

Response from *Scotland's Colleges* to the House of Commons BIS Select Committee on the Hargreaves Review of IP and Growth Review recommendations

Scotland's Colleges is the agency that represents the 41 colleges in the Further Education sector in Scotland. We would like to submit the following points in relation to the Government's response to the recommendations of the Hargreaves Review, published in May 2011.

Any communication should be directed to:

Dr Suzanne Ebel
Scotland's Colleges
Argyll Court
Castle Business Park
Stirling
FK9 4TY

Summary of main points

- The cost of a licence should reflect value for money for the service being paid for.
- All societies should offer searchable databases of their licensed materials so that it is easier for users to determine rights status.
- No one society can provide a blanket service. Societies therefore have a duty to make the seeking of rights transparent and easy to understand and use.
- Digital Copyright Exchange would make it easier for both creators and users to establish rights and pay the correct fee, for actual usage, not assumed usage.
- There are a number of agencies most of who impose charges without negotiation. These 'monopolies' are unfair.
- There is overlap in the services of the agencies dealing with print, music and the moving image.
- Digitisation has caused a separation of platforms and a raft of new terms and conditions: consistency is required in the way in which rights are administered.
- Copyright can be a complex area and it is easy to unintentionally infringe. It would be helpful if the codes of practice were easier to understand and in forms that are readily disseminated to both users and potential users. This is an area of concern in our sector for students who fall under the Creative Industries subjects.

Introduction and background

Scotland's Colleges wishes to give positive support to the recommendations of the Hargreaves Review, in particular those relating to Copyright Licensing: we agree that 'evidence should drive policy'.

Member colleges have supported the various collective licensing schemes which operate in the educational sector throughout the analogue age and continue to do so in the digital age. They feel, however, in agreement with The Review, that the time has come to analyse the work of the collective societies, consider their monopolistic positions and drive forward a comprehensive and effective digital licensing exchange.

1. Costs
2. Content

3. Number of Licensing Societies
4. Relationships of Licensing Societies
5. Complexity of licences/terms and conditions
6. Education of future creators
7. Conclusion

1 Costs

1.1 The current costs of licences do not reflect value for money in our opinion. In an age when it was relatively simple to determine a per-page cost to photocopy from licensed materials, it was equally simple to determine what value the licence provided. As we have moved into the world of e-books, e-journals, on-line resources and a separation by authors and publishers of the various rights to their works, it has become increasingly difficult for member colleges to understand the pricing rationale behind some of the collective licences

2 Content

2.1 Since collective licensing societies cannot deliver any form of “blanket” cover, member colleges find it very difficult to determine the rights status of much of the content which their staff and students might choose to use for the creation of teaching and learning materials. Some societies are unable to provide a searchable database of their licensed material, which further complicates the process. We do appreciate that one of the major licensing societies is in process of introducing such a database and this is to be welcomed.

2.2 Such a database helps give content a digital identity which can be used for recording usage and determining payments. At the same time it shows that no society can provide a blanket service, proving that member colleges still have to spend time identifying rights holders and seeking permissions – both of which can be lengthy and time-consuming exercises, and put strain on already reducing budgets.

2.3 With a Digital Copyright Exchange, creators, content and users can be easily identified and if the software is created, a seamless acquisition and payment system can be devised – both parties will have access to precise records of both actual usage and appropriate payments. Member colleges who acknowledge the usefulness of collective licences, will then be able to see exactly what they are paying for, rather than have fees based on a somewhat amorphous premise.

3 Number of licensing societies

3.1 Member colleges may currently deal with up to ten collective licensing societies each of whom operates in a different way. Only two of these societies carry out any form of negotiation with the licensees – the remainder imposes non-negotiated fee structures which the colleges regard as unfair, given that there are no alternative sources for the content and this means they are dealing with monopolies.

4 Relationships of licensing societies

4.1 In the review of the licensing societies, member colleges would encourage study into the need for the variety of societies – there is considerable overlap (and gaps) in print, music and moving images. We

appreciate that over the years, different societies have emerged to deal with different content, but we question if there is a need for three principal music licensing societies, three print societies (two major and one lesser) and two dealing with television broadcasts.

5 Complexity of licences/terms and conditions

5.1 The introduction of the digitisation has led to further separation of platforms and introduced a wide variety of ways in which content can be delivered and accessed. With each method of delivery comes a new contract with new terms and conditions – leading to confusion and the potential for the licensee to make mistakes. It is currently the situation that a publisher may make a title available both in print and digital formats. Copying and scanning of the print version (subject to the publisher awarding the mandate) is managed by the terms and conditions of the Copyright Licensing Agency. The e-book version is controlled on-line, directly by the publisher. We would ask for consistency.

6 Education of future creators

6.1 As our capital economy has moved to become more of a knowledge economy, as recognised by this and previous reviews into Intellectual Property, it is essential that our student creators – photographers, illustrators, designers, programmers, musicians, actors, choreographers, architects, – have a good understanding of the IP structure in which they will be operating when they leave college and are either employed or self-employed in the industry of their choice. Staff in colleges have difficulty enough in understanding the complexity of the current IP structure as it affects the creation of their teaching materials, without trying to convey this complexity to the students.

6.2 This is where codes of practice, as suggested in The Review, would be extremely helpful – if the licensing societies can act in a codified manner with transparent interaction between them, then this can be more easily understood by college staff and conveyed to their students.

6.3 Modernisation and simplification of the copyright licensing system is essential for the generations of creators coming through the education systems at all levels. These are the students who are digitally literate and have been brought up in the “copy culture” which has given rise to the need for this review. There is an expectancy that works are readily and freely available to them – if our economy is to progress, this attitude needs to be addressed.

7 Conclusion

7.1 *Scotland's Colleges* is very keen to encourage both the creation of a digital copyright exchange and the review of the licensing societies. A copyright exchange, if it can be created and then sustained, would be seen to be much fairer to both creators to users and may remove some of the negative feelings towards the current intermediaries, the licensing societies

7.2 Scotland's colleges pay out just over £1,000,000 annually to all the agencies for copyright licences. Due to the constantly changing nature of technology and methods of teaching and learning, the colleges feel that the licences are no longer fit for purpose, nor do they provide value for money

7.3 Scotland's colleges re-iterate that they respect copyright – without the licensed use of third party materials for the creation of learning objects, the teaching and learning systems could become unworkable. However the licences continue to be expensive, complex, non-inclusive and administered

by monopolistic agencies who do not take the time either to negotiate or find out whether or not their licences fit the needs of the licensees.

We look forward to further progress in achieving the recommendations of The Review

Scotland's Colleges

2 September 2011