

Minutes of the Copyright Advisory Panel Meeting

Monday 9 April 2:30-4:30pm

Attendees

Tim Suter – Non Executive Director IPO (Chair)
Bill Bush – Executive Director, Premier League
Geoff Taylor – CEO, BPI
Gilane Tawadros – CEO, Designers & Artists Collecting Society
Stephen Edwards – Partner, ReedSmith LLP
William Bowes - General Counsel and Director of Policy, PA
Jane Secker - Centre for Learning Technology, LSE
Maureen Duffy – President of Honour of the British Copyright Council and ALCS
Ros Lynch – IPO
Dylan Foulcher - IPO
Ben Beadle - IPO

Apologies

Crispin Hunt - Chairman of BASCA
Hamish Crooks – Magnum Photos
Gaetano Dimita – Centre for Commercial Law Studies, University of London
Magnus Brooke – Director of Policy & Regulatory Affairs, ITV
Alex Tower – Policy, BT

Welcome

The Chair welcomed all to the meeting and asked if the minutes of the previous meeting had been circulated. Ben Beadle (BB) apologised for the delay in getting the minutes to the group for comment and it was agreed that the minutes should be circulated as soon as possible for comment.

The Chair then introduced Jane Secker (JS) to the panel commenting that her

Update on Digital Single Market copyright proposals

Dylan Foulcher (DF) started his update with a brief update on the Portability Regulations. The Regulations came into force on 1st April with all of the mechanisms in place. The Govt. will be publishing guidance shortly and he did say that there is some anxiety from stakeholders surrounding the Regulations and what might happen after Brexit.

Update – Portability guidance published.

DF then spoke about the DSM proposals and he explained that the proposals were now moving in to the next phase.

- **Article 11** – The Press Publishers’ Right should be pursued over the mooted assignment of rights. There is a clear preference in Council that the originality test should be adopted (author’s own intellectual creation). There is some confusion as to the term of the right and at present it is five years or under. However, some member States are recommending a longer term of up to twenty years.
- **Article 13** – The Value Gap has been difficult to negotiate but we are now getting a clearer picture what the deal might look like. There will be a standalone definition of online service provider. Clarification will be given on what constitutes ‘communication to the public’ and ‘making available to the public’. There will also be clarification on when businesses are not granted protection for ‘communication’ and ‘making available’ by Article 14 of the ecommerce directive. Some members of the group commented that Article 13 should focus on proportionality. DF also talked about the role the Commission while play in developing the technical measures of the Article. DF went on to say that there is a proposed carve out for ‘scientific and education repositories’, however, this requires further discussion on how it works with the EU Parliament. Several members of the group commented that pirate sites have been known to use education as a cloak to continue their business. DF went on to say that given where the negotiations are at, they do address the issue of liability. He added that now the negotiations are moving into a different phase and once the working parties are finished the process moves to Trilogue and effectively it will be out of our hands and there will be compromises between the EU Council and the EU Parliament. Members of the group were keen to get an understanding of the timetable for the above to be completed. RL commented that it will probably not be finalised during the Bulgarian presidency, but during the Austrian presidency. RL also added that it will need to be resolved before the end Parliament.
- **Exceptions** – RL commented that the work on exceptions is almost complete and there shouldn’t be any further changes as the exceptions seem to be fully formed.
- **Articles 14 and 16** – RL explained that both of these articles (fair remuneration/transparency) have been subject to less technical discussions and the process has been moved on by the Commission as they have a desire to finish within the allotted timescale. Some members of the group were concerned about what might be lost in the battle for an agreement to be reached. For example might the ‘unwaverable right’ reappear?

The Creative Industries Sector Deal - next steps

The Chair then asked Geoff Taylor (GT) to give a brief update to the group on the current status of the Creative Industries Sector Deal and what the next steps will hopefully be.

GT started by thanking the Government for all of the hard work undertaken to get this far. He explained that following a series of roundtable meetings with representatives from the major search engines, a code of practice has been agreed. One benefit of the code is that it is now easier to demote illegal sites.

GT commented that the process had turned into a real collaborative effort and it would be helpful to try and develop the relationship further. He went on to explain that the Sector Deal is going to be expanded to include social media and user upload, online marketplaces and digital advertising. Members of the group suggested that those involved in the roundtables should be subject matter experts and that all should be thoroughly briefed and that a good cross section of the Creative Industries should be represented. GT added that the small groups would be the best approach to take with the roundtables so that all who take part can be heard and have their say.

RL commented that the timetable for deliverance of the Sector Deal is December 2018 and the hopeful outcome of these roundtables is to create a code of conduct, similar to that agreed by those who participated in the search engine series of roundtables. RL went on to say that if agreement on a code of conduct can't be met, then the Government would have to look at legislation. However, if the roundtables prove successful then they will continue and look into other areas. These could include, the Digital Charter and looking at mechanisms to make website blocking easier and less expensive, the Government looking at 'stay down' notices rather than 'takedown' and the Government agreeing new funding for the 'Get it Right' campaign. RL added that the IPO is hoping to start the series of roundtables as soon as possible.

Update: The first roundtables of the social media, online marketplaces and digital advertising took place during the week commencing 11 June.

Changing attitudes to IP infringement - suggestions on how to make infringement socially unacceptable

The Chair thanked GT and then turned to RL to introduce the next item on the agenda. RL explained that the IPO is in the process of thinking about the IPO Strategy and having looked at the 'Get it Right' campaign we can see that behaviours are changing but not the attitude to IP infringement. RL asked the question – how do we make it unacceptable to infringe? RL then went on to say that we need to understand what language might work best to get the message across and we need to understand how best to measure changes in attitudes towards infringement.

One suggestion mooted by members of the panel was to pin IP infringement to a bigger campaign, such as 'Online Citizenship' which deals with online safety. It was felt if the message could be targeted at the right audience and more importantly, at the right time then this could help to change attitudes.

By focussing on personal jeopardy and how online users can become unwittingly involved in criminal activities, such as having your details being stolen and used by criminal gangs to set up fake websites, it might encourage more people to think

before infringing or buying counterfeit goods online. It was also suggested that by making it more personal people will be able to relate to the crime and understand that other people's livelihoods are being destroyed. A word of caution was added that any examples used would need to focus on smaller creators being affected, as people find it hard to feel sympathetic for large corporations losing profits. It was felt that if the focus was on positive messaging then a respectful relationship between creators and users would hopefully follow.

Bill Bush (BB) commented on a recent Australian phone app which has been created to help counter bullying. The app attempts to make children question their own actions by asking 'are you sure you want to say that?' when posting comments about others. It was suggested that a similar approach could be used in the UK when it comes to online activity such as illegal downloading/streaming.

The focus of the discussion turned again to 'Online Citizenship' and the opinion of many in the group, was that it should become part of the digital literacy curriculum. The message to put across would be how to protect yourself online (safeguarding/grooming etc.) and also be fair to others (respect others rights). The Chair thanked the group for their input and he commented that this is just the start of the conversation about a huge subject.

Future agenda items

It was agreed that the next meeting should take place in early July and RL proposed the following items for the agenda were:

- Digital Single Market (DSM) update
- Trade Talks – Tom Walkden the IPO lead from the International Policy Directorate will be invited to the meeting to hopefully discuss and shed some light on current thinking
- Bill Bush to prepare a paper on environments where historically strong laws have been affected by changes in technology

Another item put forward was illegal streaming.

The chair thanked everyone for attending and drew the meeting to a close.

Update: The next meeting of the Copyright Advisory Panel is scheduled to take place on Wednesday 4th July 2-4pm.

AOB

None