

CLA response to call for written evidence to Retained EU Law (Revocation and Reform) Bill

Introduction

The Copyright Licensing Agency Ltd (CLA) is a collective management organisation (CMO) as defined in 2(1) of The Collective Management of Copyright (EU Directive) Regulations 2016.

CLA is a not-for-profit organisation. It has four members: Authors Licensing and Collecting Society Ltd (ALCS), Design and Artists Copyright Society (DACS), PICSEL Ltd (Picture Industry Collecting Society for Effective Licensing) and Publishers' Licensing Services Ltd (PLS) and distributes the revenue it collects to its members, who in turn distribute to authors, publishers and visual artists.

CLA provides blanket collective licences to copy limited extracts from books, magazines and journals to the education, business and public sectors. The licensing revenues generated are distributed to authors, visual artists and publishers whose works are shown to have been copied under its licences, the relevant rights in a small percentage of which may not have expressly mandated to CLA. An extended collective licensing authorisation, as described below, will regularise the current CLA scheme.

Our understanding is that the Retained EU Law Bill will contain a provision which negates existing case law derived from the Court of Justice of the European Union. Detailed below is particular case law that prevents the Secretary of State from being able to consider an application for extended collective licensing.

Extended Collective Licensing (ECL)

In 2014 the UK Government introduced The Copyright and Rights in Performances (Extended Collective Licensing) Regulations (the Regulations), following a recommendation of the Hargreaves review of Intellectual Property and Growth (2011). The aim of the regulations is to enable CMOs, such as CLA, to apply to operate an extended collective licensing (ECL) scheme.

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

Currently, any application for an ECL scheme under the Regulations cannot be considered by the UK Government as the regulations are subject to European case law, specifically the [Soulier and Doke](#) judgement of the Court of Justice of the European Union in November 2016. Without the negation of EU case law, as envisaged by the Retained EU Law Bill, CLA and other CMOs remain unable to make an application for an ECL scheme.

ECL:

- Offers users of copyright protected content 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 administrative burden and cost involved in trying to locate individual copyright owners to seek prior permission.
- Helps rightsholders who cannot realistically seek to control hundreds of thousands of uses that may be made of their works.
- Helps build understanding and respect for copyright by making it clear to users that they need a licence to use a copyright protected work and they should pay a fee for it.
- Removes the need for wider exceptions to copyright and creates legal certainty.

- Ensures that copying that would otherwise be done for free, whether under an exception (in the case of education, for example) or illegally, is properly licensed and rightsholders are fairly remunerated.
- Respects the rights of creators and publishers to exclude their works from an ECL scheme if they wish.

The UK Copyright framework is world-leading and built, to a significant extent, upon a solid foundation underpinned by EU Law. CLA and its members want to keep the current provisions which work well and provide certainty. The *Soulier and Doke* decision however is an exceptional case where argument for revocation is clear.

We remain in dialogue with the Intellectual Property Office on this issue.