

Q&A: Helen Smith, IMPALA



INTERVIEWEE

Helen Smith is Executive Chair of pan-European indie labels trade group IMPALA and drives the organisation's key strategies on a political, commercial and promotional level. Based in Brussels, she has, amongst other things, helped independent labels and artists get their voice heard in both the EU political community and the European Courts, as well as developing various IMPALA action plans and the IMPALA award schemes ■

The political community in Brussels is busy talking about the 'digital single market', one of the priorities set out by EC President Jean-Claude Juncker when he arrived in the job last November. It basically means reviewing how people do business online within and across the European Union, and ensuring there are no barriers for consumers on the net that wouldn't be tolerated by EU rules offline.

The EC's own blurb for the digital single market initiative name-checks the "music download market", which seems strangely precise (and a little dated) for an otherwise pretty generic mission statement. But it means that the distribution of music online – not to mention the protection of music rights across

Europe – will be very much part of the debate.

To that end pan-European indie label trade group IMPALA last month published its own Digital Action Plan to inform the discussions in Brussels. And while music rights owners will likely come under criticism by some inputting into the digital single market debate, the indie labels see it as a chance to put some of their bug-bears under the spotlight, especially the challenges they – and the wider music community – face when negotiating with tech giants that some argue have exploited loopholes in copyright law.

CMU's Chris Cooke spoke to IMPALA's Executive Chair Helen Smith about what the digital single market is all about, and why the Digital Action Plan has been launched at this time.

CC: What's the 'digital single market' all about?

HS: The digital single market is classic Euro speak! Few will have escaped hearing about the 'single market' or the 'internal market' in the past, or even the 'common market' if you go way back. The 'digital single market' --or DSM if you like acronyms – is the digital version.

It's about making sure European businesses and citizens benefit from a borderless, fully connected online marketplace with Europe as one territory. That means getting rid of national or other rules or restrictions that create barriers to reaching across borders, and to do that you need the best digital infrastructure with rules to match. The EU is due to finalise proposals for how to achieve all this by May 2015.

For IMPALA, this project can only work if the EU understands and fosters the sectors which are key to the digital environment. Music and other cultural industries are leading digitally. Looking at how to build on this must be a priority, so that the digital single market delivers benefits to artists and other creators and, of course, European citizens.

CC: In what way could this initiative impact on the music business in Europe – positively or negatively?

HS: It will shape the environment we trade >

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in, so it is crucial to get it right. The digital single market initiative reaches across various areas – from data protection to telecoms to copyright and online commerce – it presents the opportunity for decision-makers to create a healthier licensing environment across all EU member states. If the EU doesn’t take a strong stance we risk seeing further transfer of value away from the music business and other creative sectors.

CC: How does it relate to the current review of copyright law in Europe?

HS: Copyright is one of the pieces of the jigsaw. The review of EU copyright rules is now part of the digital single market initiative and is a very hot subject in Brussels.

Strong copyright means artists and writers and their partners can negotiate and be rewarded for their work all along the value chain. It also means artists should be able to decide what happens to their music. The recent Zoe Keating story illustrates the tension between

the rights she has over her work and what others think they can get away when they are effectively the world’s biggest music service.

Our aim is that decision-makers understand the role of copyright as a liberator – a fundamental trading tool for creators and their partners. In short, birds have wings, artists have copyright.

CC: Why did you decide to launch an IMPALA Digital Action Plan at this time?

HS: We have done action plans before and it made sense now to do a digital one now, given the commercial importance of the online music market for independents and their artists. We are saying that the status quo is not good enough. Making sure the framework is right means there is a level playing field, which is all that’s really required, music fans will do the rest.

We hear a lot about making copyright ‘fit for purpose’ for the digital age. This action plan >

IMPALA’S TEN POINT DIGITAL PLAN

01. Reinforcing the rights that drive the digital market and grow Europe’s copyright capital.
02. Giving citizens the best digital infrastructure in the world.
03. Improving pluralism and diversity online as well as offline.
04. Revisiting the “rules of engagement” online.
05. Growing Europe’s “missing middle” by improving conditions for smaller actors.
06. Effectively tackling websites which are structurally infringing.
07. Increase investment through a new financial approach to culture.
08. Introducing greater fairness in taxation.
09. Mapping how creativity works and measuring the sectors adequately.
10. Placing culture and diversity at the heart of Europe’s international work.

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is about making Europe fit for copyright in the digital age. It's also about getting the big picture across to the political community, and linking the various issues together. The alternative is the 'silo' approach to decision making, which is neither efficient nor inspiring. New decision makers are in office in EU institutions, and we want to provide solutions.

CC: The specific reference on the use of 'safe harbours' by the tech sector is interesting. Explain what you mean by 'abuse' of such measures.

HS: Europe has its own safe harbour rules, which are different to the more widely discussed safe harbours in US copyright law, but they are still an issue.

The safe harbour rules were designed to protect neutral carriers. But they have gone wider than that, resulting in a transfer of value, as giant tech and media businesses try and claim protection to frustrate the licensing environment, acting as distributors but claiming the responsibilities of a host.

Which results in services that are either not-licensed, or under-licensed, thriving. This is a barrier to the DSM that should be taken down.

CC: How could the European Commission and Parliament help in this regard?

HS: They can help because – along with the EU's member states – they make the rules in Europe. They need to reaffirm what can and can't happen, and to ensure that Europe is not a hiding place for tech giants building businesses around distributing or facilitating access to copyrighted works without proper remuneration.

CC: All this covers a lot of Google's business. IMPALA played a key role in speaking out against YouTube's negotiating tactics as it tried to finalise deals for its Music Key service last year. Deals with most indie labels were ultimately done, but are there still concerns about the way Google and its subsidiaries behave?

HS: Yes and they will continue. The Zoe Keating story highlights that. On the wider front, who decides what, when, how and to whom, is the burning question for policymakers. The EU has already warned that Google has to play by European rules and this is the chance to set out what that means. The 'rules of engagement' online will be

important – how people, small businesses and big corporations interact. Now is the right time to make it clear what the different players can and can't do.

CC: So you think new legislation is the best way to deal with these concerns?

HS: Yes for many issues, though competition rules will be the answer for key aspects like abuse and taxation. With some of these questions, only European or even international solutions are possible – it is the only way to set standards and make sure the online ecosystem works.

CC: You sense that in recent years the concerns of major and indie labels have been more aligned than they were, say, ten years ago. Would you agree? What unique challenges do independent labels face in 2015?

HS: Isn't it the 80/20 rule? The independents and the majors are aligned on 80% of the issues and not on the other 20%? Maybe the percentage shifts but the principle remains – they co-operate on the common issues and either fight or ignore each other on the rest. And so they live happily ever after...

Concentration and dealing with its daily consequences will remain big issues for the independents, whether it's access for artists across all media, or dealing with imbalances in bargaining power. Of course the wider issue of improving the image of copyright unites the whole sector, although we might have our own ideas about what the solution is.

CC: It's easy for SMEs to become focused mainly on their home territory, or on markets of particular interest. Should labels – and for that matter artists – pay more attention to what is happening at an European level?

HS: I think most already do commercially and, as regards other EU level activity, it's clear that engaging with the dialogue that influences decision makers will be more and more important.

In a world where billions are being spent painting copyright and music companies in a bad light, stories from artists and their partners about what they do and why it makes a difference need to be heard. I don't think labels need to be tweeting away to the EU's commissioners to do that. Mind you, the odd #DSM might not go amis... ■