

Intellectual Property Office

Responding to the consultation

As part of the Government's response to the Hargreaves Review of Intellectual Property and Growth the Government is seeking information on the proposals outlined in this document. The responses to the consultation, together with other evidence, will help shape proposals to improve the UK copyright system.

On this form, please provide your responses to the questions outlined in this document. You do not have to complete the whole form

Your name: Ann Rossiter

Job Title: Executive Director

Organisation Name: Society of College National and University Libraries

Organisation's main: SCONUL supports member libraries to deliver world-class services to students, researchers and academics, thereby enabling their institutions to deliver excellent teaching and research. We do this by working closely with those leading academic libraries to share knowledge and best practice and to facilitate collective solutions where required. We speak for the academic library community in its dealings with national and international bodies and promote the value that academic libraries bring to their institutions, their users and to the UK and Ireland.

- 1. Does the initial impact assessment capture the costs and benefits of creating a system enabling the use of individual orphan works alone, as distinct from the costs and benefits of introducing extended collective licensing? Please provide reasons and evidence about any under or over-estimates or any missing costs and benefits? The Government is particularly interested in the scale of holdings you suspect to be orphaned in any collections you are responsible for. Would you expect your organisation to make use of this proposed system for the use of individual orphan works? How much of the archive is your organisation likely to undertake diligent searches for under this proposed system? What would you like to do with orphan works under a scheme to authorise use of individual orphan works?**

SCONUL members are encouraged by the positive engagement of HM Government on the problem of orphan works. The libraries of member institutions contain a vast wealth of material classified as orphan works, the use of which is heavily circumscribed under current copyright law. Much of the value of this material is effectively lost to the UK research community and in terms of commercial applications. University libraries are investing in the digitisation of their resources, but the cost of tracing rights for orphan works is prohibitive.

The most authoritative source on the extent of orphan works in UK collections that we are aware of is "In from the Cold", a 2009 report produced for JISC and the Collections Trust. This found that on average, 5-10% of the works in UK collections were orphan. A subsequent British Library (BL) and ARROW study produced very similar findings. Both reports also investigated the costs of tracing rights. "In From the Cold" found that on average, publicly funded institutions spent half a day tracing the rights for each orphan work. The BL study found that it took four hours per book to undertake the diligent search required to clarify its copyright status. Obviously, in many cases these searches are not successful in tracing rights holders. It suggested that for a typical mass digitisation project (0.5 million books), it would take over 1,000 years of work to clear the rights under current law.

- 2. Please provide any estimates for the cost of storing and preserving works that you may not be able to use because they are/could be orphan works. Please explain how you arrived at these estimates.**

For most SCONUL members, the primary issue in relation to value is not the cost of storage, but the opportunity cost of very limited access to the material. For the immediate future, university libraries are likely to continue providing access to the work for printed materials in addition to digitised copies. For non-print resources such as film, sound recordings etc., there are significant additional costs arising from their preservation. However, SCONUL is not aware of any authoritative sources on these costs.

- 3. Please describe any experiences you have of using orphan works (perhaps abroad). What worked well and what could be improved? What was the end result? What lessons are there for the UK?**

4. What do you consider are the constraints on the UK authorising the use of UK orphan works outside the UK? How advantageous would it be for the UK to authorise the use of such works outside the UK?

The proposed EU Directive on Orphan Works is very limited in scope, covering literary works and, to a lesser extent, film and audio-visual works. It is also restrictive in its definition of orphan works. As currently envisaged, it would not remove barriers to mass digitisation. The UK Government should not look to this as a model, or for a solution to the challenge of orphan works.

SCONUL has argued strongly for an approach which allows for the authorisation of UK works for use outside the UK because of the scope for significant benefit to UK research libraries and archives. Given the likelihood that in the future, access is most likely in digital formats by adopted the Canadian approach of licence conditions which do not prevent use abroad or over the web.

5. What do you consider are the constraints on the UK authorising the use of orphan works in the possession of an organisation/individual in the UK but appearing to originate from outside the UK:

- a) for use in the UK only
- b) for use outside the UK?

How advantageous would it be for the UK to authorise the use of such works in the UK and elsewhere?

It is not always possible to distinguish UK material from that originating elsewhere. In addition, a resource in the UK is subject to UK copyright law whatever its origin. Therefore the barriers to the use of orphan works from outside the UK are the same as those for orphan works originating in the UK. In order to avoid perpetuating barriers to their use, a licence for orphan works needs to be independent of that works' origin.

6. If the UK scheme to authorise the use of orphan works does not include provision for circumstances when copyright status is unclear, what proportion of works in your sector (please specify) do you estimate would remain unusable? Would you prefer the UK scheme to cover these works? Please give reasons for your answer.

From discussion with SCONUL members, it appears that a significant proportion of orphan works are of unclear copyright status. When the author or creator of a work is unknown, establishing when or whether the work was published and whether copyright is still in operation can be very difficult. The BL study referred to earlier found that for 22 out of 140 sample titles published in the 9 decades up to and including the 1950s there was insufficient information available to establish their copyright status. For proposals on orphan works to be effective in allowing academic libraries to release their holdings, they will need to encompass works for which copyright is unclear. SCONUL has argued that it should be possible for reasonable judgements to be made as to the age of a work and therefore as to whether copyright may still be in effect.

- 7. If the UK's orphan works' scheme only included published/broadcast work what proportion of orphan works do you estimate would remain unusable? If the scheme was limited to published/broadcast works how would you define these terms?**

As stated previously, it is not always possible to tell whether a work has been published or not. The Government should also be aware that limiting the scope of provision on orphan works to cover published works only would effectively exclude the vast majority of resources held in special collections and archives. This would mean a continuance of the current position in which the 2039 terminal date is a significant barrier to exploiting the research potential of large amounts of material.

- 8. What would be the pros and cons of limiting the term of copyright in unpublished and in anonymous and in pseudonymous literary, dramatic and musical works to the life of the author plus 70 years or to 70 years from the date of creation, rather than to 2039 at the earliest?**

See response to Q7. There are very significant advantages to using either a 70 years from the creation, or 70 years from the death of the author approach in that large amounts of important historical material held would be liberated for research as a result, compared to the current 2039 rule.

- 9. In your view, what would be the effects of limiting an orphan works' provision to non-commercial uses? How would this affect the Government's agenda for economic growth?**

Given the erosion of a clear distinction between commercial and non-commercial status and activity within higher education as a result of government reforms, we do not believe enshrining this in law or regulation would be a useful or practicable way forward. It should also be noted that excluding commercial use from the scope of the proposals on orphan works would undermine the government's objective of stimulating economic growth, for example by preventing their use in documentaries and film.

- 10. Please provide any evidence you have about the potential effects of introducing an orphan works provision on competition in particular markets. Which works are substitutable and which are not (depending on circumstances of use)?**

- 11. Who should authorise use of orphan works and why? What costs would be involved and how should they be funded?**

Any responsible licensing body would need to enjoy the confidence of both rights holders and users and would need to be seen to be neutral in its decision-making processes.

- 12. In your view what should constitute a diligent search? Should there be mandatory elements and if so what and why?**

SCONUL does not believe that it is possible to produce a single definition of a diligent search. What should be regarded as sufficient will vary considerably according to the format and nature of the work under consideration. However, in general it will need to include assessment of the evidence held with the original work and searches of associated databases, catalogues and registers. In defining standards for diligence, any licensing body will need to employ a pragmatic approach, based on a judgement about what is reasonable. The basis for these judgements should be reached in liaison with the representatives of rights holders and those of rights users.

13. Do you see merit in the authorising body offering a service to conduct diligent searches? Why/why not?

There is no reason why diligent searches should not be out-sourced to a third party given appropriate regulation. This could include, but should not be limited to, the authorising body. Competition should be utilised to ensure a cost-effective service.

14. Are there circumstances in which you think that a diligent search could be dispensed with for the licensing of individual orphan works, such as by publishing an awaiting claim list on a central, public database?

SCONUL would like to see allowance made for a single use of an orphaned work, subject to prior check with the Digital Copyright Agency.

15. Once a work is on an orphan works registry, following a diligent search, to what extent can that search be relied upon for further uses? Would this vary according to the type of work, the type of use etc? If so, why?

We believe that once a diligent search, as approved by the licensing body, has been carried out by one party, this should be regarded as sufficient for other users, until such time as a relevant rights holder is identified.

16. Are there circumstances in which market rate remuneration would not be appropriate? If so, why?

See question 17.

17. How should the authorising body determine what a market rate is for any particular work and use (if the upfront payment system is introduced)?

It is not clear that it will be possible to identify a “market” rate in every case, particularly for unpublished works and an alternative mechanism for deciding on a fee will need to be developed in these cases.

18. Do you favour an upfront payment system with an escrow account or a delayed payment system if and when a relevant copyright holder appears? Why?

For CONUL members and undoubtedly for many other types of institution, an upfront payment into an escrow account would be preferable to a delayed payment system with its inherent uncertainties. In the latter case, institutions would be required to make allowances in their accounts for the potential liabilities arising from the delayed payment and would need to keep track of these over time. For universities, this is likely to be an extensive, time-consuming task. Small payments into an escrow account should deliver sufficient payment over time to meet the needs of reventant copyright holders.

19. What are your views about attribution in relation to use of orphan works?

CONUL members are well versed in management of metadata relating to their holdings and regard its preservation and development as a core function for the library. This is an approach which they would like to see applied to all creative works including those which are born digital. It is members' view that attribution data should be retained for orphan works without exception. Moral rights should remain automatic.

20. What are your views about protecting the owners of moral rights in orphan works from derogatory treatment?

Once a reventant creator has been identified, the work is no longer an orphan work by definition, and their moral rights to object to derogatory treatment would apply.

21. What are your views about what a user of orphan works can do with that work in terms of duration of the authorisation?

We do not believe that there is a need for an end date to an authorisation, unless a reventant author is identified at which point further use should not be allowed without the permission of the rights holder. Introducing such an end date would add a significant administrative burden for university libraries and archives.

22. What aspects of the current collective licensing system work well for users and rights holders and what are the areas for improvement? Please give reasons for your answers.

CONUL sees the operation of Collecting Societies as an vital part of the collective licensing landscape, providing an important mechanism for authors and creators to limit the burden of managing their rights. However, there are a number of gaps in the collective licensing landscape, particularly for film and for unpublished works.

CONUL is very supportive of the recommendations in the Hargreaves Review for extended collective licensing and its application to collections which may include unpublished and orphan works. This would rectify the current position in which copyright works may be subject to a number of different licensing regimes. There are a number of issues

23. In the Impact Assessment which accompanies this consultation, it has been estimated that the efficiencies generated by ECL could reduce administrative costs within collecting societies by 2-5%. What level of cost savings do you think might be generated by the efficiency gains from ECL? What do you think the cost savings might be for

businesses seeking to negotiate licences for content in comparison to the current system?

Potential efficiency gains arising from the introduction of ECL would apply to universities as well as to collecting societies since they would reduce the need for diligent search and allow for certain kinds of works to be used in new ways, including enabling mass digitisation projects.

24. Should the savings be applied elsewhere e.g. to reduce the cost of a licence? Please provide reasons and evidence for your answers.

No comment

25. The Government assumes in the impact assessment for these proposals that the cost of a licence will remain the same if a collecting society operates in extended mode. Do you think that increased repertoire could or should lead to an increase in the price of the licence? Please provide reasons for your answers.

No comment

26. If you are a collecting society, can you say what proportion of rights holders you currently represent in your sector?

No comment

27. Would your collecting society consider operating in extended licensing mode, and in which circumstances? If so, what benefits do you think it would offer to your members and to your licensees?

No comment

28. If you do not intend to operate in extended licensing mode, can you say why?

No comment

29. Who else do you think might be affected by the introduction of extended collective licensing? What would the impact be on those parties? Please provide reasons and evidence to support your arguments.

No comment

30. What criteria do you think should be used to demonstrate that a collecting society is “representative”? Please provide reasons for your answer.

No comment

31. Do you think that it is necessary for a collecting society to obtain the consent of its members to apply for an ECL authorisation? What should qualify as consent- for example, would the collecting society need to show that a simple majority of its members have agreed to the application being made?

No comment

32. Apart from securing the consent of its members and showing that it is representative, are there other criteria that you think a collecting society should meet before it can approach the Government for an ECL authorisation? Please give reasons for your answer.

No comment

33. When, if ever, would a collecting society have reasonable grounds to treat members and non-member rights holders differently? Please give reasons and provide evidence to support your response.

No comment

34. Do you have any specific concerns about any additional powers that could accrue to a collecting society under an ECL scheme? If so, please say what these are and what checks and balances you think are necessary to counter them? Please also give reasons and evidence for your concerns.

No comment

35. Are there any other conditions you think a collecting society should commit to adhering to or other factors which the Government should be required to consider, before an ECL authorisation could be granted? Please say what these additional conditions would help achieve?

No comment

36. What are the best ways of ensuring that non-member rights holders are made aware of the introduction of an ECL scheme and that as many as possible have the opportunity to opt out, should they wish to?

No comment

37. What type of collecting society should be required to advertise in national media? For example, should it need to be a certain size, have a certain number of members, or collect a certain amount of money?

No comment

38. What would you suggest are the least onerous ways for a rights holder to opt out of a proposed extended licensing scheme?

No comment

39. Should a collecting society be required to show that it has taken account of all opt out notifications? If so, how should it do so? Please provide reasons for your answers.

No comment

40. Are there any groups of rights-holders who are at a higher risk of not receiving information about the introduction of an ECL scheme, or for whom the opt-out process may be more difficult? What steps could be taken to alleviate these risks?

No comment

41. What measures should a collecting society take to find a non-member or missing rights owner after the distribution notice fails to bring them forward?

No comment

42. How long should a collecting society allow for a non-member rights holder to come forward?

No comment

43. Aside from retention by the collecting society or redistribution to other rights holders in the sector, in what other ways might unclaimed funds be used? Please state why you think so?

Significant surpluses should not be retained by the Collecting Society but should be put to charitable purposes to benefit creators and authors.

44. What do collecting societies do well under the current system? Who benefits from the way they operate? Please explain your response and provide evidence for it.

No comment

45. What are the areas for improvement in the way that collecting societies operate at present? Who would benefit from these improvements, and what current costs (if any) could be avoided? Please give reasons and provide evidence for your response.

No comment

46. Do you agree with the analysis contained in the impact assessment of the costs and benefits for collecting societies and their users? Are there additional costs and benefits

which have not been included, or which you are able to quantify? Please provide reasons and evidence for your response.

No comment

47. Who else do you think would be affected by a requirement for collecting societies to adhere to codes of conduct? What would the impact be on them? Please provide reasons and evidence for your response.

No comment

48. Is one year a sufficient period of time for collecting societies to put in place a code of conduct? Please provide reasons for why you agree or disagree? Please also provide evidence to show what a workable timeline would be?

No comment

49. What other benefits or rewards could accrue to a collecting society for putting in place a voluntary code? Please provide evidence for your answer.

No comment

50. In your view, does it make a difference whether there is a single code, one joint code, or several joint codes? Please give reasons for your answer.

No comment

51. Are there any other areas that you think should be covered in the minimum standards, or areas which you think should be excluded? Please give reasons for your response, including evidence of alternative means of securing protection in relation to any areas you propose should be excluded from the minimum standard.

No comment

52. Are there any additional undertakings that a collecting society should give with regard to its members and the manner in which it represents them? Should any of the proposed minimum standards about members be excluded? Please provide reasons and evidence to support your response

No comment

53. Are there any additional undertakings that a collecting society should give with regard to its licensees, or should any of the proposed minimum standards be excluded? Please give reasons and evidence for your response, included why you consider any standards which you propose should be excluded to be unnecessary.

No comment

54. Are there any additional expectations for licensees that should be set out by a collecting society in its code, or should any of those listed be excluded? Please give reasons why.

No comment

55. Are there any additional measures that a collecting society should put in place to ensure proper control of the conduct of its employees, agents, and representatives? Should any of the proposed standards be excluded? Please say what these are and provide evidence to support your response.

No comment

56. Are there any additional provisions that you believe would enhance the transparency of collecting societies? Should any of the proposed provisions be excluded? Please give reasons and evidence to support your response.

No comment

57. Are there any other criteria that a collecting society should report against? Should any of the proposed criteria be excluded? Please give full reasons and evidence for your answer, describing what impact it would have and on whom.

No comment

58. Are these criteria sufficient for the creation of a complaints procedure that is regarded as fair and reasonable by the members and users of collecting societies? Should any proposed criteria be excluded? Please provide reasons and evidence to support your response.

No comment

59. Please indicate whether you think a joint ombudsman or individual ombudsmen would work better. Please say why you would prefer one over the other?

No comment

60. Is the ombudsman the right person to review the codes of conduct? Please give reasons for your answer, and propose alternatives if think the ombudsman is not best placed to be the code reviewer.

No comment

61. What do you think about the intervals for review? Are they too frequent or too far apart? Please provide reasons for your answers.

No comment

62. What initiatives should the Government bring forward to provide recognition of high performance against voluntary codes of conduct? Please give reasons and evidence for your response.

No comment

63. What do you consider the process and threshold for non-compliance should be? For example, should Government test compliance on a regular basis (say by following Ombudsman's reports) or on an ad-hoc basis? What evidence would be appropriate to demonstrate non-compliance? Please give reasons for your response.

No comment

64. What, in your view, are suitable penalties for non-compliance with a statutory code of practice? For example, are financial penalties appropriate, and, if so, what order of magnitude would be suitable? Please give reasons and provide evidence for your answer.

No comment

65. Do you agree that the imposition of a statutory code should be subject to review? How long should such a code be in place before it is reviewed? Please give reasons for your response.

No comment

66. If you are a collecting society which may qualify as a micro-business, would you be likely to introduce a voluntary code? If you are a user of collecting societies, what do you believe the Government should do to encourage good practice in any collecting societies which are exempt from the power to introduce a statutory code? Please give reasons for your response.

No comment

67. Do you agree that a private copying exception should not permit copying of content that the copier does not own?

Yes and SCONUL supports the proposals being put forward by the government.

68. Should the private copying exception allow copying of legally-owned content for use within a domestic circle, such as a family or household? What would be the costs and benefits of such an exception?

No comment

69. Should a private copying exception be limited so that it only allows copying of legally-owned content for personal use? Would an exception limited in this way cause minimal harm to copyright owners, or would further restrictions be required? What would be the costs and benefits of such an exception?

No comment

70. Should a private copying exception be explicitly limited so that it only applies when harm caused by copying is minimal? Is this sufficient limitation by itself, or should it be applied in combination with other measures? What are the costs and benefits of this option?

No comment

71. Should the current mechanism allowing beneficiaries of exceptions to access works protected by technological measures be extended to cover a private copying exception? What would be the costs and benefits of doing this?

No comment

72. Should the preservation exception be extended:

- to include more types of work?
- to allow multiple copies to be made?
- to apply to more types of cultural organisations, such as museums?

How might this be done, and what would be the costs and benefits of doing it?

SCONUL has argued that the current copyright exemptions are inappropriately narrow and do not take account of digital developments. The changes proposed are important to enable libraries to fulfil one of their core purposes of preserving their permanent collections. We have argued that the preservation exception should cover all types of copyright works including films, broadcasts and artistic works, as recommended in the Hargreaves report. We believe that the restriction of allowing only one copy to be made for preservation purposes is inappropriately narrow, and that it should be sufficient that an exemption to specify the purpose (preservation) but not the number of copies. This should allow libraries to take account of changes in formats and platforms in a sequential manner (ie one copy replacing another, rather than simultaneous copies being held).

73. Is there a case for simplifying the designation process which is part of Section 75? How might this be done and what would be the costs and benefits of doing it?

SCONUL members would welcome simplification of the process of designation, which is overly burdensome at present.

74. Should any other changes be made to the current exceptions relating to libraries and archives, and what would be their costs and benefits?

No comment

75. Would extending the copyright exception for research and private study to include sound recordings, film and broadcasts achieve the aims described above? Can you provide evidence of its costs and benefits?

SCONUL strongly supports the extension proposed here since there are significant works held in the UK's libraries and archives as sound recordings, film and broadcasts. These include works held in older formats and in digital formats which researchers may not currently copy for reasons of their research. There are also barriers to access, a significant issue in the arts and humanities, which causes additional costs for the researcher and for the holding institutions.

76. Should the copyright exception for research and private study permit educational establishments, libraries, archives or museums to make works available for research or private study on their premises by electronic means? What would be the costs and benefits of doing this?

Yes, in that this recognises modern preservation practice. Allowing digital copies of print holdings to be provided under a research or private study exception would enable university libraries to better meet the needs of students, improving the student experience. There would be notable benefits for distance learners.

77. Would an exception for text and data mining that is limited to non-commercial research be capable of delivering the intended benefits? Can you provide evidence of the costs and benefits of this measure? Are there any alternative solutions that could support the growth of text and data mining technologies and access to them?

SCONUL sees for the introduction of an exemption for text and data mining for non-commercial research as mission critical for the UK research base, and as essential to maintain the UK's position as world leader in higher education. It would make large amounts of text and data available for analysis and has the potential to facilitate significant progress in science and medicine. We do not believe that this is the only feasible option to enable text and data mining - publisher by publisher negotiation would be complex and arduous.

78. Do you agree that a parody exception could create new opportunities for economic growth?

No comment

79. What is the value of the market for parody works in the UK and globally?

No comment

80. How might a parody exception impact on creators of original works and creators of parodies? What would be the costs and benefits of such an exception?

No comment

81. When introducing an exception for parody, caricature and pastiche, will it be necessary to define these terms? If so, how should this be done?

No comment

82. How should an exception for parody, caricature and pastiche be framed in order to mitigate some of the potential costs described above?

No comment

83. Would making this a “fair dealing” exception sufficiently minimise negative impacts to copyright owners, or would more specific measures need to be taken?

No comment

84. Are you able to provide evidence of the costs and benefits of such an exception?

No comment

85. How should the Government extend the education exceptions to cover more types of work? Can you provide evidence of the costs and benefits of doing this?

Allowing a limited degree of electronic copying from printed works, sound recordings, broadcasts, photographs and other images for use in teaching materials and in Virtual Learning Environments would allow for an better teaching materials and an improved student experience.

86. Would provision of “fair dealing” exceptions for reprographic copying by educational establishments provide the greater flexibility that is intended? Can you provide evidence of the costs and benefits of such an exception?

SCONUL strongly supports this approach and believes that it would allow sufficient flexibility to meet the intended objectives.

87. What is the best way to allow the transmission of copyright works used in teaching to distance learners? What types of work should be covered under such an exception? Should on-demand as well as traditional broadcasts be covered? What would be the costs and benefits of such an exception?

Universities' secure networks, including Virtual Learning Environments, are accessible only to authorised users, including distance learners and provide an effective and secure means of

distributing copyright works. Other formats should be included such as digitised print works, broadcasts and digitised images and recordings.

88. Should these exceptions be amended so that more types of educational body can benefit from them? How should an “educational establishment” be defined? Can you provide evidence of the costs and benefits of doing this?

No comment

89. Is there a case for removing or restricting the licensing schemes that currently apply to the educational exceptions for recording broadcasts and reprographic copying? Can you provide evidence of the costs and benefits of doing this, in particular financial implications and impacts on educational provision and incentives to creators?

The CLA HE Basic Photocopying and Scanning Licence currently requires universities to record and report a heavy burden of information as to the use of digitised print resources within virtual learning environments. This places significant costs on institutions. The same conditions are not applied to the photocopying element of the licence. SCONUL believes that this is disproportionate and that there is scope for lessening the burden on institutions without undermining the interests of rights holders.

90. How should the current disability exceptions be amended so that more people are able to benefit from them? Can you provide evidence of the costs and benefits of doing this?

The definition of disability employed should be the definition of disability contained in the Equality Act 2010. This would allow universities to deliver works in an alternative format for those with dyslexia, as they are able to do for people who are blind or partially sighted.

91. How should the disability exceptions be expanded so that they apply to more types of work? Is there a case for treating certain works differently to others? What would be the costs and benefits of amending the exceptions in this way?

The exceptions should cover all types of work and should permit the application of audio-description, sub-titles and captions to all relevant formats. It should avoid specifying permitted applications to ensure that barriers are not erected to future adaptations.

92. What are the costs and benefits of the current licensing arrangements for the disability exceptions, and is there a case for amending or removing them?

No comment

93. How should this exception be modified in order to simplify its operation?

No comment

94. Should the current exception for criticism and review be amended so that it covers more uses of quotations? If so, should it be extended to cover any quotation, or only cover specific categories of use? Can you provide evidence of the costs or benefits of amending this exception?

SCONUL believes that quotation should be allowed for any fair purpose.

95. Is there a need to amend or clarify the exception for reporting current events? Could this be done as part of a quotation exception, or would a separate measure be needed? What would be the costs and benefits of doing this?

No comment

96. Is there a need to amend the existing provisions relating to speeches and lectures, and what would be the costs and benefits of doing so? Should these provisions be combined within a quotations exception?

No comment

97. Would there be additional benefits if all three types of exception examined by this section were combined?

No comment

98. How should the current exceptions for use by public bodies be amended to support greater transparency? How could such exceptions be limited to ensure that incentives to copyright owners are not undermined? Can you provide evidence of costs or benefits of doing this?

No comment.

99. Should a new exception for time-shifting of broadcasts by social institutions be introduced? What would be the costs and benefits of doing this?

No comment

100. Should a new exception for use during religious celebrations or official celebrations organised by public authorities be introduced? What would be the costs and benefits of doing this?

No comment

101. Should our current exceptions be expanded to cover use for public exhibition or sale of artistic works on the internet? What would be the costs and benefits of doing this?

No comment

102. Should our current exceptions for the demonstration and repair of equipment be expanded? What would be the costs and benefits of doing this?

No comment

103. What are the advantages and disadvantages of allowing copyright exceptions to be overridden by contracts? Can you provide evidence of the costs or benefits of introducing a contract-override clause of the type described above?

Licensed digital content forms a growing proportion of the holdings within academic libraries. The licence conditions which apply vary from publisher to publisher, despite the efforts of JISC Collections to introduce standard licence terms for electronic journals. This means that academic libraries carry a significant administrative burden in keeping track of licence conditions. In addition, many licence conditions run counter to the exceptions under copyright law (90% according to research by the British Library). A balance needs to be found between the rights of creators and the current position in which exceptions are increasingly being rendered ineffective.

104. Are there specific and or general areas of practical uncertainty in relation to copyright which you think would benefit from clarification from the IPO? What has been the consequence to you or your organisation of this lack of clarity?

There is considerable ignorance and uncertainty both within and beyond the higher education community as to copyright law. Increased clarity would be of benefit to all those who interact with the current system.

105. Who do you think would benefit from this sort of clarification? Should it be reserved for SMEs as the group likely to produce the greatest benefit in economic growth terms?

See above.

106. Have you experienced a copyright dispute over the last 5 years? If so, did you consult lawyers and how much did this cost?

No comment.

107. Do you think that it would be helpful for the IPO to publish its own interpretation of problem areas which may have general interest and relevance? What sources should it rely on in doing so?

Yes, this would be an important contribution to public understanding of copyright law, and would provide useful guidance to the education, business and creative sectors.

108. Do you agree that it would be helpful to formalise the arrangements for these Notices through legislation? Please explain your reasons.

No comment

109. How do you think that the IPO should prioritise which areas to cover in these Notices?

No comment

110. Does there need to be a legal obligation on the Courts to have regard to these Notices? Please explain your answer.

No comment

111. Are there other ways in which you think that the IPO can help clarify areas where the law is misunderstood? How would these work?

No comment

112. Do you think it would be helpful for the IPO to provide (for a fee) a non-binding dispute resolution service for specific disputes relating to copyright? Who would benefit and how? Are there any disadvantages of IPO operating such a service?

No comment

113. What would you be prepared to pay for a dispute resolution service provided by the IPO? Please explain your answer, for example by comparison with the time and financial cost of other means of redress.

No comment

114. Which would you find more useful: general Notices on the interpretation of the law (free) or advice on your specific dispute (for which there would be a charge)? Please explain your answer.

Both would be helpful, they are not mutually exclusive.