

Extended Collective Licensing General Briefing Note

In October 2017, CLA submitted an application to the UK Government for an authorisation to operate an Extended Collective Licensing (ECL) scheme. This note sets out the details of CLA's application.

In 2014 the UK Government introduced The Copyright and Rights in Performances (Extended Collective Licensing) Regulations to enable CMOs in the UK to apply to operate an extended collective licensing scheme.

ECL enables licensing bodies that represent a significant number of rightsholders in a class to extend their licences to cover unrepresented rightsholders in the same class.

CLA has submitted an application to the UK Government for an ECL authorisation to support the collective licences it provides to the education, business and public administration sectors in the UK. CLA's licences enable organisations to copy and re-use short extracts from print and digital published materials, including books, journals and magazines.

CLA is able to offer collective licences through the authorisation it receives from its members representing various classes of rightsholder: The Authors Licensing and Collecting Society (ALCS), The Publishers Licensing Society (PLS), the Design and Artists Copyright Society (DACS) and the Picture Industry Collecting Society for Effective Licensing (PICSEL). Further information on CLA's membership organisations can be found at the end of this document.

By applying for ECL, CLA will formalise its rights position and enhance transparency for both rightsholders and users. As with CLA's current licences, rightsholders can choose to opt out any or all of their works that they do not wish to be included in the licensing scheme.

During July 2017 ALCS, PLS, DACS and PICSEL contacted their members to inform them on CLA's intention to apply for an ECL authorisation and to seek their consent. The response to the proposed scheme has been overwhelmingly positive from UK rightsholders.

ECL Benefits for Both Users and Rightsholders

ECL offers users 'comprehensive blanket licences' guaranteeing the lawful right to copy and use all works protected by copyright, subject to any that have been opted-out, without the administration and cost involved in trying to locate individual copyright owners. Conversely collective licensing helps rightsholders who cannot realistically seek to control hundreds and thousands of uses that may be made of their works.

An extension of collective licences to cover works of those rightsholders not already participating in collective licensing helps to build respect for copyright, by making it clear to users that they need a licence to use a copyright protected work and that they should pay a fee for it. It removes the need for wider exceptions to copyright while respecting the rights for creators and publishers to exclude their works, and allow for copying that may otherwise be done for free, whether under an exception (in the case of education, for example) or illegally.

CLA has been providing collective blanket licences to the education, business and public sectors for more than 30 years, and an ECL authorisation will regularise the current CLA scheme which allows limited copying of extracts only.

ECL Application Process

CLA submitted its application to the UK Government on x October 2017. The Government must now publish a notice setting out details of the application and must consider any comments provided in response to that notice. The notice must allow a period of at least 28 days during which comments may be provided.

During October 2017 CLA will place advertisements in the trade press in order to publicise to non-members its intention to introduce an Extended Collective Licensing Scheme under the regulations.

A decision will be taken on whether or not to grant the authorisation within 90 days following the end of the period for providing comments. The decision must also be published in an appropriate manner. Further information on how to provide comments to the Government is available at www.gov.uk/government/organisations/intellectual-property-office.

Rightsholders Opting Out of ECL

The ECL legislation allows rightholders to opt out some or all of their works from an ECL scheme. To do this, they must give notice to CLA (or one of its members) and identify themselves. They may give details of all of the works they want to opt-out but are not obliged to do so; if they do not CLA is only required to give to its licensees such details as it has received.

Rightsholders (including exclusive licensees) can opt out at any time from an ECL scheme and can also opt out from a proposed ECL scheme in advance of it being granted authorisation by the UK Government. If any of your members wish to opt out of CLA's ECL scheme directly with CLA they can do so by sending an email to CLA at optout@cla.co.uk. They can opt out from some ECL licences or all. Equally they can opt out only some of their works or all of their works. Ideally they should always identify the opted-out works to enable CLA to notify its licensees which works are excluded from a particular ECL licence. They must confirm that they are the rightsholder and/or have the rights to receive collective licensing revenues; they face a risk of a legal claim for damages if they wrongly opt out when they do not have the authority since they may deprive the true owner of a share of collective licensing revenues.

Further Information

If you would like more detail or have any questions, please contact Madeleine Pow-Jones, Policy and International Relations Manager at CLA:

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