

Review of Intellectual Property and Growth

Response from the Newspaper Licensing Agency

March 2nd 2011



newspaper licensing agency

Respect for Copyright

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1. Executive summary

- 1.1.1 The Review Chairman has urged respondents to: “*focus upon the question at the heart of this review.....namely: what, if anything, should we do to change the UK's IP system in the interests of promoting more rapid innovation and economic growth?*” The NLA has addressed this key question by using its own operations as an extended case study, with reference to licensing the IP owned by newspaper publishers and providing database services to the media monitoring industry. We contend that intelligent application of copyright law, whilst not perfect, is broadly supporting and rewarding innovation and investment; both for entrepreneurial publishers and innovative media monitoring companies.
- 1.1.2 UK newspaper publishers invest over £1bn per annum in developing content which is published in print and a variety of online formats. That investment is protected by the law and leveraged via many revenue sources. The ability to diversify revenue sources is especially important if publishers are to survive and continue to play a vital part in the economy. Copyright law provides an effective framework for the publishing and monitoring industries, protecting investment by both. Far from being a ‘barrier’, it is an ‘enabler’.
- 1.1.3 The NLA recognises the role that aggregation plays in providing services that select and distribute content to businesses; it was set up by the newspaper industry to facilitate such aggregation. Newspaper content is a critical component of the repertoire that is monitored by press and web ‘cuttings’ agencies. The NLA has evolved a suite of licences and database services in response to the needs of the market that has facilitated the growth of media monitoring and provide a fair and economic return to publishers.
- 1.1.4 The NLA supports the development of ACAP, both financially and with technical expertise, to facilitate ‘machine to machine’ licensing that will be more efficient for all businesses in the media monitoring ‘chain’. We believe it is a critical innovation and we are using it to create the next generation of NLA digital services. The failure of the major search engines to engage with ACAP is a disappointment to publishers and the NLA because we believe it would facilitate much greater availability of content, more entrepreneurialism and innovation and ultimately increase the market by reducing the cost and administrative overhead of “micro” licensing between individual publishers and companies. ACAP was conceived as a response to the unwieldy and inefficient licensing practices of the offline world, specifically to promote growth and innovation. The absence of effective and widely supported protocols like ACAP acts as a barrier to online commerce. The opposition of major search engines has never been adequately explained by them: it is difficult for publishers to understand why they would not support the development of simple and low cost automated licensing. We would encourage the Review panel to investigate the reasons why the major search engines have not adopted ACAP and to the extent that it has a technical remit, to encourage its adoption as a joint industry standard.
- 1.1.5 The NLA believes that there is no *prima facie* case for adopting a US-style ‘fair use’ policy for copyright. In many ways we have not dissimilar provisions in “fair dealing”. The application of both

fair use and fair dealing have been shaped by many years of litigation in each country leading to different outcomes in terms of how the law is applied. However we do not believe it is the case that using the law to introduce further exceptions to copyright is desirable nor will it necessarily lead to the outcomes set out as objectives in the Review's terms of reference. In terms of web-publishing, there is substantial confusion over the application and limits of fair use in the US. Meanwhile the UK, where the law operates a more restrictive fair dealing provision, has seen a profusion of innovative aggregators and entrepreneurs develop in the web content market. Furthermore, UK copyright law has provided a framework in which UK publishers have invested heavily in new technologies and helped foster further innovation in those developing markets.

- 1.1.6 The NLA argues – unsurprisingly - that collecting societies play an effective part in a knowledge-driven economy. Their role as a one-stop-shop for businesses is of more value than ever, given the explosion of media and increasing uses for information in business. However we do not regard collecting societies as anything more than a means to an end. The NLA is a collecting society of necessity because there is no other practical approach to the work that we do. To the extent that such a practical approach was to emerge the NLA would welcome it. The purpose of the NLA is to generate value for publishers and to facilitate widespread licensing of content for various purposes. It is not part of our purpose to perpetuate ourselves as a collecting society. We welcome - and lead - innovation which would diversify and expand the market and will continue to do so.

2. Terms of reference: is this review asking the right questions?

2.1.1 Given the importance of the creative and media industries to the UK economy and the increased globalisation of media, it is right that the government should review the IP framework in the UK, to ensure that it is fit for purpose. However, there is an implied presumption that copyright is preventing start-up investments or frustrating growth: that is certainly not the case for newspaper publishing. We should highlight that the answer to this question may well vary from one part of the market to another and so the evidence should be considered in the context of the individual sectors rather than market as a whole. We would also point out that even if a perceived dysfunction *is* identified, the copyright framework is not necessarily the reason nor the solution for the dysfunction. The call for evidence and terms of reference for this Review raise a number of questions that this paper will address with regard to the operation of copyright licensing for newspaper content in the UK media monitoring market. The Review raises a number of topics, which we have distilled down to 4 key questions:

- Does the UK IP framework act as a barrier to growth?
- Is the IP framework appropriate to the digital age?
- Do other countries have IP frameworks that better support innovation and reward investment?
- Are collecting societies effective in the internet age?

3. Does the UK IP framework support a dynamic economy or is it a 'barrier to growth'?

3.1.1 The Government paper published in November 2010 (Vision to create a more dynamic economy) identified that business needs '*stability*' to plan for growth, '*barriers to growth*' should be identified and removed and that when economic growth is generated it should be '*fairly shared*'. Our starting point is therefore to determine whether these principles apply to the application of copyright licensing by the NLA, with regard to the effect on media owners and the entrepreneurial businesses that operate media monitoring services for UK businesses.

3.1.2 The NLA has, since its inception in 1996, applied the provisions of the Copyright Designs and Patents Act to develop a range of licences that enable businesses to use newspaper content for commercial purposes and reward the newspaper publishers for the use of their IP. Initially this enabled photocopying of printed press packs, then digital scanning and transmission of printed-edition content and finally, from 2010, use of web-published content.

3.1.3 Prior to the formation of the NLA, Press Cuttings Agencies (PCAs) that supplied daily cuttings services to clients had no direct agreements with publishers and their clients also operated unlicensed. The agencies and their clients were in breach of copyright law – and consequently had an uncertainty in their businesses. NLA licences provided certainty – or '*stability*' – enabling the PCAs to plan business development and to seek investment in their companies. This would not have been possible with a

significant liability in their business model. The practical effect of NLA licensing has been to encourage investment and new entrants to the media monitoring market; improving the level of service, and the wider employment and economic impact of media monitoring businesses.

- 3.1.4 By offering collective licences and database services to PCAs and their clients, the NLA provides an efficient route for businesses to be compliant and use creative content that is critical to their operations and revenue generation. In one transaction, permission is given to access and utilise content from 1,350 print publications and 1,030 websites, without the need for individual negotiations. This is efficient, both for publishers and the hundreds of thousands of businesses that need to know what they are reporting; and it allows the content to be made available at low cost.
- 3.1.5 The NLA recognises that it is operating in a dynamic and fast-moving market, where a cocktail of customer demand, pace of business activity and evolving technology mean that licensing schemes must evolve rapidly. Failure to do so would mean that licensing permissions would not match the business need of customers and would fail to reward media owners adequately; in short, it would be a *barrier*. The NLA is market-driven and so responds to the needs of the market.
- 3.1.6 In practice, NLA licences *have* evolved to keep pace with the needs and commercial practices of PCAs, Public Relations Agencies and client companies; enabling use of content created for print and web, delivered to clients in different formats (paper, digital, mobile) and with a range of options for payment. Increasingly, licensing transactions that used to be conducted by post and telephone are offered via the web, to increase customer convenience and choice. Far from being a *barrier*, effective licensing can be an *enabler* to business activity. For evidence of this it is worth noting that the UK has a flourishing press cuttings sector, with 17 PCAs, in contrast to only 4 operating in France and 6 in Germany. The NLA eClips database (see Appendix) has enabled smaller agencies to take advantage of faster and higher-quality content delivery that facilitates competition with larger firms.
- 3.1.7 The third point raised by the 'Vision to create a more dynamic economy' paper was that rewards should be shared *fairly*. We think it is critical to observe that the newspaper publishers themselves are entrepreneurial businesses that have made huge investments in their print and web businesses. It is well-documented that newspapers are under commercial pressure in their 'core' print operations and that despite significant investment, many are finding the web a difficult place to earn a financial return at present. Based on confidential data from publishers, the NLA estimated in 2010 that UK newspaper publishers collectively spent £1bn purely in creating editorial content for print and web publications. (The biggest cost element is UK editorial staff, but this figure also takes in to account foreign bureaus and agency copy from UK and abroad). The editorial developed by UK newspaper publishers is a significant component of the content used by UK media monitoring companies to develop their business services. Companies want to know what national and regional newspapers are reporting about them and their competitors. The turnover of the UK media monitoring market is c. £90-100m per annum (industry estimate). Although UK newspapers are a relatively small share of the publications monitored by MMOs, they 'box above their weight' in importance and volume of cuttings selected – and it is therefore right that the publishers should receive a *fair share* of that revenue. (An NLA study of a large web monitoring aggregator in 2010 showed that NLA publishers' web titles represented 7.3% of content in the aggregator's repertoire,

but represented 36% of the search content returned). It should also be noted that it is far more profitable for a publisher to sell more newspapers than to sell newspaper cuttings. The cost of content through a collective licence is very low compared to the primary revenue stream of selling newspapers.

- 3.1.8 The NLA perspective is that licensing of newspaper content demonstrates that the application of copyright law in an evolving, consultative and reactive IP rights framework supports the development of a dynamic economy. Publishers can receive some return on their investment in content. Media monitoring companies can develop and streamline services to clients more efficiently, and attract investment for growth. The client businesses that need a fast-flow of business information can access it in a compliant way. Efficient and flexible licensing of copyright is not a barrier, but rather a highway to economic growth.

4. **Is the UK IP framework appropriate to the digital age?**

- 4.1.1 This question, posed by the Review, could be taken to imply that, although copyright protection for content creators may have been helpful when reacting to the shock of mass-printing several centuries ago, it must be holding the economy back in the digital age. We believe the same principles apply; copyright protection for content creators is more relevant than ever in an age of global mass-distribution and ease of access beyond the wildest dreams of Gutenberg. To the extent that the internet market is being held back (if at all), we would contend this is because of the absence of effectively functioning copyright mechanisms online rather than copyright itself. The NLA has responded to the challenges and opportunities created by the internet in a number of ways that benefit media owners and clients through evolving licensing and developing database services.
- 4.1.2 In 2010 web-content licensing was launched by the NLA after a 2-year consultation with the media monitoring industry. The NLA now licenses paid - for aggregators (Media Monitoring Organisations – “MMOs”) and clients. Before 2010, MMOs providing web-cutting services were akin to PCAs prior to the advent of NLA licensing in 1996; they paid no revenue to content creators. The view that applying copyright licensing using existing law could be holding back development is wrong. A licensing framework applied to web content in an appropriate and market-sensitive manner through a collecting society can enhance investment (by publishers and aggregators), employment and service more effectively than an anarchic approach.
- 4.1.3 Unlicensed ‘scraping’ of publishers’ sites by hundreds of (largely unidentified) robots not only denies revenue to content owners, it frustrates the growth of the monitoring industry itself, by allowing unfair competition to licensed operators and creating an ‘exposure’ that potential investors in the sector will avoid. UK Press Cuttings Agencies have thrived under the licensing regimes of the NLA and CLA (Copyright Licensing Agency), with a healthy 17 domestic companies operating in the sector, ranging from small privately owned operations with a handful of employees, to large publicly-quoted companies operating internationally.
- 4.1.4 The web-copying licences developed by the NLA were referred to the Copyright Tribunal in December 2009 by Meltwater, a Norwegian aggregator. The case is due to be heard in September

2011. The Tribunal will review the pricing and terms of the licences, which have been adopted by 20 other MMOs and more than 400 client companies.

- 4.1.5 In a separate action, the NLA sought a ruling from the High Court on the legality of its licences. In November 2010, a landmark judgement that will benefit all publishers, declared that newspaper headlines can be independent literary works that attract copyright protection, as can the text extracts that Meltwater and other aggregators charge their clients to receive. The Court of Appeal will review the case in June 2011. Whatever the final outcome, case law is evolving to keep pace with technological and business change; publisher licensing models will follow and the media monitoring industry will adapt.
- 4.1.6 Moving beyond licensing, the NLA invested in 2006 in developing the eClips database service to generate new revenues for publishers through offering improved service to MMOs and their clients. Having initially licensed scanning, the NLA took the entrepreneurial step of creating a service to supersede it. 14 UK PCAs (and 20 international) now buy the service. eClips has enabled some PCAs to enter the market – or to stay in it - because it reduces the need for scanning whilst improving service quality to clients. As already discussed, it is certainly arguable that the market would be smaller and have less choice for end user clients without it. The NLA and its publishers are now investing in eClips Web, with similar objectives of developing revenue and improving control of copyright-protected content. When launched, the new service will supersede web-scraping and offer a similar range of services for MMOs and their clients.
- 4.1.7 The NLA contributes major funding and technical expertise to the development of Automated Control Access Protocol (ACAP), a new open communications tool that enables online content providers to communicate their copyright permissions information in a machine-readable language. ACAP is an excellent example of how the newspaper industry has responded collectively to the need to publish through new digital distribution networks, while maintaining adequate controls over forms of use of copyrighted material. The intention of ACAP is to enable new business models to be easily implemented online, by largely automating the process of seeking and granting permissions – something that has proved hard to achieve over the last 20 years of digital development.
- 4.1.8 In our view, ACAP (see <http://www.the-acap.org/>) illustrates very well some of the wider issues around the ethics of content distribution. The protocol has been adopted widely by the news industry (the ACAP website has 36 pages listing current titles which have implemented ACAP on their news sites). However, the major search engines and content aggregators have declined to adopt ACAP or to positively engage with implementing or steering ACAP - after initially contributing to its technical design. So although publishers have overwhelmingly engaged with the issues of content in the digital age - and many online aggregators talk publicly about their support for copyright - the reality seems to be that many aggregators prefer the status quo. They have used this greatly to their advantage to derive significant revenue streams from the new markets, so it is not surprising that there is a divergence of opinion about the suitability of current IP infrastructures.
- 4.1.9 Recently the European Publishers Council (EPC), representing the owners and CEOs of leading newspaper, magazine, book, online and database publishers in Europe, and a key player in the

development of ACAP, has succeeded in getting its idea for 21st century copyright management accepted as one of just seven “Big Ideas” sought by the European Commission to forward its Digital Agenda strategy.

http://ec.europa.eu/information_society/events/cf/dae1009/item-display.cfm?id=5256

- 4.1.10 The EPC’s “Big Idea”, entitled “The answer to the machine is in the machine,” centres on the need for the management of modern day copyright on the internet to be simplified, with as many processes as possible being machine-mediated. Key to the visibility and functionality of a linked infrastructure will be a human and machine-readable “**digital copyright symbol**” that will contain information that will enable users to link to human and machine-readable copyright statements, licences, e-commerce engines and other information on re-use of content (including user-generated), to be designed and used as widely as the © has been since the early 1900s.
- 4.1.11 The EPC is currently developing a “demonstrator” to showcase a variety of use-cases across different media sectors to illustrate the range of permissions and licensing options. The use-cases will equally demonstrate how existing linking technologies, rights permission expressions and copyright databases and repositories can be connected, to serve the user.
- 4.1.12 Publishers are demonstrating real and practical commitment to evolving the IP framework: but engagement is required from companies (especially search-engines) and possibly governments if this initiative is to be truly effective.

5. **Do other countries have IP frameworks that better support innovation and reward investment?**

- 5.1.1 The thesis has been advanced by some that the US market for news and other content services is more innovative as a result of a looser and enabling ‘fair use’ doctrine, with the implied suggestion that the UK would benefit from revisions to copyright law to follow the US model. The assumptions behind this need careful examination:
- Is the UK legal environment more restrictive than US, and if so, has this impacted news services?
 - Has UK development of digital services been restricted by copyright law?
 - Is there a real difference in innovation in news services, and what are the drivers of that difference?
- 5.1.2 Is the UK legal environment more restrictive than in the US, and how has this impacted news services? The key difference between the US and UK is the definition and interpretation of ‘fair use’ v the UK ‘fair dealing’. Neither system sets out users rights with any certainty, but the US law is in general more permissive in its application. http://en.wikipedia.org/wiki/Fair_use.

Judgements on web news cases in the US have shown considerable confusion on where the limits of fair use lie. While there are powerful lobbies – chiefly the search engines – arguing for a broadest possible interpretation of fair use, the notion that US law favours innovation and that innovation is best served by watering down copyright law is simplistic at best. It is often a charter for litigation. Illustrations include:

- Google Books. http://www.eff.org/files/filenode/authorsguild_v_google/complaint.pdf
Action brought by Authors Guild against Google, still not settled.
- Righthaven. A company set up to sue users who had copied website material.
<http://abcnews.go.com/Technology/wireStory?id=12486847>

- 5.1.3 Has the UK development of news services been restricted by UK copyright law? It is hard to see evidence of why something has *not* happened. But if we look at some of the things that *have*, it would seem nonsense to infer that the UK has a restrictive environment and that this causes the UK to have limited progress in developing web services. Examples to the contrary would be the development of Autonomy, NewsNow www.newsnow.co.uk (a successful news aggregation service), Bebo <http://www.bebo.com/SignIn.jsp> (a UK social media site developed and sold to AOL). There are numerous other examples where investors have supported innovative news-based businesses <http://www.guardian.co.uk/media/2011/feb/14/huffington-post-aol-uk-original-content-sites> .
- 5.1.4 In the media monitoring market served by the NLA, Durrants and Precise are venture capital - backed news aggregators. As discussed earlier, the stability and success of these investments is underpinned by the framework of clear, fair and progressive copyright licensing.
- 5.1.5 Newspaper publishers themselves were quick to respond to the arrival of digital platforms, and far from being restrictive, led the way in their development. Some, such as News International and The Telegraph Group, were publishing major titles on the Web within a few months of the world's first graphical browser (Mosaic) becoming available. News Corporation, the News International parent company had in fact acquired a controlling interest in one of the few available ISP's (Delphi) in 1992, *before* the arrival of graphical browsers, and in the UK was to partner with BT and United News & Media to produce a commercially available ISP (LineOne) some years before any of the current social and ISP networks started.
- 5.1.6 However, "traditional" news content producers, with their high overheads relating to print (as outlined above) have struggled with the commercial ethics of the Web, namely that content is often falsely regarded as "free", that news is regarded now as a cheap, 'commodity' item and that news is routinely exploited by numerous aggregators and other sites which invest nothing in its creation. They have been unable to exploit the advantages of this in the way that the pure-play online companies have, principally because the alternative platform of digital income generation, online advertising, has been dominated (some would argue monopolistically following the acquisition of Doubleclick) by Google, whose £2bn revenues in the UK would otherwise be available for publishers to compete for. Nor has the position of UK publishers been helped by the presence in the market of extensive, expensively produced and "free" BBC news services, a complaint only partially addressed by the Graf Review of BBC Online in 2004. Even so, this has not stifled the publishers' interest or innovation.
- 5.1.7 Is there a difference in USA v UK innovation, and what drives this? Anecdotally there certainly appears to be more innovation in news and content aggregation services in the USA than in the UK (although we are not qualified to judge whether this is real innovation or parasitic – and ultimately

unsustainable - use of others' content). The USA is a larger market and has more participants; it adopted the internet sooner than the UK and, critically, it has a much more vigorous start-up funding culture than UK. It is quite unsurprising that the major search engines and news services (Google, Yahoo etc) should be US based. Any 'UK PLC' response to this should look at *all* factors that drive innovation, but especially investment.

The premise that Google would not have started its business in the UK because of the copyright regime is clearly flawed. Services that operated similarly to Google were starting in UK at the same time that Google launched; but Google was better funded, better designed and quickly achieved a dominant position in UK search when it launched its most profitable business unit outside of the US. If UK copyright law has inhibited Google, it would not appear to have done so to any great extent – their revenues and profits, generated without any investment at all in the content they exploit (and without payment of any tax to the UK exchequer), attest to their huge success in the UK. If the US – or, more specifically, Silicon Valley – provides a more receptive culture for start-ups, it is hard to see how IP law can be credited with that success. In fact there are many similarities between the IP regimes in the UK and the US, particularly the copyright regimes.

- 5.1.8 The argument that Google may not have started had it been subject to the UK's copyright regime is also not supported on purely commercial grounds. When Google launched, in 1998, there was, notoriously, no business plan behind it and no perceived advantage in becoming the market-leading search platform – their stated aim was simply "to organize the world's information and make it universally accessible and useful". The vaguely defined ideas of "first mover advantage" (an idea debunked by the fortunes of CompuServe, AOL, Genie, and Prodigy), and providing free email services to build traffic and customer loyalty were already proving of limited commercial value and ultimately spurious. The concentration on advertising focus came later: so the question of restricted copyright access did not arise, since Google has never had a policy of content generation or content charges, but instead has developed an extremely successful classified advertising model from which it still derives the bulk of its massive revenues. Incidentally, even Google admits publicly that the Google News service, for which Google generates no news content itself (but which is instead derived from the copyright ownerships of others), is worth \$100 million per annum in user attraction and retention.

6. Do collecting societies contribute to a dynamic UK economy?

- 6.1.1 The NLA believes that collecting societies can play an effective part in encouraging a knowledge-driven economy. To do so, their mode of operation must continue to adapt, to keep pace with changes to media consumption. Licences must reflect business demand, be available online or even machine to machine (ACAP); but the essence of the role – an interface between many content-owners and many content-users is more valuable than ever with an explosion of media and channel choice and increasing uses for information in business. A 'one-stop-shop' licence is time and cost efficient.
- 6.1.2 There is a 3-fold role for collecting societies: Educating, Enabling and Enforcing compliance. Through 'education', businesses are made aware of copyright, how they can use content to create value

whilst rewarding and not damaging the creators of that content. The NLA develops licences and database services that 'enable' access to content. Copyright 'enforcement' is also critical, to protect content owners from damaging loss of income through piracy and to preserve a 'level playing field' for compliant companies.

- 6.1.3 Collecting societies themselves are subject to regulation by the Copyright Tribunal and the courts. The NLA's web-licensing scheme is due to be reviewed by the Tribunal later in 2011, following a Court of Appeal ruling. The introduction of a 'fast track' scheme to make Tribunal applications by smaller users affordable is a welcome and practical development to ensure that there are checks and balances. The NLA would welcome a further enhancement of the Tribunal's role: informal guidance. It would be helpful to both collecting societies and to licensees if there was a mechanism to receive informal and confidential guidance before offering licences on behalf of rights-holders (collecting societies), or before making references to the Tribunal (licensees). In the case of the NLA's present dispute with Meltwater, which will delay the full introduction of web licensing by at least 2 years (and potentially far longer), informal guidance to both parties could potentially have avoided a reference altogether – or avoided one until legal issues were clarified by the courts.
- 6.1.4 However, although the NLA is successfully and imaginatively operating collective licensing, to the benefit of publishers and the media monitoring market; we do not see our mission as perpetuating the existence of collecting societies! Aggregation of licensing rights is a practical necessity and can be efficient if licences evolve rapidly – but it is not necessarily the only way forward. Collective licensing enables us to offer the IP rights over 1,000 print and web titles in one transaction, tailored through constantly evolving licences to the needs of hundreds of thousands of client companies and tens of Media Monitoring Organisations. Although this is practical and relatively efficient, inevitably degrees of 'granularity' are lost in this process. The ideal would be for publishers to be able to set individual values for content and to offer differentiated permissions, according to market use. This is why the NLA is keen to support the development of ACAP and potentially other sophisticated tools enabling content owners to manage their IP in a more sensitive and flexible way.
- 6.1.5 By investing in the creation of database services (eClips), the NLA has already moved beyond the traditional 'licensing' role of collecting societies. By offering MMOs improved access to content through new services, we are helping them to grow their customer base by providing faster delivery, greater depth and improved quality. In the future, our database platforms will be able to support more individual services to the media monitoring market by the application of tools such as ACAP.
- 6.1.6 All of these developments are possible within the present copyright laws.

7. Conclusions

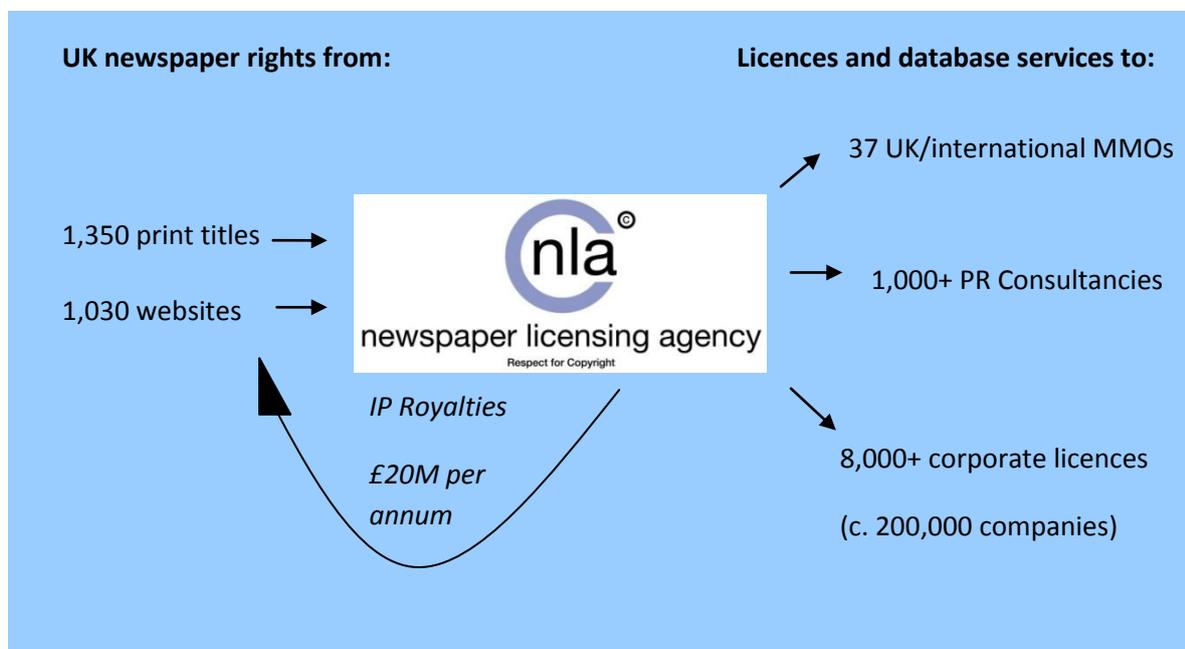
- 7.1.1 Copyright law and the framework developed from it is broadly working. It supports investment by media owners (new titles, the web), enables investment in media monitoring businesses (press 'clippings', media evaluation) that in turn support the public relations sector (in agencies and client businesses). As a collecting society, the NLA has evolved a suite of licences and database services to meet client needs in the 21st century and continues to work with the media monitoring market to enable its development and reward publisher investment.
- 7.1.2 There are some encouraging signs in Europe, such as the Digital Agenda Strategy referenced above, that the strengthening of publisher strategies online can be helped by regulators. There is a need to ensure that all parties engaged in the digital space observe copyright ownerships, noting that publishers, in the absence of regulation to strengthen copyright in the digital age, have been developing and implementing solutions themselves.

Key conclusions that the NLA would draw are:

- Innovation will naturally come from investment, which in turn requires stability and clarity of legal rights.
- Aggregation and re-use of content are both natural consequences of new technology, but content creation is undermined if it is not protected from commercial exploitation by businesses using these technologies.
- Collecting societies are a natural mechanism for mediating the needs of content producers, aggregators and consumers dealing with content. They are an effective and efficient means of enabling use of small amounts of data from multiple sources. Collecting societies have adapted and need to continue to adapt and invest to meet this challenge. If they do so, they can act as an economic catalyst, through provision of flexible licences and services that give businesses ready access to vital information - and reward to the creators and publishers of that information.

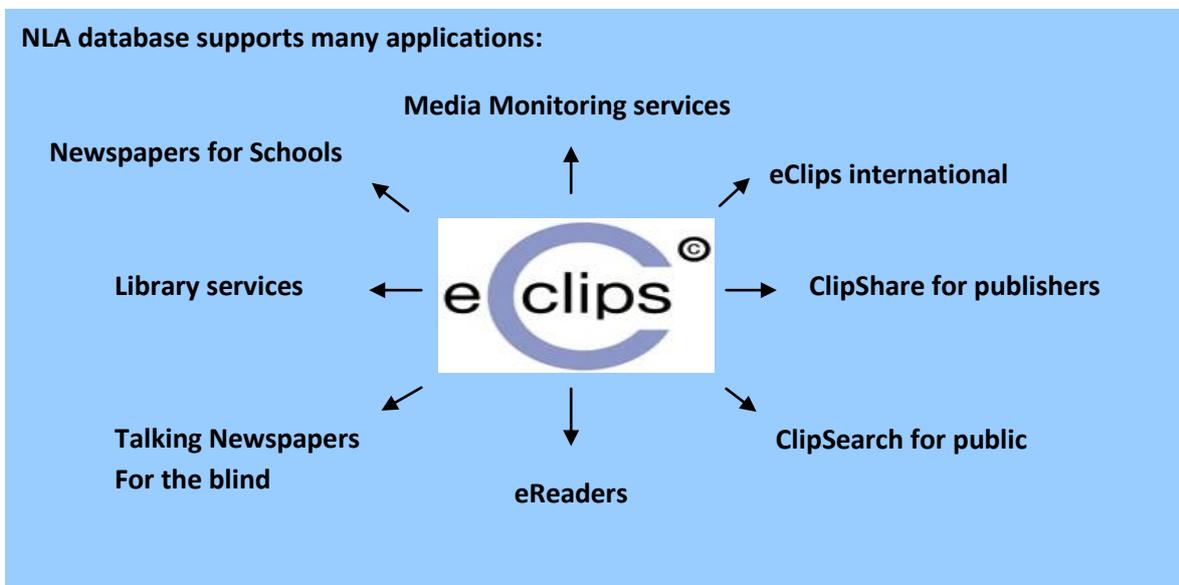
APPENDIX

1. Newspaper Licensing Agency overview



- 1.1 The NLA is a limited company, formed in 1996, owned by the 8 UK national newspaper groups, but with a non-exclusive mandate to license the IP rights of 1,350 national and regional newspapers, plus 1,030 'newspaper' websites in the media monitoring market. The role of the NLA is to generate revenues for publishers by communicating the role of copyright in protecting publishers' investment, creating licensing solutions for business, developing database services and ensuring effective compliance, where required. The NLA operates as a *collecting society*, offering the convenience of collective licences to businesses. NLA licences enable companies to legally copy content from print editions (plus, since 2010, from web sites) and to distribute that content as part of a media monitoring and evaluation service or use within client businesses.
- 1.2 The sector of the Media Monitoring market that the NLA serves is focused upon the delivery of press/web cuttings from today's editions. The NLA raises c.£20m pa for national and regional newspaper publishers by licensing Media Monitoring Organisations (press cuttings agencies, or web aggregators offering paid-for services) to copy and their clients (public relations consultancies and commercial businesses) to copy and distribute content. The NLA presently licenses 37 MMOs (in UK and overseas), 1,070 PR consultancies and c. 200,000 UK companies through 8,000 corporate licences.
- 1.3 In 2006, the NLA made a strategic investment in eClips, a database which gives MMOs digital access to print-edition content from the top 150 national and regional newspaper titles. The eClips service captures newspaper editions as they go to press and produces a specialised XML feed for MMOs,

which they can search and deliver links to selected articles to their clients. The twin motivations for publisher investment in eClips were a) to generate new revenue and b) to improve control, visibility and security over use of their content. eClips is an example of newspaper companies innovating in response to the developing markets for newspaper content. Its success was far from guaranteed, but has been due to providing an improved service to the market.



- 1.4 The links that MMOs select for their clients resolve to the NLA database – and have replaced email delivery of PDFs. This not only protects publisher copyright, but has benefits for MMOs: it has improved the service they can offer their clients by improving speed of delivery and quality of reproduction and reduces barriers to entry for smaller players, by eliminating the need for scanning on an industrial scale.
- 1.5 In addition to the core service for MMOs, the eClips database also allows remote searching and access by the public through ClipSearch. The service is designed for ad hoc, non-licensed commercial users in small enterprises principally, but is increasingly relevant to the academic sector as the archive of content grows. The database also enables the NLA to provide free access to newspaper content by 2,000 secondary schools and delivers a free feed to the RNIB for Talking Newspapers.
- 1.6 During 2009 and 2010, the NLA publishers made another innovative investment in the development of eClips-Web, a web-edition database, which will launch in Q1 2011. As with the print-edition database, the objectives for publishers are to develop new revenues from their investment in content and to improve control and visibility over the use of web-published content by offering a service for MMOs that will replace the ‘scraping’ of their websites by robots or agents. eClips Web will offer the market a web-content feed that comes directly from publishers’ editorial systems and is consequently faster and ‘deeper’ than ‘scraping’. eClips Web will be capable of being developed to offer a similar range of services (paid-for and free) to the eClips print-edition database, principally for the MMOs, but also for publishers, libraries, schools and individuals.