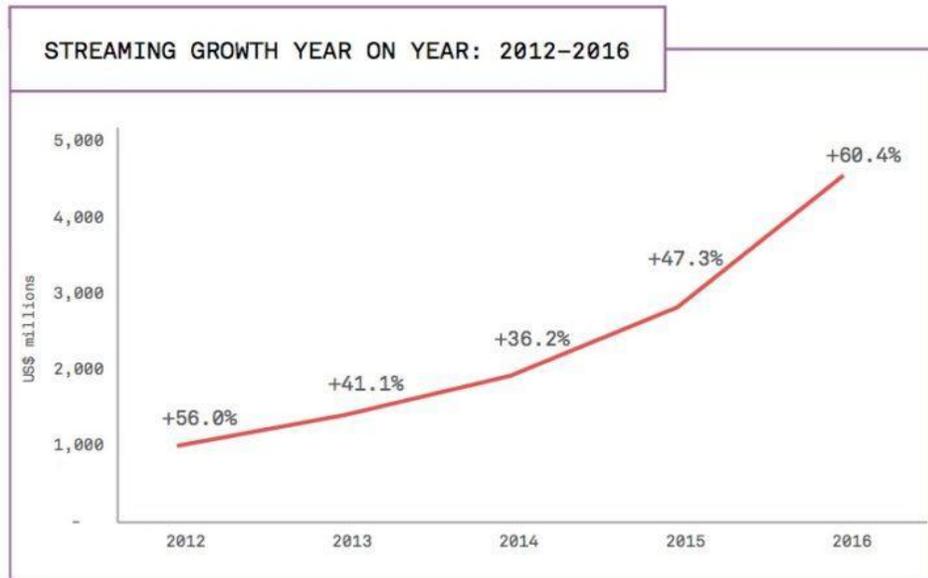
The new elements in the music economy constituted radical change compared to the analogue business model, with new ways to access and distribute music. This reflects the concept of disruptive innovation in a market economy. Disruptive innovation is characterized by technological discontinuity that brings major changes with regards to the price and performance-tier of the industry, while changing the form of the products and the processes of producing and distributing it (Moreau, 2013 p.20). These changes may cause greater challenges for vertically integrated companies who control the value chain affected by disruptive innovation. Such companies find it more difficult to adapt to disruptive innovations and invest in technologies that will facilitate the new business models arisen by disruptive innovation. The risks are extremely high for them to render obsolete all actors in the value chain (Moreau, 2013).

2.3.4 Streaming and dissemination of music

David Bowie’s prediction in 2002 was that music would become a commodity like electricity or water was a statement that Krueger (2005) turned it into a theory (The Bowie Theory). This theory is not far from today’s reality. As Simon Frith put it:

“There is hardly any limit to the kind of music we get to hear in everyday life: it is not just that music is everywhere but that all music is everywhere” (Frith, 2004 p.173).

According to IFPI (2016) digital music consumption via streaming is exploding worldwide and it has finally come to much clearer direction as the most promising of business models in the digital age. In addition, their latest report provides a graph that shows the constant growth of streaming from years 2012 to 2016:



(source: IFPI, 2017)

The exponential growth of streaming is also taken into consideration when looking into the future of the music industry. A financial research suggests that with streaming being the driving force, the rising popularity and sophistication of streaming platforms, the global music economy will boost to \$104 billion by year 2030 (Goldman Sachs, 2016). That has made streaming the most promising business model in the music industry.

2.3.5 Borderless Internet

While digitization has changed the form of the cultural products, which now require digital data processing instead of machinery and manual methods, the internet enabled the transnational environment for the communication of data. The internet has no geographical borders, not because it is not running on a cloud, as people tend to misconceptualize Andrew Blum (2012). writes that in reality, its structure is very physical, practical and very familiar to its predecessor technology, dating back to Simon Morse, who invented a way to transform electricity into signals with the telegraph in 1850. The internet was designed as network of networks, where computers connect and communicate with one another, regardless of the geographical location of the access point (Andrew Blum, 2012).

2.4 CMOs in the digital era

As seen in chapter one, the CMOs in the analogue world used to operate within their national territories, administering their domestic repertoire and the foreign via their reciprocal agreements. As soon as the internet made the distribution of music outside the national borders

possible, the collective management system based on territorial control became unsuitable (Haunss, 2013 p.4). Digital services could operate entirely online and the national structures based on reciprocal agreements between CMOs became insufficient to accommodate protection for music consumption online.

To meet with the new challenges, CISAC initiated the Santiago Agreement (2000) for the performing rights and BIEM the Barcelona agreement (2001) for the mechanical rights. Here it is important to examine their collective approach, to better understand the contrasting environment and issues that will be discussed later.

2.4.1 The Santiago agreement

Proposed in Chile, the Santiago Agreement sought to extend the reciprocal representation for offline use of music, to online. It included the following features:

1) Any user (i.e. DSP) given that they operate entirely online, (hence no physical borders), would be able to sign an agreement with any CMO and the scope would be worldwide instead of national. (Wortley, 2015 p.35). The user would however still be able to use the repertoire of all CISAC signatory members. In addition, Moscoso (as cited in Wortley, 2015) notes that a CMO would negotiate an agreement and include the tariffs for the other countries that the DSP wished to operate. The end result of the agreement would be more or less the same for the DSP because these societies would collaborate, working on the basis of their local tariffs. A year later the EC Competition Commission was notified about the initiative of the CMOs to extend their reciprocal agreements in the digital world. Although the EC initially supported 'one stop shop' solutions due to the benefits of 'blanket' licensing practices, they nonetheless declared the Santiago Agreement to be anti-competitive and hence, illegal. For the EC, encouraging competition between national CMOs would boost efficiency whilst giving the freedom of choice for rights holders and DSPs.

2.4.2 BIEM Barcelona Agreement

Adopted in 2001, the BIEM Barcelona Agreement established a multi-territorial licensing system between CMOs about the mechanical rights of reproduction in the online world (Bonadio, 2012 p.6)

Both initiatives from the collecting societies to extend their reciprocal agreements in the online world were stopped by the EC, and eventually the Santiago and BIEM Barcelona Agreements expired in 2004.

2.4.3 The European Commission's 2005 Recommendation

Since the proposed solutions by the CMOs were disregarded, the European Commission decided

to propose the ‘Recommendation on Collective Cross-Border Management of Copyright and Related Rights for Legitimate Online Music Services’. Taking a closer look at the 2005 Recommendation is important towards understanding its impact on CMO operations due to its new elements of the fragmentation of rights and competition.

2.4.4 Explaining Recommendation

According to the European Commission a Recommendation in community law is a: “*legal instrument that encourages those to whom it is addressed to act in a particular way without being binding on them. A recommendation enables the Commission (or the Council) to establish non-binding rules for the Member States or, in certain cases, Union citizens*” (EC, 2017).

A Recommendation from the EC, although not binding, it may well have greater effects on national legislation than a Directive as its contents are far reaching (KEA, 2006 p.43). A Directive is a legislative act that all member states must comply with by law (EU, 2017).

2.4.5 Option 3

The 2005 ‘Impact Assessment Reforming Cross-Border Collective Management of Copyrights and Related Rights for Legitimate Online Music Services’ followed right after the Recommendation to evaluate the steps for going forward (Moscoso, 2011 p.652-53). Through this process, it was decided that the national CMOs would have to adopt and promote two main practices:

- 1) to compete on repertoire (attracting foreign artists)
- 2) to issue pan-european licenses regardless of the user’s country of origin

Furthermore, it would enable rights holders to choose the CMO that would license their works regardless of residence or nationality across the EU, have the right to be more involved in the licensing process by determining i.e. the territory and most importantly, have the right to withdraw the online rights and transfer them to another collecting agency (Moscoso, 2011). Essentially, the non-profit collectives would have to transform, at least for online, and compete on their services (quality, efficiency etc.), their repertoire and on price for service (administrative fees). That was a very important development that changed drastically the approach on traditional collective management based on reciprocal agreements.

2.4.6 Arguments for competition

A competitive environment would offer the rights holder the choice to abandon a CMO which is inefficient and whose fees may be too high and seek membership with another CMO (traditional or non-traditional) (Bonadio 2012, p.8). This would provide opportunities for the rights holder to receive higher revenue. More critics have shared the view that the limitation of anti-competitive practices of CMOs would generate more revenue by adopting commercial strategies (Wenqi,

2012 p.50)

Another argument against the anti-competitive practices of CMOs is with regards to the distribution of royalties. By having an inadequate system of data disclosure, (inaccurate or missing ownership information) in combination with an unclear formula for distribution of royalties is problematic and may lead to discrimination and unfairness to members. The practice of the CMOs is often to consider other factors before distributing royalties to members, such as: the highest earners, biggest contributors, the length of memberships and previous earnings (Wenqi, 2012 p.51). This is a different approach to interpret 'distribution by analogy', as described in chapter two.

Additionally, it would create a dynamic system where CMOs would be encouraged to specialize in licensing niche repertoires. (Bonadio 2012). Although the former could be somewhat justified strictly with regards to competition, one could claim that the latter is rather difficult to pursue for a small society if all they have been left with is niche artists - because all the major ones would have pulled their online rights out of the CMOs. Their bargaining power is automatically decreased and users tend to prefer blanket licenses, as discussed in chapter one.

Finally, a prime example that could justify the reforms based on competition are the existing phenomena of mismanagement practices in the CMO world. For example, the cases of the Greek CMO, AEPI who withheld 41 million euros from rights holders (European Parliament, 2014), Spanish SGAE's false payments (Ingham, 2015) and a different case with misappropriation of funds (Koch, 2014), Russian RAO's financial fraud allegations (The Moscow Times, 2016) should be regarded problematic and dissatisfied rights holders should have the right to migrate to a foreign and more efficient CMO. It is interesting is the above incidents occurred twelve years after the first recommendation, which introduced competition and after the Directive 2014/26/EU on the collective management of copyright, on strict CMO governance and transparency. One could argue that for a regulation and competition to work in every member state, the national authorities may have to be more involved in monitoring CMO activities in the future to support the local artists.

2.4.7 Arguments against competition

Critics considered apparent disadvantages by implementing competition and the fragmentation of rights. These could lead to uncertain future for the less-popular individual rights holders and smaller CMOs. KEA for European Affairs (2006) specialized in strategic consultation within creative economy, copyright and cultural diversity areas, pointed out the following threats that competition and the fragmentation of rights would create. These are:

- a) Higher administrative costs for the national repertoire (CMOs-financial issue)
- b) Smaller CMOs will lose bargaining power, if they were to administer only their national and less profitable in the international market repertoire (CMOs - financial issue)
- c) Online services may disregard licensing small, national repertoires or pay very little for it (threat to reciprocity and solidarity)
- d) Local and niche artists will find it harder to participate in the global market (threat to cultural diversity)
- e) Likewise with Services, Societies with the most profitable repertoire would not have an

- incentive to recruit small rights holders from other countries (threat to cultural diversity).
- f) Smaller societies which control an equally small repertoire will not be able to compete, as attracting high-earning, popular artists is unlikely without (smaller CMOs may become irrelevant)

(KEA, 2006 p.45)

Additionally, two important observations were brought to light from KEA's report. First, that the multinational publishers would pull their rights out of the CMO system, to cut down costs and reduce the negotiating power of CMOs (KEA, 2006). From the multinational's point of view, this would be justified by a situation where a CMO can abuse its monopolist position to their best interest. For example, PRS for Music in the UK has tens of thousands of writers who may contribute less than \$100 a year, but they also have superstars such as Elton John, Bono, Coldplay who receive hundreds of millions. By having this monopoly in place, however, the best interest of PRS, is to treat (or at least try) to support equally all their members indiscriminately. Should they lose that dominant and "abusive" power, the more lucrative anglophone repertoire would no longer subsidise the local talent and niche genres.

The second point was that the EC has neglected to understand the communal understanding of copyright with regards to solidarity and reciprocity and their benefits to society and the local market. They argued that: "*market partitioning is a de facto reality because of linguistic and cultural considerations*". (KEA, 2006) The latter could be simplified with a logical example: a very popular Norwegian artist in the 'danseband' genre may find certain difficulties migrating from TONO to French SACEM as the language and culture is different. In that regard, SACEM, quite naturally, would not be aware of that artist's popularity in Norway. That view is shared by Enrico Bonadio:

"Indeed, such artists might not be able to afford to license their rights to collecting societies in other Member States: in this regard, language barriers and organizational difficulties could represent insuperable obstacles" (Bonadio, 2008 p.9)

The above two points by KEA regarding the withdrawal of rights by the publishers and market partitioning across in the international market are respectively reflected in Roger Wallis' analyses on:

- a) the development of vertically integrated global firms, as a threat from within the CMO system (Wallis et.al. 1999 pp 19-21) and
- b) the principle of universal supply (Wallis et.al. 1999 pp.15-16).

For point a: The concentrating power of the multinational companies is considered 'threat from within' for CMOs. For example, both SONY and EMI were different publishers and members of the same national CMO. As relatively big players in the market they represent a relatively big proportion of the CMOs revenue and therefore sit on the board with other publishers and writers. When SONY acquired EMI's catalogue, although appearing to operate as a separate entities, it was considered a unified company with much stronger negotiating power in the board of a CMO. Therefore, the 'threat from within' is the sense of disadvantage of CMOs whose members are important, profit-driven actors. Consequently, that leads to very difficult board discussions, especially in situations where, for example, the CMO board is to discuss strategies against big conglomerates in the market to the interest of all members. An example of this became evident with the continuous pressure over the years of the multinationals on CMOs to lobby against

CISAC's rule of 10% cultural deductions (Wallis et al 1999 p. 24). Such intentions may seem logical, given that major companies are investors who expect profit and not in any way keen to artistic philanthropy.

For point b: The communal understanding of copyright has been in line with the principles of solidarity and reciprocity, embodied within the CMO system of reciprocal agreements. Roger Wallis et.al (1999) supported that such system is aligned with the principle of universal supply, evident in public monopolies around the world (i.e the letter post, water and electricity supply). A simplified example of how the letter post works in Europe is that the system ensures the accessibility of all users to the system with a flat fee, regardless of destination. The same rate for the same letter would be charged from Oslo to Sandvika, and from Oslo to Trondheim. When the letter is sent outside the national border, an additional fee is applied. This is also apparent with the reciprocal agreements of the CMOs. When i.e. Kygo's music is being broadcasted in Japan, revenue from that use will be sent from JASRAC to Norwegian TONO. An extra fee then is applied for sending that money, which would then be distributed to the rights holders - from the CMO directly to the writer, or from the CMO to the publisher who would then keep a percentage and pass it on to the writer. Although this system indeed did not favour the international conglomerates, it ensured that everyone takes part in the global economy. Huge market players such as Universal, Sony/EMI and Warner, who are members of the CMOs as publishers are also profit driven investors, who saw a decrease of revenue due to fees to CMOs.

2.5 Issues for CMOs in the Online World

This paper has so far projected certain key developments to explain how CMOs and their operations have evolved and provided some critical considerations. This chapter will summarize the effects and issues these developments brought along.

2.5.1 Rights withdrawal and complexity

A year after the EC's 2005 Recommendation, major multinational publishers withdrew their rights from the CMO system in an attempt to cut down costs from administrative fees to the CMOs and for other reasons, as described earlier in the paper. Consequently, there was a fragmentation of rights and repertoire. The fragmentation of rights is with regards to mechanical and performing rights. The publishers traditionally receive income from mechanical rights and the performing rights still remain controlled by the traditional CMOs. Once the major publishers have pulled out their mechanicals, the DSP would need separate agreements and separate negotiations to clear all rights. (Butler, 2016, p.17).

When the major publishers set up their own licensing agencies, there was more complexity for any user in the market who seeks a license with worldwide scope. In this case more negotiations between different entities are required. The below entities now license the

Anglo-American repertoire:

SOLAR: for the Anglo-American repertoire of SONY/ EMI. Before EMI's acquisition of SONY, it was divided in CELAS & PAECOL respectively.

DEAL: for the Anglo-American repertoire of Universal Music

PEDL: for the Anglo-American repertoire of Warner

IMPEL: for the Anglo-American repertoire for Independent publishers

The Anglo-American repertoire, is usually the most lucrative and hence very attractive to users. However, that does not cover the world repertoire, that users desire. For that purpose, and for the benefit of both publishers and CMOs, special licensing bodies were set up (SVP's) whereby CMOs would provide the performing rights and the major publishers the mechanicals as a bundled product for the DSP's. (Butler, 2016, p.17).

Compared to the analogue licensing scheme, where there would be one agreement for access to the world repertoire, now a user requires multiple agreements from all CMOs separately; the major and indie publishing hubs, as well as the CMOs for the neighbouring rights (performing artists and producers) a study suggests (KEA, 2012 p.30). Even if a user obtained all the above blanket licenses separately, there would still be legal uncertainty on whether they could potentially infringe copyright, as they are no longer sure they have covered the whole repertoire.

The fragmentation of rights is regarded as a great disadvantage for new businesses as well as smaller CMOs because they have greater financial obstacles to compete in the online market (Hilty & Nerisson, 2013 p.9). An indicative study suggests that the overall costs for licensing the national repertoire of five European countries including the UK, Germany, France, Austria and Poland (excluding the mechanical rights) are roughly estimated at €3.525.600 (Reis et al, 2014 p.93). These financial barriers, and their potentially destructive outcomes for a market economy have not been unfamiliar in history. An example comes from Michael Heller, in his book *Gridlock Economy*. In the Middle Ages, the long river Rhine in Germany was very important and valuable for European trading but local aristocrats and robber barons decided to set up toll booths along the route of the river, forcing traders to pay customs and taxes along their journey. All the different costs, taxes and negotiations made trading so impractical and expensive that the market collapsed; traders had no longer the incentive to ship their goods and sail on the river. (Heller, 2010 p.3). Likewise, a start-up DSP or small company who would like to set up a service that specializes and promotes, for example, European folk music, would be disincentivized to do so, as these kinds of DSP's do not have the same capacity to hire professionals (lawyers, negotiators) who will make sure all the required licenses have been obtained to use music legally. It is therefore a much more cumbersome and expensive practice for them, than for a multinational company. Moscoso (2011, p.654) argued that in such commercial environment, the evolution of business ideas and disintermediated concepts to the benefit of the niche repertoires, as romanticized by Chris Anderson in his book 'The Long Tail', can not be pursued. A central theme of Anderson's long tail theory argued that digitalization would essentially decrease the value gap between hit songs and niche songs in terms of revenue and diversity of repertoire. It is seems difficult to agree with this theory (Anderson, 2006).

On the EU level, cultural diversity and "freedom" of the rights holders to participate in the

market have also been in the agenda for the European Commission when they instigated the Directive of 2014. It was an attempt to cover both cultural and single market policies. Although GESAC welcomed the Directive of 2014 as part of their willingness to find solutions towards harmonizing CMO operations, they expressed their dissatisfaction on the lack of focus on cultural diversity:

“(...) GESAC regrets however that the opportunities to guarantee cultural diversity were not taken as necessary, since it is uncertain whether all repertoires will be offered by digital services on a pan-European basis.” (GESAC 2014)

<http://www.authorsocieties.eu/mediaroom/145/33/GESAC-welcomes-the-adoption-of-the-Collective-Rights-Management-Directive-by-the-European-Parliament>

Regarding the smaller CMOs, the economic rationale behind their operations and their possibility to function even by controlling small domestic repertoires, was by exploiting economies of scale and reducing their administrative costs. (Handke and Towse, 2008 p.3). This is no longer the case. A 2009 study by ELIAMEP (Hellenic Foundation for European and Foreign Policy) for the European Parliament predicted this issue and stated that:

“...it seems reasonable to conclude that at least the Anglo-American repertoire represents a very important revenue source for the European collecting societies, whether these are of a large, medium or small size. Deprived of such repertoires, the profitability of medium-sized and small collecting societies, in particular, could be endangered, undermining their ability to cater for the interests of their members”. (ELIAMEP, 2009 p.97)

It is clear that by losing the most lucrative repertoire, smaller CMOs will not appeal DSP's, who may disregard their domestic repertoires, and seek the “much-needed” Anglo-American repertoire to develop services that will promote and establish their businesses. In many ways, this situation indicates that the principles of reciprocity, solidarity as well as cultural diversity are fading away.

Overall, the negative impact of this complexity shoots both ways - all the above factors for both DSP's and small CMOs are highly relevant to the broader context of a flourishing online market, where big and small actors get a chance to participate in.

2.5.2 Big data: non efficient data processing

Voices predicted long time ago that as technology and the media would create opportunities to consume more music, the vast dissemination of that musical content could make the collection and distribution of money from online use very difficult (Frith, 2004 p.174).

The quality of data in terms of having correct ownership information about songs and their rights

holders is not a new type of problem area for the CMOs as it also existed when internet was in its infancy. Wallis (2001) considered that the CMOs were facing a challenge concerning the quality of different kinds of data that is fed to their systems and would need correct and up-to-date databases, efficient transaction processing systems and good collection and distribution routines locally and internationally in collaboration with their sister societies. There have been certain inefficient and costly practices in that regard. A CMO in country A would always have to re-register a new song coming from country B in the analogue world. Given that they did not share the same database, there were additional risks that data could be amended without further notice, affecting the correct original ownership matrix of a musical work. The CMOs would have to find a way to process that data efficiently in the digital world and ensure that they hold the correct information about rights holders (Wallis, 2001 p.19).

The first example of a joint database system for CMOs in Europe has been Norddoc, where information about members and copyright registrations of musical works from Norway, Sweden, Denmark, Finland and Iceland would be linked together (Wallis, 2001). On a global scale, the International Music Joint Venture (IMJV) would provide a shared works database between Buma (Holland), PRS for Music (UK), Ascap (USA) and Socan (Canada) in year 2000, but the project was dissolved in late 2001 (Wallis 2001). As the industry developed and the consumption of music online grew significantly, the music industry (CMOs, publishers, record labels and technological companies) attempted to revive the idea of a central authoritative source for copyright information. The Global Repertoire Database aimed to deliver holistic data solutions for the music industry and would include copyright information about rights holders and counterclaim module to settle disputes (Cooke, 2015 p. 70). There are many speculations as to why that project did not deliver at a crucial phase in the music industry. Klementina Milosic (2015) wrote in Berklee's Music Business Journal that some of the reasons were financial (too expensive) and political (in terms of who would control the GRD).

Nonetheless, in the midst of a digital Renaissance, music is consumed more than ever as IFPI (2016) reported, and the problem of efficient data processing and music identification persists to exist. Streaming services today have the ability to provide usage reports back to the CMOs but they usually come in a format that is incompatible with their existing national databases (Owsinski, 2016). Matching a song with the information from usage reports is a crucial part for verifying rights holders and making revenues from that usage distributable. Thus, where data is flawed or incomplete, human intervention is inevitably needed to manually process that data.

In summary, the extreme number of usage reports from streaming (as discussed earlier), which, combined with the possibilities of having inaccurate information, makes distribution of revenue highly inefficient and drives the licensing and operating costs for CMOs up. One could say that asymmetry between databases and ownership information make it infeasible for CMOs to process all of the usage reports, even when using IT systems and automation, as these can not cope with poor quality data. As a result, a lot of lines of usages may be left unprocessed and revenue from high value works may not distributed until the rights holders are identified manually.

2.5.3 Slow speed

Another problematic area connected to data, is the slow speed of revenue distribution, known for a long time as a disadvantage in the CMO system of remuneration according to Hutchinson, (as cited in Holden, 1999). The official Journal of the European Union provides the contents of the EU Directive of 2014 which was transposed into national law in April 2016. Here it states that the distribution should be sent out:

“...no later than nine months from the end of the financial year in which the rights revenue was collected, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with right holders prevent the collective management organisation or, where applicable, its members from meeting that deadline”.

(The Official Journal of The European Union, 2014)

In practice, once monies are collected by a national CMO, there is a nine-month deadline to pay it out to members; however, this may be extended in situations where the national CMO is not able to identify the correct rights holder (as seen above, a likely scenario).

Furthermore, this deadline may be extended even longer, when revenue has been collected by a foreign CMO (whose deadline is also nine months for sending it to the rights holder's national CMO). Should the foreign CMO extend due to data processing difficulties, then the result is that the rights holder may receive the revenue after several years. This is a big issue for rights holders whose music is being consumed worldwide via the internet. Payment delays may lead to dissatisfaction from rights holders, who may have invested a lot of money and time for that remuneration. This is ultimately an issue for all CMOs, as dissatisfied rights holders may have an incentive to abandon their membership (as it happened with major publishers) and turn to private companies.

2.5.4 New, non-traditional entrants

Before the fragmentation of rights and the legislative reforms to promote competition in the EU, there was no other legal way for a creator to receive remuneration than by assigning those rights to the national CMO. This is no longer the case, as private companies have emerged in the industry. They operate as aggregators of repertoire and collective agencies for online revenue streams.

Kobalt Music, for instance (traditionally a publisher), use the innovative Kore technology and are able to track down usage from any website or digital service where a song has been used and can monetize even small usages from streaming and transfer micro-payments to their artists. Detailed quantitative data regarding usage and payments is then laid out in a digital dashboard, which is available almost instantly for their artists via a modern and user-friendly mobile app

(Gray, 2015). Kobalt and, similarly, Global Music Rights (not a publisher) have attracted many high-profile artists and now collect royalties from streaming music directly from the DSP's. Their repertoires include:

GMR: Drake, John Lennon, Ira Gershwin, Bruno Mars, Jon Bon Jovi, Bryan Adams, Billy Idol and thousands more. (GMR, 2017)

Kobalt Music: Bob Dylan, Max Martin, Bob Marley, Paul Mc Cartney, the Disney catalogue and thousands more. (Kobalt 2017)

In the grand scheme of issues for CMOs, this one may also be considered a major consequence. Because CMOs now also compete with private tech companies who “cherry-pick” high earning artists that once used to be represented by CMOs; That is one part of the issue. The second part is the direction it has taken with regards to Kobalt's acquisition of the American Music Rights Association (AMRA) which is also a CISAC member (Clark, 2015). Any writer who assigns mechanical and performing rights with AMRA, essentially assigns it to Kobalt, who receive 100% of the earnings and become de-facto a CMO. Could this pave the way for traditional CMOs obsolescence, or is it an indication that aggregation of rights might displace the traditional structures of CMOs?

3. Methodology

This study seeks to explore a complex topic that involves different actors, such as non-profit CMOs, commercial companies, national governments etc. each with their own agendas, policies and strategies. After choosing the topic of the thesis and formulating the problem hypothesis, the indications from related theory was that the opinions are in the eyes of the beholder. On the other hand, it was considered very useful to look at the problem through the eyes of some specific beholders with specific tasks in the industry. This part of the chapter explains how qualitative interviews, supported by the necessary theoretical material was the most suitable methodology for the topic.

3.1 Methodology and interviews

A qualitative method has been chosen because the paper seeks findings that can not be obtained by using statistics and numerical data as opposed to a quantitative approach (Strauss and Corbin 1990, p.17).

Given the lack of research in the area of CMOs, the objective of this thesis has been to understand what certain actors from within the 'system' think about the addressed problems. To do so, qualitative interviews provide in-depth understanding when dealing with relatively broad topics, and allow interviewees to use their own words; even elaborate on a the addressed problem (Corbin and Morse 2003). The purpose of a qualitative interview is therefore:

"To gather descriptions of the life-world of the interviewee with the intention of interpreting the meaning of the described phenomena" (Kvale, 1983).

The interviews conducted for this paper have been in a semi-structured form. A list of questions on certain topics was pre-selected but there was certain flexibility in how and when these questions were to be put during the interview (Edwards and Holland, 2013 p.29). This is important when seeking as much detail as possible. On the other hand, structured interviews provide certain limitations and are preferred in form of case studies (questionnaires, yes or no answers etc).

Travers (2001) and Kvale (1994) state that qualitative research method tends to be criticized about its legitimacy - Many authors have argued that qualitative research tends to be more of a philosophical approach, that is not objective, does not address scientific issues, provides results that can not be measured etc. On the contrary, a quantitative approach is viewed more scientifically accurate, hence objective and with "tangible" results. In that regard, Kvale (1994, p.169) is critical on such views, and argues that:

- a) too much time in the academia is spent on discussing whether qualitative interview

research is legitimate or not (high defense expenditure), instead of using those resources to improve the quality of the research as well as its thoroughness and creativity.

- b) authors who argue against the legitimacy of qualitative interviews with regards to, i.e. objectivity or validity, do not take into account their ambiguous concepts
- c) at the end, the real value of a qualitative research is established by its contribution to new knowledge rather than defending arguments on its legitimacy

According to Weiss (1994, p.9-11), there are certain research aims that make qualitative interview studies a beneficial method of choice. The below reflect the aims of this thesis:

-developing detailed and holistic descriptions.

Seeking full reports on 'how' and 'why' events took place from people who were involved in an event. For example, my interviewees took part in the decision making of policies/agreements that this paper addresses 'problematic' or causes for certain issues. By asking 'why' or 'how' those developments came to be, and comparing views of more than one informant, reports are integrated in a way that conclusions are more clear, as to whether i.e. a system works or fails to work.

-integrating multiple perspectives

Combining the views of people with different professional tasks. This thesis includes four interviews of four people with different leading roles. Their different answers are different pieces of the same puzzle that the researcher must build, by identifying differences or similarities.

-describing processes

there is no doubt that very few people are aware or understand the context of copyright systems that this thesis brings to light. An insight of specific processes straight from the source for i.e. the system of remuneration for creators, could only be possible through interviews (or by participating/observing - that has not been possible for this research as the technical system processes of CMOs are not publicly available and access is very limited)

-learning how events are interpreted:

When the researcher seeks to understand the reaction of other actors about a specific event. This reflects many aspects in this thesis, for example, the reaction of publishers and CMOs when competition was imposed by the EU. Here the event is already known, but the insight of a person who saw the responses of both parties is extremely valuable towards identifying if the same event has been interpreted differently.

-identifying variables and framing hypotheses for quantitative research

A problem usually needs to be identified and named before testing it with precise numbers. Quantitative researches need the variables to be measured and hypotheses to be tested; this study certainly serves as a problem identifier, as mentioned in the introduction of the paper.

3.2 Process and issues in interviews

These are several issues that an interviewer must take into consideration in advance.

3.2.1 confidentiality

The interviewer must guarantee the respondents confidentiality. It is a commitment that the respondent will not be damaged because of his or her participation in the interview. (Robert S. Weiss, 1994 p. 131). That is why all informants have been asked before the interview if they consent to being interviewed and recorded throughout the process.

3.2.2 Matching interviewer to the respondent

This issue could also be formulated into a question, such as: ‘to what extent is it necessary for the interviewer to be an insider in the respondent’s world in order to be effective’? Studies have shown that the respondent tends to use observable characteristics to find common ground with the interviewer and their judgment in that regard: “*could affect the opinions and attitudes they voice*” (Robert S. Weiss, 1994 p. 137). In order to get the best possible answers and reduce the chances of being turned down, I decided in advance that the interviews should be conducted while making myself familiar with their work, outside academia. As a short-term employee at PRS for Music, I was considered a “colleague” and entered their world. I was therefore in a much better position to get important information that would otherwise be more difficult to obtain. From the interview analyses and the full transcripts, it is clear that my informants made themselves comfortable and vocal when I addressed certain topics. They took the necessary time to give long, detailed and relevant answers. Some of them also felt like giving very honest and straight-forward answers without having the need to “sugarcoat” anything. In that sense, making myself “one of them” has been of crucial importance towards obtaining that kind of information.

3.2.2 Interview with acclaimed professionals

When interviewing individuals who have been quite successful in their professional career it is not unusual that interviewers tend to make reference to their own achievements. This can happen subconsciously when the respondent is a person they respect or admire. That tendency, although slightly prevailing during the interviews, must be avoided should the interviewer seek to establish a good interviewing partnership (Weiss, 1994 p. 138-139).

3.3 The informants

The chosen interviewees are distinguished professionals with very senior roles in collective management. As Directors of powerful CMOs (PRS and MCPS) they have been involved in crucial developments and with their decision-making have contributed to shaping the international music industry and the future of the CMOs. Therefore, they are also most fit to answer, given that they all work for a powerful player in the International market (PRS/MCPS) Due to their different roles and expertise they approached the interview questions/topics from different perspectives. The interviews are only four - one could argue that there could be more informants from the music industry. The quality of the findings here should compensate for the lack of a greater number of interviews, which is usually the case in many researches that touch upon complex topics.

1. Graham Davies: Director of Digital & Strategy at PRS (UK's Performing Right Society). He has worked towards finding innovative solutions for PRS and other collecting societies in the digital age. With over 12 years of experience as a Director in different departments at PRS, he has seen the industry and traditional collective management change dramatically. He has an excellent understanding of how collecting societies can work in a globalized market. He is passionate about music and he is himself a pianist.
2. Jane Dyball: Director of MCPS (UK's Mechanical Rights Society) and former SVP Warner Chappell (International and Legal Business Affairs). Dyball has +30 year old experience in the music business. She became a very influential person in the music industry while working for Warner/Chappell Music Publishing. She was the person who initiated and executed the pan-European Online licensing for Radiohead's famous "In Rainbows" album in 2007. An experiment where people would get the chance to download the band's album on a 'pay whatever you want' basis. That result was one of the first clear evidences that compared to physical sales, online licensing could bring in a lot more revenue directly from the fans. She is a person that understands very well how the music market functions and has been involved in all major CMO-related developments as a board member, speaker and panelist.
3. Ben McEwen: Commercial Director at International Copyright Enterprise (ICE) and Head of Online at PRS for Music. McEwen has been characterized as an "ace licensor" by Will Page (Director of Economics, Spotify & former Head of Finance at PRS for Music).
4. Bruce Dickinson: Head of Risk and Assurance at PRS for Music. He has an eighteen year old experience with leading roles in collective management and known for his exceptional knowledge of the international music industry and the CMO network.

3.4 The interview process

The first step was to send out an email with a description of my Master Thesis topic and why I thought each of these particular employees would be fit for the interview.

All interviews except with Ben McEwen (by phone) have been conducted face to face, but they were all very different:

Jane Dyball expected me to be at her office on the top floor of PRS' prestigious building overlooking King's Cross station in central London. After she reviewed the topic of my thesis, the request for an interview was accepted through my team manager at the Member Services Department and the appointment was booked. The setting for this interview could be described as highly exclusive and the atmosphere rather "chic". The combination of these created something very welcoming. The duration of the interview was 30 minutes.

Graham Davies, although based in the same PRS building, preferred to welcome me at the cafeteria himself, bought me a tea and sat in front of me at a small table a bit far from the other employees. Although he is also a very senior person, director and board member, his approach was more welcoming and the atmosphere less corporate. That was perhaps due to his understanding of my post-graduate student status and genuine interest in the topic that I brought for discussion. The interview lasted 1 hour and 6 minutes.

Bruce Dickinson, came to meet me at the floor of PRS' Streatham premises (the second office, for mainly members services). His approach was more than welcoming - he was also willing to "level down" in order to answer questions truthfully and straight forward without thinking twice. We had already booked a meeting room for 30 minutes, but the interview lasted 43 minutes.

Ben McEwen was contacted by phone. From the beginning he appeared to be very informative with what appeared to be a very structured line of thought. He spoke much faster than the other interviewees but stayed relevant to the addressed questions. The interview lasted 35 minutes.

3.5 Analyzing the interviews

The first step for analyzing the interviews was to transcribe them from audio into text, and begin the process of analysing and evaluating the data. Miles and Huberman support that the more understanding the researcher has developed during the process of collecting data, the more certain they can be about its adequacy. (Miles and Huberman, 1984 p.49). In that sense, each interview was transcribed right after its collection and was reviewed separately.

After all interviews were collected and transcribed, a four-stage framework has been adapted as per Alan Bryman's (2001) four stages of analysis.

-Stage one

Reading through the transcripts to identify when responses that focus on a certain theme occur. For example, 'competition and CMOs' or 'data processing challenges', have been identified as concepts and sorted thematically to find possible links between the different responses.

-Stage two

Writing notes, marking and highlighting key-words on the identified themes from stage one. For example, when the theme is 'competition' one respondent might characterize it as 'very good' and another 'very bad'. These are the kinds of keywords that have been marked to evaluate and compare findings.

-Stage three

Reviewing the text and grouping occurrences of the same theme. This is helpful towards eliminating repetition and indexing the themes more thoroughly.

Stage four:

Identifying the connections between the responses and the supporting theory. The relation of the two is interpreted and where possible, matched with the research questions.

4. Interview responses

The interview questions were chosen after reading relevant theoretical sources about problem areas for CMOs. Since the interviewees had different area of expertise, the questions differed but fell upon the same topics. These were coded into different themes as per below:

- Fragmentation of rights
- Competition and CMOs
- Data processing (including database systems, identification processes etc.)
- Other :New entrants and Future scenarios

It is important to note that some new topics brought up during the interviews were disregarded from the analysis as the data had to be narrowed down to reflect the initial hypothesis and research questions. The full transcripts of the interviews in detail can be found in the appendix.

4.1 Topic 1: Fragmentation of rights

Dickinson started off saying that before online music and fragmentation, the blanket licensing worked perfectly well:

“ It was fine when everything was limited to one country. So, when broadcasting didn’t spill over borders and before internet messed everything up. We were perfectly well. The PRS could license the BBC, SACEM could license TV2 and we could license hairdressers in London and SACEM could license coffee shops in Paris and so on. I think that worked perfectly well and the idea of “OK, we pay your writers, you pay our writers” was a perfectly sensible good system.”

He then mentioned that licensing is linked with administration and distribution of the rights included in the license. By pulling their repertoire, major publishers thought they would solve these issues but have made things more problematic:

“When it started off, about 15 years ago, I think a lot of the publishers thought: “we can do this ourselves better and cheaper” But I think they realized very quickly that they couldn’t, which is why essentially, we do all the work. They just give us the rights and we get to take a small amount of money for it. But I think that Universal and SONY said that they could not do this on their own at the moment, because the CMOs have 100years experience in doing this. But they don’t have the experience of doing that level of detail. They can do the licensing, no problem! They are quite good at that. But the administration and the distribution side of it is different. But

it has, and will become more problematic”.

He believed that the writer’s taking control over their rights for individual licensing becomes worse when they license bits of rights for different purposes:

“(…) If you are a writer and you join a society, generally if you join PRS you give us all your performing rights for all ‘usages’ for all countries. You have always been allowed to pick and choose the countries, for example, having a membership with the PRS but excluding USA and let ASCAP take care of that part, or STIM for Sweden. So, you join STIM for Sweden and PRS for the rest of the world. Now..more and more you can say: I am giving you my rights but my online rights are going to another body, maybe Universal, maybe a friend of yours who can negotiate with Spotify. So you can say that your broadcasting rights are going there and your live rights go here and the picture gets much more complicated. If it is only digital or online it is maybe not so bad, because that is already very fragmented. But I think if you decide that your broadcasting rights stay with PRS but my cinema rights will go with SACEM.

He summed it up with a practical example:

“if GEMA collects money for you, they have to think: Right! We’ve got \$100. From that \$25 is for broadcasting so that goes to the PRS, \$5 is for cinema, so that needs to go to SACEM, instead of saying: “OK, right, It’s all for him and it all goes to PRS”. So this will make things much much more complicated”.

Dyball approached the topic from a different perspective. She believed that the publishers have helped the market by pulling out their rights and licensing them directly to services:

“(…) I think that the publishers taking matters into their own hand really helped the market. Now there is quite a bit of criticism because the DSPs go: Oh my god, I have to go to all these people, it would be so much easier going to once place and getting once license. They do have to go around and get it and then they complained about it but what they forget was what it was like before, where you could not get any engagement”.

She believed that focus should rather be put on ways which can improve the efficiency of CMO’s in a fragmented environment:

“I think the challenges are firstly to make collective management more efficient and more cost effective. CMOs provide a valuable function and an essential function probably because they unite... you know, they aggregate repertoire and then they license it especially for small uses that you can't license. It's just not cost effective to license individually. So, it's a very expensive way of doing it, there is a lot of room for saving money. And that seems to be going up rather than down! I think the cost of CMOs across Europe is a bit over 1 billion euros per year. That is how much they cost. So, that is a lot of money for a lot of repetition. Even if you take 25% out of that, that is money from revenue streams. So there is a challenge to cut cost, especially while the amount of effort is increasing”.

McEwen’s view was similar to Dickinson’s with regards to the challenges caused by

fragmentation but he was optimistic:

“(...)With online we have had specific challenges because copyright as you know is territorial in a way that it's developed and obviously that brings big challenges when you go into a multi-territorial or global environment in which the industry is developing solutions for.. You know, I am generally reasonably optimistic about the future”.

Davies also acknowledged the problem of fragmentation and touched upon Dickinson's view of the individual control over licensing being the cause of complexity. Similarly with Dyball's view he did not stress any serious concerns on the topic and focused on working towards a building a strategy that would provide solutions based on the new rules:

“I would say the key difference between the Santiago agreement with the option 3 from recommendation from the European Commission and the rights holders was to exercise their direct control over the pricing and licensing of their rights on a multi territorial basis and not leaving those rights with the CMOs. And that is part of what we have been looking at. We have bundles of rights being licensed and priced separately. That is a very very different world to how the societies and the network have been running before. And it has given rights to huge amounts of complexity”.

4.2 Topic 2: Competition and CMOs

Dickinson believed that competition generally does not work well with collective management of copyright and pointed out the difference when comparing music with tangible products:

“I don't think it does, personally, I think this is where the European Commission has misunderstood what we do. Competition works very well on mobile phones and TVs, I think, brilliantly! I do not think that it works in this field because if this phone is too expensive or not very good you can go to Samsung or (not Nokia now.. Motorola or Windows phone or whatever). You can buy something else which may be cheaper or better or both! But I think in the world of rights..only you own your rights! Or, OK, and PRS”.

He elaborated on the special nature of a musical work, and the difficulty to compete on price, between different licenses offered for the same work :

“I suppose because it is unique in that way, I don't think it can work that you could have lots of different people selling your thing. If you said: Right, I am a songwriter, I've written 100 songs and they are all licensed by Gema, Sacem, Stim, PRS, ASCAP etc. Everyone, everywhere around the world. I think again you start to get into the who is doing it cheapest. Because then, I only want to pay for the cheapest one. So if you said: Right Bruce, this is ten pounds from me for his songs I am going to go for the one that charges one pound! Because that is how it will work. Otherwise, there is no point in being in ten different societies”.

He then mentioned that competition generally puts creators in a difficult position with regards to

receiving their compensation:

“(...) you lose out because you have written the songs but you are getting very little money for them and this is where I think, you know.. if Apple finds out nobody is buying their things, they will reduce the price, or they will try to make them better.. or make something else. But you as a songwriter you don’t have that ability. So I think it does not work in a competitive environment. But .. it has to, because now this is the way the market works”.

On top of that, he added that CMOs are having difficulties agreeing on the price for online licensing. Competing on price does not guarantee support for the economic value of music:

“The difficulty now is, as we have rapidly moved from (20 years ago no one knew what the internet was, really!) now, since things have become more globalized it has become much more complex. In many ways it should have made it much easier in as much as PRS should be able to go to Apple or Spotify and say: “We’ll license you for the whole world”. The difficulty is that if we say “we are gonna do it for 10%”, someone else will do it at 9% and someone else at 8%. So I think especially in Europe at the moment, we are in a real difficulty of: Do we all decide we all charge 8%? (In which case we have fixed the price). Or do we say: “charge whatever you want?” And whoever charges the lowest, the man who charges 1% wins. but the writers don’t get anything! So it’s a really difficult balance I think between charging the right amount, not collaborating to fix a price, and yet still getting a decent value for everybody”.

From Dyball’s perspective competition is good, in commercial terms and boosts service efficiency:

“I think fundamentally competition is good. It means that people have to be as good as they can be to attract business. (...) I think that it speeds things up, it makes it easier, you can cut a deal.. I believe in the exclusive nature of rights. So I don't believe that every CMO should be able to license everybody's repertoire for example. Because then you would have societies undercutting each other. But I believe that if I own rights, it is good for me if I have got a choice of which society I am going to let license my rights. I think deals get done much more quickly when the people that own the rights are able to drive the deal terms. You know, it's much easier if you are able to negotiate yourself”.

When she was asked to give her opinion on the reasons behind the failure of collaborative solutions (Santiago and Barcelona Agreements) to deal with online licensing she mentioned that it was taking too long for CMOs to decide how to act:

“I was around in the Santiago agreement and Barcelona agreement at that time and there was a 3rd agreement which was an online M.O.U (Memorandum of Understanding) which would have been a very collaborative approach to digital licensing. We spent 7 years negotiating that. I mean.. 7 years! And after a while (I was a publisher then) I think some of the CMOs may have been in a bit of denial about the digital market. You know, it is impossible to imagine a world where it is acceptable to spend 7 years discussing anything really”.

She elaborated by saying that the CMOs feared of taking decisions at an important phase in the music industry and this would have a negative impact on digital commerce:

“It is no wonder that the level of frustration was so high that you just think.. right.. we can't afford to not do anything. We can't afford just to postpone this and leave it for tomorrow again and again. But we had to do something about it and at that time I was working for a publishing company and there was no option but to say: This is a business I want to engage in and if the societies system is not going to engage in there for me, then I am going to engage. You know, these digital services they are not all bad people. You know, there was a lot of fear in digital services and a fear of engaging or agreeing rates which you might later regret. (...) And if you are a commercial organization then you have to make deals! You just have to make deals otherwise you can't carry on”.

Finally she believed that competition worked positively towards making CMOs more active in making commercial deals:

“What was problematic back then was that if you were a CMO you didn't have to make deals. Not quite so much. You know, you've got enough business to not make deals.. So the societies have changed now. They have become a much more embraced concept of making a deal but back then there was a real fear that if you did a deal you would later regret it cause you charged the wrong amount and nobody knew what the right amount was”

Mc Ewen's general view on 'competition vs collaboration' was different than the rest of the interviewees, he suggested that inevitably a CMO will need both elements to thrive in the market:

“What is interesting is that the past to the future is with a combination of collaboration and competition. I know those two things are sort of naturally and diametrically opposed but actually i think increasingly we are working in an environment where we are... partners and collaborators in various projects that we might work on, like the GRD. Here are lots of examples with projects that we work on together and other areas that we license and work together and other areas where we actively compete. I certainly do not think it is one or the other”.

Regarding collaboration for digital solutions in the likes of the Santiago agreement he mentioned that it had certain disadvantages and would not increase the necessary efficiency to deal with digitalization:

“I think the danger of a pure sort of 'collaboration share strategy without the competitive 'impetus' is that nothing much changes. You still have all the same players doing things in the same way and that is definitely not the solution. Partly because it doesn't deliver you the kind of systems and specialization that you need to deal in this environment. You need fewer places that are really up to the technological challenge and providing that aggregation and I think you get there through competition”.

He then gave an example of competition with elements of collaboration, such as the licensing hubs:

“If you look at PRS' strategy it is to partner with like-minded societies to develop a hub that will be the competitive force in the market and will involve fewer places to go to get the rights. So, I think this is an example that combines collaboration and competition. I definitely don't think it's a 'neither-or'. You need to blend these two things to make it work”.

Davies did not touch upon any certain concerns with competition and believed that option 3 from the 2005 Recommendation was the only option that would protect the value of copyright in the online world:

“(...)PRS' response to that was to say that not all societies responded in favour of option 3. We did. And we said: any other option is going to de-value copyright. So, competition for rights is a better way to safeguard the value of copyright. And we went out saying: this is our strategy and our solutions, not just for us but for the industry about how we can make this work”.

When asked about his opinion regarding collaborative vs competitive solutions to online licensing, he reflected on Dyball's view. Although CMOs would collaborate, the online services, by having no physical borders, would be able to choose the society that would offer the cheapest online license:

“The reason we did not support that is because you go to SGAE and they say: we'll do it for 10cents, and then go to SABAM and they say: hold on, we can do it for 9! So the price can go down and that means that the price of the copyright goes down. So now what you are able to do is: you are not able to get the blanket license on a pan-european basis but you can get PRS's repertoire licensed on a Pan-European basis”.

4.3 Topic 3: Data processing

Dyball believed that the biggest challenges for CMOs is to standardize data as well as rules and protocols on how that data is processed between collective societies:

“We have more lines of revenue to process, you need more powerful processes in order to process data and get through that level of information in order to distribute it...there has to be more automation and more agreement between societies as to protocols and ways of invoicing”.

Regarding the agreements and protocols between CMOs she mentioned that each country may handle data differently in different areas (i.e registration or invoicing). This is problematic and makes handling data for distribution, identification of rights holders, and accurate ownership information less efficient. She believed that CMOs must get together and agree on common processes to their mutual benefit:

“There is no reason for a process in the UK to be different from a process in Germany. It is no longer acceptable, I think, for a British society to say: But this is how the market operates in Britain. I am not using a real example, but in the UK you might be invoicing a digital service quarterly, in Sweden you might be invoicing them monthly, in Holland you might do that

manually. Here, I am specifically talking about protocols that are different from country to country. For example, if 3 people write a song, you can't say 1/3 and 1/3, you have to say 33%. So everybody registers their claim for their song writer for 33.34%. If you register a creator with 33.34% you get to over 100%. That then puts the song into dispute. So, you have to think about those protocols to save time and money. Everyone has to agree on a protocol around data to make it easier to process data. So, there is lots of protocols that have not been agreed about how companies invoice or how copyright information is registered. If I register a Radiohead song I might register it under the name of Thom Yorke someone else might register it under the name of Thomas York, somebody might spell it as 'Tom' ”.

Finally, Dyball believed that back office processes (standardizing copyright data) must become more unified and this step is a lot more important than the ‘front office’ operations (negotiating licensing deals).

“I think there is a distinction between the back office and the front office. So Delta is the back office, which is about engines and processing. Zeta is the hub for the front office which is about negotiating. So, I think there is a much more crucial role for Delta. I think there is a real market need to merge back offices and databases because it is any like pieces of machinery. The more you push through the machinery the cheaper it should be and the most cost effective. For ‘front office licensing’, I am not so convinced about it because I don't like the idea of delegating licensing I think it does not work very much. Delegating licensing works for mechanical if you are licensing a record company because there is no negotiation. There is one once every ten years or there is an argument once every ten years about how much the record company is going to pay for mechanical rights. So it works for licensing broadcasters but not for online because you've got to have negotiations.

Dickinson believed that the reasons behind the criticism on the efficiency of CMOs is related to their long background and analogue practices. He hoped that the digital leap will provide opportunities to become as efficient as a commercial company, since the technological solutions exist:

“The problem here is that we started doing this 100 years ago. And..we are still doing it the same way we did it 100 years ago.. more or less. We are getting more from there, then dividing it to 10 people and then we pay it out. And that is not wrong, but there must be a quicker and more efficient way of doing it. This is where I think the online world can hopefully teach the rest of us a lot. If you are Spotify or Apple or whatever it is very easy to know who has paid for your songs, how many seconds your song is (if that is relevant), how long they have been listening etc. Spotify can divide up their money accurately and immediately, to the second. We have to get long logs from the BBC, from ITV, Channel 4 and from 300 other broadcasters in Britain and run them through some ancient cranky computer to come out with the number of seconds or minutes and then break that down by song and then by writers..”

His view on a suggested ‘reset and rebuild’ strategy to deal with data more efficiently, was that it would be ideal, but not possible:

If we were starting this today, it would be much easier. But I think the perfect solution would be to say: PRS is gonna stop doing what is doing for 2 years and rebuild everything from zero. Then that would be possible, or it would be much easier to do it that way. But you can't stop! Do you see what I mean? If we stop, nobody gets anything for 2 years and then it is more difficult to start up again. But for example, IMRO, the Irish society are quite new (not more than 20 years more or less). They do the same operation like us but with very very few people because they are a bit more modern and they can do things more quickly. Whereas we have got, as you have seen, a membership department of 80 people and operations department of 50-70 people, most sitting at home working, plus, god knows how many outsourced companies”

In a follow up question about the justification of manual labour due to PRS' size, Dickinson was of the view that it makes sense they have more people working at PRS than a small society but should they had the chance to “reset” and apply technological solutions, such as automation, 50% of the employees currently working at the organisation, would not be needed today.

“Yes, we have got more members and yes we are a bigger country with more broadcasters, more hairdressers and pubs and so on. But also I think, like I said, if we had 2 years to rebuild everything from zero, we could do it and we would not need half the number people we've got working here. I think all collecting societies have this problem because a lot of it is very “manual labour intensive”. You need a lot of human intervention on a lot of these things because they have never been perfect databases of the works. Mine will disagree with yours, STIM's will disagree with GEMA's and so there are always things like that, that will slow it down”.

McEwen believed that standardizing copyright data in a big data context is crucial:

“(…) I think it is crucial that we get a single authoritative source of ownership information because a lot of the problems and the challenges that we face currently come from the fact that you have competing versions of the truth in terms of who owns or represents the specific rights and anything. So, I think that is something that is of crucial importance. I think in terms of streaming in particular and certainly the challenges from streaming come from this cheap scale of data volumes. (...) we have gone in a matter of a few years from hundreds of millions of lines (usages process) to billions of lines; 250 billion or whatever in terms of the scale of this process. That is a massive big data challenge”.

He then mentioned that data challenges inevitably push CMOs towards a collaborative approach:

“What that does is for CMOs to increasingly partner and work together to try and insure that they are in a position to operate effectively in that kind of a world. So that is definitely one big bit of the challenge that comes from streaming”.

He finally said that going forward, new technologies are very promising and may help towards issues with identification of copyright data

“In lots of ways the move to streaming and online generally brings obviously new technologies that can be deployed in terms of sound recognition technologies etc. to help identify uses of music that perhaps we didn't have in the past. There is a lot of work still to do in terms of

technologies that can identify a melody without the specific sound recording! That is certainly a big area of potential technology solutions (...) moving forward, the scope for those sort of technologies to help improve the accuracy (not just in online but in other areas of CMO activity, like public performance which is a very interesting area and these sorts of technologies are increasingly deployed to help things more accurate). That is certainly another piece of it.. So online throws up a number of challenges and a number of opportunities as well!"

Davies followed in the same line about data and mentioned that in a fragmented rights environment, data standardization is essential:

"I think gradually there is this general acceptance that if you are going to have a fragmented rights picture then you have to have ways of enabling that but with standardization. (...) Our view is that data and reference data needs to be authoritative. One place for that makes complete sense. That is why we were big fans of the GRD. (...) the more that data can be held centrally (once) and used by everybody then it will enable to kind of put in the front of that some individual licensing entities just representing smaller 'pockets of rights'. If you don't have that standardization it's incredibly complicated and it creates a very bad service for the users. Because they don't know who to go to get the rights, they don't know if they have cleared all the rights, they don't know if they have valued the rights properly etc. And on a global basis that's very challenging".

When asked about transparency in terms of revenue sources from abroad he mentioned that there is a challenge to explain the members what they are getting from their use of music, but it is a rather technical issue, not a question of transparency per se:

" (...) we had trillions of lines of data for different types of members and we need to make sure we are giving them all the information that is helpful for them to run their businesses and now we are working actively on developing a website portal to be able to give as much information as we possibly can to our members. (...) the amount of royalty that one member gets, it is quite difficult to understand what is that money for, for which services, which countries, over which periods and how do I value that. So I think that is definitely a challenge".

Finally, he believed that the current challenges to standardize copyright data is part of an exciting journey:

(...) the whole point is...that is the direction of travel and I suppose..You know what? It is quite exciting! It's a very dynamic business. You know, what worked last year may not work next year. That is where the challenge is. Because you have big societies, big investments and platforms. Here you want data standardized, that is a challenge. You have to get everybody to join up on that.

4.4 Topic 4: Other

4.4.1 New entrants

Regarding the new entrants from the private sector (such as GMR and Kobalt) Dickinson believed that it adds an additional type of complexity:

“ they are not gonna go to every hairdresser and every pub to collect money. But they can go to the main broadcasters (...) they can license them in concerts because if it's you performing, then they know where that is happening and they can get you digital money! This is a new type of entrant into the market who are saying: “we are taking the best bits of the best people”. You can still collect from the hairdressers because that is costing you a lot of money to get to the hairdressers and you don't get much from them. But we are doing the big bits. So, now this is a sort of new level of complication and I suppose, if they can get a better deal from broadcasters than ASCAP can..why not? (...) ”.

When Dickinson was asked on whether there is a possibility that a CMO could do something very innovative like Kobalt he believed that it is difficult because of their non-profit nature of business:

“I think here at the PRS we are certainly trying to do the best we can in as much as talking to PPL (neighboring rights society, UK) for joining up very possibly in 1 or 5 or 100 years we will join up. Which makes sense now! 15 years ago we never spoke to them. They were the enemy! We can do things like these but because we are not a profit-making organization, we do not have money to throw about. I mean, Kobalt for example have been given \$16million from Google in this 'venture capital funding' to do something with. We do not have that money, nor do SACEM and nor do ASCAP or anyone. So, we will never (unless go to Google and ask..maybe they would give us money!) but we will never spend that kind of money... or waste that kind of money, because we would waste it, because we are PRS.. (laughs in self-sarcasm)”

When he was asked to clarify the reasons why PRS would not be able to utilize some extra funding coming from the private sector, he clarified that in terms of developing their own technology solutions this is unlikely because as non-profit CMOs (as opposed to tech companies) do not change the game, but rather adapt to it:

“Well, we would never be able to spend that kind of money developing a system. So, we may never have the opportunity to do it. And so, I think a company like Kobalt will think like: Great! We have this money, what are we gonna do with it? Should we built something absolutely fantastic? Something that we think where we think the future will be in 10 years time? And, because of that, that is where the future goes! Whereas, if you are PRS you have to think: This is what is happening today, we have to make sure we are here tomorrow! And tomorrow changes and then we have to change again. We are always playing catch up”.

4.4.2 Future possibilities

Davies believed that PRS' role will have to change completely in order to make their operations more efficient for the benefit of their members. Throughout this process of transformation, focus will be given on outsourcing their traditional areas of operations:

"I suppose that being the champion of the creator, that when you talk about the CMOs role they are actually coming from a vertically integrated past where they did..everything. A society did everything, registered works, licensed etc. They did everything! For some societies at the moment they will still be operating that model, the model of doing everything. PRS has progressively been outsourcing and has plans to outsource almost everything else in terms of back office and front office activities (licensing). So, we are already on that path of transformation and the reason we did that, you know, we sat the strategy 5 years ago which was: this is how we see success in the future, having a very different role. Some of that role is exactly the same which is being an advocate for our rights holders to ensure that they get the best value, their rights are protected and they have control.. whatever makes sense. That is the bit we will hold on to but whether we are doing the licensing, collecting the data, managing the data, processing the data, those activities we judge are better scaled up. And then our rights holders will get the value of more efficient, lower cost, all of that".

His opinion about smaller CMO's was that they will have to consolidate with other CMO's or private collecting agencies - there will be more freedom of choice, more competition and more challenges:

"(...)Other societies will have started to use the hub as a service provider;I think what that then means is that CMOs will be representing smaller or more sort of focused factors of rights holders as well as (as i said) other entities will have moved into that market as well. They may not be societies but they will be groupings of rights holders.. In that regard, whether it will be better or worse for the rights holders I think there will probably be more choice and I think more competition. Competition has the potential to make things better but I think some of the challenges related to it could still be there, you know, more competition and fragmentation could mean more complexity"

Regarding the future of rights holders without the protection of traditional CMOs, he expressed scepticism:

"Actually, with rights holders been part of CMOs they have had protection so whether joining non-society solutions will bring increased risk to the long term control and value for rights holders, that is something that needs to be thought about".

Davies then summed how the future should be like:

"It is a different future.. You know what? that makes sense doesn't it? Because we have such a changing world and the digital revolution is enormous. How can a society continue to do what is

has always done” ?

Dickinson’s view was very similar to Davies’ regarding the changing role of CMOs, but was concerned about the ability of CMOs to change the way they operate before private competitors make them obsolete:

“(…) in 10 years time things will be hugely different to how they are now. Possibly someone like Google will look and say: We can do this! We can do it for more or less for free! It may mean that the hairdressers no longer pay for the performing right. It may mean that broadcasters pay a bit less, it may mean that some writers earn a lot more. But I think for the CMOs, unless we can change really really rapidly and know what the future is going to be (which we don’t) I think we are finished, really.. Someone else will come along, like Kobalt, and find a way of doing some of it better and cheaper”

Regarding the future of smaller CMOs he also agreed that they will have to consolidate to survive in the market:

“I think the only way to survive will be through being part of a bigger body, really. Just like everyone benefits from being in the EU, maybe not you Norwegians”.

He elaborated on the advantages of being part of a bigger group, where CMOs could specialize in different operating areas:

“(…) there will be an advantage for SACEM or TONO or whatever being part of a larger group and overtime I think these groups will start to specialise in what they are good at. You know, as much as, let’s say our ICE hub, we might actually realize we are really good at licensing broadcasters but we are not very good at licensing pubs. So maybe, SACEM, SIAE might say: we are actually very good at that so they might move in and start doing that or they are good at collecting and we are good at distributing, they are good at digital we are good at this, or something like this. I think overtime maybe we’ll start to specialise more in doing things like these”.

5. Discussion

5.1 What challenges are the traditional CMOs facing in the digital era?

In this chapter the results of the interviews will be linked with the theoretical background in chapter two. Similarities and differences will be drawn in order to provide answers to each of the research questions. The interview results show that the topics of discussion are in many ways connected to each other, which is part of the complexity of the research subject. In order to answer the first research question in the most simplified way, the topics will be discussed separately. The second part of this chapter brings those topics together to discuss the possibilities for CMOs in the future and provide an answer to the second research question.

-Fragmentation of rights

The results from the interviews regarding this topic support the theory in chapter two. What makes the results particularly interesting is that although the interviewees had generally a good understanding about the situation of rights fragmentation and as an effect, the increased complexity in their operations, they chose to touch upon this topic from their own, different perspectives.

Dickinson believed that the fragmentation of rights is an issue that will only get more problematic for the CMOs and that the analogue system based on reciprocity and territorial control worked much better. This view reflects a large part of the theory presented in chapter two about the benefits of reciprocity and collaboration between CMOs with regards to multi-territorial licensing (Laing, 2004; Towse, 2012; Katz, 2005; Wallis 1999; ELIAMEP 2009).

In contrast, Dyball was of the view that the major publishers really helped the market by withdrawing their rights from the CMO system. That is because the CMOs were unable to adapt quickly and take decisions on how to deal with digital licensing. In that sense, the publishers contributed towards making CMOs embrace the new terms brought by the digital market. This view reflects the arguments against the monopoly status of the CMOs (KEA, 2006; Liu Wenqi, 2012; Babita et al. 2009). She nonetheless acknowledged their essential role when it comes to aggregating and licensing large repertoires which include the small uses of music that could otherwise be impossible to license individually, as also pointed out by Kretchmer (cited in Towse, 2012) in chapter two.

McEwen and Davies seemed less critical on this development and appeared more acceptive of the fact that the digital market now operates with different rules than the analogue. They were relatively optimistic about the future, in contrast with Dickinson who generally seemed more cautious. They both mentioned that due to fragmentation there are many digital services that do not know how to obtain all the necessary licenses as mentioned by Butler (2016) and KEA (2012).

-Competition

The CMOs have gone from principles of reciprocity and solidarity to a new phase of competing for services, repertoire and the price rate they charge for these. The competitive framework in the digital world is therefore related with the fragmentation of rights.

When asked their opinion about competition in CMO activities, all interviewees referred to the legislative developments in Europe and particularly the 2005 Recommendation from the European Commission, which paved the way for major structural changes in traditional collective management.

Dickinson noted that the fragmentation of rights has inevitably brought competition on price for obtaining music licenses. He explained that DSP's have the option to seek the cheapest licensing deal and that inevitably puts a price tag on the songs included in those licenses, something that he considered a great disadvantage for the creators and their CMOs who may receive less revenue and are not in a position to compete in order to increase it. Dickinson generally believed that competition works very well for businesses that create and sell products but the European Union has misunderstood the area of collective management. A company may well reduce the price of a product or even improve its features in order to become competitive in the market. On the other hand, a composer would not have that ability because as seen in chapter two, music as digital content is naturally non-rival (Morreau, 2013; Towse, 2004). It is not something that can have its price reduced or increased to achieve greater revenue. This is a very important point, because Dickinson drew a considerable difference between competing on price for quality of CMO services versus competing on price for "quality" of songs included in the CMOs licensing deal. This point was that this type of competition fragments repertoires based on price and may be a threat to regional CMOs and cultural diversity, as presented in the theory chapter with the critical considerations by GESAC (2014), Laing et al. (2015), Wallis et al. (1999), and Kretchmer (2001). The same theory suggested that there is a difficulty for smaller CMOs to compete in such market environment. and this is reflected in Dickinson's and Davies' view on the matter. They both said that less dominant CMOs will have to consolidate and be part of a bigger group if they want to survive in the market. Both Davies and McEwen suggested that a certain level of collaboration between societies is necessary in the online world. Their examples touched upon the technical solutions that are being developed and the collaboration through hubs for copyright administration and licensing.

From Dyball's point of view, competition is good because it boosts efficiency and makes commercial deals go much quicker than in the analogue world, where CMOs (being non-commercial, natural monopolies) would be very slow to react to making commercial deals and embrace the new concepts of the digital market. Their position had a negative effect to the whole value chain (their publishers, their members) as well as legitimate businesses who wished to develop services in the digital market and could not engage with the traditional "providers" of the world repertoire - the CMOs. Similarly, McEwen thought that competition is the key towards developing more efficient technological solutions to deal with the challenges of digitalization. These views are connected to the arguments for competition by Bonadio (2012), Wenqi (2012) as well as the European Commission's objective with the Directive 2014/26/EU to improve the efficiency of CMOs in the digital age.

On the other hand, their views oppose KEA (2006) and Bonadio (2008) who argued that such competitive framework would not be possible for smaller/regional European CMOs because their members would have many linguistic and cultural obstacles to migrate to a more competitive CMO.

-Data Processing

The theory suggested that with the dissemination of music on the internet, the collection and distribution of revenue would become a lot more difficult in the digital age (Frith, 2004). In this context, having the correct copyright information becomes very important to allocate and distribute remuneration to rights holders. The feedback from the interviewees regarding data processes certainly illuminates this challenge.

Dyball considered this topic the most important challenge for CMOs in the digital world. First, she mentioned that there is a lot more data to be processed - a view that was shared by McEwen, who referred to it as a “massive big data challenge” and mentioned that there are about 250 billion lines of usages compared to about 100 million that were to be processed some years ago. Davies mentioned that PRS has received trillions of lines of data for different types of members. These indications fall into the supporting theory in chapter two about the vast dissemination of music as digital content on the internet (Wikström, 2013; Krueger, 2006; IFPI, 2016). Secondly, Dyball mentioned the importance of improving the efficiency and sophistication of current technological systems, which would allow the processing of data with more automation. She considered that such systems would become more effective if CMOs could also agree on mutual protocols on how data should be processed. For example, a CMO in country A may register copyright information differently than CMO in country B, so the database systems used by different CMOs do not communicate efficiently. This is where data has to be processed manually every time it does not fit the requirements to be “recognized” and processed automatically by a computer. The second part of the problem is that without a common agreement between CMOs on how copyright data should be processed results in musical works being in unnecessary disputes or having inaccurate information purely because of a misinterpretation of data between CMOs.

Similarly with Dyball’s opinion, Dickinson believed that when databases between societies disagree on data, human intervention to process it becomes inevitable and is very problematic for all CMOs as it slows down the process, making it expensive and insufficient to deal with enormous numbers of data coming from different sources. He also thought that there needs to be more automation as much as it is easy for digital services and telcos to accumulate detailed information very quickly and precisely. Their opinions reflect the report by Owsinski (2016) and the inadequate data disclosure by CMOs supported by Wenqi, (2012). The theory also pointed at previous attempts by the CMOs to build a common database for copyright ownership such as the GRD (Cook, 2015), which would have common rules on how data is registered and processed. The GRD project indicates that the CMOs had foreseen the problem but could not agree on a common solution (Milosic, 2015). Furthermore, Dickinson believed that the reasons the CMOs are dealing with this kind of challenge lies in their century-long background. If PRS was to start operating today it would have been much easier for them, in terms of organizing and investing in the right technology solutions. Both McEwen and Dickinson

thought that it is more important to adapt rather than restart everything from the beginning, which would make things a lot more difficult for them. On the same note, Davies mentioned that the CMOs come from a vertically integrated past were they were responsible for everything (from works registrations to licensing and distribution). Their comments reflect Moreau (2013) in his article about disruptive innovation and the greater difficulties for a vertically integrated company to adapt new business models by investing in disruptive innovation. The failure to deliver the GRD, the fear about taking financial risks by CMOs in the digital market (as expressed by Dyball), and the century old, vertically integrated past of CMOs as expressed by Dickinson, Davies and seen in chapter two, are all indications that justify the initial scepticism and inability of CMOs to engage with the concept of disruptive innovation and deal efficiently with data challenges today. Davies and McEwen seemed strategically oriented regarding this topic and were of the view that standardizing data in the digital age is crucial and most effective when there is collaboration between CMOs. This could be achieved through hubs where a number of national CMOs combine their repertoires in a single database for works registrations (in the likes of the GRD, but with much smaller scope). This could potentially reduce the existing issue with inaccuracies of copyright data, as described in previous paragraphs. They both supported that hubs deliver 'one stop shop' for pan-european licenses which would include a combination of national repertoires. One stop shops solutions are desired by the European Union (Directive 2014/26/EU) and are traditionally attractive to users (Laing, 2004; Towse, 2012; Katz, 2005).

The interview findings regarding this topic have exposed a rather interesting paradox. In a world of high connectivity, where technology makes geographical borders irrelevant and the sharing of data on the Internet is easier than ever (Wikström, 2013; Blum, 2012), the globalized concept of the online world becomes problematic in data administration when applied on IT systems that have previously been developed without any connectivity with each other, as in the case of CMOs.

5.2 How can they stay relevant in the future?

The theory and interview findings have revealed strong indications that collecting societies have to think their business differently, by embracing technology and improving their services in order to become more relevant to their members than they are today.

In the analogue world, revenue from licensing music was taken for granted; all new music and promising composers began their careers by joining their national CMO because there was no other place they could go to for copyright protection. It is evident that this concept in the digital age does not guarantee anymore that the rights holders will not migrate from the collective to a different licensing body, which seems to be the case for the high earners and major publishers. The theory supports that the functioning of the CMOs depended on those high revenues. New entrants, i.e. Kobalt Music and probably more new players (expected by Davies and Dickinson) will prevail in the music market. Non-traditional collecting agencies will target those revenues and have their arms open for high earners with international scope, who seek efficient and technologically advanced solutions to manage their rights. The new entrants aim to provide services that are currently more efficient and cheaper compared to traditional CMOs. The interviews and theory point out that there are several things they can do to stay relevant, but

it is advised to not rest too many years. Here Dickinson believed that CMOs must change their analogue philosophy ‘very rapidly’ before their challenges become immediate threats.

First, they need to identify and acknowledge the problem areas that have been addressed in the previous paragraphs. This study has included the view of two collecting societies that are on top of their game, to say the least, so they seem to be aware of the challenges and have been able to invest money and work towards developing technological solutions. However, it is not certain that all regional CMOs are actively working towards transforming their operations. As Davies pointed out, many societies out there still choose to operate the model of ‘doing everything’, which the theory suggests that it is expensive and inefficient in the digital age. Those societies are perhaps the most vulnerable in that regard for developing competitive services, which can compete for attracting members and retain the local talent and domestic rights within their organization. The smaller CMOs need to prove to their members that they are able to provide value in their membership with efficient and modern services. In the online world this can be achieved by investing in technological solutions, in collaboration with other CMOs. As pointed out by McEwen and Dickinson, smaller actors will have to consolidate – being part of a bigger group will be the only way for a CMO to survive in the digital market. In that sense, collaboration is essential for common investments and mutual benefits by smaller CMOs. The next paragraphs summarize the recommended areas to improve.

Investing in technology that specializes in finding online royalties even for small sums across the internet (as well as offline). All indications here suggest that in the digital world, it seems unlikely that a single CMO will be able to carry the full cost for developing their own technology. Even a powerful CMO like PRS, according to Dickinson, would not be able to do that by themselves. Therefore CMOs will be required to reach out to existing technological solutions provided by private companies and join forces to share the costs.

Speeding up transactions is another important area that CMOs can improve. In a world where information is accessed and shared almost instantly, the members can no longer wait months or years (as seen in chapter two) to receive their revenue. This in theory is related to data issues because the longer it takes to identify a writer the slower the payment process to the rights holder will be. This indicates that CMOs will have to be able to match their catalogue (their copyright data) as fast as possible once they have received the usage reports provided by, for example, DSP’s, TVs and radio stations. Fast data processing will speed up the payment.

In addition, providing real time information about where music has been used can foster a stronger professional relationship with their members because it could function as a practical and marketing tool by the writer, who will be able to quickly identify the places music is used and discover new potentials, for example, based on popularity by region, plan tours or live shows. In many ways having access to that information is not the x factor, but could certainly be a bonus for a traditional CMO membership.

With regards to licensing, an aspect that could potentially increase the value of their membership has to do with aggregation of rights and repertoire. The CMO could establish private platforms, which would offer pre-cleared, bundled rights that could then be divided into different genres. A license that includes domestic contemporary classical music would have different needs than other genres. The duration, for example, is much longer than in most mainstream songs so in theory it should be priced differently. By uniting catalogues of genres together, the CMOs may realize that they can increase the value of their members’ music and an additional value in their membership.

Regardless of the size of a CMO, merging back offices in terms of databases and

agreeing on mutual protocols on how process data seems to be the key element towards improving all CMO operations, which in many ways rely on correct copyright data. All interviewees had a coherent view regarding this topic, and agreed that collaboration is essential in the digital age. It is apparent that existing technologies are not currently utilized to reach their full potentials and deliver quality results due to different databases and rules on how data is processed between CMOs. An example may be merging mechanical and performing rights (authors rights) with neighboring rights (artists and producers), something that was mentioned by Davies. This does not mean that the industry would have to replace those rights with new legal terms – for example, replacing mechanical, performing and neighboring with ‘digital rights’ but rather creating a technical standard that brings different rights and all their relevant metadata together to be as uniform as possible. The unification of rights has the potential to increase value and improve the licensing process and see support by the rights holders who would see an increase of value in their music. In an already very fragmented rights picture in the music industry, the users/DSP’s would also appreciate such move, as it would reduce the number of places they need to go to clear different types of rights.

There are currently no technological obstacles in order to create stronger metadata structures and transparency that would potentially eliminate the problem of poor quality data, which affects revenue from copyright. The interview findings and theory support that standardizing data would be for the interest of all actors who collect and distribute income to rights holders so the lack of incentive for cooperation to tackle this issue points at one significant observation. The previous attempts between CMOs, publishers and record labels for a common solution, like the global repertoire database (GRD) have failed to exist because they could not reach political consensus. Although all indications show that the CMOs clearly need a collaborative approach which would benefit the average author and user/licensee, the private companies may have an alternative view. Presumably, the lack of clarity in copyright data could benefit the larger industrial players; as discussed in chapter two, without reciprocity and territorial control of the CMOs, the international, lucrative publishers and their mono-repertoire would no longer subsidize the local and niche music in the digital market. It is unclear if the beneficiaries from this complexity would ever agree on a system that seeks a common interest for the average rights holder in the music industry.

6. Conclusion

This study aimed to profile the challenges the traditional collective management organizations are currently facing from an inside perspective and discuss ways to overcome them in order to stay relevant in the digital age. The author chose to focus on problem areas that CMOs should improve from within their own operations because no matter how the digital market evolves and is regulated, they need to prove that they have taken the necessary steps to be able to provide efficient services and have fully adapted to the new digital realities. Although it is out of the scope of this thesis, external threats (threats from outside the collective management industry) should be mentioned, as they were also touched upon during the interviews by the informants. The under text of this study or in more mainstream terms, the elephant(s) in the room, are companies like Google, Apple and Facebook. They began as Internet start-ups only a decade ago and today are the biggest companies in the world. Their monopoly has stretched across all sectors in the online sphere (Taplin, 2017). The below graph shows how quickly (in a matter of ten years) they dominated the global market:

Changes at the Top

The five largest companies in 2006 ...

1 Exxon Mobil	\$540 BILLION MARKET CAP
2 General Electric	463
3 Microsoft	355
4 Citigroup	331
5 Bank of America	290

... and now

1 Apple	\$794
2 Alphabet (Google)	593
3 Microsoft	506
4 Amazon	429
5 Facebook	414

All figures in 2017 dollars; 2017 companies as of April 20.

Source: S&P Dow Jones Indices

By The New York Times

(Source: S&P Dow Jones Indices, in New York Times, 2017)

There are real concerns that some of these technological companies might replace the CMOs. In this context, Bruce Dickinson gave a ten year time-frame to find efficient solutions to their own challenges before some other company (referring to Google) comes in to overtake their operations in the online world as they have done with other traditional industries, such as advertising, broadcasting, news and media, to name a few. The assumption is that if they wanted to, they have the market capacity to replace a lot of businesses of the CMOs. Youtube, for example, is a registry of copyrighted works, which functions on a voluntary basis, given that rights holders must provide their copyright information every time they request YouTube to take down a video that includes their copyright. Their threat to CMOs will probably depend on the will of governments to revisit the 'safe harbor' clause from the Digital Millennium Copyright Act, which paved the way for these businesses to make large sums of money from 'free ride' content, produced by others (Taplin, 2017). When looking at the future and relevance of CMOs and certainly touching upon Dickinson's ten-year time frame, this is an indication of how fast things can change in a market and outlines the urgency for CMOs to "level up" in their digital game. For them, having a century long tradition in being natural monopolies, this realistic scenario may be more difficult to grasp as an immediate threat. In order for CMOs to stay relevant and strong against a common, external threat, they should first set clear rules on which areas they need to collaborate and which to compete in way that is not putting in disadvantage any of them. That is to say that the end result should aim for more efficiency, not only for the lucrative CMOs but also for the small, regional ones. For example, competition on price, according to Dickinson will not be good for anyone, certainly for the smaller CMOs. On the other hand, competition for memberships and services is very different as it aims to encourage efficiency without decreasing the value of another society's rights.

For over a century the CMO network, based on a system of collaboration and professional binding rules, has been functioning quite well to this day. This is a remarkable achievement, which dates back to the Berne Convention. How likely is it that future regulation will work in favour of dominant private companies and disregard the structures of the Berne Convention, making CMOs completely irrelevant? The odds still point at Berne.

References

Anderson, C. (2006). *The Long Tail: Why The Future Of Businesses Is Selling Less of More*. USA: Hyperion Books

Attali, J. (1977). *Noise: The Political Economy of Music*. p. 52. London: University of Minnesota Press.

Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, in 1 BASIC Doc. INT'L. ECON. L. 715.

Blum, A. (2012). *Tubes - A Journey To The Centre Of The Internet*. United States of America, Harper Collins.

Bonadio, E. (2008). *Copyright Collective Licensing and the EU initiatives in the on-line music field*. DANTe. Available on <https://dirittodautore.it/dante/copyright-collective-licensing-and-the-eu-initiatives-in-the-on-line-music-field/>

Bonadio, E. (2012). *Collective Management Of Music Copyright In The Internet Age And The EU Initiatives: From Reciprocal Representation Agreements to Open Platforms*. IFLA World Library And Information Congress. Retrieved from <http://www.ifla.org/past-wlic/2012/148-bonadio-en.pdf>

Bryman, A. (2001). *Social Research Methods*. Oxford University Press

Brynjolfsson, E. & McAfee, A. (2014). *The Second Machine Age: Work, Progress, and Prosperity in a Time of Brilliant Technologies*. p.57. New York: W.W. Norton & Company

Butler, S. (2016). *Digital Music*. p.16-26. CISAC, *Global Collections Report 2016*. Retrieved from <http://www.cisac.org/Cisac-University/Library/Royalty-Reports/Global-Collections-Report-2016>

CISAC. (2016). *Global Collections Report 2016*. Retrieved from <http://www.cisac.org/Cisac-University/Library/Royalty-Reports/Global-Collections-Report-2016>

Clark, L. (2015). *Kobalt acquisition will help it 'fully execute' music rights disruption*. *Wired*. Available on <http://www.wired.co.uk/article/kobalt-buys-amra>

Commission Recommendation 2005/737, on Collectice Cross-Border Management of Copyright and Related Rights for Legitimate Online Music Services, 2005 O.J. (L 276) 54 (EC)

Commission Staff Working Document: Impact Assessment Reforming Cross-Border Collective Management of Copyright and Related Rights for Legitimate Online Music Services, SEC

Cooke, C. (2015). Dissecting The Digital Dollar Part One – How Streaming Services Are Licensed And The Challenges Artists Now Face. The Music Managers Forum. Retrieved from http://themmf.net/wp-content/uploads/2015/09/digitaldollar_fullreport.pdf

Corbin, J. & Morse JM. (2003). The Unstructured Interactive Interview: Issues Of Reciprocity And Risks When Dealing With Sensitive Topics. pp.335-354. Qual Inq.

Dietz, A. (2014) The European Commission's Proposal for a Directive on Collecting Societies and Cultural Diversity – a Missed Opportunity

Directive 2014/26/EU on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market. OJ L84/87 Available on <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0026&from=EN>

Edwards, R. & Holland, J. (2013). What is Qualitative Interviewing? Bloomsbury Publishing Plc

Else, A. (1997). Maori participation and performance in education: A literature review and research programme. Wellington, New Zealand: Ministry of Education. Retrieved from http://edcounts.squiz.net.nz/__data/assets/pdf_file/0017/7505/else-maori-summary.pdf

Frith, S. (2004). Music And The Media. In S. Frith & L. Marshall (Eds.), Music And Copyright. (2nd ed.), pp.171-184. Edinburgh: Edinburgh University Press.

Frith, S. and Marshall, L. (eds) (2004) Music and Copyright, 2nd Edition, Edinburgh: Edinburgh University Press

GESAC. (2014). GESAC welcomes the adoption of the Collective Rights Management Directive by the European Parliament. (Press Release). Available on <http://www.authorsocieties.eu/mediaroom/145/33/GESAC-welcomes-the-adoption-of-the-Collective-Rights-Management-Directive-by-the-European-Parliament>

Gibbs, S. (2015). Moore's law wins: new chips have circuits 10,000 times thinner than hairs. Retrieved from <https://www.theguardian.com/technology/2015/jul/09/moores-law-new-chips-ibm-7nm>

Global Music Rights. (2017). Available on <http://globalmusicrights.com/clients>

Goldman Sachs (2016, December). Music In The Air: Streaming Drives Industry Comeback. (Video) Available on <http://www.goldmansachs.com/our-thinking/pages/music-in-the-air.html>

Gray, K. (2015). Kobalt Changed The Rules Of The Music Industry Using Data And Saved It. Wired. Available on <http://www.wired.co.uk/article/kobalt-how-data-saved-music>

Guibault, L. & Van Gompel, S. (2010). Collective Management In The European Union. In D.Gervais (Ed.), *Collective Management Of Copyright And Related Rights*. (2nd ed.). pp. 135-167 Alphen Aan Den Rijn: Kluwer Law International.

Handke, C. & Towse, R. (2008). Economics of Copyright Collecting Societies. *International Review of Intellectual Property and Competition Law*, Vol. 38, No.8, pp. 937-957. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1159085

Haunss, S. (2013). The Changing Role Of Collecting Societies In The Internet. *Internet Policy Review*. DOI: 10.14763/2013.3.199. Retrieved from <https://policyreview.info/articles/analysis/changing-role-collecting-societies-internet>

Hellenic Foundation for European and Foreign Policy (2009). *Collecting Societies And Cultural Diversity In The Music Sector*. p.97 European Parliament. Retrieved from [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2009/419110/IPOL-CULT_ET\(2009\)419110_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2009/419110/IPOL-CULT_ET(2009)419110_EN.pdf)

Heller, M. (2008). *The Gridlock Economy – How Too Much Ownership Wrecks Markets Stops Innovation, and Costs Lives*. pp. 3, 20-21. USA: Basic Books

Hilty, R. & Nérisson, S. (2013). Collective Copyright Management and Digitization: The European Experience. In: Towse, R. & Handke, C. (eds.) (2013). *Handbook of the Digital Creative Economy*, Cheltenham: Edward Elgar. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2247870

Hutchinson, J. (1999). Can Collecting Societies Survive Beyond The Digital Frontier? In Holden, M. (edt.). Available on <http://www.filmmusicmag.com/?p=647>

IFPI (a) (2016). *Global Music Report 2016*. Retrieved from <http://www.ifpi.org/downloads/GMR2016.pdf>

IFPI (b) (2017). *Global Music Report 2017*. Retrieved from <http://www.ifpi.org/downloads/GMR2017.pdf>

Ingham, T. (2015). Spanish collection society SGAE caught up in ugly corruption case. Available on <https://www.musicbusinessworldwide.com/spanish-collection-society-sgae-caught-up-in-ugly-corruption-case/>

Katz, A. (2005). The Potential Demise of Another Natural Monopoly: Rethinking Collective Administration of Rights. *Journal of Competition Law and Economics*, 1, 3; 541-93.

Kawohl, F. & Kretchmer, M. (2004). The History And Philosophy Of Copyright. In S. Frith & L. Marshall (Eds.), Music And Copyright. (2nd ed.), p.26. Edinburgh: Edinburgh University Press.

KEA EUROPEAN AFFAIRS (2006). The Collective Management Of Rights in Europe: The Quest For Efficiency. Retrieved from <http://web.archive.org/web/20160730040333/http://www.keanet.eu/report/collectivemanpdffinal.pdf>

KEA EUROPEAN AFFAIRS (2012). Licensing Music Works And Transaction Costs In Europe. Retrieved from <http://www.keanet.eu/docs/music%20licensing%20and%20transaction%20costs%20-%20full.pdf>

Kobalt Music. (2017). Available on <https://www.kobaltmusic.com/roster/all>

Koch, T. (2014). Former exec at royalties agency jailed after spending €39,000 on prostitutes. Available on http://elpais.com/elpais/2014/11/17/inenglish/1416218723_048873.html

Koskinnen-Olsson, T. & Lowe N. (2012). Educational Material on Collective Management Of Copyright And Related Rights. Module 2: Management Of Copyright And Related Rights In The Field Of Music. WIPO. Retrieved from http://edcounts.squiz.net.nz/__data/assets/pdf_file/0017/7505/else-maori-summary.pdf

Krueger, A. (2005). The Economics of Real Superstars: The Market for Rock Concerts in the Material World. *Journal of Labour Economics*, 23 (1), pp. 1-30.

Kvale, S. (1983). The Qualitative Research Interview- A Phenomenological And A Hermeneutical Mode Of Understanding. pp.171-196. *Journal of Phenomenologica Psychology*.

Kvale, S. (1994). *Journal of Phenomenologica Psychology*. 25, No.2. pp.147-173. Retrieved from <http://booksandjournals.brillonline.com/content/journals/15691624/25/2>

Laing, D. 2004. Copyright, Politics And The International Industry. In S. Frith & L. Marshall (Eds.), Music And Copyright. (2nd ed.), pp.70-85 Edinburgh: Edinburgh University Press.

Laing, D., Street, J & Schroff, S. (2015). Collective Management Organisations, Creativity and Cultural Diversity. (CREATe Working Paper 2015/03) DOI: 10.5281/zenodo.17860. Retrieved from <https://zenodo.org/record/17860/files/CREATe-Working-Paper-2015-03.pdf>

Liebowitz, Stan J. & Margolis, Stephen E. (2009) Bundles of Joy: The Ubiquity and Efficiency of Bundles in New Technology Markets. *Journal of Competition Law and Economics*. Vol. 5, Issue 1;1-47. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1069421

Lindvall, H. (2014). What is a music stream? Artists and labels in battle over digital income. Retrieved from <https://www.theguardian.com/media/2014/mar/12/what-is-a-music-stream-artists-and-labels-in-battle-over-digital-income>

Liu, W. (2012). Models for Collective Management of Copyright from an International Perspective: Potential Changes for Enhancing Performance. pp.47-53 *Journal of Intellectual Property Rights* Vol.17.

Miles, MB., & Huberman, AM. (1984). *Qualitative Data Analysis: A sourcebook of New Methods*. Beverly Hills, Calif. Sage

Milotic, K. (2015). GRD's Failure. *Music Business Journal*. Available on <http://www.thembj.org/2015/08/grds-failure/>

Moreau, F. (2013). The Disruptive Nature of Digitization: The Case of the Recorded Music Industry. *International Journal of Arts Management*. Volume 15,(2). Winter 2013. p. 18-31. Retrieved from: https://www.academia.edu/26787417/The_Disruptive_Nature_of_Digitization_The_Case_of_the_Recorded_Music_Industry

Moscoso, A. (2011). Cross-Border Issues in Collective Management, 34 *Colum. J.L. & Arts* 651, (2010-2011). pp.651-652. Columbia University Academic Commons. Retrieved from <https://academiccommons.columbia.edu/catalog/ac:149082>

Owsinski, B. (2016). The Music Industry's Big Data Problem. *Forbes*. Available on <https://www.forbes.com/sites/bobbyowsinski/2016/06/02/music-big-data/#78926b7bf818>

Piaskowski, N. 2010. Collective Management in France. In D.Gervais (Ed.), *Collective Management Of Copyright And Related Rights*. (2nd ed.). Alphen Aan Den Rijn: Kluwer Law International

Recommendation on collective cross-border management of copyright and related rights for legitimate online music services (2005/737/EC). OJ L, 276/54, 18 May 2005. Available on <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32005H0737>

Reis L., Schaefer M., Soubelet-Caroit, S., Splindler, G., Traple, E., Westkamp, G., & Wiebe, A. (2014). *Rights Clearance For Online Music – Legal And Practical Problems From The Perspective Of A Content Provider And Alternative Models*. Vienna: Medien und Recht Verlags

Scholte, Jan A. 2001. *Civil Society and Democracy in Global Governance* (working paper No. 65/01) Centre for the Study of Globalisation and Regionalisation. Available on: http://wrap.warwick.ac.uk/2060/1/WRAP_Scholte_wp6501.pdf

Shapiro, C. & and Varian, Hal R. (1998). Information Rules: A Strategic Guide to the Network Economy. p.21. Boston: Harvard Business School Press

Strauss, A. & Corbin, J. (1990) Basics of qualitative research: grounded theory procedures and techniques. p.17. Newbury Park, London, New Delhi: Sage Publications.

Taplin, J. (2017). Is It Time To Break Up Google? New York Times. Available at https://www.nytimes.com/2017/04/22/opinion/sunday/is-it-time-to-break-up-google.html?_r=1

Tavakol, M., & Sandars, J. (2014). Quantitative and qualitative methods in medical education research: AMEE Guide No 90: Part 1. Med Teach, 36(9), 746-756. Retrieved from <https://www.ncbi.nlm.nih.gov/pubmed/24846122>

The European Commission (2017). Mismanagement and lack of transparency at the Hellenic Society for the Protection of Intellectual Property (AEPI) and compliance by Greece with Directive 2014/26/EU Available on https://europa.eu/european-union/eu-law/legal-acts_en

The European Commission, (2017). Glossary. European Judicial Network. Available on http://ec.europa.eu/civiljustice/glossary/glossary_en.htm#Recommendation

The European Union, (2017). Regulations, Directives And Other Acts. Available on https://europa.eu/european-union/eu-law/legal-acts_en

The Moscow Times (2016). Russian Authors' Society Accused of Fraud. Available on <https://themoscowtimes.com/news/russian-authors-society-accused-of-fraud-53449>

Towse, R. (2004). Copyright and Economics. In Frith, S., & Marshall, L. (Eds.), Music and Copyright. pp. 54-69. Edinburgh: Edinburgh University Press.

Towse, R. (2012, July 10). Economics of Copyright Collecting Societies and Digital Rights: is there a case for a Digital Copyright Exchange? Paper presented at ERICI annual conference.

Washington, DC. Retrieved from <http://www.serci.org/2012/towse.pdf>

Travers, M. (2001). Qualitative Research Through Case Studies. pp. 6-8. Sage Publishing.

Wallis, R. (2001). Best Practice Cases in the Music Industry and their Relevance for Government Policies in Developing Countries. WIPO-UNCTAD. Retrieved from http://www.wipo.int/export/sites/www/about-ip/en/studies/pdf/study_r_wallis.pdf

Wallis, R. (2004). Copyright And The Composer. In S. Frith & L. Marshall (Eds.), Music And Copyright. (2nd ed.). pp.103-122 Edinburgh: Edinburgh University Press.

Wallis, R., Baden-Fuller, C., Kretschmer, M., & Klimis, G.M. (1999). Contested Collective Administration of Intellectual Property Rights in Music: The Challenge to the Principles of Reciprocity and Solidarity. *European Journal of Communication*. DOI: 10.1177/0267323199014001001. Retrieved from <http://ejc.sagepub.com/content/14/1/5>

Weiss, RS. (1994). *Learning From Strangers – The Art And Method Of Qualitative Interview Studies*. USA: The Free Press

Wikström, P. (2013). *The Music Industry: Music in the Cloud*. (2nd ed.), Cambridge: Polity Press

WIPO (2017). *Copyright And Related Rights*. Retrieved from www.wipo.int/copyright/en/management/

Wortley, W. (2015). *Communication Breakdown – Online Rights, Collective Management and the Underdevelopment of the Market for Legal Online Music Services in the United States and European Union*. MIPLC Master Thesis (2014/2015) Retrieved from: <http://ssrn.com/abstract=2777958>

Appendix

-List of interview questions

Interview 1 - Jane Dyball

-We have seen turbulence in the music industry in the last decade and many of the developments have of course influenced the way a CMO operates today. Especially CMOs have been targeted about their efficiency and their relevance in a new competitive market. What do you think are the current challenges for the traditional collective management organizations?

-Do you think the legal structures from the analogue world adapted well into digital? Here I am referring to streaming which is a combination of both mechanical and performing rights.

-Why have strategic approaches for collaborative solutions in the digital world such as the Santiago and Barcelona Agreements not been preferred to competition?

-I think the next question fits right in! What are the advantages of competition in the CMO system?

-Do you see European CMOs creating more hubs in the future? Say the Scandinavians on their own, the Balcans on their own, etc.?

Interview 2 - Bruce Dickinson

- What is your view on the whole CMO system of reciprocal agreements between territories and countries, in the online world? Has that really worked out, so far?

- Who decides the percentage that a CMO would charge in this case? Should that be based on the size of the repertoire each national CMO controls?

- In the online world, publishers got the chance to pull their rights out of the CMO system. Is this a real issue for PRS?

- Except publishers, what is your view of the new entrants who are not publishers, and not traditional CMOs, such as Kobalt, Global Music Rights etc? We have not seen anything like this in the analogue world. Could they pose threats to traditional CMOs?

- The CMOs have been heavily criticized about their incapacity to adapt to digital and find ways to run their operations effectively. Do you share this view?

- It sounds as if CMOs in general must find a way to overcome these issues. Is there room for a total “reset” as a future solution?

- But we do have a lot more members than IMRO... Doesn't it make sense that PRS requires a

lot more resources?

- What I understand is that if we had “clean data” or an international centralized database, something like the GRD, this complexity and manual labor would theoretically be significantly smaller, is that right?
- What do you think about the proposition of charging an extra pound every month through the ISP, as a levee to support “less popular” writers? So to keep a certain level of solidarity...
- You have worked at PRS for a long time and you have seen it evolve, along with other societies. Do you think that competition in the traditional CMO industry will deliver more efficiency in what we do? Does competition function in today’s digital industry?
- In other words, would you say that if a writer really wants to make money from music, they have to play along with market rules? Sort of “forced” in this framework to become more commercial themselves?
- Who does competition work for, in your opinion?
- More and more societies get together to create “hubs” for licensing and other collective rights management services in the music industry. ICE, is the prime example of this. Do you think this will happen more in the future?
- What is the picture of this at the moment for PRS? Has PRS become better at collecting from pubs etc?
- How about the distribution of income from those licenses?
- Any positive thoughts about the future? What should be the perhaps the first thing CMOs should focus on?
- Could CMOs do something like Kobalt?
- I do like your sarcasm! But why would PRS not be able to use funding coming from i.e. Google?

Interview 3 - Ben McEwen

- Streaming seems to be the way people will consume music in the future, yet a lot of analogue concepts are still being used (we use the same system of copyright). With the dissemination of music all over the internet and the current copyright structures, do you think this is a sustainable model for the collection, clearance and distribution of rights?
- Isn't it harder to identify works online now with streaming? What is the first step we should take as CMOs to make things work as well as making sure people understand it?
- Wouldn't that take a lot of investing?
- If almost everything can be found on the internet, could mandatory licensing ever work positively towards the creator? The example is that everyone gets to use whatever music they want, and based on whatever revenue they receive, they pay the rights holders.
- What if we (well, perhaps the government) made it mandatory that the collection happens through a particular party?

- The next question is about competition. Are CMOs better off with a strategy based on competition or collaboration?
- Everything you have mentioned seems to be very much in line with the EC's policy on competition. On the other hand, could powerful hubs as ICE dominate the market? Where there any concerns about the ICE hub (PRS, STIM, GEMA) from the EC's competition authorities?
- On a slightly different note, do you think your members understand these issues and challenges? How can we get the people to understand what the problem really is?

Interview 4 - Graham Davies

- We have seen attempts to shift the old solutions from the analogue into the digital world, using a system that a lot of critics suggest that it functioned well in the analogue world. To what extent does that function in today's digital industry?
- I see... Do you think the digital economy has been growing in Europe?
- Previous attempts between societies to adapt in digital were based on collaboration. For example the Santiago agreement would extend the offline system to online. Why do you think that did not work out?
- Many people considered the GRD as a solution some years ago, which in theory would be very helpful towards standardizing data as well as bringing together all those unique codes for ownership identification (ISWC, ISRC etc.) Could you tell me a little bit more about that project and why ICE followed after?
- Have other CMOs followed this direction?
- So seeing how things have evolved... are you positive?
- With all those data issues that societies are aware of, and with the recent EU Directive on CMOs focusing a lot on transparency. How transparent can a CMO be at the moment, in terms of providing correct information about royalties, for example? Is that a challenge?
- On a national level it is much easier to be very transparent but isn't it difficult to understand what money you are getting when it is in many different places?
- One of my main objectives for coming to London for my placement was to find out if the people who represent the creators, like you, Jane Dyball etc. know what is going on.. And it seems that the PRS is aware of a lot of these things...
- Are there any ways...?
- Is there any entity that can issue a pan-european license right now? You were talking about global licensing but I don't think we have this on a pan-european scale, do we?
- Do you see that happening now with Gema and Stim? a blanket license for all three? Given that you have ICE kind of sorted and you are in conjunction?
- From recent figures it seems that performance income is going up and mechanical down. Has the performance income been compensating for the loss of mechanical?
- But there is no link between these too and it remains a bit confusing I guess. Is there a way to

tackle this challenge?

- Could there be any government intervention to say: we have to make things simpler here for our creators and common benefit (in EU level)?

- Where do you see the industry in 10 years from now? A better or worse place for the creators? More or less remuneration? More or less power for the CMOs ? Where is this whole thing going to?

- But.. are the CMOs going to survive through this complexity? Can a Collective retain their principles in the future? It has always been fascinating to me, the historical, traditional institutions and how they promote creativity and being the bearers of culture if you will. Is that going to change?

Transcripts

Interview 1: Jane Dyball

KEFALAS: Thank you so much for having me. I think your input would be very valuable! think we are tight on schedule, right? so I am jumping right in.

DYBALL: Yes. Ok!

KEFALAS: We have seen turbulence in the music industry in the last decade and many of the developments have of course influenced the way a CMO operates today. Especially CMOs have been targeted about their efficiency and their relevance in a new competitive market. What do you think are the current challenges for the traditional collective management organizations?

DYBALL: I think the challenges are firstly to make collective management more efficient and more cost effective. CMOs provide a valuable function and an essential function probably because they unite... you know, they aggregate repertoire and then they license it especially for small uses that you can't license. It's just not cost effective to license individually. So, it's a very expensive way of doing it, there is a lot of room for saving money. And that seems to be going up rather than down! I think the cost of CMOs across Europe is a bit over 1 billion euros per year. That is how much they cost. So, that is a lot of money for a lot of repetition. Even if you take 25% out of that, that is money from revenue streams. So there is a challenge to cut cost, especially while the amount of effort is increasing. We have more lines of revenue to process, you need more powerful processes in order to process data and get through that level of information in order to distribute it...there has to be more automation and more agreement between societies as to protocols and ways of invoicing. It is no longer acceptable, I think, for a British society to say: But this is how the market operates in Britain. I am not using a real example, but in the UK you might be invoicing a digital service quarterly, in Sweden you might be invoicing them monthly, in Holland you might do that manually.. Here, I am specifically talking about protocols that are different from country to country. For example, if 3 people write a song, you can't say 1/3 and 1/3, you have to say 33%. So everybody registers their claim for their song writer for 33.34%. If you register a creator with 33.34% you get to over 100%. That then puts the song into dispute. So, you have to think about those protocols to save time and money. Everyone has to agree a protocol around data to make it easier to process data. So, there is lots of protocols that have not been agreed about how companies invoice or how copyright information is registered. If I register a Radiohead song I might register it under the name of Thom Yorke someone else might register it under the name of Thomas York, somebody might spell it as Tom...

Another challenge is the commercial terms around the deals. And around whether Youtube are paying enough money or Spotify are paying enough money. The problem with that is, it is sometimes difficult to see what the problems are around the commercials because they

are affected by the data. So, if you are a writer and look at your royalty statement and say: oh, I've got 10p from Spotify and 15p from Youtube. That means Youtube is good and Spotify is bad! That would be the wrong conclusion to reach. Not necessarily that Youtube is bad and Spotify good but it would be wrong to reach any conclusion from the information you've got from your statement because that information is being affected by all of those data issues. So, if you are getting a statement that you are getting 15p from Youtube and 10p from Spotify it is virtually meaningless. It gives you no information other than how much money is in your statement. Because different decisions will have been made in order that you get that money and until you understand all those decisions you can't be informed as to decide whether it is better to have 15p or 10p.

KEFALAS: Do you think the legal structures from the analogue world adapted well into digital? Here I am referring to streaming which is a combination of both mechanical and performing rights.

DYBALL: I don't think the legal structures are the issue. Mechanical is a copy, so it is not about buying it is about copying. So while you are a subscriber you are making copies. (...) I also think it is very difficult to change copyright or any aspect of copyright. To take rights away.. So if you said: OK, there should not be a mechanical in subscription service that would be impossible. Because people have paid for those rights and people have invested in those rights. And if you are, you know, a music publisher and you have supported writers, if you give them advances so they can give up their job driving a truck and write songs then you have to be able to recover that investment. Then it would just be like someone saying: OK, sorry, we know that you have spent hundreds of thousands..

I think if there is an area that needs addressing it is the area of safe harbor. This is a problem for the copyright industry because it says if you are Youtube and all you do is you provide a platform and you claim you don't do anything and you know, somebody's putting music on Youtube, they might own it but have no control of what people put up, no knowledge about it and they say that it has nothing to do with them. That is illegal defense and is problematic because it means that they can create a business worth huge amounts of money and then does not pass any of that over to the people who write the songs. Now, some of the people who write the songs might not care about that because they go: Yeah! it's on Youtube! Everybody can hear it! So you know, that is a legal issue.

KEFALAS: Why have strategic approaches for collaborative solutions in the digital world such as the Santiago and Barcelona Agreements not been preferred to competition?

DYBALL: I was around in the Santiago agreement and Barcelona agreement at that time and there was a 3rd agreement which was an online M.O.U (Memorandum of Understanding) which would have been a very collaborative approach to digital licensing. We spent 7 years negotiating that. I mean.. 7 years! And after a while (I was a publisher then) I think some of the CMOs may have been in a bit of denial about the digital market. You know, it is impossible to imagine a world where it is acceptable to spend 7 years discussing anything really. It is no wonder that the level of frustration was so high that you just think.. right.. we can't afford to not do anything. We can't afford just to postpone this and leave it for tomorrow again and again. But we had to do

something about it and at that time I was working for a publishing company and there was no option but to say: This is a business I want to engage in and if the societies system is not going to engage in there for me, then I am going to engage. You know, these digital services they are not all bad people. You know, there was a lot of fear in digital services and a fear of engaging or agreeing rates which you might later regret. And if you are a commercial organization then you have to make deals! You just have to make deals otherwise you can't carry on. But what was problematic back then was that if you were a CMO you didn't have to make deals. Not quite so much. You know, you've got enough business to not make deals.. So the societies have changed now. They have become a much more embraced concept of making a deal but back then there was a real fear that if you did a deal you would later regret it cause you charged the wrong amount and nobody knew what the right amount was.

KEFALAS: I think the next question fits right in! What are the advantages of competition in the CMO system?

DYBALL: I think fundamentally competition is good. It means that people have to be as good as they can be to attract business. I think that it speeds things up, it makes it easier, you can cut a deal.. I believe in the exclusive nature of rights. So I don't believe that every CMO should be able to license everybody's repertoire for example. Because then you would have societies undercutting each other. But I believe that if I own rights, it is good for me if I have got a choice of which society I am going to let license my rights. I think deals get done much more quickly when the people that own the rights are able to drive the deal terms. You know, it's much easier if you are able to negotiate yourself. So, uhm.. you have to just carry on. I think that the publishers taking matters into their own hand really...helped the market. Now there is quite a bit of criticism because the DSPs go: Oh my god, I have to go to all these people, it would be so much easier going to once place and getting once license. They do have to go around and get it and then they complained about it but what they forget was what it was like before, where you could not get any engagement.

KEFALAS: Do you see European CMOs creating more hubs in the future? Say the Scandinavians on their own, the Balcans on their own, etc.?

DYBALL: Yeah, I mean, the Mediterranean societies would say that they already got a hub cause they've got Harmonia. I don't know enough about Harmonia to know whether it is a hub or not. But they have had this joined venture for some time. So, yeah ,I think there is a distinction between the back office and the front office. So Delta is the back office, which is about engines and processing. Zeta is the hub for the front office which is about negotiating. So, I think there is a much more crucial role for Delta. I think there is a real market need to merge back offices because it is any like pieces of machinery, the more you push through the machinery the cheaper it should be and the most cost effective. For 'front office licensing' I am not so convinced about it because I don't like the idea of delegating licensing I think it does not work very much. Delegating licensing works for mechanical if you are licensing a record company because there is no negotiation. There is one once every 10 years or there is an argument once every 10 years about how much the record company is going to pay for mechanical rights. So it works for

licensing broadcasters but not for online because you've got to have negotiations.

DYBALL: Oh here he is!

(Robert Ashcroft, CEO at PRS, has arrived for a meeting).

DYBALL: Andreas, this is Robert Ashcroft. Andreas is doing his work experience at Streatham and is a student of Benedict?

KEFALAS: Bendik!

DYBALL: I always call him Benedict!

ASHCROFT: Oooh God, Bendik, yes! I know him very well yeah. He is a good man.

KEFALAS: Very nice to meet you!

DYBALL: Goodbye Andreas, let me know if you need anything else!

KEFALAS: Thank you so much for everything! Bye!

END

Interview 2: Bruce Dickinson

KEFALAS: First of all, thank you so much for accepting to do this interview.

DICKINSON: That is alright!

KEFALAS: What is your view on the whole CMO system of reciprocal agreements between territories and countries, in the online world? Has that really worked out, so far?

DICKINSON: It was fine when everything was limited to one country. So, when broadcasting didn't spill over borders and before internet messed everything up. We were perfectly well. The PRS could license the BBC, SACEM could license TV2 and we could license hairdressers in London and SACEM could license coffee shops in Paris and so on. I think that worked perfectly well and the idea of OK, we pay your writers, you pay our writers was a perfectly sensible good system. The difficulty now is, as we have rapidly moved from (20 years ago no one knew what the internet was, really!) now, since things have become more globalized it has become much more complex. In many ways it should have made it much easier in as much as PRS should be able to go to Apple or Spotify and say: We'll license you for the whole world. The difficulty is that if we say we are gonna do it for 10%, someone else will do it at 9% and someone else at 8%. So I think especially in Europe at the moment, we are in a real difficulty of: Do we all decide we all charge 8%? (In which case we have fixed the price). Or do we say: charge whatever you want? And whoever charges the lowest, the man who charges 1% wins. but the writers don't get anything! So it's a really difficult balance I think between charging the right amount, not collaborating to fix a price and yet still getting a decent value for everybody.

KEFALAS: Who decides the percentage that a CMO would charge in this case? Should that be based on the size of the repertoire each national CMO controls?

DICKINSON: Generally the market decides what the price is. But once this spills over borders, this is difficult, because the market in Spain is different than the market in Britain. So PRS could go to Spotify and say: you should pay us 10% because we've got Paul Mc Cartney, Elton John or someone else..bloody Coldplay or whatever (as if anyone wants to pay for that), but obviously we haven't got all the French, German or Italian writers or the very good Swedish writers. So, obviously, as you are probably aware, what is happening more and more is that you start to get these 'groupings'. Be it a publisher, be it SONY, saying we are licensing all our stuff through SACEM or be it PRS saying right, we've got all of these writers AND ASCAPS writers and BMI's writers and Australian writers so you start getting these groups that they have nothing to do with the country, maybe nothing to do with the publisher and so really what we are trying to do now is to aggregate the rights as much as we can, without ever having 100% (fee) because then we have a monopoly and that's wrong.

KEFALAS: In the online world, publishers got the chance to pull their rights out of the CMO system. Is this a real issue for PRS?

DICKINSON: Yes! When it started off, about 15 years ago, I think a lot of the publishers thought: we can do this ourselves better and cheaper. But I think they realized very quickly that they couldn't, which is why essentially, we do all the work. They just give us the rights and we get to take a small amount of money for it. But I think that Universal and SONY said that they could not do this on their own at the moment, because the CMOs have 100 years experience in doing this, but they don't have the experience of doing that level of detail. They can do the licensing, no problem (they are quite good at that) but the administration and the distribution side of it is different. But it has, and will become more problematic. I think, what they call the 'GEMA categories'. This is: If you are a writer and you join a society, generally if you join PRS you give us all your performing rights for all 'usages' for all countries. You have always been allowed to pick and choose the countries, for example, having a membership with the PRS but excluding USA and let ASCAP take care of that part, or STIM for Sweden. So, you join STIM for Sweden and PRS for the rest of the world. Now..More and more you can say: I am giving you my rights but my online rights are going to another body, maybe Universal, maybe a friend of yours who can negotiate with Spotify. So you can say that your broadcasting rights are going there and your live rights go here and the picture gets much more complicated. If it is only digital or online it is maybe not so bad, because that is already very fragmented. But I think if you decide that your broadcasting rights stay with PRS but my cinema rights will go with SACEM. Here is an example: if GEMA collects money for you, they have to think: Right! We've got 100\$. From that 25\$ is for broadcasting so that goes to the PRS, 5\$ is for cinema, so that needs to go to SACEM, instead of saying: OK, right, It's all for him and it all goes to PRS. So this will make things much much more complicated

KEFALAS: Except publishers, what is your view of the new entrants who are not publishers, and not traditional CMOs, such as Kobalt, Global Music Rights etc? We have not seen anything like this in the analogue world. Could they pose threats to traditional CMOs?

DICKINSON: GMR is an organization in USA who have attracted about 100 major artists, possibly Prince, The Eagles, things like this. Major bands and singers and so on. And they manage all their rights, or most of them. I think for digital and broadcasting. But they are not gonna go to every hairdresser and every pub to collect money. But they can go to the main broadcasters in America, they can license them in concerts because if it's you performing, then they know where that is happening and they can get you digital money! This is a new type of entrant into the market who are saying: we are taking the best bits of the best people. You can still collect from the hairdressers because that is costing you a lot of money to get to the hairdressers and you don't get much from them. But we are doing the big bits. So, now this is a sort of new level of complication and I suppose, if they can get a better deal from broadcasters than ASCAP can..why not? You know? So you've got all these new groups that are coming up. Then you've got your hubs and the publishers, your GMR type of thing and Kobalt. Everything Kobalt is doing now is very different and interesting.

DICKINSON: The CMOs have been heavily criticized about their incapacity to adapt to digital and find ways to run their operations effectively. Do you share this view?

DICKINSON: The problem here is that we started doing this 100 years ago. And..we are still doing it the same way we did it 100 years ago.. more or less. We are getting more from there, then dividing it to 10 people and then we pay it out. And that is not wrong, but there must be a quicker and more efficient way of doing it. This is where I think the online world can hopefully teach the rest of us a lot. If you are Spotify or Apple or whatever it is very easy to know who has paid for your songs, how many seconds your song is (if that is relevant), how long they have been listening etc. Spotify can divide up their money accurately and immediately, to the second. We have to get long logs from the BBC, from ITV, Channel 4 and from 300 other broadcasters in Britain and run them through some ancient cranky computer to come out with the number of seconds or minutes and then break that down by song and then by writers.

KEFALAS: It sounds as if CMOs in general must find a way to overcome these issues. Is there room for a total reset as a future solution?

DICKINSON: If we were starting this today, it would be much easier. But I think the perfect solution would be to say: PRS is gonna stop doing what is doing for 2 years and rebuild everything from zero. Then that would be possible, or it would be much easier to do it that way. But you can't stop! Do you see what I mean? If we stop, nobody gets anything for 2 years and then it is more difficult to start up again. But for example, IMRO, the Irish society are quite new (not more than 20 years more or less). They do the same operation like us but with very very few people because they are a bit more modern and they can do things more quickly. Whereas we have got, as you have seen, a membership department of 80 people and operations department of 50-70 people, most sitting at home working, plus, god knows how many outsourced companies.

KEFALAS: But we do have a lot more members than IMRO... Doesn't it make sense that PRS requires a lot more resources?

DICKINSON: Yes, we have got more members and yes we are a bigger country with more broadcasters, more hairdressers and pubs and so on. But also I think, like I said, if we had 2 years to rebuild everything from zero. We could do it and we would not need half the number people we've got working here. I think all collecting societies have this problem because a lot of it is very manual labour intensive. You need a lot of 'human intervention' on a lot of these things because they have never been perfect databases of the works. Mine will disagree with yours, STIM's will disagree with GEMA's and so there are always things like that, that will slow it down. You know..

KEFALAS: What I understand is that if we had clean data or an international centralized database, something like the GRD, this complexity and manual labor would theoretically be significantly smaller, is that right?

DICKINSON: Yes! Making sure that data is right and correcting it if it is wrong...All that takes a lot of manual labour and then you think, as you probably have, a mobile phone there it is, Vodafone or whoever you are with know every second of data you use, every second you speak,

every message you send and immediately they can transfer that to their systems and you know, nobody has to intervene

KEFALAS: What do you think about the proposition of charging an extra pound every month through the ISP, as a levee to support less popular writers? So to keep a certain level of solidarity...

DICKINSON: I don't think that would work. I think you have to pay fairly. If my song is played 10 times more than yours it's probably right that I get 10 times the money you get. If you have a sort of basic levee system where everyone gets something out of the end , you know, you are going to earn money, I am going to earn money and Paul McCartney is gonna earn the same money. So you have to find a fair way of doing it. It has to be 'fairly market driven'. I think.. looking at it from a very British point of view as opposed to a French or Spanish or German point of view, we perhaps look at this more as, if you are a songwriter, you do that because that is what you want to do. That is not your calling from God, you know.. It is not: Oh my God, I do this and this is all I can ever do! And if you are shit at it you are gonna do something else. For example, if I am not good at my job, I will find out very quickly and I will have to go and do something else. Whereas I think in a lot of countries it's: oh, these poor songwriters, they work so hard on it, this is their love..etc. I think we don't have the same attachment to cultural creation in Britain that they perhaps do in France or Spain. For us it has never been 'the culture, the country' it was always more, you get this right because it's the law, therefore we pay you. BBC pays us because it is the law and you know, I suppose, for most PRS members songwriting is not their only job, in that sense. Even if you are Bono or Paul McCartney the money you get from us is miniscule compared with what you get from the sale of records or whatever you call them now! Also concerts and downloads, whereas writing the song is very very small money. I mean, Bono probably gets 0,5million pounds a year from us.. A large amount of that will be from live concerts but that is maybe only 3%, 5% or 10% of the box office. So, imagine what he is getting for the rest of 1 concert! .

KEFALAS: You have worked at PRS for a long time and you have seen it evolve, along with other societies. Do you think that competition in the traditional CMO industry will deliver more efficiency in what we do? Does competition function in today's digital industry?

DICKINSON: I don't think it does, personally, I think this is where the European Commission has misunderstood what we do. Competition works very well on mobile phones and TVs, I think, brilliantly! I do not think that it works in this field because if this phone is too expensive or not very good you can go to Samsung or (not Nokia now.. Motorola or Windows phone or whatever). You can buy something else which may be cheaper or better or both! But I think in the world of rights..only you own your rights! Or, OK, and PRS. But again, this works in a market that you can choose to buy a cheaper phone, a bigger phone or better phone. But, there is only one person that owns your songs and that is you. I can't go to him and say: I'd like the rights to play his music because he doesn't own those rights. So, there is only one customer and

only one supplier in a sense and so, I could say: Ok, I will go somewhere else and buy someone else's music, which is fine. But, I suppose because it is unique in that way, I don't think it can work that you could have lots of different people selling your thing. If you said: Right, I am a songwriter, I've written 100 songs and they are all licensed by Gema, Sacem, Stim, PRS, ASCAP etc. Everyone, everywhere around the world. I think again you start to get into the who is doing it cheapest. Because then, I only want to pay for the cheapest one. So if you said: Right Bruce, this is 10 pounds from me for his songs I am going to go for the one that charges 1 pound! Because that is how it will work. Otherwise, there is no point in being in 10 different societies and so, you lose out because you have written the songs but you are getting very little money for them and this is where I think, you know.. If Apple finds out nobody is buying their things, they will reduce the price, or they will try to make them better.. or make something else! But you as a songwriter don't have that ability. So I think it does not work in a 'competitive environment'.

KEFALAS: In other words, would you say that if a writer really wants to make money from music, they have to play along with market rules? Sort of forced in this framework to become more commercial themselves?

DICKINSON: Yeah, you have no choice, you know? Because otherwise, you know, you could say: I am not going to be a member of any society, I'll go to the BBC and the BBC will probably say: we are not interested because we get all our music from PRS. You have only written 100 songs and we just not gonna bother playing them. If people want to buy your records, that is a separate matter. There is no performing right in that. But you cannot compete when there is only one thing you are competing for and yet you know... If you are PRS, I come to you because I want to use that music, other people come, broadcasters come, shops etc. But we are not competing with other shops or pubs. For example: If I am a pub playing music, I am not competing with other pubs for that license, you see what I mean? So, this is PRS and you've got 3 pubs in the same road, they all play music and they all have a telly on and a radio. And let's say they are all exactly the same square meters. So, they pay exactly the same price to PRS and they get exactly the same product. They are not competing with each other to get that! So there can't be any competition for it. So it is not that pub 'A' says: I will pay you a little bit more and don't allow them to play Beatles music, it simply does not work like that! It is not, in that sense, a competitive market place. You could say: I wanna pay more and get a golden iphone! And then there is 3 golden ones in the world, so you can't have one, and you have got the money. Whereas, with music it does not work that way, you pay one price and you get everything which is exactly the same like the pub next to you, which pays the same price..or pays a bit less because he is a smaller pub, but he still gets everything. This is why competition in that sense can't really work...

KEFALAS: Who does competition work for, in your opinion?

DICKINSON: In the rights world you can compete but you can't force people to compete on price because that is where I think it will go badly wrong. Which is I suppose we and others are trying to compete and say: Right, we've got more rights than you. And we are in a good situation as much as we can say: In Europe, we can manage all the anglo-american repertoire which is

what people wanna listen to more or less. We've got this repertoire, we can do it for the Americans, the Australians, for anyone else who writes in English, the Irish, even...U2.. And so, we are in a quite good position to be able to do that and if the Spanish want to join us in our little hub, then they can! So we can do Spanish and English repertoire. And maybe the French and Germans want to create their own little hub, call it 'Franco-German Axis' or whatever. Ok, maybe not Axis! (laughs)

KEFALAS: More and more societies get together to create create hubs for licensing and other collective rights management services in the music industry. ICE, is the prime example of this. Do you think this will happen more in the future?

DICKINSON: I can see more and more of this happening because I think it will make sense and it will reduce costs and you can benefit from the technology of other societies, in some instances. And I think the only way to survive will be through being part of a bigger body, really. Just like everyone benefits from being in the EU, maybe not you Norwegians! So just as I suppose there is an advantage for a country of being in a big trading club I think there will be an advantage for CMOs. Being part of a larger group and overtime I think these groups will start to specialise in what they are good at. You know, as much as, let's say our ICE hub, we might actually realize we are really good at licensing broadcasters but we are not very good at licensing pubs. So maybe, SACEM, SIAE might say: we are actually very good at that so they might move in and start doing that or they are good at collecting and we are good at distributing, they are good at digital we are good at this, or something like this. I think overtime maybe we'll start to specialise more in doing things like these.

KEFALAS: What is the picture of this at the moment for PRS? Has PRS become better at collecting from pubs etc?

DICKINSON: I think we have always been quite good. I mean, I have been here for 17 years now and I think even 17 years ago we were quite good at it. A long time ago we moved away from what a lot of societies in Europe still have this image of being the 'copyright police'. You know: You must pay us! So for years we have been trying more to sell the benefits of music. It is difficult to sell people things they think they have already but somehow we manage it. more recently in the last couple years we have had a new PPS director who has looked at what we license and did a lot of research and what he saw was that 80% of nightclubs were not licensed by PRS. Then he said: Maybe, none of them play any music! (laughs) So there are huge areas out there, which for some reason we have never got around licensing but less and less. Broadcasters are easy, you can go get them.. Live concerts are easy generally because they are big and they are advertised, things like restaurants is more difficult, you know, and this is where it involves people walking up and down roads. It costs a lot of money and you don't get much back but I think on the whole we are quite good at licensing.

KEFALAS: How about the distribution of income from those licenses?

DICKINSON: I think we are pretty good at distributing. We get the distribution every quarter, well, now every week! Small distributions all the time. There is not much money left in our bank

accounts, you know, a lot of the time we get it out more and more quickly. In an ideal world the money would come in from the BBC, then we would see: ah, yes! Great! And the money will come in very fast like with Vodafone counting how many minutes you have spoken and we would send it out straight away. And maybe one day we'll get there... But, not just PRS but for all collecting societies this is a very complicated business and complicated businesses are not efficient businesses, generally.

KEFALAS: Any positive thoughts about the future? What should be the perhaps the first thing CMOs should focus on?

DICKINSON: I think, make the most of the next 10 years! Because I think in 10 years time things will be hugely different to how they are now. Possibly someone like Google will look and say: We can do this! We can do it for more or less for free! It may mean that the hairdressers no longer pay for the performing right. It may mean that broadcasters pay a bit less, it may mean that some writers earn a lot more. But I think for the CMOs, unless we can change really really rapidly and know what the future is going to be (which we don't) I think we are finished, really.. Someone else will come along, like Kobalt, and find a way of doing some of it better and cheaper.

KEFALAS: Could CMOs do something like Kobalt?

DICKINSON: I think here at the PRS we are certainly trying to do the best we can in as much as talking to PPL for joining up very possibly in 1 or 5 or 100 years we will join up. Which makes sense now! 15 years ago we never spoke to them. They were the enemy! We can do things like these but because we are not a profit-making organization, we do not have money to throw about. I mean, Kobalt for example have been given \$16million from Google in this 'venture capital funding' to do something with. We do not have that money, nor do SACEM and nor do ASCAP or anyone. So, we will never (unless go to Google and ask..maybe they would give us money!) but we will never spend that kind of money... or waste that kind of money, because we would waste it, because we are PRS.. (haha)

KEFALAS: I do like your sarcasm! But why would PRS not be able to use funding coming from i.e. Google?

DICKINSON: Well, we would never be able to spend that kind of money developing a system! So, we may never have the opportunity to do it. And so, I think a company like Kobalt will think like: Great! We have this money, what are we gonna do with it? Should we built something absolutely fantastic? Something that we think where we think the future will be in 10 years time? And, because of that, that is where the future goes! Whereas, if you are PRS you have to think: This is what is happening today, we have to make sure we are here tomorrow! And tomorrow changes and then we have to change again. We are always playing catch up.

KEFALAS: With all those issues, you are the Head of Risk at PRS. I guess there is a lot to do in this area! Thank you very much for answering my questions!

DICKINSON: No problem, I am happy to continue with this at some point!

End.

Interview 3: Ben McEwen

KEFALAS: First of all I want to thank you for getting in touch. Will Page (a good friend of my thesis supervisor Dr. Roger Wallis) suggested you as a great candidate to answer some questions about my thesis. I think your input will be of great value. Now, I will jump to the first question, if that is ok?

MCEWEN: My pleasure! Yes!

KEFALAS: Streaming seems to be the way people will consume music in the future, yet a lot of analogue concepts are still being used (we use the same system of copyright). With the dissemination of music all over the internet and the current copyright structures, do you think this is a sustainable model for the collection, clearance and distribution of rights?

MCEWEN: To be honest, I think quite a lot has happened to help sort of adapt and navigate those. You gotta be very careful with copyright and we tend to focus a lot on that because online has been such a major shift but even prior to that, copyright has had to adapt repeatedly with changes in technology and distribution and we have done a pretty good job in doing that. For a person who has done this job for a long time, you know, you have come across people that encountered many people who say: Why don't we just rip it all up and start again? But I think a lot would be lost if we did that. If we said for example: sweep away mechanical and performing right and put in its place 'digital rights'. And it would indeed be much simpler but actually if you are not careful a lot of these stuff -the devil is in the detail. You know, about how these things work and they have a lot of unforeseen consequences. It is more important that things keep adapting and changing and keep moving than it is getting too obsessed about whether or not the terminology we are using happens to have come from a more physical age than a digital one. But is it applicable? Is it being applied in a consistent way? Do people understand it? Does it work?

KEFALAS: Isn't it harder to identify works online now with streaming? What is the first step we should take as CMOs to make things work as well as making sure people understand it?

MCEWEN: I certainly think the aims and objectives of what was the GRD, that project did not deliver a single database. But there are various initiatives following on from that and obviously ICE (the deployment of our own copyright database at the moment) has extended out to a point where I think it is beyond 'phase one' of what would have been the GRD now anyway! So, I think it is crucial that we get a single authoritative source of ownership information because a lot of the problems and the challenges that we face currently come from the fact that you have competing versions of the truth in terms of who owns or represents the specific rights. That is

something that is of crucial importance. I think in terms of streaming in particular and certainly the challenges from streaming come from this cheap scale of data volumes. So, our operations guys have very good stats and graphs to show this but you know, we have gone in a matter of a few years from hundreds of millions of lines (usages process) to billions of lines; 250 billion or whatever in terms of the scale of this process. That is a massive 'big data challenge. What that does is for CMOs to increasingly partner and work together to try and ensure that they are in a position to operate effectively in that kind of a world. So in lots of ways streaming and online brings new technologies that can be deployed in terms of sound recognition technologies etc. to help identify uses of music that perhaps we didn't have in the past. There is a lot of work still to do in terms of technologies that can identify a melody without the specific sound recording! That is certainly a big area of potential technology solutions.

KEFALAS: Wouldn't that take a lot of investing?

MCEWEN: Yeah! It's happening! In terms of sound recognition technology, that is obviously quite well developed already with companies like portable magic(?) for graces notes.. and obviously others have the likes of Google, Youtube; they have their own system. So there is proprietary technology that the DSPs have developed and there are parties out there developing these technologies. So certainly, moving forward, the scope for those sort of technologies to help improve the accuracy (not just in online but in other areas of CMO activity, like public performance which is a very interesting area and these sorts of technologies are increasingly deployed to help things more accurate). That is certainly another piece of it.. So online throws up a number of challenges and a number of opportunities as well! I think, speaking certainly across different sort of sectors and talking to people that work elsewhere one of the things that we sometimes forget about music is how blessed we are with working in an area where if you talk about it and it's kind of reductive to talk about it as a product or content...but we are in a world where this does not go out of fashion. It is massively popular, the scale of exploitation and the desire to access what is being produced by songwriters and composers. Plus other areas in gaming where music is a key component. It is not essential but it's very important. And a number of areas where that exists means that in a way there are opportunities now than have never been before! But I think.. With online we have had specific challenges because copyright as you know is territorial in a way that it's developed and obviously that brings big challenges when you go into a multi-territorial or global environment in which the industry is developing solutions for.. You know, I am generally reasonably optimistic about the future.

KEFALAS: If almost everything can be found on the internet, could mandatory licensing ever work positively towards the creator? The example is that everyone gets to use whatever music they want, and based on whatever revenue they receive, they pay the rights holders.

MCEWEN: The basis of the Internet in its earliest forms was the free movement of information and data. It is a very effective, amazingly brilliant mechanism of freely distributing content. The challenge therefore has always been the business model and trying to add on a revenue stream that doesn't deter people off from still accessing the content. I don't think the status of whether our licensing is mandatory or not necessarily helps. At the moment you have a situation where

there are big implications for license source estate refuse to license and certainly for CMOs there are big implications. As PRS we can't refuse to license. We have to be very actively licensing. It is too complicated at the moment in terms of knowing the number of places you need to make sure you get the rights you need.. That is something that needs to improve.

KEFALAS: What if we (well, perhaps the government) made it mandatory that the collection happens through a particular party?

MCEWEN: I guess that would improve that issue of not knowing who to pay and who to have a licensing relationship with. But with mandatory licensing and you pay x. But the problem is that as the market, the models and the services evolve.. when we are licensing major services we are normally not licensing them for longer than 2 years the most. Even within that they will often be some side letters for changes in the service. They might wanna do something new or change something fundamental.. and so, in a way, i think the trouble with any of those solutions with mandatory licensing is that they don't tend to be flexible enough and the services need that flexibility. The thing that you well may find if you have mandatory licensing and say: this is your license, this is your rate, this is what you pay is that actually you block and stifle a lot of services because you either set in a form that then doesn't work for certain new services or business models that come along OR it is such a 'de minimis' low rate that it may allows lots of people to generate services but it doesn't provide any way near enough revenue back for creators and songwriters to keep doing what they do. I think we are better off with a system where there is greater aggregation of rights, so there are fewer places you need to go to get the rights that you need. It's a really clearly sign-posted: So say you were developing a new service and you wanna license rights and not having to go to certain different places with different acronyms and you don't know who to talk to and you don't know how to go about it.. But it is much better sign-posted and much simpler. There is fewer places you need to go but when you HAVE that conversation with the rights holders you are then doing it in a more free way that lets the ultimate license deal that you end up with to much better reflect the nature of the model and what you want to do.

KEFALAS: The next question is about competition. Are CMOs better off with a strategy based on competition or collaboration?

MCEWEN: Yeah, What is interesting is that the past to the future is with a combination of collaboration and competition. I know those two things are sort of naturally and diametrically opposed but actually i think increasingly we are working in an environment where we are.. partners and collaborators in various projects that we might work on, like the GRD.. There are lots of examples with projects that we work on together and other areas that we license and work together and other areas where we actively compete. I certainly do not think it is one or the other. I think we do need to get.. what I talked about, the need for aggregation and the fewer places to have to go to get rights. I think the danger of a pure sort of 'collaboration share strategy' without the competitive 'impetus' is that nothing much changes. You still have all the same players doing things in the same way and that is definitely not the solution. Partly because it doesn't deliver you the kind of systems and specialization that you need to deal in this environment. You need fewer places that are really up to the technological challenge and providing that aggregation and

I think you get there through competition.. But you know, if you look at PRS's strategy it is to partner with like-minded societies to develop a hub that will be the competitive force in the market and will involve fewer places to go to get the rights. So, I think this is an example that combines collaboration and competition. I definitely don't think it's a neither-or.. You need to blend these two things to make it work..

KEFALAS: Everything you have mentioned seems to be very much in line with the EC's policy on competition. On the other hand, could powerful hubs as ICE dominate the market? Where there any concerns about the ICE hub (PRS, STIM, GEMA) from the EC's competition authorities?

MCEWEN: The competition authorities did look at it closely. Obviously we referred it to them to make sure that they looked at it, because whenever you have a joint venture initiative like that it is going to have competition implications. But I think, you are absolutely right, what Europe is very much in line with what EC is seeking, which is active competition and it is clear that our hub is not going to represent all our repertoire by any means.. But I think that the vision here is that there are fewer places to go to and being able to provide the competent service and a sophisticated service to this market. And this market has very clear and specific needs, you know, when I talked about the number of usages that PRS is processing and the leaps that has happened.. it is an exponential growth and that is all coming through online. So I think, yes, absolutely.. that you looked at it from competition grounds but they have blessed it. And rightly so. You gotta bear in mind here that the horizons for CMOs in terms of this area is no longer: oh, we are effectively competing with other CMOs. It is about rights management and it has brought its terms! There are no reasons to think that other third party won't see many other third party entrance from outside from the tradition CMO world that start to be very active in this market place. So the boundaries of competition have changed completely and will continue to change! That is really important in our thinking. It is not about saying: We are the best of European Societies out there! Or, is our hub going to be the best out there? It is much more about saying: Are we continuing to be absolutely at the forefront of digital management of rights? Because you've got to think in these broader terms.. Who do we need to partner with? Who do we need to be aware of? All that in terms of what solutions are out there to take a much more flexible approach to the market really..

KEFALAS: On a slightly different note, do you think that all your members understand these issues and challenges?

MCEWEN: No, I certainly don't think they do.. But those that take an interest like here at the PRS, this was made from writers and publishers so of course a core group of publishers and writers do understand, of course! All these developments in a lot of detail. But in terms of the average writer out there, I don't think they understand. I think that is definitely something that we need to do and that the community industry needs to do a far better job of explaining how these things work and why they work. Because we are on a journey at the moment, from the old world of national monopolies doing the licensing then to now pan-european and multi territorial deals we sort of still on the way to hub solution where there are fewer places you need to go. But probably trying to communicate all the way along that journey...it is almost better to get to a

place where we have furthered down the lines and there are these fewer hubs.. then absolutely making sure that parties understand: how do their rights are plugged into those? How does the money flow? How does the money come out again? Where does it go? What commissions does it take in? But don't forget about the importance of having the right systems and solutions to be able to do a deal with this market effectively. Let's not pretend that in the old world things worked! Far from it.. What people would have would be paper statements with thousands and thousands of pages with micro-payments showing on them and then all online moneys would be bundled in alongside broadcast money. So you would not be able to see what you are getting from online vs broadcast, for example... PRS for a long period of time has broken out to electronic statements, specific DSP by territory, by peer, how you are getting your royalties... but you know, moving forward into the hub the level of data that we are gonna be able to provide to our members is gonna be a moving forward and sophisticated dashboard of information that people can access and actually find and track an awful lot about how their royalties are being earned. So that is gonna be a big part of the future. But to get there you gotta come together and work together on solutions because doing that individually (as an individual society) does not help, because if you are a songwriter, yes, you've got a society; but your rights are then plugged into the wider network and the last thing you want as a songwriter is bearing in mind that it's all working off commissions of your income (on one level or another) the last thing you want is multiple investments being made in a similar technology for the sake of it! You want the society network to come together - invest once, or a few times only, in solutions and make sure that then it really fits for purpose.

But definitely, this point about, as an industry with publishers and CMOs with the sort of 'leading' writers, that group is obviously aware about all the developments but it's crucial that we don't leave behind the wider constituent group. They need to understand the developments that are happening and that it is definitely an area to focus on and improve moving forward.

KEFALAS: Alright thank you so much for this interview and for taking the time to talk to me.

MCEWEN: No , not at all!

KEFALAS: Will Page (a friend of my professor Roger Wallis, suggested that you would be a great candidate for this because you are a 'brilliant brain and ace licensor' so...

MCEWEN: Hahahaha!

KEFALAS: Really happy I got to talk to you and uhm..best of luck and keep up the good work, I guess! And hopefully talk to you again sometime!

MCEWEN: Yeah, sure! And as I said, I probably waffled on unhelpfully but if there are other things that come up as you are doing your research that you wanna clarify or that you want to chat on then feel free.

KEFALAS: No, I think your brainstorming was what I was after! Thank you so much Ben, have a great day!

MCEWEN: Good stuff! Best of luck with all, cheers, bye!

End.

Interview 4: Graham Davies

KEFALAS: I would first like to thank you for agreeing to this interview! I will begin with the first question.

DAVIES: Sure!

KEFALAS: We have seen attempts to shift the old solutions from the analogue into the digital world, using a system that a lot of critics suggest that it functioned well in the analogue world. To what extent does that function in today's digital industry?

DAVIES: So, I think that the question of a sustainable digital economy is absolutely the right thing to look at and I think it is the case that we should look at how the market has evolved. In relation to music, that has been a cause of concern. And absolutely, as you are talking about, what is it from the analog world, is fit for purpose in the digital world.. Now, from the PRS perspective as an organization representing rights holders, we have always sought to understand the market and generally we take a license first kind of posture. So that would be: The online market is evolving. We are not quite sure how it is going to evolve but there is a huge opportunity in terms of consumption with new businesses etc. And absolutely, what we have seen is that consumption of music is exponentially bigger in the digital world. There are so many ways different ways that people can access music. So, I think we are one of the first societies to issue an online license. And we have tried to support new business models whether that is Spotify or Youtube or Downloads as well. So I think our approach is to say that there are new businesses and they should be licensed. Recently what we have done is we have undertaken a strategic review to see how the market has actually evolved. Has it evolved as we expected it to and are we getting value the way that we are approaching it? (as we should). What we found is that there is a value gap between how the market functions and how people make profit from that market versus what is being returned to rights holders. So we do see a value gap and trying to understand why is there a value gap and what is the size of that gap. We actually did go back to the first principles from a law and economics perspective so what we are talking about here is the remuneration of music based on copyright. Copyright is the mechanism. I suppose what you have to ask yourself here is: Is copyright fit for purpose in a digital age?

KEFALAS: I have to say that I asked something similar to Jane Dyball and she said that copyright is fine and the legal structures are hard to change. ...

DAVIES: Well I think looking at that question from the law and economics perspective we agree. This is actually, copyright is not of perfect means of valuing and remunerating creators but it is probably the best of the means that are around there. And what it does is it seeks to draw a balance between consumption of creative output where it's in the public good for them to have. A sort of free access to that for educational means and various sorts of exemptions to copyright but then copyright kicks in and the market determines the value of it. Here, how these safe harbor exemptions are interpreted by players in the market is something problematic. Because when music is uploaded, accessed, communicated, broadcast whatever you want to describe that there should be consent given from the owner of that copyright for that consumption to take

place. If that principle is kept then the market should settle around a commercial value that is the right value. So going back to the very first principles, we see that that has been one of the inhibitors of there being a valuing of music in the online consumption space. If that can be altered there are lots of practical and operational issues (databases, micro-licensing mechanisms). Does all of that content need to be licensed and remunerated on a transactional basis or not? Is there a blanket license model? All of those things.. And also the global licensing. Because music online is multi-territory. There are a lot of practical industry change issues that come with that. But what you really need to start with is the core of copyright. Can copyright be a sustainable model in the online market in the future? This needs to be supported by law and regulation. That is where a lot of our strategy has been focused.

KEFALAS: I see... Do you think the digital economy has been growing in Europe?

DAVIES: Well, yes, but is that net growth? So, if Google grows that is not Europe but even for Google's Europe turnover, how many other businesses are reducing? So, how does that net out, you know? So we license Spotify, we license Apple, we license a whole series of online services. But I think, how bigger would that digital market be if the parasitic growth was not so strong?

KEFALAS: Previous attempts between societies to adapt in digital were based on collaboration. For example the Santiago agreement would extend the offline system to online. Why do you think that did not work out?

DAVIES: The Santiago agreement was amongst societies and I would say the key difference with the option 3 from recommendation from the European Commission and the rights holders acting on that is to exercise their direct control over the pricing and licensing of their rights on a multi territorial basis and not leaving those rights with the CMOs. And that is part of what we have been looking at. We have bundles of rights being licensed and priced separately. That is a very very different world to how the societies and the network have been running before. And it has given rights to huge amounts of complexity. Now, PRS's response to that was to say that not all societies responded in favor of option 3. We did. And we said: any other option is going to de-value copyright. So, competition for rights is a better way to safeguard the value of copyright. And we went out saying: This is our strategy and our solutions, not just for us but for the industry about how we can make this work.

KEFALAS: Many people considered the GRD as a solution some years ago, which in theory would be very helpful towards standardizing data as well as bringing together all those unique codes for ownership identification (ISWC, ISRC etc.) Could you tell me a little bit more about that project and why ICE followed after?

DAVIES: Well, PRS was in the working group for the GRD from the start and ICE was selected as a solution. A technology solution. We funded this to make it happen and we continue to develop ICE as a solution. We have always believed in GRD because we understand how the complexity when the multi-territorial licensing comes from having a real time, clear view on who owns what. The other thing you need is to have more bundling. If most rights are fragmenting you also have to have a system where you can bundle those rights back together for

the licensee, in a way of invoicing those rights in a uniform way. And that gives more guarantee to licensees that they will only be charged the right amount of money for clearing the blanket rights that they need. So we have put forward our extension to ICE now which is an online licensing from end as well as options for people to pull on the back office through their very special purpose being of course licensing.. So we have put forward what we think: the structures that the industry needs.

KEFALAS: Have other CMOs followed this direction?

DAVIES: We have sought to engage as many CMOs as possible in our strategy but at the same time in order to get something done you have to... get on with it! So we have built the structures whilst at the same time keeping the other CMOs aware of it! So, we now have BUMA as a customer of ICE, SABAM have a commitment to looking at becoming a member and a customer of ICE, we have the rest of the Nordic societies actively looking at joining ICE and then now we also have interest from outside Europe with other societies actively looking at ICE. So, back to your point which is that: if option 3 and the rights holders ability to have control over their rights for multi-territorial licensing is the world... This is the environment. And that is in the interest of the value of copyright. So our job is to make it work. It is taking a long time but I think with the competition clearance, only a month ago we are very soon going to operating in the market with ICE providing a front office and back office solutions. So, you know.. that will then grow and we are very confident, both in terms of increasingly standardizing copyright ownership information but also scaling up the licensing services. Because the goal here is global licensing, not just pan-European. It's one stop shop.

KEFALAS: So seeing how things have evolved... are you positive?

DAVIES: I think.. Yes.. I am positive because there have been lots of views about how things should evolve. But i think that gradually there is this general acceptance that if you are going to have a fragmented rights picture then you have to have ways of enabling that but with standardization and I think your point about ICE, ISWC and ISRC.. It is very frustrating to us that that is not standardized.. Our view is that data and reference data needs to be authoritative. One place for that makes complete sense. That is why we were big fans of the GRD. The GRD having both ISRC and ISWC linked together. Audio-visual data is also a project that we are working on to extend ICE's ability there so, for us, the more that data can be held centrally (once) and used by everybody then it will enable to kind of put in the front of that some individual licensing entities just representing smaller 'pockets of rights'. If you don't have that standardization it's incredibly complicated and it creates a very bad service for the users. Because they don't know who to go to get the rights, they don't know if they have cleared all the rights, they don't know if they have valued the rights properly etc. And on a global basis that's very challenging.

KEFALAS: With all those data issues that societies are aware of, and with the recent EU Directive on CMOs focusing a lot on transparency. How transparent can a CMO be at the moment, in terms of providing correct information about royalties, for example? Is that a challenge?

DAVIES: I don't think the challenges and complexity of the system causes a challenge for transparency. I can only talk from the PRS perspective here.. We have always put transparency very high in importance and... there are no problems for us because we have nothing to hide. Uhm... I can't see why other societies would have an issue either. I mean, we exist for our members' rights. We are in the business of licensing and distributing and all of the info around that is info we provide to our members and the governance is clearly constructed with visibility from members so.. I think that there is always more info you can give and more info we absolutely would like to give. It also needs to be useful insight rather than swamping people with data you are not always becoming more transparent.. So what we are looking at at the moment: we had trillions of lines of data for different types of members and we need to make sure we are giving them all the information that is helpful for them to run their businesses and now we are working actively on developing a website portal to be able to give as much information as we possibly can to our members. But I would say that at the moment we already try to do that in an offline capacity.

KEFALAS: On a national level it is much easier to be very transparent but isn't it difficult to understand what money you are getting when it is in many different places?

DAVIES: Yeah...so that is a challenge. There's a couple of things here.. So in the online space it is right to say that the rights that the PRS represents are going into a number of different deals. So that can mean that the amount of royalty that one member gets it is quite difficult to understand what is that money for, for which services, which countries, over which periods and how do I value that. So I think that is definitely a challenge. A challenge to be able to explain what a member is getting. I think that our position is that a PRS membership really does, I suppose, give you guarantees that you may not necessarily get elsewhere. So, our rights are very valuable in the international sphere. We have been licensing rights on a near global basis for many years. Our rights in all of the major deals and we can ensure that we get good value for our members. Whilst, a lot of those deals have non-disclosure agreements around them cause they are commercial deals and obviously competition in the market means that quite rightly one publisher's deal cannot be visible to another publisher etc. So what we have operated is a number of structures that can make this work. So we have business separation within PRS and within ICE ventures. Then we also have some scrutiny in our board who are able to ensure looking across all of the deals that we are doing and that we are making sure that we are safe-guarding member value. Because you have to remember, when a writer joins PRS they assign that right to PRS so then we are representing them and have to make sure that we are getting the right value or else we will not be happy. So, that is an area that is more complex than the national structures.

KEFALAS: One of my main objectives for coming to London for my placement was to find out if the people who represent the creators, like you, Jane Dyball etc. know what is going on.. And

it seems that the PRS is aware of a lot of these things...

DAVIES: Interested in seeing your thesis when it is completed! It would be great if you send it to me because I think.. This is a very dynamic market and industry, you know? And I think there is an element here that all markets are also now much more dynamic and hyper competitive and the reason is also because of the digital revolution that is speeding through into all demands. And the ability for companies to start up quickly.. you know, it is all about data, technology and so you have got CMOs where their network is around 100 years old. So, we are doing our very best to be open to understanding what the right responses to the change are. What our strategy is and things that we think can succeed (on behalf of our rights holders) is to be open to ideas that there could be different ways! There are things like 'creative commons', rights holders taking rights back, there are different sort of models coming through where there are Global Music Rights CMOs.. so you know, how can the society add value is the thing that we are ALWAYS looking at. So, we only undertake activity on behalf of our members so long it's in their interest in doing so. And I think in the online environment it's you know.. I came from a meeting earlier this morning where we were talking about global licensing and solutions in the production music market. You know, that is all about the general sort of move of big tech companies.. Asking questions like: what is the future of broadcasting? Now broadcasting is converging (meets, intersect, going parallel) with online. Netflix are producing content which is now online first and then it gets indicated onto the terrestrial platforms.. Base production want content licensed on a global basis-all rights clear.. That was immediately something we had to look at. Because we have to, that is the direction of travel! But the key thing is: how do you support rights holders to get their very best out of an affecting new way that music is being used?

KEFALAS: Are there any ways...?

DAVIES: There are but unfortunately they are very complicated. Now, one of them is not very complicated and that is that the rights holder leaves the CMO. So they pull their rights out and do it themselves.

KEFALAS: Direct licensing is one way then...

DAVIES: Yes.. with direct licensing. That is one way. The alternative way is for the collective (CMO) to come up with solutions which mean that rights can be left within the collective but also licensed on a global basis. I think it's back to what we were talking about with the online 'licensing complexity'.

KEFALAS: Is there any entity that can issue a pan-european license right now? You were talking about global licensing but I don't think we have this on a pan-european scale, do we?

DAVIES: We do actually. We have been doing that for over 5 years, probably more!

KEFALAS: I meant something like the Santiago agreement where if you go to the UK or Spain you would get the same rates..

DAVIES: Ok, yeah... So that would have been on an option 2 basis from the Recommendation. That is where you go to one CMO they represent the global repertoire and you can go to any society and they could do the deal. The reason we did not support that is because you go to SGAE and they say: we'll do it for 10cents and then go to SABAM and they say: hold on, we can do it for 9! So the price can go down and that means that the price of the copyright goes down..So now what you are able to do is: You are not able to get the blanket license on a pan-european basis but you can get PRS's repertoire licensed on a Pan-European basis.

KEFALAS: Do you see that happening now with Gema and Stim? a blanket license for all three? Given that you have ICE kind of sorted and you are in conjunction?

DAVIES: In the future that is the plan, yes. We have been licensing our repertoire both directly and also in conjunction with SONY, EMI, also our rights flow into a deal with SACEM and Universal. This is all on pan-european basis.. So that is there. Global though is another kind of fish. We do almost global licenses excluding USA, Canada and some other territories but I think it is just that (and the whole point is), that is the direction of travel and I suppose.. You know what? It is quite exciting! It's a very dynamic business. You know, what worked last year may not work next year. That is where the challenge is. Because you have big societies, big investments and platforms. Here you want data standardized, THAT is a challenge. You have to get everybody to join up on that.

KEFALAS: Sounds exciting in theory but very difficult in practice..

DAVIES: Very difficult! But I suppose it is back to: What capabilities do we need? We need people that can handle complexity, so, if I talk about my team, you know. There are people that can quickly get to groups with what is a very complicated scenario. These people have to talk to people who don't know anything about the music industry and explain copyright. You would not desire this business!

KEFALAS: From recent figures it seems that performance income is going up and mechanical down. Has the performance income been compensating for the loss of mechanical?

DAVIES: Ok, so yes, absolutely the mechanical income has been dropping obviously due to recorded media decline of CDs and DVDs etc although there has been a slight 'up tick' recently which is quite nice because the other element is downloads which have been declining and we also need to kind of think what impact will Apple Music with their new streaming service actually precipitate, cause something could happen quickly or suddenly, because the download market is heavily iTunes. So, it would be interesting to see if that will have a ticking point impact on the rest of downloads. So, obviously mechanicals are involved in a lot of territories in terms of licensing of streaming. There is a mechanical right but not in every territory and in the same proportion. More or less it is the same but in some territories like France is a bit weird in terms of the split of revenue. On the streaming side they have gone very heavily mechanical, so, yeah, the trajectory of performance income has strengthened against that. In terms of PRS's revenue it is

divided as such: you've got public performance sales (domestic blanket licensing, live venues), broadcasting, we have online which some of it is licensed in other territories and some on a national basis, we have recorded media and then international money (the money that CMOs overseas collect from public performance, broadcast and online for us). So, in terms of the strength i think that broadcast has always been relatively flat and stable (a bit of growth there recently). But really the growth we have been seeing was coming through international but the other areas (public performance sales for BBC, so even more penetration of the UK market). We are discussing potential collaboration with PPL..

KEFALAS: And they use the ISRC codes..

DAVIES: Exactly, so we have to find a link there. One of the challenge with the ISRC from my understanding is that they are issued by the record companies.

KEFALAS: But there is no link between these too and it remains a bit confusing I guess. Is there a way to tackle this challenge?

DAVIES: We would love it to happen but i think the problem is: who is going to give us the ISRC? That's the issue.. I mean, if the record industry basically appointed PPL to do that and issue them then it could start to work if we could connect with them! My understanding is that now it's the individual record companies who issue ISRCs some of those codes are duplicating and it is just goes poof!

KEFALAS: Could there be any government intervention to say: we have to make things simpler here for our creators and common benefit (in EU level)?

DAVIES: There could be, i mean, the nearest we had that kind of intervention was on the GRD. Which was supposed to be recordings as well as works (ISRC and ISWC together) but you can see how the regulators have not had any teeth with that. They said: you need to do it and it put lots of pressure on and we tried to make it happen and it stopped!

KEFALAS: Where do you see the industry in 10 years from now? A better or worse place for the creators? More or less remuneration? More or less power for the CMOs ? Where is this whole thing going to?

DAVIES: I think that there will be quite a bit of change. I think that the role of the CMOs will change. If we look at some of the trends what we have is: creators, rights holders and new entities where rights holders can put their rights. An example is GMR and Kobalt-Amra. You know, so there is this fragmentation of rights and there are for a special purpose being caused.. So what we are seeing is a very dynamic US market being increasingly in turmoil. So in 10 years time the US market will have changed and I think that we will see that if you take PRS we will have outsourced a lot of what we currently do to hub solutions which enable them to scale and get uniformity in the market, in the industry with those kinds of scale benefits/data benefits and all that. So I think that in 10 years time that will have consolidated a lot more, at least for us..

Other societies will have started to use the hub as a service provider; I think what that then means is that CMOs will be representing smaller or more sort of focused factors of rights holders as well as, as I said, other entities will have moved into that market as well. They may not be societies but they will be groupings of rights holders.. In that regard, whether it will be better or worse for the rights holders I think there will probably be more choice and I think more competition. Competition has the potential to make things better but I think some of the challenges related to it could still be there, you know, more competition and fragmentation could mean more complexity. Actually, with rights holders been part of CMOs they have had protection so whether joining non-society solutions will bring increased risk to the long term control and value for rights holders, that is something that needs to be thought about.

KEFALAS: I guess at this stage it would be very difficult to start things from the beginning...

DAVIES: I mean, I agree.. yeah.. There are structures that have taken 100 years to establish aren't they? You would not design things from this point in time. But about disintermediation, absolutely. From PRS's perspective we are very focused on how do we add value. Our role is going to be changed significantly through moving a lot of what we currently do to hubs and joined ventures etc. Then we come down to the question: what is our role? Is it the same for other societies? How can they add value in a disintermediated world? I still think that there is a role of rights holders have greatly benefited from the security that being part of the Collective has given them. I think if writers are then in effect, putting all of their rights in a publisher etc obviously that could be a great thing. It moves a lot of the trust I suppose into the publishing contract.

KEFALAS: But.. are the CMOs going to survive through this complexity? Can a Collective retain their principles in the future? It has always been fascinating to me, the historical, traditional institutions and how they promote creativity and being the bearers of culture if you will. Is that going to change?

DAVIES: Yeah, absolutely, so.. I think it is about what is their role. What you just described is the role of the CMO. I think in relation to the online issues we talked about, you know, we have been focusing on that issue by saying: Your rights have not been valued properly, we need to lobby for a regulation, we need to do these various things. So I suppose that being the champion of the creator, that when you talk about the CMOs role they are actually coming from a vertically integrated past where they did..everything. A society did everything, registered works, licensed etc. They did everything. For some societies at the moment they will still be operating that model, the model of doing everything. PRS has progressively been outsourcing and has plans to outsource almost everything else in terms of back office and front office activities (licensing). So, we are already on that path of transformation and the reason we did that, you know, we sat the strategy 5 years ago which was: this is how we see success in the future, having a very different role. Some of that role is exactly the same which is being an advocate for our rights holders to ensure that they get the best value, their rights are protected and they have control.. whatever makes sense. That is the bit we will hold on to but whether we are doing the licensing, collecting the data, managing the data, processing the data, those activities we judge are better

scaled up. And then our rights holders will get the value of more efficient, lower cost, all of that.

KEFALAS: So there is future but with a lot of change..

DAVIES: It is a different future.. You know what? that makes sense doesn't it? Because we have such a changing world and the digital revolution is enormous. How can a society continue to do what is has always done?

KEFALAS: I suppose the most important thing is to allow change whilst maintaining the values...

DAVIES: Yes! That is the bit we try to hold on to but that is also being changed. So what I am saying is in the future (that we already are now) different entities sort of saying: look, we'll pull on the back office stuff as well but we will compete for that membership. And our question is: that's competing with different values. Which one serves rights holders best in the long term? That will be the interesting bit!

KEFALAS: Thank you so much!

DAVIES: Thank you too, if there is any follow up just drop me an email and best of luck with it! I did an MBA myself and writing the dissertation was.. ugh! there is a lot on the dissertation isn't there?

KEFALAS: In this area, very much so. I will have to narrow down the selected topics based on theory and your input which is of course very valuable!

DAVIES: Ok cool! No problem at all!

KEFALAS: With all these challenges, I have to say likewise! Thanks Graham.

DAVIES: Best of luck!

End.