**Country report: United Kingdom**

Annual report to the IFLA CLM committee

Lyon 2014

This report is an account of the activities of the **Libraries and Archives Copyright Alliance (LACA)** 2013-14. LACA is an umbrella body of the UK’s leading library and archive organisations and copyright experts convened by CILIP: the Chartered Institute of Library and Information Professionals. LACA lobbies in the UK and Europe about copyright and related rights on behalf of its member organisations and users of copyright works through library, archive and information services. <http://www.cilip.org.uk/laca> @UKLACA

**Copyright**

2014 has seen the largely successful fruition of intensive lobbying of the UK Government by LACA, research and higher education institutions and consumer digital rights groups since the implementation in the UK in October 2003 of the European Information Society Directive (InfoSoc Directive) 2001/29/EC <http://ec.europa.eu/internal_market/copyright/copyright-infso/index_en.htm> implementing the WIPO copyright treaties of 1996 in Europe. This led to the Gowers Review of 2006 <https://www.gov.uk/government/publications/gowers-review-of-intellectual-property> and then the Hargreaves Review of 2011 <https://ipo.gov.uk/ipreview.htm> which basically agreed with each other that change was needed in a number of areas, not least exceptions for libraries, archives, education and research. This year the UK presented a raft of secondary legislation to Parliament to update its main copyright Act, the Copyright, Designs and Patents Act 1988 (CDPA) <http://www.legislation.gov.uk/ukpga/1988/48/contents> and implement two European Directives relating to extension of copyright term for rights in performances from 50 to 70 years and Orphan Works.

***New legislation in force***

The following are the main Statutory Instruments (SIs), also known as Regulations that were approved by both Houses of Parliament during 2013-14. **All have received Royal Assent and** **are now in force**:

|  |  |
| --- | --- |
| **The Copyright (Public Administration) Regulations 2014** <http://www.legislation.gov.uk/uksi/2014/1385/contents/made> This SI updates CDPA following the outcome of the Hargreaves Review. | 2014 No. 1385 |
| **The Copyright and Rights in Performances (Disability) Regulations 2014** <http://www.legislation.gov.uk/uksi/2014/1384/contents/made>  This SI implements in full the disability exception in the InfoSoc Directive 2001/29/EC – an outcome of the Hargreaves Review. Additionally it introduces **protection from** **contract override** with respect to specific permitted acts. | 2014 No. 1384 |
| **The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014** <http://www.legislation.gov.uk/uksi/2014/1372/contents/made>  This SI updates CDPA following the outcome of the Hargreaves Review. It makes a number of major changes bringing copyright exceptions in these areas up to date with the digital age and implementing all the optional exceptions in the InfoSoc Directive 2001/29/EC hitherto not adopted by the UK. Additionally it introduces a new exception for **Text and Data Mining (TDM)** for non-commercial purposes (under the provisions of the Directive) and **protection from** **contract override** with respect to specific permitted acts. | 2014 No. 1372 |
| **The Copyright (Regulation of Relevant Licensing Bodies) Regulations 2014** <http://www.legislation.gov.uk/uksi/2014/898/contents/made>  Following the outcome of the Hargreaves Review, this SI introduces additional obligations regulating Copyright Management Organisations (CMOs), including adoption of Codes of Conduct and a review system. | 2014 No. 898 |
| **The Copyright and Duration of Rights in Performances Regulations 2013** <http://www.legislation.gov.uk/uksi/2013/1782/contents/made>  This SI implements Directive 2011/77/EU amending the Term Directive 2006/116/EC on the term of protection of copyright and related rights. This extends copyright term for performers from 50 years to 70 years. <http://ec.europa.eu/internal_market/copyright/term-protection/index_en.htm>  **The Copyright and Duration of Rights in Performances (Amendment) Regulations 2014** <http://www.legislation.gov.uk/uksi/2014/434/contents/made>  This SI corrects an error in S.I. 2013/1782 above. | 2013 No. 1782  2014 No. 434 |

Further information:

**Regulations concerning Public Administration, Disability, and Research, Education, Libraries and Archives:** *see*

* LACA page re changes <http://www.cilip.org.uk/cilip/advocacy-campaigns-awards/advocacy-campaigns/copyright/changes-uk-copyright-law-update>
* Blog by LACA members Naomi Korn and Ben White <http://www.cilip.org.uk/cilip/news/breakthrough-copyright-law-reform-confirmed>
* Presentation slides by Ben White (British Library) at CILIP Copyright Executive Briefing 01/04/14 <http://www.cilip.org.uk/sites/default/files/3.%20Benjamin%20White.pdf>
* The UK Intellectual Property Office (IPO) has produced 8 consumer guides to changes to UK copyright law (Overview, Consumers, Education and Teaching, Disabled People, Creators and Copyright Owners, Research, Public Bodies, and Libraries, Museums and Archives) available at <https://www.gov.uk/government/publications/changes-to-copyright-law>
* IPO Impact Assessments below available at <https://ipo.gov.uk/copyright-exceptions.htm>

[IA No: BIS0306 (220Kb)](http://www.ipo.gov.uk//ia-exception-archive.pdf) - Copyright Exception for archiving and preservation

[IA No: BIS0312 (220Kb)](http://www.ipo.gov.uk//ia-exception-dataanalytics.pdf) - Exception for copying of works for use by text and data analytics

[IA No: BIS0308 (310Kb)](http://www.ipo.gov.uk//ia-exception-disabled.pdf) - Copyright Exceptions for disabled people

[IA No: BIS0311 (236Kb)](http://www.ipo.gov.uk//ia-exception-research.pdf) - Extend Exception for copying for research and private study

[IA No: BIS0309 (163Kb)](http://www.ipo.gov.uk//ia-exception-public.pdf) - Use of works for public administration and reporting

[IA No: BIS0312 (359Kb)](http://www.ipo.gov.uk//ia-exception-education.pdf) - Extending Copyright Exceptions for Educational Use

***Proposed legislation***

The following draft secondary legislation is currently laid before Parliament and, due to Parliament having risen for the summer break, is **expected to come into force in October 2014**.

|  |  |
| --- | --- |
| **The Copyright and Rights in Performances (Quotation and Parody) Regulations 2014**. <http://www.legislation.gov.uk/ukdsi/2014/9780111116029/contents> **Received Parliamentary approval 29/07/14.** **Awaiting Royal Assent**.  This SI expands the UK’s Quotation exception, hitherto restricted to the purposes of criticism and review, to bring it in line with the Quotation exception in the InfoSoc Directive 2001/29/EC, and introduces a new exception for Parody, an optional exception permitted under the Directive not hitherto adopted by the UK. Additionally it introduces **protection from** **contract override** with respect to specific permitted acts with regard to both Quotation and Parody. | 2014 |
| **The Copyright and Rights in Performances (Personal Copies for Private Use) Regulations 2014** <http://www.legislation.gov.uk/ukdsi/2014/9780111116036/contents> **Received Parliamentary approval 29/07/14**. **Awaiting Royal Assent**.  This SI permits individual consumers to format-shift multimedia works that they own (e.g. music, film, e-books) for personal private use without the need for a licence and compensation to rightholders (i.e. no levies on media). Additionally it introduces **protection** **from contract override** with respect to specific permitted acts. | 2014 |
| **The Copyright and Rights in Performances (Extended Collective Licensing) Regulations 2014** <http://www.legislation.gov.uk/ukdsi/2014/9780111116890/contents> **Received Parliamentary approval 28/07/14**. **Awaiting Royal Assent**.  This creates a framework permitting CMOs to set up ECL schemes for licensing OWs in the UK. | 2014 |
| **The Copyright and Rights in Performances (Certain Permitted Uses of Orphan Works) Regulations 2014** <http://www.legislation.gov.uk/ukdsi/2014/9780111117682/contents>  This SI implements the Orphan Works Directive 2012/28/EU <http://ec.europa.eu/internal_market/copyright/orphan_works/index_en.htm> in the UK. | 2014 |
| **The Copyright and Rights in Performances (Licensing of Orphan Works) Regulations 2014** <http://www.legislation.gov.uk/uksi/2014/898/contents/made?title=copyright>  This SI introduces a government 7 year renewable licensing scheme for copying orphan works under the Orphan Works Directive 2012/28/EU implemented by the Certain Permitted Uses of Orphan Works Regulations 2014 above. A diligent search is required for each work to establish whether or not it is orphan and a record of the search has to be submitted to the licensing authority to obtain the 7 year licence. This then has to be revisited to renew the licence. The IPO is developing guidelines for diligent searching based on the EU Joint Report Guidelines <http://www.ifrro.org/upload/documents/i2010%20Sector%20specific%20guidelines%20orphan%20works.pdf> referred to in the Directive. | 2014 |

Further information:

**Quotation, Parody, and Private Copying**

* LACA briefing to Parliament on the Quotation Exception (June 2014) <http://www.cilip.org.uk/sites/default/files/documents/Quotation%20exception%20briefing%20June%202014_1.pdf>
* UK Intellectual Property Office (IPO) guides to changes to UK copyright law <https://www.gov.uk/government/publications/changes-to-copyright-law>
* IPO Impact Assessments below available at <https://ipo.gov.uk/copyright-exceptions.htm>

[IA No: BIS1055 (501Kb)](http://www.ipo.gov.uk//ia-exception-privatecopy.pdf) - Copyright Exception for Private Copying

[IA No: BIS1057 (315Kb)](http://www.ipo.gov.uk//ia-exception-parody.pdf) - Copyright Exception For Parody

[IA No. BIS0310 (176Kb)](http://www.ipo.gov.uk//ia-exception-quotations.pdf) - Exception for use of quotations or extracts of copyright works

**Extended Collective Licensing (ECL)**

* LACA response to Government consultation on ECL <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308305/Libraries_and_Archives_Copyright_Alliance.PDF>
* Government Response after the ECL consultation <https://www.gov.uk/government/news/government-response-to-the-ecl-consultation>
* LACA letter to Dr Vince Cable, Secretary of State for Business, Innovation and Skills (May 2014) <http://www.cilip.org.uk/sites/default/files/documents/Letter%20to%20Dr%20Cable%2013%20May%202014_0.pdf>
* LACA briefing to selected members of the House of Lords (July 2014) <http://www.cilip.org.uk/sites/default/files/documents/ECL%20briefing%20July%202014_0.pdf>

**Orphan Works Licensing Scheme**

* LACA letter to Lord Younger of Leckie, then IP Minister in the Department of Business, Innovation and Skills (September 2013) <http://www.cilip.org.uk/sites/default/files/documents/Letter%20about%20Orphan%20Works%20scheme%20September%202013_0.pdf>
* Presentation slides by Antoinette Graves (IPO) at CILIP Copyright Executive Briefing 01/04/14 <http://www.cilip.org.uk/sites/default/files/1.%20Antoinette%20Graves.pdf>
* The Government’s Response setting out its intentions after the IPO’s earlier technical consultation on its proposed OW licensing scheme,and stakeholder **responses** to the consultation (including from LACA and many other UK library, archive and research bodies) are published at <https://www.gov.uk/government/consultations/copyright-uk-orphan-works-licensing-scheme>

***Pending legislative issues***

### Reduction of term in certain unpublished text based works

This is a UK peculiarity whereby unpublished literary works are copyright do not enter the public domain until 01/01/2040. The Government made provision for this in the Enterprise and Regulatory Reform Act (ERRA) 2013 to bring their copyright term in line with published works (i.e. life + 70 years, etc.) but secondary legislation first needs to be laid before Parliament.

In a letter to Lord Younger (February 2014), then Minister for Intellectual Property, LACA calls for the provisions outlined in the relating to the reduction of term in certain unpublished text based works from the end of 2039 to lifetime plus 70 years, to be implemented in 2014.  We pointed out that the suggestion to delay implementation until April 2015 would be particularly problematic as many memory institutions wish to make accessible wartime unpublished text based works which are still within scope of copyright protection until the end of 2039 as part of the First World War Centenary. <http://www.cilip.org.uk/sites/default/files/documents/Letter%20to%20Lord%20Younger%20about%20copyright%20term%20reduction_0.pdf>

However, it is quite possible that this change will not be implemented before the end of 2014 at earliest. The WW1 Centenary is, of course, already upon us.

**Legal Matters**

***New legislation***

### Extending PLR to audiobooks and ebooks

The Digital Economy Act 2010 (DEA) made provisions to extend Public lending Right (PLR) to audiobooks and ebooks loaned from public library premises (i.e. not remote e-lending), but steps were not taken to implement this until now. CILIP and LACA responded to a government consultation (March 2014) <http://www.cilip.org.uk/cilip/advocacy-campaigns-awards/advocacy-campaigns/copyright/consultation-responses/extension-public>

**Law cases**

***UK rulings***

No significant rulings in the UK. However the CJEU *Public Relations Consultants Association Ltd (PRCA) v The Newspaper Licensing Agency Limited and Others (NLA*) case below is a reference from the UK.

***Significant Court of Justice of the European Union (CJEU) rulings***

**Communication to the Public Right** (Hyperlinking)

* *Svennson* (C466/12)13/02/14 <http://curia.europa.eu/juris/document/document.jsf?docid=147847&doclang=EN>

*See also*

* Kluwer Copyright Blog <http://kluwercopyrightblog.com/2014/02/21/the-svensson-case-and-the-act-of-communication-to-a-new-public/>
* Bird & Bird LLP <http://www.twobirds.com/en/news/articles/2014/global/cjeu-decision-in-svensson-hyperlinks-to-freely-available-content>
* IPKat <http://ipkitten.blogspot.co.uk/2014/02/breaking-news-cjeu-in-svensson-says.html>
* IPKat <http://ipkitten.blogspot.co.uk/2014/02/early-thoughts-on-svensson.html>
* IPKat <http://ipkitten.blogspot.co.uk/2014/02/post-svensson-stress-disorder-1-does-it.html>
* 1709 Blog <http://the1709blog.blogspot.co.uk/2014/02/svensson-its-all-about-new-public.html>
* 1709 Blog <http://the1709blog.blogspot.co.uk/2014/02/hyperlinks-making-available-and-new.html>
* *Public Relations Consultants Association Ltd (PRCA) v The Newspaper Licensing Agency Limited and Others (NLA*) (C-360/13) 05/06/14 (known as ‘Meltwater’) <http://curia.europa.eu/juris/document/document.jsf?text=&docid=140431&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=31396>

*See also*

* Bird & Bird LLP <http://www.twobirds.com/en/news/articles/2014/global/cjeu-decision-in-meltwater-the-internet-is-saved-browsing-does-not-require-a-licence>
* IPKat <http://ipkitten.blogspot.co.uk/2014/06/breaking-news-cjeu-says-that-you-can.html>

**Communication to the Public Right** (Territorial monopolies of collecting societies)

* *OSA* (Case C-351/12) 27/02/14 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=148388&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=242685>

*See also* IPKat <http://ipkitten.blogspot.co.uk/2014/02/cjeu-says-that-spas-must-pay-copyright.html>

**Circumvention of TPMs**; plus **‘digital exhaustion’**

* *Nintendo* (Case 355/12) 23/01/14 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=146686&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=532968>

*See also*

1709 Blog <http://the1709blog.blogspot.co.uk/2014/01/cjeu-says-that-circumventing-protection.html>

IPKat <http://ipkitten.blogspot.co.uk/2014/01/nintendo-ruling-confirmed-lex-specialis.html>

IPKat <http://ipkitten.blogspot.co.uk/2014/02/still-on-cjeu-nintendo-ruling-and-its.html>

**Website blocking orders in copyright injunctions**

* *UPC Telekabel Wien* (Case 314/12) 27/03/14 <http://curia.europa.eu/juris/liste.jsf?num=C-314/12>

*See also*

Kluwer Copyright Blog <http://kluwercopyrightblog.com/2014/04/03/upc-telekabel-wien/>

IPKat <http://ipkitten.blogspot.co.uk/2014/03/breaking-news-cjeu-says-that-blocking.html>

1709 Blog <http://the1709blog.blogspot.co.uk/2014/03/blocking-orders-fine-so-long-as-theyre.html>

1709 Blog <http://the1709blog.blogspot.co.uk/2014/03/website-blocking-in-copyright.html>

IPKat <http://the1709blog.blogspot.co.uk/2014/04/the-aci-adam-and-upc-telekabel.html>

**Private copying from unlawful sources**

* *ACI Adam* (Case 435/12) 10/04/14 <http://curia.europa.eu/juris/documents.jsf?num=C-435/12>

*See also*

IPKat <http://ipkitten.blogspot.co.uk/2014/04/breaking-news-cjeu-says-that-private.html>

1709 Blog <http://the1709blog.blogspot.co.uk/2014/04/private-copying-of-unlawful.html>

IPKat <http://ipkitten.blogspot.co.uk/2014/04/what-does-aci-adam-decision-mean-for.html>

IPKat <http://the1709blog.blogspot.co.uk/2014/04/the-aci-adam-and-upc-telekabel.html>

Kluwer Copyright Blog <http://kluwercopyrightblog.com/2014/05/12/no-more-downloading-from-unlawful-sources/>

**Database right** (meta search engines)

* *Innoweb* (Case C-202/12) 19/12/13 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=145914&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=582997>

*See also*

1709 Blog <http://the1709blog.blogspot.co.uk/2013/12/cjeu-takes-foot-off-gaspedaal-then-puts.html>

IPKat <http://ipkitten.blogspot.co.uk/2013/12/stepping-on-gaspedaal-cjeu-rules-on-re.html>

Kluwer Copyright Blog <http://kluwercopyrightblog.com/2014/01/20/eu-does-innoweb-hinder-innovation-on-the-web/>

***Significant CJEU cases in progress***

*Advocate General Opinions* (i.e. advice to the CJEU)

**Parody**

* *Deckmyn v Vandersteen* Case C-201/13 22/05/14 <http://curia.europa.eu/juris/liste.jsf?num=C-201/13>

*See also* 1709 Blog <http://the1709blog.blogspot.co.uk/2014/07/deckmyn-suske-en-wiske-advocate.html>

**Reproduction and Communication to the Public Rights** (Digitisation of works without permission- Member State authorisation)

* *Technische Universität Darmstadt* (Case C-117/13)05/06/14 <http://curia.europa.eu/juris/documents.jsf?num=C-117/13>

*See also* IPKat <http://ipkitten.blogspot.co.uk/2014/06/breaking-ag-jaaskinen-says-that-member.html>

**Private copying and levies**

* *Copydan* (Case C-117/13) 18/06/14 <http://curia.europa.eu/juris/documents.jsf?num=C-117/13>

*See also* IPKat <http://ipkitten.blogspot.co.uk/2014/06/private-copying-and-levies-what-is-ag.html>

*Referrals from national courts*

**Private copying levies** (fair compensation)

*Hewlett-Packard Belgium* (Case C-572/13) 10/01/14 <http://curia.europa.eu/juris/liste.jsf?&num=C-572/13>

*See also* IPKat <http://ipkitten.blogspot.co.uk/2013/12/levies-fair-compensation-cjeu-its.html>

**Advocacy/Lobbying activities**

See above and <http://www.cilip.org.uk/cilip/advocacy-awards-and-projects/advocacy-and-campaigns/copyright>

**Educational activities**

**CILIP Copyright Executive Briefing 2014** <http://www.cilip.org.uk/cilip/events/cilip-copyright-executive-briefing> Keynote Speaker: the then IP Minister, Viscount Younger of Leckie

Download the [speaker presentations](http://www.cilip.org.uk/cilip/events/cilip-copyright-executive-briefing)

Read the [live blog of the event](http://www.cilip.org.uk/cilip/news/live-event-blog-copyright-executive-briefing)

Read [the press release](http://www.cilip.org.uk/cilip/news/information-professionals-welcome-minister-introducing-copyright-reforms)

**Strategic plans for the future**

Under development

**Other issues**

# Copyright notices

To make it easier for businesses and consumers to understand the implications of copyright law, the UK Government has launched the copyright notices service to provide ‘clear and reliable guidance on what is permissible under copyright law in the form of a concise note.’ <https://ipo.gov.uk/pro-types/pro-copy/c-notice.htm>

So far the IPO has issued one such Notice in March 2014 about use of digital images and photographs on the internet <https://ipo.gov.uk/pro-types/pro-copy/c-notice/c-notice-2014.htm> - see also 1709 Blog <http://the1709blog.blogspot.co.uk/2014/03/copyright-notice-ipo-publishes-its.html>

**Online enforcement**

* **Establishment of the City of London Police Intellectual Property Unit (PIPCU)** September 2013 with 2 years’ seed funding from the UK IPO <http://www.cityoflondon.police.uk/advice-and-support/fraud-and-economic-crime/pipcu/Pages/default.aspx>

“an operationally independent law enforcement unit dedicated to tackling serious and organised intellectual property crime (counterfeit and piracy) affecting physical and digital goods (with the exception of pharmaceutical goods). PIPCU’s focus will be on offences committed using an online platform” <http://www.cityoflondon.police.uk/advice-and-support/fraud-and-economic-crime/pipcu/Pages/About-PIPCU.aspx>

*See also*

Wikipedia <https://en.wikipedia.org/wiki/Police_Intellectual_Property_Crime_Unit>

Torrentfreak <http://torrentfreak.com/uk-police-takes-down-proxy-service-over-piracy-concerns-140806/>

* **‘3 strikes’ legislation** (Digital Economy Act 2010)

No statutory scheme is to be implemented as voluntary agreement reached with the major ISPs:

“Under the Creative Content UK alert programme, BT, Sky, Virgin and TalkTalk have committed to sending out up to four warning letters to each customer a year if their accounts have been identified as being used to breach copyright laws. Up to 2.5m alerts are expected to be issued within the first year of the scheme. The alert scheme is purely educational and awareness raising in nature and does not contain any mechanism that would see ISPs pass the details of suspected infringers on to rights holders to enable them to pursue redress.” Out-Law 24/07/14 <http://www.out-law.com/en/articles/2014/july/digital-economy-act-copyright-regime-shelved-by-uk-government/>

Prepared by

Barbara Stratton

Vice-Chair and International Spokesperson

Libraries and Archives Copyright Alliance (LACA)

06/08/2014