

*Intervention at the WIPO SCCR16 held in Geneva by David Stopps on behalf of The International Music Managers Forum on Tuesday 11 March 2008 regarding possible international harmonisation of Limitations and Exceptions.*

I would like to congratulate the Chair and the Vice-Chairs on their election.

I am speaking to you today on behalf of the IMMF, the International Music Managers Forum. We represent featured artist managers and through them, the interests of featured artists (both authors and performers) who are the source of over 95% of the income in the global music industry.

Mr Chairman, the internet has changed everything. The landscape for Copyright and Related Rights has changed radically in the past ten years. If we turn on our computer and we have an on-line connection, we have access to the whole world instantly. With such global access any work that this prestigious committee can undertake to harmonise the laws of copyright and related rights is very helpful. This is particularly true concerning limitations and exceptions.

We were impressed with the intervention by the delegate from Senegal who suggested that member states should compare their laws regarding limitations and exceptions with other member states and should subsequently correct any deficiencies or shortcomings in their national law. We were also encouraged by the intervention by the delegation from the United States in which they made it clear they would be happy to participate in such an exchange of information. We would also like to congratulate the United States on the substantial progress being made regarding the introduction of a public performance right in sound recordings in their territory.

Mr Chairman, the Three Step Test has proved to be a very sound and useful basis for copyright law concerning limitations and exceptions and we would very much like to see its application more widely used.

By way of example, the lack of accurate adherence to the three step test in UK copyright law is causing the UK music industry considerable difficulties. A company distributing DVDs commercially has found a way through the UK law on fair dealing. The company rip footage by a famous artist such as Pink Floyd or Genesis and employ a commentator to review the audio-visual material at the end of the DVD. By doing this they claim that the entire DVD is a work of criticism and review.

This company have now commercially released over 100 of these DVD's from different artists, and record shops throughout the UK are devoting considerable retail space to their sale, as they are proving very popular with consumers. No royalties are paid to any of the legitimate stakeholders.

Case law in the UK on this issue has all been judged in favour of the would-be infringer so none of the artists, phonogram producers or music publishers involved are feeling confident about a legal challenge.

If the UK Government had adhered more closely to the three step test in their drafting of the laws on fair dealing this problem, which threatens to undermine the entire UK copyright system, could have been avoided.

Thank you Mr Chairman.

*The International Music Manager's Forum represents featured artist music managers and through them the featured artists (performers and creators) themselves. These featured artists are those that are the source of over 95% of the economic activity in the global music industry. Featured artist music managers are uniquely placed to comment on music industry issues, as they are the only group of professionals that deal with every aspect of the music industry and the copyright system as it applies to music on a daily basis. Music managers are responsible for every aspect of the artist's career including interfacing and negotiating with phonogram producers, music publishers, making arrangements for touring, sponsorship, merchandising, and ensuring that all the available income streams, including those from collection societies, are properly managed. Managers are generally remunerated on a commission basis (usually in the region of 20% of income actually received by the artist) so income streams affecting the artist also directly affect those of the manager. The International Music Managers Forum comprises 15 Music Managers Forums around the world including Australia, Belgium, Canada, Denmark, Finland, France, Germany, The Netherlands, New Zealand, Norway, Poland, South Africa, Sweden, United Kingdom and United States.*