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## **Consultation on proposed Copyright (Regulation of relevant licensing bodies) Regulation, published September 2013**

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The International Association of Scientific, Technical and Medical Publishers (“STM”) is the leading trade association for academic and professional publishers. It has over 120 members in 21 countries who each year collectively publish nearly 66% of all journal articles and tens of thousands of monographs and reference works. STM members include learned societies, university presses, private companies, new starts and established players.

STM would like to respond to only the first question in the consultation, relating to the definition of “relevant licensing body.” This comment, below, is in principle the same as comments made by STM to the European Union member states in response to the draft Directive on Copyright Management Organisations (copy of joint submission by STM, the European Magazine Media Association, the European Newspaper Publishers Association and the European Publishers Council is attached for ease of reference), which comments were submitted after consultation within its Copyright and Legal Affairs Committee and in the terms of the functions and duties of that Committee.

STM notes the principle stated in the consultation document that the intention is “to capture ... the ‘traditional’ collecting society, which is usually owned and/or controlled by its members and has a not-for profit status.”

We caution, however, that the definition is too broad and that it may inadvertently capture some publishers and publishing activities. This will be all the more so if the definition is to be expanded to bring in “independent management agencies.”

We understand that the Regulation is not intended to hinder commercial agreements in the field of licensing. The definition should not be at the expense of e.g. private licensing joint ventures of publishers. Mere copyright licensing joint ventures, such as those of newspapers and magazines covering their own content, do not qualify as activities of a collecting society and should therefore be excluded from the definition. In order to avoid market distortion, it is indispensable that the Regulation clarifies that such activities that are excluded from the definition of “relevant licensing body” or become the subject of a monopoly for the benefit of collecting societies.

Many STM members are learned society publishers, which are owned by their members and conducted not for profit, and as part of the scope of their legitimate business activities, they license rights in the works that they publish. Such learned society publishers could therefore be inadvertently captured by this definition. In addition there are STM members which are publishers which publish works of learned societies.

On the basis that the scope of the Regulation is *not* to be extended to “independent management agencies”, we submit that the definition can be appropriately qualified by introducing a definition of “rightholder” which is the same as in the European draft Directive but which was not incorporated in this regulation. That definition, which would enable publishers to fall outside the scope of the Regulation on the basis that they are rightholders, adapted so as to be capable of being inserted in the Regulation, reads as follows:

‘rightholder’ means any natural person or legal entity other than a relevant licensing body that holds a copyright or related right or who under an agreement for the exploitation of rights is entitled to a share of the rights revenue from any of the rights managed by the relevant licensing body.”

If the Regulation were to be extended to “independent management agencies”, then it will be necessary to craft an exemption to make it clear that publishers are excluded from the scope of the Regulation.

Yours faithfully,



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Michael Mabe  
Chief Executive Officer  
STM, International Association of Scientific, Technical and Medical Publishers

Annexure: Submission on draft European draft directive on collective rights management of copyright and related rights to European Union member states by STM, the European Magazine Media Association, the European Newspaper Publishers Association and the European Publishers Council Copyright dated 2 July 2013.