

Minutes of Third Meeting of the Copyright Advisory Panel 12th February 2015

Attendees

Tim Suter – Non Executive Director IPO (Chair)
Ros Lynch – Director, Copyright and Enforcement Division (CED), IPO
Joanna Huddleston – CED, IPO
Crispin Hunt – CEO Featured Artists Coalition
Magnus Brooke – Director of Policy and Regulatory Affairs, ITV
Maureen Duffy – Writer, Poet, President of Honour of British Copyright Council and
Author's Licensing and Collecting Society
Geoff Taylor – Chief Executive British Phonographic
Stephen Edwards – ReedSmith
Jo Twist – CEO UKIE
Julian Ashworth – Global Director of Industry Policy, BT
Roly Keating – British Library
Amanda Nevill – BFI
Hamish Crooks – Magnum Photos
Ben Beadle – CED (minute-taking)

Apologies

Richard Mollet – CEO The Publishers Association
Bill Bush – Director of Policy, Premier League
Gilane Tawadros – CEO Designers and artists copyright society

Introductions & welcomes

- The panel formally welcomed Jo Twist, Hamish Crooks and Roly Keating.
- It was agreed the minutes of previous meetings would be re-circulated.

Update from the IPO

Orphan Works

- 15 applications have been made in total (10 non- commercial, 5 commercial). Applications have largely been for photographs apart from 12 literary works and 1 musical composition

Online Copyright Infringement Survey

- The IPO is soon to re-commission The OCI Survey. Australia are likely to mirror the survey. The contractors will attend the CAP meeting in early summer.

CRM

- The consultation will run until the end of March.

Agenda

- Discussion to focus on the following topics:
 - exceptions and limitations in a cross-border context
 - enforcement

Exceptions - overall

- There was overall agreement that the lack of detail from the Commission on the proposals is unhelpful.
- Several parties have heard the Commission use the term “Access to Knowledge” to describe the exceptions that might be included. This is thought to cover Text and Data Mining (TDM), Education/Research, preservation, access to libraries, teaching and disabilities.
- There was some discussion on whether compensation mechanisms would require harmonisation if exceptions were harmonised. It was noted that this may raise challenges for the UK’s approach. It was also noted that exceptions should be kept under review to ensure that they match existing technology and that this could mean reducing the scope of an exception was the right approach (e.g. the scope of the time-shifting exception was queried based on technological developments).

TDM

- It was suggested that the UK should build on experience of its own exception to influence the Commission.
- It was noted that commercial interests could be damaged if TDM exceptions went too far and a balance needs to be struck

Education

- There was concern that overly broad exceptions could undermine revenues, generate uncertainty and be unfairly exploited.
- The UK’s education exceptions were felt to work well and recent progress to streamline the licensing process was noted. However, without more detailed understanding of the situation in other Member States it is hard to know how transportable the UK’s system is
- There were concerns about language on informal vs formal education and whether informal education was sufficiently clear and was not open to abuse.
- There were queries as to whether secure networks would be required for cross border distance learning exceptions
- **Action: Maureen Duffy to ask IFRRO if they have comparable figures from throughout Europe [done]**
- **Action: Explore what information we can from other groups/Member States**

Enforcement

- It was felt that reforms of the European Copyright landscape are highly likely to need to be accompanied by enforcement reforms – e.g. around cross border access and portability. Country of origin versus country of destination could become an issue in both the copyright and enforcement arenas. The Commission should be encouraged to consider reforms to copyright and enforcement in a holistic manner.
- The 10 point action plan published last year which included ‘follow the money’ and the use of expert groups to discuss problems could be used as a starting point
- Concerns were raised that as penalties for infringement such as the requirement to buy a licence do not act as sufficient deterrent.
- Concern that exemption from liability (safe harbour) provisions are misused . ‘Intermediaries’ such as social media and search engines bring infringing sites to the public’s knowledge but the system means they do not face the consequences
- Notice and take down should be notice and stay down – the burden on rightsholder is very high although technological advances e.g. image recognition software and text and data mining techniques are helping
- There are concerns about the lack of resourcing of Operation Creative
- The Trustworthy Accountability Group (TAG) in the US could be an example for UK and EU industries to follow. The group wants to stop online sales of infringing goods and want to take the ‘I didn’t know’ defence away. Perhaps the implementation of a code of conduct or an advertising standards code across Europe like this could be helpful

Action:

- 1. Members were encouraged to think further within their organisations about their positions, including red lines and evidence to back up these positions.**

Topics for Future Meetings

It was agreed that the next formal meeting of the CAP which is scheduled to take place on the 18th May should be moved back. This will allow members to digest the details of the proposals set out by the Commission.

Action: IPO to canvass member availability for a meeting in late May/Early June (done meeting to be held 4th June)

AOB

None.

