



Issue 14 – February 2014

Hello colleagues and fellow copyright enthusiasts,

Welcome to the first Copyright Maze Newsletter of 2014. This promises to be a very interesting year for copyright in your college. We are still anticipating favourable changes to the educational exceptions and look forward to an official announcement in early April.

On the licensing side, there could be considerable changes this year. Here's a synopsis of where we are with each of the major licensors.



Copyright Licensing Agency (CLA)

The comments and questions I receive from colleges through the helpdesk continue to affirm my view that FE, not just in Scotland, but throughout the UK, really needs to be strong with CLA in negotiating a new licence that accurately reflects the usage of third party materials in colleges. There appears to be no evidence that any college is maintaining, far less increasing, their levels of third party photocopying and scanning. I have visited a number of colleges since the last newsletter and have been involved in a number of meetings with college staff and with the CLA, and I detect a definite shift in the views of both licensor and licensee.

In my last newsletter, I had news that CLA were claiming that clients were returning to their fold. Well, different news in this newsletter. I have met representatives from a couple of English colleges who have put in place a no-copy and alternative resources policy and have not renewed their CLA licences and have not been hassled by CLA. On a larger scale, The Cabinet Office, responsible for the CLA licences in Government departments throughout the UK, has negotiated a single licence with a reduction in annual fees from £1.7 million to £600,000 – a saving of 65%.

CLA persist with their claims that their licence is necessary for copying websites, but there is no support for this from users, not unexpectedly! I can see no evidence that colleges are going to websites and making multiple copies of the materials on those sites – why would they? All that is required is the sharing of the URL and reminding the learner that they can do as they wish – view the site, bookmark it for further reference, or print off any material that they require.

This 'fair dealing' approach under s29 Research and Private Study, of the 1988 Act is perfectly acceptable, as is s30 Criticism and review. And there has been a recent ruling in Europe, which applies to the UK, that upholds the view that the sharing of a URL is not an infringement of copyright.

Colleges Scotland has gathered considerable information from member colleges recently and will be using this to substantiate a stronger approach to CLA for a request to reduce fees and negotiate a new licence. For this to happen, the support of all college management is required – and we're working on that as well. More information as the story unfolds.

Educational Recording Agency (ERA)

Changes coming here as well. We are in discussions with ERA over their proposals for a new licence, which, if agreed, would come into effect in August this year. As you may know, ERA has been offering and operating two licences for a number of years now – the "standard" licence which allows recordings to be played within the confines of a college campus and the 'plus' licence which allows recordings not just to be stored on a server, but also distribution to remote sites (but not abroad) via the college VLE.

They now want to combine the licences, and in their proposal, there would be no price increase, just the combining of the two rates. That sounds all well and good, but there are a number of colleges who have been managing very well with just the 'Standard' licence and may have to consider paying a higher price for a service they don't require.

Another of the proposals from ERA is the offering of a three-year deal, which isn't offering any financial incentive – prices would actually rise year-on-year.

Again, evidence from colleges indicates that alternative audio visual resources are being sourced and at a price lower than the annual ERA licence. And there is the added complication of YouTube which, contrary to the normal risk adverse approach of member colleges, would appear to be widely used throughout the curriculum.

YouTube is only licensed by itself for individual, private use and as such is outwith the scope of the ERA licence. According to ERA, the only time that YouTube is legitimised is when the content comes from an ERA stakeholder. However, YouTube has legitimised itself by introducing YouTube channels, used by colleges themselves and now by offering content that comes with a Creative Commons licence, which is not under the control of ERA.

Times, methods, approaches of teaching and learning are undoubtedly changing, and will continue to change rapidly in the digital world. ERA have changed through the years and have made transition relatively straightforward as we moved from physical video tapes into digital storage, but I wonder if the move towards students using their own devices and with access not only to YouTube but many other video sources such as iTunes U and many of the Jisc services, is a step too far for ERA. Again, the next few months will tell and I will keep you posted of developments.

PRS for Music and Phonographic Performance Limited (PPL)

Thanks to everyone who uses the helpdesk by contacting me either by phone or e-mail – your questions do cover just about every aspect of copyright in colleges, and the most common enquiry is about music. The arcane and convoluted rules and regulations of the two music licensing bodies certainly keep everyone tied in knots, but (and it is a big but) we might just be making some progress. I have had a few meetings with both organisations in the past year and to their credit, both licensors do admit that they themselves aren't happy with their educational licensing.

The reasons we find ourselves in the current situation basically comes down to the fact that after incorporation, neither organisation knew what to do with colleges. Fees had previously been top-sliced by local authorities and colleges had little to do with the agencies. After some soul-searching by the agencies, they effectively imposed commercial licences on non-commercial activities in colleges. The current Copyright Act has the very good exception in s34 which allows recorded music to be played for the purposes of instruction and it is a generous exception in that it is not tightly defined.

I have drafted a very simple licence for the two organisations to consider – what I have asked for is a combined, single licence to cover the playing of music in a non-curricular situation. If my proposal is accepted, we would be able to move away from measuring floor space, counting the number of events, the number of chairs in a salon or restaurant etc.

Interestingly, the UK Government is also asking the two agencies to think about their operations – they currently have well over 100 tariffs and they are being asked to consolidate them as much as possible. Another story I will continue to report on as it unfolds.

Open University RightsBox

The Librarians Development Network has been working away over the past year looking at ways in which college staff can be supported in a move away from the CLA licence – and others, over a period of time. I've been advising the group on copyright and giving what assistance I can. The group is advocating the use of College Development Network's [Re:Source](#) for the sharing of college devised resources and to tie in with that, we had a meeting with representatives from the Open University (OU) recently.

The OU have none of the collective licences that the colleges have – they clear all the third party materials that they require for their courses by applying for permissions from the rights' holders – and by using the criticism and review exception.

They manage their permissions and clearances through software they have developed and which they are now making available, for trial, to FE in Scotland. It may be too late to become involved in the pilot, which is being managed by Jennifer Loudon at City of Glasgow College, but please do contact her for further information. The pilot is being run in tandem with the CLA licence, so colleges aren't taking any unnecessary risks. If the pilot is successful, and prices are mutually beneficial, then we may see the adoption of the service to cover the times when a licence and/or permission are required. Please contact Jennifer for further information: jennifer.louden@cityofglasgowcollege.ac.uk

Jisc and Jorum Project

Another very interesting project for Further Education can be found on the [Jorum](#) website. Projects such as this will continue to help colleges become much less dependent on the major licensing agencies by providing copyright cleared materials, designed for particular aspects of the curriculum. Please look at it, support it as it gains momentum through 2014 and spread the news to all your colleagues through all available networks.

Classroom Video

Still with the search for alternative resources that might just help move away from the major licensors and which may be much more economic, I was delighted to get an enquiry from one of our member colleges about the streaming service which is available from Classroom Video. I was especially interested in this because this company is a name from my past when I was working in Dundee and looking after the audio visual department (also the time when I became embroiled with copyright!). At that time, the company provided pre-recorded VHS tapes (some of my more mature readers can explain VHS to the younger ones) and now, they have embraced digital technology and offer a very attractive streaming service.

The query I got was asking whether or not an ERA licence was required to receive the streaming because there were BBC programmes on offer. The answer, is no, the ERA licence is not required – Classroom Video has bought the streaming rights to the programmes, many of which come from BBC Active, one of the corporation's commercial subsidiaries. Some of the programmes have been made specifically by BBC Active for education, but others on offer are programmes which have been originally broadcast on BBC. Streamed programmes can be accessed by any number of students at the same time.

I would suggest that this is worth a look, if you haven't already come across them. You can find them at www.classroomvideo.co.uk – and I know there are many other such suppliers which you may already be using. Please let me know and we can share the information through the Librarians Network and this newsletter.

197 Educational Channels you should know about

Apologies if you've already received this information – it popped up on Scoop.it! and I shared it with some of you just before Christmas. We've tried to update the mailing list in light of changes throughout the colleges in recent months and a number of new names have been added. And we're open to any other names being added to the copyright information list. The link for this rather good piece on alternative educational resources is - <http://www.opencolleges.edu.au/informed/features/197-educational-youtube-channels/>

Please don't be put off by the Australian Domain Name. The YouTube channels have been curated from all over the world and are as applicable here as anywhere else. I have to say that I think this is a superb resource. Yes, you'll have to pick your way through a wide range of sites and videos, but when I was teaching, I had to work my way through considerable amounts of textbooks – now, the resource search can be done online and onscreen. And one of the great beauties of this collection is that you can curate your own selection of videos to suit your learners.

If for no other reason, visit the [British Film Institute](#) (BFI) – how much more variety I would have had when teaching TV and media studies (remember that was in the days of VHS, Gestetners and Bandas)

A couple of other websites for you:

I was fortunate enough to see the Beta version of this site www.copyrightuser.org some months ago, but couldn't report on it, because there was no general access to it and it seemed to have all gone quiet. But thankfully, it's reappeared and is a very good, unbiased source of copyright information and resources. I would commend this to you, at risk of making myself redundant! If you use it for nothing else, please look at the [video](#) on Copyright and creativity – it is an excellent encapsulation of the history of copyright, where we are now with the mess that is licensing and how we may move forward.

Another site I would like to bring to your attention is www.copyrighthub.co.uk. I have to declare an interest because I have been invited to sit on the Board of the Hub Company as a Director representing user interests. The Copyright Hub is a hugely ambitious project, first mooted in the Hargreaves Review, and is now in its first phase. The website is very much in Beta mode, but it will give you an idea of what the Hub intends to do. Simply, it is being designed to be a one-stop shop to put creators with works to be licensed in touch with users who are looking for permissions. As with the Copyright User website, the Hub is designed to be neutral and not espouse the cause of one set of creators, users or licensors above any other. The Hub will lead you to other sites, such as the major licensors, but it will also lead you to other neutral sites. Please try to take some time to have a look at it and let me have your comments.

Finally

Please remember that the newsletter is just one part of the service that I provide for member colleges in Scotland. I run a helpdesk for all copyright issues. Contact details are coming up. I'm also happy to come to your college to talk to staff and students about any aspect of copyright.

I am Alan Rae, the copyright consultant for all members of the Scottish college community, and I will be very pleased to hear from you with any comments, questions and suggestions you have. Contact me:

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