First Evaluation of Directive 96/9/EC on the Legal Protection of Databases

DG Internal Market and Services Working Paper, 12 December 2005

This is the submission of PPL to the Commission in response to the request for further consultation set out in the Evaluation. This submission considers the operations of PPL’s CatCo database in relation to the Database Directive. It does not consider other aspects of PPL’s operations in any detail. Neither does it, except in passing, consider competition law or other regulatory issues, which are outside its scope.

Section A of this submission (paragraphs A.1 to A.5) describes PPL and its CatCo database operation. Section B (B.6 to B.9) sets out PPL’s observations about difficulties with the current state of the law. Section C (C.10 to C.17) shows how those difficulties affect PPL. Section D (D.18 to D.23) sets out our recommendations and conclusions.

Executive Summary

As amplified below, PPL submits that:

- **Option 3 is the preferred option**: the significant difficulties with the current state of database copyright and database right should be remedied by changing the law. This may be done straightforwardly and consistently with obligations under the TRIPS. Conversely, option 4 (maintaining the status quo) is a counsel of despair and should not be followed.

- **Option 2 is not viable** and that, whilst option 3 is the preferred option, nevertheless in a straight choice between options 1 (repeal of whole Directive) and 2 (withdrawal of “sui generis” right), option 1 is preferable.
A. **PPL AND CATCO**

1. PPL is the UK’s music industry collection society. PPL collects and distributes licence fees arising from the broadcast and public performance of sound recordings in the UK on behalf of over 3,000 record companies and 40,000 performers. PPL issues licences to UK radio and television stations, other broadcasters and internet radio stations who use sound recordings in their transmissions. PPL also licenses nightclubs, bars, restaurants, shops, offices, hairdressing salons, schools, aircraft, ships, theatres... and thousands of other music users who play sound recordings in public. All licence fees that are collected are distributed to the owner of the sound recording copyright and the qualifying performers who performed on the recording.

**PPL and CatCo**

2. As part of its operations, PPL has developed an extensive database of track level sound recordings. Initially developed to support its own operations licensing sound recording users, collecting fees and distributing them to sound recording owners and qualifying performers, PPL became convinced that investing in and developing this database would generate other efficiencies and confer other benefits on all sectors of the UK music industry.

Accordingly, PPL developed CatCo as a database of track level sound recordings from the information PPL receives as the UK record industry’s collecting society. Launched in 2003, following 3 years of development and an initial substantial investment of £3 million, CatCo is resourced by a full time team of eight staff, comprised of four customer service and four systems administration/development staff. The annual running and development costs of CatCo are approximately £800k.

CatCo is operated by PPL as a separate business, effectively a division, of PPL but it is not incorporated as a separate company.

**What is CatCo?**

3. CatCo is effectively a database of metadata for sound recordings commercially released in the UK. It currently holds information on over 3 million sound recordings, linked to 8 million product releases. Example of metadata held for each sound recording:

- track / product identifiers such as artist, title, ISRC and barcode;
- copyright ownership;
- performer track line-ups (both featured and non-featured; and
- country of recording (to establish the income qualification criteria).

4. How does data get onto CatCo? Record companies and labels send sound recording data to CatCo two to three weeks before the commercial release of their sound recordings. This is done via one of two methods:
• electronically by means of a generic interface from record company’s own computer system; or

• electronic data input via a computer software application supplied by CatCo.

Additional track data can be added via the web by record companies and performers.

**What is CatCo data used for?**

5. CatCo is used:

• by PPL, for registration of rights for UK public performance and broadcast;

• by the Mechanical Copyright Protection Society (“MCPS”), for applications for UK mechanical copyright licences;

• for anti-piracy data feeds to the British Phonographic Institute (“BPI”) for prevention measures in the UK, and the International Federation of the Phonographic Industry (“IFPI”) for global web-crawling activity;

• by the International Standard Reference Code (“ISRC”), as PPL is the IFPI-appointed UK agency for the ISRC and CatCo is the reference database for ISRCs in the UK;

• UK charts and track download information supplied to the Official UK Charts Company Limited (“OCC”) to produce a download chart and link these track downloads into the main combined UK singles chart;

• to exchange track data with overseas societies to collect international income for record producers and performers that have mandated PPL to collect this income; and

• also in the international arena, PPL has been approached to supply track data to a Chinese government approved download service, which would enable UK rights holders to receive income from China.

**B. OBSERVATIONS ABOUT THE DATABASE DIRECTIVE AND THE CURRENT LAW**

6. This section of our submission notes a number of difficulties with the Database Directive and the current state of the law that PPL observes in relation to the operations of CatCo. A number of the issues that the Commission itself notes in the Evaluation are summarised at section C.12. Other difficulties that PPL observes as likely to arise if the Database Directive is not modified are overviewed at C.13. Difficulties that arise in the UK when considering the Database Directive along with other relevant rights are set out in bullet point form at C.14.
The Evaluation

7. The Evaluation has summarised a number of difficulties that arise with the current state of the law in relation to the Database Directive. These include:

- difficulties in adopting a two-tier approach by (i) altering the originality standard for database copyright and (ii) introducing database right as a “sui generis” right;
- difficulties in understanding the database right (paragraph 5.1 of the Evaluation);
- difficulties with the precise meaning of terms such as “substantial investment” under the Database Directive (paragraph 4.1.2);
- difficulties with distinguishing between resources used in the “creation” of materials that make up the contents of a database [not protected by database right] and the “obtaining” of such data in order to assemble the contents of a database [protected by database right] (paragraph 4.1.4);
- the “creation”/”obtaining” difficulties are compounded in the case of “single-source” databases that both create the data and establish the database (paragraph 4.1.4)
- the yardstick for infringement of database right – when does unlicensed extraction or re-utilisation amount to affecting the whole or substantial part of the contents of a database so as prejudice the maker’s substantial investment (paragraph 4.1.4).

We would also note in passing that the alteration of the standard of originality for copyright protection of databases to “author’s own intellectual creation” gives rise to particular practical problems of interpretation in the UK as that standard (which of course is well known in civil law systems) has not been applied before in the UK and therefore may be expected to give rise to interpretation difficulties unless and until it is settled by the courts.

Other difficulties with the Database Directive

8. We have also observed the following difficulties in relation to the Database Directive and the November 2004 ECJ judgments that we believe the Commission should consider in its Evaluation:
Anachronistic meaning attributed to ‘obtaining’. The ECJ in its November 2004 judgments\(^1\) appear to have interpreted what investment in ‘obtaining’ means in pre-computer era terms. There is nothing wrong in principle in saying that you need to separate the investment in creating the underlying contents from the investment in putting them into a database. This follows the traditional copyright analysis for compilation copyright (for example, literary copyright in a poem; a separate copyright in an anthology of poems). Such an analysis is wide of the mark in the case of many (or most) computer databases. This is certainly so with fast moving databases – such as market data feeds and databases of financial data - where the act of creating the ‘contents’ is essentially part of the act of, at the same time as and substantively inseparable (both economically and technically) from, the act of creating the ‘database’.

Investment in ‘presenting’. For database right to arise under Article 7(1) of the Database Directive, there needs to be a substantial investment in ‘either the obtaining, verifying or presenting’ of the contents of the database. The use of the disjunctive ‘or’ makes it clear that showing a substantial investment in the ‘presentation’ of the contents alone will suffice. It is not fatal to the subsistence of database right that there has been no “obtaining” or “verifying” substantial investment at the right time or by the right person so long as there is a substantial investment in “presenting”. The November 2004 ECJ judgments did not consider “presenting” in any depth\(^2\). The only substantive statement is at paragraph 51 of the judgment in Fixtures Marketing (Greece) (Case C-444/02) which provides that:

“The presentation of a football fixture list, too, is closely linked to the creation as such of the data which make up the list. It cannot therefore be considered to require investment independent of the investment in the creation of its constituent data.”

There are at least two major difficulties with this statement. First, the judgment confuses presentation of a list with presentation of a database: when Article 7(1) speaks of investing in “presenting” it is talking about presenting the contents of the database. Creating a search function is arguably the essence of a database so it is difficult to consider that investment in presenting what is searched – the results - should not count as investing in presentation. Secondly, even though the “presentation” may be “closely linked” to the ‘creation’ of the list, “presentation” must logically come afterwards: you can only present what you have created.

Evaluating substantiality in relation to unauthorised extraction or reutilisation. The November 2004 ECJ judgments interpreted what was meant at Article 7 in relation to the necessary degree of substantiality to constitute infringing extraction or re-utilisation. The judgments can lead to odd, not to say perverse, results in relation to the interpretation of what data must be extracted or re-utilised from a database for infringement to occur. Two examples will demonstrate this:

---
\(^1\) Referred to at footnote 3 to the Evaluation

\(^2\) Case C–444/02
Example 1: big database/little database. If a similar amount of similar data ("Dataset 1") is extracted without authorisation both from a small database (Database A) and from a large database (Database B), then on the ECJ's analysis, person A – as the maker of Database A - is more likely to have a claim in database right than person B - the maker of Database B.

This is because Dataset 1 is a larger proportion of Database A than of Database B and so more likely to be "quantitatively substantial" under the Database Directive. B is effectively discriminated against and penalised. This is illogical and arbitrary, especially where B has (as could well have been the case as a practical matter) invested significantly greater resources to make his database 'better' – with more comprehensive and extensive materials, etc.

In order to avoid this odd consequence, database makers will need to consider ways of disaggregating a large database into one or more smaller, separate ones so as to be able to show that any part taken is greater as a proportion of the whole. This is not a sensible database design criterion or policy option that the Commission should promote.

Example 2: “screen scraping” operations. Again, consider in terms of database right this illogical consequence of the ECJ November 2004 judgments: person C makes Database C and makes a substantial investment in it but at the creation, not the obtaining/verifying and presenting stage(s), so that C gets no database right in Database C. Person D makes a substantial investment in “systematically and repeatedly” extracting a substantial part of C’s Database C in order to make Database D. D gets database right in Database D, which, to compound matters, can conceivably be enforced against C if C seeks to re-obtain his own data from Database D. Again, this is not a sensible result.

Other rights may subsist in relation to databases

9. The usual analysis under English law is that rights exist in relation to data but do not exist in data as such. We observe that from this standpoint the November ECJ judgments are not inconsistent with such an analysis and that the comment in paragraph 5.2 of the Evaluation that the effect of those judgments is that “the “sui generis right come precariously close to protecting basic information” should be seen in this light. Article 13 of the Database Directive of course specifically provides that the directive is:

“without prejudice to provisions concerning in particular copyright, … trade secrets, … confidentiality, … and the law of contract”.

In addition to database right, the relevant rights concerned are, practically and generally speaking contract, confidentiality and copyright.

In addition it is of course possible for other types of intellectual property right – such as design and patent rights - to arise in relation to data. Further, regulation
may affect a right holder’s exercise of those rights in a particular case. Competition law may impact the extent to which those rights may be exercised where, in respect of a particular market, an agreement contains an anti-competitive restriction contrary to Article 81(1) and/or conduct (whether unilateral or contractual) is characterised as abusive contrary to Article 82 by a person who hold a dominant position. Also, the processing of personal data may effectively confer enforceable rights and impose enforceable obligations under data protection law.

These rights – contract, confidentiality and copyright – therefore need to be considered as a practical matter in addition to database right when analysing or dealing with databases for the purposes of development, creation or exploitation.

**Contract rights**

As regards contractual rights, it has long been settled law in the UK that a person is entitled to charge for information by agreement, independently of the question of whether other rights in relation to that information. This has very recently – on 21 December 2005 - been restated by the judge, Etherton J, in the Attheraces case at first instance in the UK:

“I agree with BHB that it is entitled, in principle, to impose a charge for use of its pre-race data by, and for the benefit of, overseas bookmakers, whether or not BHB has IP rights in respect of the data, and, in particular, database rights under the Databases Directive and the Databases Regulations or copyright, and irrespective of the extent of any such rights. **BHB has, in the data, a valuable commodity, for which it is entitled to charge.** There is no authority to the contrary, including the William Hill case** (emphasis added).

---

3 See for example Exchange Telegraph Co. Ltd v Gregory & Co [1896] 1 QB147; Exchange Telegraph Co Ltd v Central News Ltd [1897] 2 Ch 48; and Weatherby & Sons v International Horse Agency and Exchange Ltd [1910] 2 Ch 297.

4 [2005] EWHC 3015 (Ch) [http://www.bailii.org/ew/cases/EWHC/Ch/2005/3015.html](http://www.bailii.org/ew/cases/EWHC/Ch/2005/3015.html). This is follow-on litigation from the BHB November 2004 ECJ judgment. We understand that the judgment is currently under appeal at the moment in relation to the Article 82/Competition Act 1998 chapter 2 finding of dominance in relation to excessive pricing (but not so far as we understand on this point).

5 Paragraph 285.
Confidentiality

Similarly, the UK rules on protection of confidentiality may operate to provide a remedy in circumstances that are relevant to databases. In addition to protecting information which is itself confidential, the line of English law cases starting with Prince Albert v Strange\textsuperscript{6} show that where the structure of information in aggregated form is not publicly available then, even though underlying information may itself be in the public domain, the law of confidence will intervene to protect the information as aggregated. In the Extel\textsuperscript{7} cases which (concerned football league/pools and stock exchange information) the information traded was essentially public domain but the UK court held that what was protectable in terms of confidentiality was the structure of the information in its aggregated form\textsuperscript{8}.

Copyright

The Database Directive addresses copyright in relation to databases and, as mentioned above, imposes a higher standard of originality (“author’s own intellectual creation”) for database copyright than was previously the case under English law.

The “sui generis” right under the Database Directive needs to be seen in the context of these other rights when working on the legal protection of databases. Since, as the Evaluation notes, database right has been significantly curtailed, this means as a practical matter that those investing significantly in the development, creation and operation of databases need to place more reliance on contract, confidence and copyright, etc to ensure adequate legal protection of their databases.

C. THE IMPACT ON PPL/CATCO OF THE CURRENT STATE OF THE DATABASE DIRECTIVE

10. For PPL, especially in relation to the operation of its CatCo database, the ECJ November 2004 judgments give rise to a state of legal uncertainty as to the scope of database right and, in turn, how, by what means and to what extent PPL can obtain reasonable legal protection for its CatCo database. The seven main difficulties PPL observes are briefly described here.

Scope of database copyright protection: “author’s own intellectual creation”.

11. Although this is a particular feature of English copyright law, the adoption of this new originality standard in place of the usual standard may be expected to cause difficulties, at least in the short term until the term has been judicially considered. Until that time, there is legal uncertainty as to the criteria for and level of this

\textsuperscript{6} [1849] 1 M&G 25.
\textsuperscript{7} See note 3 above.
\textsuperscript{8} Of course, it is necessary to show that the data in the database concerned is not freely publicly available, which in turn points up the need for confidentiality provisions in website and other notices, and the imposition of contractual terms and conditions.
standard and where a database is made by a company whose directing mind needs to have applied the requisite level of creativity.

Scope of database right protection: the level of “substantial investment”.

12. As the Evaluation observes (at paragraph 4.1.2) “battles have erupted over the precise meaning of “substantial investment” as contained in Article 7 of the Directive”. As will be seen from Section B above, PPL has made significant investment in its CatCo database. Although it would normally expect that this level of investment - £3m initially, excluding annual development and running costs – would be sufficient to pass any reasonable ‘substantiality’ threshold, we would observe that it was not disputed before the ECJ that the BHB had invested significantly more than this in relation to a database which was held to be ineligible for database right protection.

Scope of database right protection: “creating” and “obtaining”

13. The November 2004 ECJ judgments produce an illogical and arbitrary result: where different people “create” the underlying data and establish (“obtain”) the database, there is no bar to the right arising; but where the same person “creates” and “obtains”, the right cannot arise. This is acknowledged in the Evaluation at paragraph 5.1:

“It can be expected that database makers will devise legal strategies to get around the distinction drawn in the ECJ judgments and that this might result in online databases increasingly being secured by systems of access control”.

This is unsatisfactory for an organisation like PPL for two a number of reasons.

First, it seems to suggest that the correct way of proceeding is to accept the arbitrary state of the current law and ‘devise a strategy’ to get around it. PPL would observe that it is better to correct the law itself rather than entrench its arbitrariness and ‘devise a strategy’ to get round it.

Secondly, whether or not access controls should be introduced is an entirely different issue from the issue of legal protection of the database itself – access to and legal protection of the database should not be confused in this way.

Thirdly, whilst PPL believes that the way it assembles the CatCo database does not fall foul of the rationale of the November 2004 ECJ judgments - the data is generally “created” by the contributing record companies and “obtained” by PPL assembling that data into the CatCo database – we observe that this is purely fortuitous: the way CatCo is produced happens to fall on the right side of the line. However, if PPL was entrusted with creating the data in the first place as well as assembling it into the database, or if a record company decided itself to “create” and “obtain” in this way, no database right will at present arise. This is essentially a random and arbitrary consequence of the ‘single source’ rule. In order to avoid it and obtain database right, ‘single source’ database makers will have to conduct their operations in a less economically efficient way. PPL observes, with respect, that from the standpoint of purposive policy measures designed to ensure efficient allocation of scarce resources, this cannot be correct.
Scope of database right: “presentation”

14. As mentioned at C.13 above, the status of “presenting” in the context of the November 2004 ECJ judgments remains almost entirely obscure. PPL would observe that, for almost any computerised database, presentation of search results is of the essence of an effective and usable database and that substantial investment in presentation by way of search facilities in this way is under Article 7 sufficient to confer database right, even with single source databases where the right does not arise for the reasons described above. However, such a result would obvert the carefully prescribed result of the November 2004 judgments. Clearly, the Evaluation should take the opportunity of clarifying this important point.

Scope of database right protection: “real time” and highly computerised databases

15. CatCo’s operations are computerised – indeed, IT makes the CatCo database possible in the first place, and opens up all the benefits mentioned at Section B above. However, as with all computerised databases, each process is carried out in a pre-planned, logical and above all very rapid way. With many databases, the time difference between the “creation” of the data and its assembling (“obtaining”) into the database is insignificantly small – although logically, necessarily anterior. For the Article 7 “sui generis” right to arise, the maker must “show” his investment, so to what extent must the description of the database “show” all these processes and investments? As a practical matter, it does not seem right that a person writing a specification or description of how a database operates must write it ‘with one eye’ on the Database Directive.

Database right infringement: “substantiality” in relation to “exploitation and “re-utilisation”

16. Even if database right arises – despite the difficulties mentioned above – it is not clear what PPL would need to show by way of infringement if a person was taking information from the database without authorisation. Section B.13 has shown a number of counter-intuitive and odd results that flow from the November 2004 ECJ judgments in this area. These points make it difficult for PPL, as they do for other companies, to assess when, and if so in what circumstances, to take the costly and time consuming steps of embarking on litigation to protect its rights.

Interaction with other rights

17. All these difficulties create legal uncertainty in relation to database copyright and database right. For PPL, this means that we need consider the extent of these rights in the context of the ‘patchwork quilt’ of rights arising in relation to data summarised at C.14 above, effectively compounding uncertainty with complexity.
D. CONCLUSIONS AND RECOMMENDATIONS

Policy Options

18. The Commission in the Evaluation puts forward four policy options for consideration, as follows:

- Option 1: Repeal the whole Directive;
- Option 2: Withdraw the “sui generis” right;
- Option 3: Amend the “sui generis” provisions; or
- Option 4: Maintain the status quo.

Policy Background

19. PPL would appreciate further information from the Commission about the policy background to the Evaluation. In particular, we note that the TRIPS agreement deals with compilations of data and limitations and exceptions to rights and that the Commission, in passing the Database Directive appear to have observed the subsidiarity principle, whereby the Commission should look to ‘higher’ international obligations before legislating at EU level. Observing such a principle could be argued, as a practical matter, to restrict the policy options open to the Commission in respect of the Evaluation.

Equally, we observe that conferring a new property right for what is a particularly common activity in the online world – the creation and use of databases – should not open a Pandora’s box of claims and litigation whose effect would be to hold up the development of this significant area of economic activity contrary to the express objectives of the Database Directive.

Option 2: not viable

---

9 Article 10 (Computer Programs and Compilations of Data) paragraph 2 provides that “Compilations of data or other material, whether in machine readable or other form, which by reason of the selection or arrangement of their contents constitute intellectual creations shall be protected as such. Such protection, which shall not extend to the data or material itself, shall be without prejudice to any copyright subsisting in the data or material itself.” Article 13 (Limitations and Exceptions) provides that “Members shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.”

10 As expressed, for example in Marleasing v La Commercial ((1990) ECR I-4135): courts are under a duty to construe Community law so far as possible in accordance with international obligations; national courts are under a duty to construe national law so far as possible to achieve a particular directive’s objective.
20. Of the four policy options, PPL would submit to the Commission that withdrawing the “sui generis” right without repealing the whole directive is the worst of all worlds. This would remove database right whilst at the same time keeping the ‘new’ UK standard of originality, which itself can be expected to cause difficulties and legal uncertainty until case law has clarified what it means\(^{11}\).

**Option 1: preferable to Option 2**

21. Although, as submitted below, PPL’s preference is for clarifying the Database Directive by amendment (Option 3), PPL submits that if this is not possible then the whole Directive should be repealed in preference to withdrawing the “sui generis” right alone. This is because at least in that case UK copyright law applying before 1 January 1998 (when the Database Directive was brought into force under English law) would be reinstated. That law at least had certainty and a background of case law as an aid to interpretation.

**Option 4: a counsel of despair.**

22. It is unarguable that the November 2004 ECJ judgments leave database copyright and database right in a position of lack of legal certainty. The Commission itself in the Evaluation acknowledges a number of the difficulties. There are many difficulties with the law as it stands. To think that these difficulties cannot now be addressed and the law improved is a counsel of despair.

**Option 3: the preferred option**

23. PPL submits the time is right for the Database Directive to be amended and that option 3 is the preferred option.

Although PPL believes that the ‘single source’ problem that the Commission identifies in the Evaluation does not apply to its CatCo operations\(^{12}\), nonetheless this is fortuitous. Retaining the “obtaining, verifying or presenting” formulation may be expected to generate significant litigation, particularly as to what constitutes “presenting” as a way to outflank the ECJ’s restrictive interpretation. The right envisaged by the Database Directive is effectively an ‘assembly’ right and couching the legislation in these terms – rather than the difficult terms “obtaining, verifying or presenting” - would get over much of the difficulty. Keeping the “substantial investment” threshold would avoid conferring a property right on insubstantial databases.

More important from PPL’s perspective in relation to CatCo however is that there should be clarity about what unauthorised activities constitute infringement, particularly as regards the “substantiality” test as it is applied to both one-off and repeated/systematic extraction and re-utilisation. PPL also believes that there is particular difficulty in applying the “fair dealing” exceptions in Article 13 of the TRIPS and that clarity is needed around what constitutes “normal exploitation” of a database (particularly where access controls are in place) and “unreasonable prejudice to the legitimate interests” of a database maker.

---

\(^{11}\) See C.16 above.

\(^{12}\) See C. 18 above
PPL believes that the Database Directive could be amended relatively straightforwardly to take account of these points:

- through the variation of Article 7(1):
  - to replace “obtaining, verifying or presenting” with “assembling”;  
  - renumbering Article 7(1) as Article 7(1)(a); and  
  - introducing a new Article 7(1)(b) as follows:
    
    “Assembly means bringing together (which may also include verifying and/or presenting) the contents of a database, whether or not the same person also creates the underlying work, data or other materials so brought together and whether or not such creation and bringing together are instantaneous.”

- and through:
  - renumbering Article 7(5) as Article 7(5)(a); and  
  - introducing a new Article 7(5)(b) as follows:
    
    “Without prejudice to Articles 8 and 9, and in relation acts amounting to the repeated and systematic extraction and/or re-utilisation of insubstantial parts of the contents of the database at sub-paragraph (a):

    - acts which conflict with a normal exploitation of the database include a series of acts done without the authorisation of the maker of the database or the permitted licensee of such maker in circumstances where such authorisation was necessary; and  
    
    - acts which unreasonably prejudice the legitimate interests of the maker of a database include acts in respect of which it may reasonably be foreseen that they will reduce the return that the maker of the database will make on the investment in that database”.

PPL will be happy to answer any questions the Commission may have, whether in relation to this submission or more generally in the context of the Evaluation and the Database Directive.

PPL  
March 2006  

Contact: dominic.mcgonigal@ppluk.com
PPL Facts & Figures

PPL Facts and Figures

- Licenses on behalf of 3,000 record companies and 40,000 performers.

- Licenses 200 TV channels and 300 radio stations broadcasting recorded music, as well as over 200,000 pubs, nightclubs, restaurants, shops and other places playing recorded music in public.

- Has negotiated bilateral agreements with 19 other collecting societies to collect overseas airplay royalties.

- Collects over £80m in airplay royalties for performers and record companies.

- Distributes revenue using a comprehensive track-based system – analysing over 16m uses of recorded music reported by TV and radio stations, background music suppliers and venues playing recorded music in public. All track plays are matched to PPL’s repertoire database CatCo, containing information on over 7m tracks.

- Distributions to all the performers – featured artists, session musicians and backing vocalists – as well as the record companies that create the sound recordings that are played.

- Is the largest performer/producer collecting society in the world.

PPL Recent Achievements

- In 2004, achieved a 5.3% growth in net revenue for the rightsholders.

- In the last four years, has increased net revenue by 40%, generating an additional £20m payable to record companies and performers, and almost halved the cost/revenue ratio.

- In 2005, PPL’s CatCo was selected as the database underpinning the official combined download and singles chart.

- In 2003, distributed over £25m in back royalties based on improved information on track ownership and performer line-up.
• Signed the IFPI Simulcast Agreement in 2002 and the Webcast Agreement in 2003 paving the way for multi-territorial licences.

PPL and Performers

• In 2001, set up the Performers Forum with AURA, Equity, MPG, MU and PAMRA.

• In 2002, appointed a performer representative to the PPL Distribution Committee.

• Located several thousand artists due royalties as a result of the joint RoyaltiesReunited campaign.

• In January 2003, two performer representatives joined the PPL Board as attendees, followed a year later by a third.

• In 2003, signed two Memorandums of Understanding laying down the principles for closer cooperation.

• In 2004, PPL was appointed by the performer organisations AURA, Equity, MPG, MU and PAMRA as the single pipeline for performers' UK and overseas airplay revenue.

• At the 2004 AGM, voted to create three Performer Director positions on the PPL Board. The three Performer Directors, representing the interests of the entire performer community, are now John Smith, Nigel Parker and Gerald Newson.

March 2006