

# BRITISH EQUITY COLLECTING SOCIETY LIMITED

Company No: 3547531

**MINUTES** of the Twenty Fourth Annual General Meeting  
of British Equity Collecting Society Limited ('the Society')  
held on Thursday 8th December 2022 at 2.00pm

Screen 5, Curzon Bloomsbury Cinema, The Brunswick Centre, London WC1N 1AW



## A. Welcoming remarks from the Chairman

The Chairman of the Board, Jean Rogers, opened the Annual General Meeting and welcomed the members to the first in person meeting in three years.

Proxies: there were 80 proxies for the Chair

A quorum of members (being the lesser of 25 members or one twentieth of the members entitled to attend and vote at the meeting) was present for the meeting with voting attendees numbering 50.

## D. Ordinary Business

### 1. To receive and approve the Minutes of the previous Annual General Meeting held on Thursday 2nd December 2021.

The Chair asked all present whether they wished to raise any comments or corrections to the Minutes of the 2021 AGM.

There being no comments, the Chair therefore asked the members present to approve the Minutes of the 2021 AGM as previously circulated to the membership.

- The resolution to approve the minutes was proposed by Diana Brookes, seconded by Carmina de Gale; passed unanimously.

### 2. To receive and consider the Directors' Report and the Financial Statements of the Company for the year ended 30th April 2022 and the Auditor's Report thereon.

The CEO, Tayyiba Nasser ("TN") presented a summary of the Financial Statements included in the 2022 Annual Review which had been made available to all members. Members had also been given notice that copies of the full Financial Statements, the Annual Transparency Report for the year ending 30th April 2022 together with the Auditors' Report on these and the Directors' Report had been made available for all members through the BECS website since October 2022.

TN showed a graph illustrating BECS increased collections year on year. She reported that BECS had collected over £38m for distribution to members since 2017/18 (including the collections that were processed in July and November 2022). She thanked Katie Stretton and Sarah Phipps for their hard work and dedication and introduced and thanked new team member, Lisa Almond.

TN showed a pie chart showing collections by type of right. 57% was from private copying and 37% from broadcasting and communication to the public, with much smaller percentages from other rights such as making available (on demand).

TN ran through the financial highlights of BECS for the financial year 2022 - in terms of assets, liabilities, expenses, and revenue. These were consistent with the previous year. Management fees had

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increased by £35,000 and time-deposit interest by £9,000 year on year, but these were offset by not having the £50,000 contribution from AISGE which BECS had in 2021.

BECS' auditors, BDO, were unable to attend the AGM but provided some slides. They said the only significant change that they noted from the previous year was the increase in levels of cash and current asset investments with the corresponding increase in the amounts distributable to members.

They noted that they did not find any areas of concern during their audit, with no significant deficiencies in BECS' internal controls and systems identified, and that they had issued an unmodified audit report opinion, concluding that there are no concerns about BECS continuing as a going concern.

- The resolution to approve the 2021/22 directors' report, financial statements and auditor's report was proposed by Angelique Fernandez, seconded by Anne Clements; passed unanimously
- 3. To consider and, if thought fit, pass a resolution that the auditors of the Company, BDO LLP, be reappointed as auditors of the Company to hold office from the conclusion of the meeting until the Annual Report and Financial Statements are next laid before the Members, and that their remuneration be determined by the Directors.**
- The resolution to approve the reappointment of the auditors was proposed by Jonathan Courage, seconded by Ian Barritt; passed unanimously.

**4. Report from CEO on the activities of the Company, supplemented by a report from Legal Counsel on the current legal landscape of Performers' Rights.**

TN explained that the pandemic has brought about a shift to working patterns so that all BECS staff now work from home using remote working technology regularly. BECS took on someone via the Kickstart scheme – it worked so well that she found a permanent role somewhere else. Language training courses have continued online, making them more accessible to members.

The expected downturn in revenues due to closures of recreation and hospitality venues around the world has not impacted this year's results significantly. We do expect some lower income from this revenue stream to filter through over the next couple of years, but again, not significantly affecting our bottom line.

Some EU Member States have transposed the Copyright Directive in a way which results in new rights to remuneration for performers when their work is made available on-demand; remuneration for which is only collectable by CMOs. These new revenue streams should filter through to BECS members.

Although, as a result of leaving the EU, the UK no longer has an obligation to implement the Copyright Directive, BECS has continued to engage with the UK Government and the Intellectual Property Office (IPO) to discuss aspects of the Directive which were hard fought for to be incorporated into UK legislation, in particular with regards to the fair and proportionate remuneration for performers.

BECS has also engaged with the Department for International Trade to ensure any new trade deals include necessary provisions to promote and uphold the protection of performers' rights.

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Unfortunately, the ratification of the Beijing Treaty on Audiovisual Performances (BTAP) by the UK has stalled, we are told due to lack of resources at the IPO, though it is still on the IPO's stated list of aims. BECS will continue to engage with the IPO to achieve the desired outcomes.

BECS has continued to work with our sister CMOs in Europe to update our agreements where necessary and to seek to ensure our members who are no longer protected as EU citizens can continue to benefit from protections available internationally. (Further detail in Jess Winchester's talk later).

BECS is continuing to work with other UK CMOs to promote "The Smart Fund". (Further detail in guest speaker, Reema Selhi's talk later).

BECS has also, together with other UK CMOs, been involved in a project to set up a licensing scheme in respect of television programmes transmitted within hotels. This project is progressing well, and we hope to be able to collect licencing income soon.

BECS' Legal Counsel, Jess Winchester "JW", gave a presentation about current issues for performers and BECS campaigns.

JW started by recapping what BECS collects for its members, explaining that these are non-contractual payments which are due to audiovisual performers when their work is used – primarily payments due under the statutes or laws of other countries. She emphasised that these are separate from the contractual payments due to performers under their contracts with producers. BECS can collect these payments because it is a Collective Management Organisation or "CMO" – recognised and regulated by the Intellectual Property Office and because members assign certain rights to it when they join.

JW explained that BECS' largest source of collections is currently private copying remuneration and explained that performers and other rightsholders have the exclusive right to consent to their work being reproduced. She explained the concept of a private copying exception and private copying levy which is in place in many other countries around the world but not the UK. This is something BECS is campaigning to change.

JW explained that BECS' other large source of income for its members is equitable remuneration ("ER"), granted by statute, which is collected by CMOs. She explained that this was collected by CMOs from TV broadcasters and on-demand platforms in some countries. These CMOs will pay a share of the ER to BECS relating to the use of our members' work. There is currently no equivalent right to ER in the UK, for either UK performers, or foreign performers whose work is shown in the UK.

JW said that there are two important issues facing UK performers currently, which are interlinked: Brexit giving rise to reciprocity requirement and ending the discrimination between music and AV performers. This issue affects both private copying payments and equitable remuneration payments. BECS members stand to lose millions of pounds annually if this problem is not solved.

There are arguments that BECS could use to litigate against the European CMOs who are now requiring reciprocity or a complaint to the EU Commission. However, this would be costly, lengthy, and damaging to relationships with those organisations with no guarantee of success.

Possible solutions to this problem are ratification of the Beijing Treaty (if done in the right way) and the Smart Fund.

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## Beijing Treaty:

Although most of the rights in the Beijing Treaty already exist under UK law, it is still important, in the context of our dealings with other countries, that UK AV performers' rights are backed up by an international treaty and are therefore stronger than if they are just provided for by national law. The Treaty also includes an exclusive right of authorising broadcasting and communication to the public which UK AV performers do not currently have under UK law (but copyright owners do). Music performers have no exclusive right but do have a right to ER. The Treaty contains the ability for signatory countries to provide for rights to ER for performers when exclusive rights have been transferred or in place of the exclusive right just mentioned.

There has been a lot in the media and numerous studies done which have concluded that music performers should receive a fairer share of revenue from streaming services. BECS believes that similar research should be done about whether AV performers should have a right to ER when their work is made available on demand, paid by the streaming platforms, in addition to the payments made under the contract with the producer.

## The Smart Fund:

A private copying scheme like the Smart fund, would benefit UK AV performers in two ways:

1. It will be an additional UK revenue stream.
2. A small proportion of these payments will relate to foreign productions shown in the UK, so BECS will pay that proportion to CMOs in those countries, meaning there will be reciprocity, which will solve the problems described without need for litigation and safeguard UK performers' revenue from those countries.

### A) Guest Speakers

- a. Reema Selhi ("RS") – Head of Policy and International, DACS;  
Subject: The Smart Fund

RS explained that the Smart Fund is a proposal by cultural industry organisations for a statutory mechanism that ensures fair payment for creators and performers, often freelancers, when their works are copied and shared.

The Smart Fund simultaneously enables cultural investment in local communities. It does so by using funds from sales of electronic devices which copy, store and share creative content to invest directly in creators, performers and communities.

British creators and performers are disadvantaged compared with their counterparts abroad. The UK has no mechanism in place to pay creators fairly when their content is shared and copied on devices, which is in breach of their copyright.

The Smart Fund proposes a small one-off fee from the sale of each electronic device. These funds are collected and distributed by existing copyright collection societies. Technology manufacturers already pay creators in countries like Germany and France (and 43 other countries as well) where the average cost of popular electronic devices is lower than the cost in the UK. Cost of devices have not risen in countries where schemes have been introduced. There will be no cost to taxpayers or to Government.

Reema updated the members on the progress so far on lobbying.

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- b. Francisco Gimenez (“FG”) – Director of Distribution and Membership Affairs, AISGE  
Subject: Developments in the EU impacting BECS Members

FG described the importance of British productions in Spain. British productions are the 2<sup>nd</sup> most watched on On-Demand platforms and at movie theatres (after US productions) and the 3<sup>rd</sup> most watched on Spanish TV (after Spanish and US productions).

EU wide, UK productions are 2<sup>nd</sup> place for films exported to the EU for both cinema and TV use. The UK is the strongest European exporter of films and TV programmes on subscription VOD services.

FG asked how such intensive use of UK AV content abroad could be translated into income for British performers. He said that UK performers would soon start to receive remuneration from the exploitation of their work on VOD platforms in Latin American countries and that some EU countries are introducing new rights to remuneration because of the implementation of the Copyright Directive.

FG said that in Spain, British performers will continue to have the same treatment as Spanish performers, enjoying the same rights. He stated that AISGE is strongly against those [some other EU CMOs] who propose to collect rights revenue on behalf of all (including UK nationals) and to distribute only to a few because no one should profit from the work of others.

He also mentioned the ratification of the Beijing Treaty and said that to ensure that EU countries grant UK performers the same level of protection they grant to their nationals, it would be advisable to ratify the Treaty without any reservation and to take full advantage of all rights provided for in the Treaty (including remuneration rights).

## **5. To receive and consider the Annual Transparency Report (“ATR”) for the Members prepared and presented by the non-executive Directors of the Company following audit in respect of the year ended 30 April 2022.**

TN reminded members that the ATR had been published on BECS website alongside the financial statements. She explained its purpose and that it is prepared in accordance with approved principles agreed with the IPO.

Some of the pertinent information had already been mentioned during the financials review but TN highlighted the following:

BECS has just under 32,000 members. We have been around that mark for a few years now – this does not mean we have not had any new members joining, rather that there is normal turnover with some ending their membership too. However, we have not had the influx we should with the number of new performers joining the industry. We therefore have recently ramped up our social media efforts as well as other initiatives. We ask you all as members to help with this task and invite others to join BECS.

BECS’ deductions from distributable income remain at a maximum of 10% deduction on collections and are only sufficient for covering operating expenses, and not for any social or cultural fund like most CMOs. This is mainly because we do not, as yet, have a local income stream.

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In 2021/22, we had a 5.3% increase in collections for distribution to our members this year to £7.36million in comparison to previous year. Over 11,000 members received at least one payment from BECS in the year, either directly or via their agent.

In the year, we have spent considerable time dealing with the Brexit issues. To date, we have had notifications from the French, Belgian and very recently Norwegian societies advising that they are unable to continue to pay BECS for the use of our repertoire.

- The resolution to approve the annual transparency report was proposed by Carmina de Gale, seconded by Ian Barritt; approved unanimously.

## 6. To ratify the appointment of Equity's nominated director, Louis Rolston, to the Board of Management per Article 15.4 of the Articles

- The resolution was proposed by David John, seconded by Michael Brown; approved with 3 abstentions.

## 7. To ratify the appointment of the CPMA's nominated Director – Peter Barnes with Robin Browne as alternate - to the Board of Management pursuant to Article 15.6 of the Articles.

- The resolution was proposed by Brig Bennett, seconded by Lola May, approved with 1 abstention.

## 8. To ratify the appointment of the PMA's nominated Director – Kevin Francis, with Andy Herrity as his alternate - to the Board of Management pursuant to Article 15.7 of the Articles.

- The resolution was proposed by Jo Cameron Brown, seconded by Nana St Bartholomew-Browne, approved unanimously.

### QUESTIONS FROM MEMBERS:

Several members asked why they sometimes receive payments from BECS directly and sometimes via their agent. TN explained that this cannot happen because BECS would only have one payee setup in its system based on the instructions of the performer. TN suggested that some of the payments in question may be from Equity as their statements look similar to BECS statements.

### BECS AMBASSADORS:

TN told the meeting that the following performers have agreed to be BECS Ambassadors, to help publicise the issues that AV performers are facing:

**Neil Dudgeon**  
**Danny John Jules**

**Sanjeev Bhaskar, OBE**  
**Miriam Margolyes, OBE**

**Larry Lamb**  
**Lord Michael Cashman**

Danny John Jules and Neil Dudgeon were in attendance and said a few words about the work of BECS.

### LONG SERVICE AWARD:

BECS Chair, Jean Rogers, was presented with an award in thanks for over 20 years as a director of BECS and tireless efforts on behalf of performers.

The Chair gave her thanks to the board, BECS staff and the members.