

Issue 16 – November 2014

Hello colleagues – I hope you are all well. It's been a little while since the last issue of the Copyright Maze and there are a number of items and issues I would like to talk about, draw to your attention and ask for some input from you.



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1 Licensing Organisation Update

Copyright Licensing Agency

It's difficult to know where to start with the Copyright Licensing Agency. The bills are out for the current academic year (2014/15) and unfortunately, there is very little change to the tariffs. We did manage to get one of the tariffs frozen for the year, along with the removal of data surveys involving internet use, but beyond that, we are still paying what many, including myself, regard as considerably over the odds for the service that CLA now offer.

The following points highlight the agreement that the four UK FE associations made with CLA. There was an offer from CLA for a 15% or 10% discount if one of the associations took on the full administration of the licence (15%) or if each association took on the admin for its own colleges (10%).

The associations rejected the offer because:

- There was a very short timescale to implement such a changeover
- There was no change whatsoever to the licence terms and conditions, including tariffs
- The associations were unsure of the VAT situation
- The associations were reluctant to take on any bad debts which accrued from this system.

Copyright Licensing Agency continued

So, the agreement for this current year is as follows:

- CLA will deal directly with member colleges for the 2014/15 licence
- CLA has frozen the 19+ tariff for 2014/15 – we argued that the other tariffs for under 19 and HE in FE should also be frozen, but they said that since these tariffs had already been agreed with other sectors, a freeze was not possible. The group feels that this just increases the need for a single FE tariff.
- CLA will pay a 5% rebate on the licence fee to member colleges in March 2015– if there is a 95% uptake by all UK member colleges (**uptake figures are unavailable for this issue of the newsletter**).
- CLA have agreed to share the data from their FE surveys to assist with the national group's negotiations (**given that the surveys have been so random and do not show representative data, there is little value in this offer to colleges. Had the data been robust and proved that colleges were using licensed works for photocopying and scanning, CLA would have been very quick to tell us**).
- CLA have agreed to suspend the collection of data relating to websites during their 2014/15 programme of surveys.

The bottom line is that the CLA bill, including VAT, for member colleges in Scotland this year is £648,000 – does that represent value for money? Are colleges still using CLA licensed materials to that extent? The answers I have received from some of you is a resounding 'no' to both questions. The dilemma that both parties have is that neither of us has sufficiently robust data to prove our arguments – and until we do, we are likely to remain in stalemate.

We have options – we could outright refuse to pay any further fees – from 2015/16 onwards unless CLA offer a significant change to their licence structure, but of course colleges are reluctant to take such a bold step due to the risks involved.

I would very much like to hear your views on this matter, please. I would like to see some form of transactional licensing introduced – pay-per-use. I have been presented with a proposal for a mobile app which appears to be able to deal with this, but there is a considerable amount of development work required, along with costs and the challenge of having both colleges and CLA accept this solution.

We have until April 2016 to see if we can reach some form of agreement that suits both parties, and the UK FE associations will continue to talk to CLA, but as I say, any suggestions that you can make in the meantime would be very welcome. My contact details are at the end of this newsletter.

Educational Recording Agency (ERA)

We had more success with the ERA in the negotiations for the current year's fees. We did receive reductions in both the FE and HE rates. Whether or not these compensated for the imposition of a single ERA licence (where previously there were 'standard' and 'plus' licences) is a matter for colleges to determine.

Again, I would be pleased to hear opinions on the value of an ERA licence in current educational practice. I am aware that some colleges have subscribed either to Box of Broadcasts (BoB) or Clickview, two programme recording database services, for recording and distribution of programmes and clips on their VLEs.

Educational Recording Agency (ERA) continued

I am also aware that a condition of subscription is the possession of an ERA licence, adding considerably to the cost of audio-visual resources. The interesting irony for me is that both BoB and Clickview provide accurate data on programmes recorded and used – would it take much to turn this into a form of transactional licensing where colleges then only paid for what they recorded, used and retained?

Along with this issue, there is the constant and ever-growing presence that is YouTube. This Google-owned service is becoming more and more legitimised and is producing an abundance of exceptionally good, high quality, contextual resources – and ERA doesn't license it. Any views and examples of effective YouTube use would also be helpful.

PRS for Music and Phonographic Performance Limited (PRS and PPL)

Negotiations with these music licensors are progressing. I put a proposal to them about a year ago that instead of having two licences for the non-curricular playing of music in a college, we only have one single licence and that it be determined by a common metric – not FTE as at present. Both licensors have been forthcoming in seeking a solution and I hope to have more news soon. The licensors are checking out the impact that the current and amended educational exceptions are likely to have on the playing of non-curricular music while the FE sector is working on the best form of metric/multiplier – and the appropriate rate.

At the moment, the thinking is that such a licence will take account of the exceptions for curricular use, thereby bringing in charges for what might be described as 'core' non-curricular music use – refectories, workrooms, reception areas, etc, which, including music in training areas such as restaurants, hair and beauty salons, would be covered by a flat rate. Any 'one-off' or 'featured' events such as dance, theatre, fashion shows, etc where there is a paying audience would be licensed separately.

The intention of the discussions is not necessarily to seek an overall reduction in fees (we will not accept any increase, however) but more to seek a simplified licence that all colleges understand and can buy into.

Newspaper Licensing Agency (NLA)

There is an element of mystery surrounding NLA and their future relationships with FE. CLA are acting as their collecting agency this academic year, but there has been no indication of what is going to happen beyond 2016. I am speculating that CLA will absorb NLA, who have suffered some court ruling setbacks recently and who also seem to be struggling against the internet for news reports.

Some college members in Scotland have told me recently that they have not renewed NLA licences due to the very low use of newspaper cuttings in the curriculum, and where there is a need, the presence of already paid for services offered by Jisc Collections. As soon as I hear anything, I will contact colleges.

If you have any views on this body, as with any of the others already mentioned, I would be very happy to hear from you.

2. Exceptions

Issue 15: June 2014, of the Copyright Maze highlighted the amendments that have been made to the educational exceptions in the 1988 Copyright Act.

All exceptions are now in force – the most recent to be introduced was s30 which now includes ‘quotation’ in its heading, so that it now reads – ‘Criticism, review, quotation and news reporting’ and s30A, headed ‘Caricature, parody or pastiche’ s30 is of particular interest for education. It falls under ‘fair dealing’ so any use claimed under this exception must be:

- for non-commercial purposes
- the work has been made available to the public
- the use of the quotation is fair dealing
- the extent of the quotation is no more than is required by the specific purpose for which it is used
- there must be a sufficient acknowledgement.

There are no definitions – ‘quotations’ are not restricted to text, so all other works become available – not sure how one would ‘quote’ from an image, but I’m sure someone will find a way. I think the critical statement in the exception is ‘the extent of the quotation is no more than is required by the specific purpose for which it is used’ – no indication or definition of ‘extent’ or ‘specific purpose’ – it’s the user’s call as to whether or not the use is fair. And there is no expectation of any recording and/or reporting of the quotations.

I have an example of the possible use of the amended exceptions in part 7 of this newsletter.

Perhaps a diligent and ‘fair’ use of the exceptions would help us think about moving away from the CLA licence, or at least reducing our exposure to it. Are book and reading lists still used to the same extent in colleges? Or, are URLs more common? If the latter, please consider using the exception of s29 (Research, private study and text and data analysis for non-commercial research). This exception allows staff and students to make single copies for their own purposes, as long as they qualify as research or private study for non-commercial research. I would suggest that this pretty much covers a lot of copying that occurs in colleges – if the work that a student requires has a URL, then just supply the link. The student can then choose to read from screen, save for later or print out a copy – none of which has to be covered by, for example, a CLA licence – perhaps worth thinking about.

3. CDN Webinars

I’ve already delivered a couple of webinars for CDN this year – two in June on Fair Dealing and the Elements of Risk Management in Colleges. I have more planned into the New Year – details will be available on the CDN website.

4. CDN event – Thursday 11 December 2014

Many of you will be using, or thinking about using Open Education Resources (OER) for a number of reasons. OER have existed for a number of years, in a variety of forms. Those that we are dealing with now often are made available for universal use through an open licence such as Creative Commons. Whereas works and resources have usually been accompanied by the phrase ‘all rights reserved’, meaning that permission and/or a licence would be needed for use, OER come with a licence which states ‘some rights reserved’.

The event on 11 December, at CDN in Stirling, will look at the growth of OER and how resources can be shared by colleges. OER, without me seeming to have too much of a down on CLA, are extremely useful in a college’s portfolio if they wish to reduce their exposure, not just to CLA, but to all the licensing organisations. OER cover the full range of works, and usefully, are often applied in audiovisual works which are notoriously difficult to license given the wide range of rights in each package.

I look forward to seeing you in Stirling on Thursday 11 December – Why not book your place now <http://events.collegedevelopmentnetwork.ac.uk/events/show/5100>

5. The Copyright Hub – www.copyrighthub.co.uk

As well as my work with the FE sector in Scotland, I am also now a member of the Executive Board of the Copyright Hub. In the Hargreaves Review of Intellectual Property in the UK, one of the recommendations was the creation of Digital Copyright Exchanges (DCE) and the Hub is now such an outcome. The Hub is being designed to be the meeting place for creators and users of copyright works to obtain and distribute permissions and licences for any format of work. The major licensing contracts in the creative world will still exist, with the Hub designed for the smaller transactions.

There will very soon be a working beta version available and I would ask that anyone who is interested take a look at what is there at the moment and if you have any comments, criticisms or observations, please send them on to me.

I am the user representative on the Hub and although I have my own views on how it should interact with users, I would welcome any contributions you have to make.

I’ll keep you up to date with developments in future newsletters.

In the meantime, here is the first video to be issued by the Hub – see what you think

<http://www.copyrighthub.co.uk/video>

6. Copyright Education

Not entirely unrelated to the previous item, the Copyright Hub, is the challenging subject of copyright education. I believe that copyright education for staff and students is extremely important in all our member colleges. As the user director on the Copyright Hub, I am trying to persuade my colleagues on the Board that the Hub will not work if the potential users don’t know what to expect and how to react to the Hub. Copyright is a complete turn-off for many people and it is treated as some form of dark art which is to be feared and kept at bay at all costs.

6. Copyright Education continued

This is unfortunate because copyright is an extremely useful concept and we need to look at what it allows users to do rather than prevent or deter usage of other people's work.

There are a number of guides on the web, including my own (please see copyright toolkit at <http://www.collegesscotland.ac.uk/learning-teaching/cdncopyrightcdn>) and I have already recommended using www.copyrightuser.org for the purposes of education. The Colleges Scotland toolkit needs to be updated and I hope to have it refreshed and published for the start of 2015 – it will include updates in all sections and additions on the recently implemented exceptions.

I come back again to our trials and tribulations with CLA (honestly it's not an obsession – I just feel that colleges in Scotland are paying way over the odds for a service that neither provides value for money, nor reflects current practice in learning and teaching) and would just say that if we can produce a well educated (in copyright terms) FE community, we would be able to reduce our exposure to the Collective Management Organisations – not just CLA, but ERA and NLA as well. If you would like me to visit your college to help with a copyright audit, or carry out staff/student development in the form of a workshop, please don't hesitate to contact me. Contact details at the end of this newsletter.

7. Recent Questions and Answers from the Helpdesk

Thanks to all who keep me occupied on the helpdesk with questions about copyright. In the spirit of encouraging people to share their materials, I will now be including recent questions and answers in this and future issues of the newsletter. All questions are anonymised. Here's the first – on the very popular topic of image use:

Question A – about correct acknowledgement of a copied work

I received a request for a copyright free image of Usain Bolt. I've been on the Flickrcc site and have identified a suitable one (the link is below). My question is regarding acknowledging the source of the image. Would it be enough in this instance to just put '© Thor Matthiasson' next to the picture? I heard on the webinar that you can/should take the licence down with the image but I don't know how to do this.

Answer A

This is a suitable image – and it is absolutely clear – I checked it on TinEye – if you haven't come across this, it's a program to reverse search an image and it can tell you where it has come from and how many times it has been used. (www.tineye.com) If you look at the sidebar on the right of the image, there is a link to the licence – it says 'some rights reserved' and takes you to the CC licence. If you can add that link, that would be helpful, but if that's impractical, I would just add to your acknowledgement slightly by saying – © Thor Matthiasson, some rights reserved Flickr CC. The other option is to cite it somewhere in the document if possible.

Answer A continued

The amended exception s32 which is now in force, clearly states that a work does not infringe copyright if the dealing is:

- a. for a non-commercial purpose*
- b. by a person giving or receiving instruction*
- c. accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise).*

The more I read this clause the more I think it is almost (almost!) a catch-all for images especially. There is no mention of how much of the work can be copied (always been difficult with images), nor of which platform is to be used, nor does the word 'communication' get a mention, so there appears to be no restriction on posting copies on the web.

The section almost seems too good to be true and you know what they say about that – or maybe it's all those years of risk aversion coming to the fore!

Question B about section 36 of the Copyright Act

If a lecturer wants to use a text that is not covered by the CLA licence, can they make multiple copies of no more than 5% of the work under 'fair dealings' or does this new clause only permit for the work to be shown on a SMART board, etc?

Answer B about section 36 of the Copyright Act

Yes, the lecturer can make copies of up to 5% of non-CLA works under s36 of the Act – there is no restriction on the method of copying, so photocopying, scanning and interactive whiteboards are all acceptable. The clause does say that "not more than 5% of a work may be copied under this section by or on behalf of an educational establishment in any period of 12 months" but there is no requirement to keep any records of what copying is undertaken, so in a college, unless all such copying is done centrally, which I think is unlikely these days, it would be challenging to keep an account of who's copying what and from where.

Question B about section 29 of the Copyright Act

Can students, using the 'research' exception make copies of newspapers, sheet music and maps now under the wider remit?

Answer B about section 29 of the Copyright Act

Yes they can – in fact, they've always been able to do this under s29, 'Research and private study' – this just seemed to be an exception that few people seemed to know about and even fewer actually used. The advantage of the amended s29 which is now entitled 'research, private study and text and data analysis for non-commercial research' is that all works are now covered, whereas previously, s29 only applied to literary, dramatic, musical and artistic works.

The amended clause makes no distinction on works, so broadcasts, films and sound recordings are now all available.

7. Recent Questions and Answers from the Helpdesk continued

Question C – A question about the usefulness of a list of materials for learning and teaching in colleges

X highlighted the resources offered by OU this week. As good as it sounds? Free resources and courses to support new managers, teaching and support staff

- OpenLearn – over 10,000 hours of free educational resources
<http://www.open.edu/openlearn/tags>
- Business Perspectives – blogs and webinars <http://openbusinessperspectives.com/>
- MOOCs from FutureLearn <https://www.futurelearn.com/courses/upcoming>
- Research Portal <http://oro.open.ac.uk/> (I've attached Professor Jean Hartley's paper on frugal innovation)
- E-journals from our e-Library <http://www.open.ac.uk/libraryservices/pages/oair/>
- Skills for study resources <http://www2.open.ac.uk/students/skillsforstudy/>
- Landing page to signpost options and pathways – examples include NES (<http://www.open.ac.uk/choose/ou/nessqa>) and Lloyds Banking Group (<http://www.open.ac.uk/choose/ou/lloydsbanking>)
- CPD – non accredited, flexible, online, short, outcomes-based courses:
<http://www.open.ac.uk/courses/short-courses>
- Access courses to build confidence and skills with 1–1 tutor support (may be free for qualifying Scotland residents) <http://www.open.ac.uk/courses/do-it/access>
- Accredited modules and qualifications of potential interest

Business, leadership and management

- 'Management practice' <http://www.open.ac.uk/courses/modules/b123>
- 'Making it happen! Leadership, influence and change'
<http://www.open.ac.uk/courses/modules/b204>
- 'Change, strategy and projects at work'
<http://www.open.ac.uk/courses/modules/t227#registration>
- 'Managing across organisational and cultural boundaries'
<http://www.open.ac.uk/courses/modules/b325>
- 'Making sense of strategy' <http://www.open.ac.uk/courses/modules/b301>
- Professional Certificate in Management
<http://www.open.ac.uk/courses/qualifications/s01>
- 'CPD in practice' <http://www.open.ac.uk/postgraduate/modules/u810>
- 'Business operations: delivering value'
<http://www.open.ac.uk/postgraduate/modules/t883>
- 'Project management' <http://www.open.ac.uk/postgraduate/modules/m815>
- MBA <http://www.open.ac.uk/postgraduate/qualifications/f61>

- MSc in Systems Thinking in Practice
<http://www.open.ac.uk/postgraduate/qualifications/f47>

Teaching and learning

- 'Equality, participation and inclusion' <http://www.open.ac.uk/courses/modules/e214>
- 'Technology-enhanced learning' <http://www.open.ac.uk/postgraduate/modules/h800>
- 'Curriculum, learning and society' <http://www.open.ac.uk/postgraduate/modules/e846>
- 'Educational leadership' <http://www.open.ac.uk/postgraduate/modules/e856>
- MEd (with leadership and management specialism)
<http://www.open.ac.uk/postgraduate/f01-route-5>
- MA in Online and Distance Education
<http://www.open.ac.uk/postgraduate/qualifications/f10>

Others

- 'Understanding the autism spectrum' <http://www.open.ac.uk/courses/modules/sk124>
- An introduction to law in contemporary Scotland'
<http://www.open.ac.uk/courses/modules/w150>
- 'English for academic purposes online' <http://www.open.ac.uk/courses/modules/l185>
- 'Communication and IT' <http://www.open.ac.uk/courses/modules/t215>
- 'Keeping ahead in ICT' <http://www.open.ac.uk/courses/modules/t324>
- 'Professional communication skills for business studies'
<http://www.open.ac.uk/courses/modules/lb160>
- 'Marketing and society' <http://www.open.ac.uk/courses/modules/b324>
- Professional Certificate in Accounting <http://www.open.ac.uk/courses/qualifications/s25>

Answer C

Thanks for this – it's an interesting list. Everything's fine – copyright cleared and free – down to the Skills for Study Courses. Beyond that there is a hefty fee for the modules – they are all part of the OU proper. The other links take the reader to various OU spin offs – Future Learn and Open learn.

There are tons of good stuff in the free sites, and well worth recommending to colleagues throughout FE for their and their students' use.

The only thing to watch out for in the Future Learn and Open Learn materials is that the OU are always trying to up-sell and there are links to what appears to be other relevant modules, but when accessed, you realise that you will have to pay for them – but there should be no danger of infringement – the materials can't be accessed until the user registers.

7. Recent Questions and Answers from the Helpdesk continued

Question D – Relating to the use of recordings of lectures

I wonder if you could give me some advice. We have had an issue raised with regard to students being allowed to record lessons as a form of reasonable adjustment under the Equality Act 2010 (usually for dyslexic and partially deaf students).

The college has protocols in place that must be adhered to by the student and agreed with the lecturer. What might the copyright and data protection implications of this be for the student involved, the lecturer and other students in the class?

Answer D

Pretty much all the copyright that we can deal with happily in a lesson goes out the door when we record a lesson/lecture. The main reason is that materials cleared and/or licences for class use don't normally come with permissions to be used on recordings. So:

- 1. What are the recordings to be used for? Purely class work? Assessment? On student blogs? Loaded on the VLE for accessibility purposes? Used as examples of good practice and if so where are the recordings going to end up? On the internet? Obviously, the greater distribution to a wider audience, the greater the challenges. From what you say however, I am making an assumption that lessons are being recorded so that learners with a visual or hearing impairment can view them at a time and pace that suits their needs – and at best/worst, the recordings will end up only on a DVD for the student to take away or on the VLE for access at a time and place that is appropriate to their needs.*

Even if this is the extent of the requirement, challenges still remain and although learners and tutors may question the detail of the challenge, colleges must be seen to be doing the right thing.

- 2. Are the materials – text, images, artistic works, broadcasts, sound recordings – cleared for use? They will be if they belong to the college through the creative talents of the staff (and learners and either come under employee/employer ownership of works or if the learners have assigned or given permission for their works to be included in a recording. If they are being used under licence such as CLA, ERA, PRS for example, then it's unlikely that they will be cleared for recording, and depending on the importance of the recording and how risk-aware the college is, it may be necessary to seek clearance.*
- 3. Have the participants – both learners and tutors – given written permission for their faces and voices to be recorded and has it been explained to all parties what use will be made of the recordings and where they will be distributed? Release forms will be needed, both for copyright permission covering their contributions and for DP purposes to allow their information to be processed.*

7. Recent Questions and Answers from the Helpdesk continued

Answer D continued

4. *It may be that there are exceptions which could be used – in addition to the 2010 legislation you mention, there are now further exceptions for delivering resources to those with impairments under the recently amended educational exceptions – I can send you further details if you haven't already come across them.*
5. *With recordings there is the added challenge of people saying something which has been recorded when they shouldn't have said anything. Off the cuff remarks in a live lesson may not be remembered for very long whereas the recording could come back to haunt.*

Question E – Popular topic in the last few weeks – Film Clubs in colleges

Our students would like to start a movie club at the College for the purposes of discussion, debate and socialisation among students. There are no plans to charge anyone to attend, it would happen during normal College hours and the students would bring in their own DVDs to view. Is this permissible?

Answer E

As you probably know, this one is playing at the murky margins of the black underbelly of copyright! In other words, it's a grey area!

Unless the group is being brought together for course purposes, there is no licence that covers this activity.

The fateful words you use are 'movie club'. Strictly speaking (those horrible words again) this should be done through either Filmbank or MPLC (motion Picture Licensing Company) with the movies ordered through them. And still strictly speaking, the students can't bring in their own DVDs – they could, under s34 (2) of the Act, if it was for curricular purposes because that's an exception, but the exception doesn't extend to group, non-curricular use – on those occasions, the terms and conditions of the DVD kick in and the terms and conditions say for individual, private, domestic use only – and this is now public use of the movies.

It's the usual quandary – if the students decide to go ahead, who's to know and would the rights' owners ever find out? On the other hand, showing a good example, demonstrating good practice go out the door and the college takes an unwarranted risk.

If the risk is taken and the activity is discovered, I'm pretty sure that senior management wouldn't be too chuffed.

7. Recent Questions and Answers from the Helpdesk continued

Question F – Copying non CLA licensed materials and the impact of the amended exceptions

Hope things are well with you. We are back in the full swing of things with students and staff hence the following query from one of our lecturers. Glad to see she's got the point about not copying from newspapers as we no longer hold a NLA licence but do the shop leaflet/magazines come under this or do they come under the CLA licence?

I know we are not able to copy newspapers as we aren't covered for the copyright anymore, but can I just confirm, does this also include those magazines and leaflets which you pick up in shops like M&S, Tesco and John Lewis??

Answer F

Thanks for your query – good to hear from you. The items you mention aren't covered by any licence, but no need to despair – two of the recently amended exceptions – sections 30 and 32 will do nicely for your colleague. Both exceptions are based on the principles of fair dealing:

- 1. copying for non-commercial use only*
- 2. copying done by person giving or receiving instruction*
- 3. acknowledgement given where practicable.*

S30 is for quotation, s32 is called 'Illustration for instruction' – I would say that either would apply in this case. And the items can be loaded on to the VLE – no restrictions on the methods of copying.

Hope this helps – let me know if you need any further assistance. The new and amended exceptions promise to be helpful to education and I'm in the process of writing guidance on them.

Question G – A question about the use of images

Some of the team attended your training event but unfortunately I was unable to attend. They have informed me that images can be used in teaching materials without copyright permissions or any statement of source on the materials? I just wanted to make sure this is the case as this is different to my previous understanding.

Answer G

I've gone back through my presentation and I think I can see where your colleagues are coming from. I paid quite a bit of attention to the recently amended educational exceptions in the educational part of the 1988 Copyright Act and although the amended s32 and s36 do give us considerably more flexibility than previously, we should still exercise an element of caution.

7. Recent Questions and Answers from the Helpdesk continued

Answer G continued

Without getting into too much fine detail and boring the socks off you, the amendments to the educational exceptions now are all covered by the concept of 'fair dealing'. This means that works (including images) can be used without seeking permission from the rights holder, but their use must be qualified as follows:

*for non-commercial purpose
by a person giving or receiving instruction (or preparing for giving and receiving instruction)
accompanied by a sufficient acknowledgement (unless this would be impossible for reasons of practicality or otherwise)*

So it is perfectly legitimate to use someone's work, if the user complies with the conditions above – I certainly don't remember saying that no acknowledgement was necessary – I think I actually said that it is very good practice to give credit when using someone else's images (or any other category of work for that matter).

Care still has to be taken with the likes of the commercial image galleries on the Web – Getty, Reuters, Bridgman, etc, etc – until we get some case law or case studies (the amendments only came into force on 1 June this year). I am not sure if a college lecturer would be able to take a Getty image under the exceptions. The image libraries themselves are poring over the fine detail of the exceptions, but part of the problem for both user and creator is that there is a distinct lack of definition and any use is open to interpretation.

I did say to your colleagues why would they want to take the risk (real or otherwise) with the likes of Getty when there are so many other images online – available from Jisc and Flickr for example. Perversely, there are thousands of Getty images available on the Jisc Media Hub site - licensed by Jisc for HE and FE use. I think the issue is that staff have to look for those images and go through the college secure network – they would rather just cut and paste from what they find on the Web.

So, yes – they can use images without permission (just still suggest care with Getty if taken directly) but they really must make an effort to give an acknowledgement. I think I have been misquoted here – I really can't imagine that I would have said that no credit need be given.

Hope this helps – I could write you a book about images and the new exceptions, but it would be sub-titled 'A guaranteed cure for insomnia' – wouldn't wish that on anyone.

7. Recent Questions and Answers from the Helpdesk continued

Question H Part one: another one on student film clubs – with more detail

Our students' association wants to run monthly film nights. These will be free events put on for students' entertainment. There may be an 'educational' element to some but most will just be for entertainment.

Looking around I've found the Public Video Screening Licence. http://www.filmbank.co.uk/licences/public_video_screening.asp

Would this be our best option or do you know of anything better that might fit what we're looking for?

Answer H Part one

Re your question, yes, if you are using films (DVDs) that the college already owns, then the PVSL is the way to go – I would think you would fall into the £112 tariff. If the club wants to show more up-to-date movies, then they will need to hire them from Filmbank, along with the STSL licence (for single screenings).

There is another organisation in this market – Motion Picture Licensing Company (MPLC) and they operate in a similar way to Filmbank. Your choice should be dependent on the Movie Company or distributor – Filmbank and MPLC represent different studios, but Filmbank has by far the largest selection.

It won't matter if there is an 'educational' theme to the movies – the fact that they are being shown outwith the curriculum means that their use doesn't fall under the educational exceptions of s32 and s34 of the 1988 Copyright Act and as such, they have to be separately licensed.

Hope this helps – do let me know if you have any views on the CLA licence, please – we can't let the current situation continue – it appears that FE is paying way over the odds for a licence that is declining in use as alternative resources are being adopted.

Question H Part two

Many thanks for your quick response and I'll pass the details onto the Students' Association.

As for the CLA licence – We had a CLA audit about two and a half years ago. When they came to empty the yellow bins they provide the number of returns was embarrassingly low. Staff just don't seem to be photocopying as much from books and magazines to a point that justifies the licence fee.

I have raised this as an issue with our Vice-Principal, who listened to what I had to say and I felt he considered it carefully. But he wanted to keep paying the licence as a safety net in the time being.

Perhaps, I should go back to him and suggest an action plan to gather some evidence. I can survey the staff in the College to find out what they are copying or scanning and how often. We could use that evidence to make more informed decisions and in discussions with the CLA.

Answer H Part two

Thanks for your message. I thought you might be interested in the following comments from Filmbank – I would suggest that your events are classed as ‘impromptu’! The following quotes are from Filmbank

‘You are correct in that the FEs are able to use their own DVD/Blu-ray copies to show films.

Our PVS Licence is our annual licence and is there for impromptu, background and unplanned screenings, such as wet weather breaks and communal areas that have TVs/DVD players.

Our STS Licence is for planned screenings, so if the FE wanted to put on a movie night with a pre-determined film then they would need this licence. They could charge tickets and fall under our commercial STSL licence, or if it was free entry then it would fall under our non-Commercial licence. Our prices start from £83 and it’s based on the audience size, details here: <http://www.filmbank.co.uk/images/92288/stslpricing.pdf>

Re CLA – any help you can give in the way of usage would be extremely helpful. There are a number of thoughts, processes, proposals, etc on the go re CLA and I am trying to bring them together to make some sense – and provide a briefing document for people like your Vice-Principal.

If you needed any support for your copyright training, please let me know – one of the aspects I have been pushing strongly at recent CPD events I have done is how to use the new and amended exceptions in the copyright Act – the sections 30 (Quotation), 32, (Illustration for Instruction) 34 (Performing, playing, etc – this stays the same, but seems not to be well used in colleges) and 36 (copying and use of extracts of works by educational establishments) provide a flexibility for users to use materials previously only available through permissions and clearances.

The government, in promoting the exceptions, through the Intellectual Property Office, says:

‘Modernising the education exceptions will allow educational establishments to make use of a broader range of copyright works with a wider range of technologies without risking copyright infringement. This will enable them to provide an enriched learning environment, would acknowledge the value of education, and has the potential to reduce the administrative costs faced by educational establishments’.

In my opinion, colleges have to start making use of these exceptions, along with s29 which allows ‘Research, private study and text and data analysis for non-commercial research’ – give the students URLs and let them make up their own minds whether to copy, print, download, etc – this will help reduce reliance on CLA.

8. Useful Links

Citizen Maths

You may have already have come across this link – <http://www.citizenmaths.com> – I think it has been circulated through a number of the networks. If you haven't, I would suggest it is well worth a look as an example of Open Education Resources.

Copyright Education

I've already mentioned www.copyrightuser.org as a useful source on information for copyright education. I think it is as neutral (if neutral can be qualified) as possible. For something a little more controversial, even seditious, have a look at www.copy-me.org – recently published and very interesting – certainly not a website recommended by the big licensing agencies!

One last recommendation on copyright education – Mike Weatherly was the Prime Minister's adviser on IP until the day that he published this report – www.mikeweatherleyp.com/wp-content/uploads/2014/10/11.pdf

I think it makes very interesting reading and I certainly agree with the propositions regarding the introduction of copyright to the curriculum – not exactly sure, however, how this will be achieved.

And Finally

Thanks for reading the newsletter – if you are still here – it's been a lengthy issue, but I make no apologies – copyright is changing in so many ways – and staying the same in so many others. College staff and students have to be aware of what's happening. The changes to the exceptions have been welcomed by the user community, but the creative industries are not as welcoming. They see the exceptions as a threat to potential income and the more we use the exceptions, the more they will try to find other ways of licensing materials – and the internet is always there to help both sides keep an eye on each other.

I continue to be delighted to receive your questions, comments and queries regarding copyright legislation and licensing.

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