

Minutes of the Copyright Advisory Panel Meeting 20 January 2016 2:30-4:30pm

Attendees

Tim Suter – Non Executive Director IPO (Chair)
Ros Lynch – Director, IPO
Joanna Huddleston – CED, IPO
Magnus Brooke – Director of Policy and Regulatory Affairs, ITV
Maureen Duffy – President of Honour of British Copyright Council and ALCS
Crispin Hunt – CEO Featured Artists Coalition
Geoff Taylor – Chief Executive British Phonographic
Julian Ashworth – Global Director of Industry Policy, BT
Bill Bush – Director of Policy, Premier League
Amanda Nevill – BFI
Susie Winter – The Publishers Association
Hamish Crooks – Magnum Photos
Ben Beadle – CED, IPO (minute-taking)

Apologies

Jo Twist – CEO UKIE
Roly Keating – British Library
Stephen Edwards – ReedSmith
Gilane Tawadros – CEO Designers and Artists Copyright Society

Introductions & welcomes

The chair introduced Susie Winter from the Publishers Association to the group. Susie will be taking the place of Richard Mollet, until his successor at the PA is in post.

Update from the IPO

s73 - The Government response to the consultation will be followed by a technical review, which IPO will lead on.

s72 – in response to feedback from the previous consultation IPO will be launching another consultation as soon as possible.

s52 – The consultation has now closed and the IPO is in the process of analysing the responses.

Criminal Sanctions – The IPO has been looking at the issues raised in response to the recent consultation and would like to reassure stakeholders that the Government is not stepping away from the issue. The Government is looking at a) taking a look at the wording of the legislation and b) seeking a suitable legislative vehicle to take forward to changes.

CRM - We expect to publish final Regulations in early February.

The Directive suggests that CMOs and users should have regard to voluntary industry standards when looking at what data a user should be required to provide to a CMO. We would welcome views from the group on the role IPO can play in helping to facilitate development and promotion of such standards.

Discussion on the Commission's Portability Regulations

The IPO provided some background to the forthcoming informal 'Call for views on cross-border portability of digital services.' Members of the panel were encouraged to respond.

The group agreed that sharing individual sectors experiences was helpful, but it is easy to get lost in the detail and that the best approach is to have an overarching view which links together how things work at a market level.

Members felt that where there is common ground between sectors there should be a set of principles which HMG should be pressed to defend and promote. The suggested principles were;

1. **Good evidence base** – any decisions made should be wholly based on supportive evidence
2. **Consumer need** – any changes that are made should be for the benefit of the consumer and should be thoroughly investigated to see if such a need exists
3. **Market failure** – There should be reasonable evidence of market failure before mandatory intervention. For example, is it a failure or just an unmet need for a niche market?
4. **Proportionality** – any remedy should be proportionate and should not damage or destroy already established markets
5. **Long term benefit** – any changes should be for long term benefits and not short term gains
6. **Regulation** – We need to make absolutely sure that any new regulations are not placing unnecessary burdens on industries/businesses and exactly who they will affect

It was noted that there is a need to analyse how portability works in practice when it is introduced, in order that lessons can be learnt for any future reforms.

The panel also felt that the Commission needs to clarify some areas of their proposals and provide specific definitions and further information concerning;

1. Verification
2. Localisation of relevant copyright acts
3. Quality of service
4. Application to existing contracts

Discussion on the Commission's Communication on Copyright

It was noted that the Commission also published a Communication on Copyright along with the Portability Regulations on 9th December. The Communication concerns the adaptation of copyright rules, which should create a more European wide framework and help to overcome fragmentation and frictions within a functioning single market. There is an expectation that some proposals should be released in June of this year.

Members of the panel generally welcomed the communication and it was noted that the proposals were less ambitious than originally thought. Some aired their concern regarding changes to copyright exceptions, stating that any proposed changes could affect the UK's current exceptions which work well. The group felt that HMG should be making every effort to have its voice heard. It was noted that, as is standard practice, there would not be a formal government response to the communication but there will be conversations with Member States and stakeholders to help get a better understanding and guide forthcoming engagement with the Commission.

Future agenda items

The Chair asked the group for suggestions for future agenda items and several ideas were discussed:

1. **Duty of Care** – At present there is a massive problem of online infringement with most of the burden falling on stakeholders to take action. It would be helpful, if intermediaries who have knowledge of these activities took more direct action. The panel felt that it would be beneficial to explore this further and look at how a Bill might be worded to include legislative changes and how a voluntary code of practice could be created and function.

Action – Ros Lynch and Geoff Taylor to take this forward

2. **Geo-Blocking** – It was suggested that it would be useful for the panel to further explore the issue of geo-blocking and in particular define exactly what could be considered justified or unjustified geo-blocking.

Action – Magnus Brooke and Bill Bush to look at the key concepts and incidents of geo-blocking and report back to the panel

3. **Collective Licensing** – A discussion on the practice of 'rights grabbing' would be helpful and although this is not technically a copyright problem it was felt that the group should be aware of it and the effect it is having on photographers.

Action – Hamish Crooks to prepare and deliver a presentation on 'rights grabbing' to the rest of the panel

Wrap up and next steps

The panel discussed the date of the next meeting and it was agreed that although members would need time to plan and gather evidence it should be held in the not too distant future.

Action – IPO to canvass members’ availability for April/May 2016

AOB

Members of the panel would like to be kept up to date with the outcomes of the regular Ministerial DSM roundtables and the portability follow up workshop.

Action - IPO to provide a readout at the next panel meeting