

## **Open Rights Group Response to the Consultation on the UK's new extended collective licensing scheme**

Our comments focus on the opt out arrangements, and speak to the below questions.

### **3.6 Regulation 14 – Opting out of an ECL scheme**

**Question: Do you consider the opt out requirements listed above to be adequate? If not, please make a case for any additional obligations on collecting societies with respect to opt out.**

**Question: Do you agree that the 14 day time limit for both acknowledgement of opt out, and notification to licensees of that opt out, is reasonable? If not, please propose another period and say why you have done so. Do you agree that a low likelihood of fraud makes verification of identification unnecessary? If not, please say why not.**

**Question: Do you agree that the proposed 14 day time limit is a reasonable amount of time for the collecting society to be required to list a work that has been opted out? Is it a reasonable requirement to have separate lists for works which are pending opt out, and works which have been opted out? Please provide reasons for your answer(s).**

**Question: Are the obligations in 3.66-3.68 on a collecting society reasonable and proportionate? Please provide reasons for your answer**

### **General comments on ECL and opt-outs**

The list of opt outs would likely in many cases become, over time at least, very large lists. Such a large index would be most useful if it was searchable. We would therefore suggest that they be freely searchable, publicly accessible indexes, with a requirement to provide access to the full dataset held in that form at a reasonable, fair cost.

It would also be helpful to make clear that the collecting society should offer a clear right to opt-out for all future works by a creator.

Creators may have a general policy that they do not wish to have any of their works included in an ECL scheme. Such a 'future proofing' approach would help collecting societies avoid inadvertently using works against creators' wishes.