

3rd Europeana Licensing workshop Luxembourg

Crossborder solutions to Extended Collective Licensing

20th and 21st November 2014

About the workshop

The workshop is part of research undertaken as part of the Europeana Awareness project by the Bibliothèque nationale de Luxembourg, Kennisland and the Institute for Information Law (IViR) of the University of Amsterdam, on the legal framework for cross-border licensing of copyright protected works in Europe. This 3rd Europeana Licensing workshop builds on the outcomes of the previous two workshops, in the light of the latest developments taking place at Member State level to address the problems associated with clearing rights on orphan works and out-of-commerce works.

Program

Thursday 20th November (Discussion)

10h30 Arrival, Registration

11h00-12h00 Topic 1: Discussion on the superiority of the recognition of the principle of country of origin of the work (COW) as unique point of attachment for the validity of ECL within the EU, for example, over the usually accepted principle of country of destination (COD) where the rights must be cleared in every country where the works are accessible?

- A. Compatibility with art. 5 of the Berne Convention and with Treaty for the Functioning of EU (art. 18, prohibition on discrimination) ((D5.4 report: point 3.2)
- B. Is COW appropriate for all types of works/collections? (D5.4 report: point 2.3) Are there certain categories of works that really do not lend themselves to this solution (for ex. co-productions etc.)?

12h00-13h00 Topic 2: Discussion on the representativeness of the collective right management organisation (CRMO) and impact on rights owners (D5.4 report: point 2.1)

- A. Is representativeness easy to establish under a COW regime?
- B. Estimates of the proportions of members/non-members of COW (nationals/foreign)?
- C. Opt-out possibilities (D5.4 report: point 2.2)

13h00-14h00 Lunch

14h00-16h00 Topic 3: Discussion of the impact on the users

- A. Conditions of use:(D5.4 report: point 2.6)
 - i. Which mechanism should be used to recognise the conditions of application of the ECL licence in other countries (for ex. payment of ECL fees; duration of agreement; commercial/non-commercial uses)?
 - ii. Who pays? Who negotiates? How should the fee be established/calculated?

- iii. Is there a 'quid pro quo' between CHIs across Europe? Especially for low commercial interest, the tendency over time could be towards zero - for high commercial interest, is the CRMO best motivated negotiator?
 - iv. Would a cut-off date at approx. 1950 represent a pragmatic compromise?
- B. Scope of licence: (D5.4 report: point 2.5)
- C. Definition of user group (D5.4 report: 2.4)

16h20 Workshop ends (we need to vacate the main meeting room by 16h30, as it will be re-arranged for an evening event. There is a lounge area and a smaller meeting room at our disposal upstairs if required.)

Friday 21st November (Continued discussion and presentations)

08h30 Arrival, Registration (please sign in, required for reimbursement)

10h30 Coffee break

9h00-16h30 Workshop

A walking lunch is offered from 13h to 14h.

09h00-10h30 Presentations, 15 mins each (order tbc)

- ❖ Andrew Farrow – Relevant concerns from implementing RDI, LCC and the Copyright Hub, Rightscom
- ❖ Armin Talke – The German MOU implementation, Staatsbibliothek zu Berlin
- ❖ Juliette Dutour – The French MOU implementation, Bibliothèque nationale de France
- ❖ Jerker Rydén – Towards an MOU for the A/V sector?, Senior Legal Advisor at the National Library of Sweden

10h30-11h00 Coffee break

11h00-13h00 Presentations, 15 mins each (order tbc)

- ❖ Maurizio Borghi – Crowdsourcing diligent search, Centre for Intellectual Property Policy & Management Bournemouth University
- ❖ Paul Keller – Copyright reform, Kennisland
- ❖ Patrick Peiffer – Public Domain Calculator update, Bibliothèque nationale de Luxembourg

13h00-14h00 Lunch

14h00-16h00 Topic 4: Discussion on the need to create a registry for cross-border ECL regime

- A. Information needed?
 - i. Opt-out
 - ii. Subject matter
 - iii. User allowed
 - iv. Scope and conditions of use
- B. Institution responsible?

16h00- 16h30 Wrap-up

16h30 End of workshop