

PUBLISHERS LICENSING SOCIETY

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The Publishers Licensing Society is fifteen years old this year. It represents publishers on the board of the Copyright Licensing Agency, and obtains mandates from publishers for the CLA to issue licenses for the reproduction of copyright works.

The work of the PLS, including this payment system, is described, and present work on electronic copying is outlined.

Introduction

In 1996 the Publishers Licensing Society (PLS) celebrates its fifteenth birthday. The Society held its first meeting of directors at the Publishers Association in September 1981. It was set up at the instigation of copyright owners to issue licences to users to enable them to make photocopies of copyright material and to ensure that copyright holders received some financial recompense. Following the recommendations made by the De Freitas Committee in 1982 the Copyright Licensing Agency was set up and it was agreed that the publishers should be represented by PLS with the authors being represented by the Authors Licensing and Collecting Society (ALCS). The three organisations which are represented by PLS are the Publishers Association (PA), the Periodical Publishers Association (PPA) and the Association of Learned and Professional Society Publishers (ALPSP). By the end of 1995 the Publishers Licensing Society had nearly 1500 members and, as independent publishers who are not members of the founding associations are also eligible, PLS now represents the interests of a broad range of publishers from the large corporations to the self-publisher. Many of the publishers and learned societies that are members of the UKSG have mandated PLS, as have some of the universities that publish material.

PLS is mandated by the publishers to represent them on the board of the Copyright Licensing Agency (CLA). It represents publishers' interests in CLA's negotiations with users. The PLS Board has recently expanded and now consists of three representatives from each of the member associations (PA, PPA and ALPSP). One representative is an executive of the association while the other directors are from publishing companies that are members of the associations.

Links between PLS and CLA

I think it would be helpful to describe the links between PLS and CLA. The CLA has a board with twelve directors, six are selected from PLS directors and the other half from the Authors Licensing and Collecting Society. The ALCS directors include representatives from the Writers Guild of Great Britain, the Society of Authors and individual authors. CLA acts as agents for these publisher and author bodies. The chair alternates between the authors and

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publishers and in March 1996 Maureen Duffy of ALCS took over from Nicolas Thompson, Chair of PLS.

PLS obtains mandates from publishers to authorise CLA to grant licences for the making of reprographic copies of copyright works. At present this means only photocopies with some limited fax usage. The money from CLA is distributed to both ALCS and PLS with PLS distributing fees to publishers and ALCS making payments to authors.

PLS general objectives

PLS has general and specific objectives. The general ones include expanding the range and repertoire of mandated publishers available to licence holders, enforcing copyright protection, compliance with the terms of licences and helping CLA to increase the number of licences issued.

There are really two ways we increase the number of mandated publishers. As CLA licenses new areas we may receive requests for a specific publisher's titles and if they have not mandated then we will approach them. The other method is by default. As the result of a survey CLA may pick up copying from a non-mandated publisher's work. PLS will then write and let them know that this has happened and invite them to participate in the scheme. Most small publishers understand that it is not always possible for us to track them down before the copying has happened and they are happy to sign up after the event. There are those who do not wish to join and their works are then excluded from future licences.

Any legal action taken against users who infringe the copyright of mandating publishers is carried out by CLA with the copyright holder's consent. The most recent case involved the UK division of a French pharmaceutical company, Fournier Pharmaceuticals. The company was issuing a newsletter to their representatives which included complete articles from several publications. With the agreement of two of the publishers CLA took legal action against the company. The costs of the suit were borne by the CLA fighting fund and costs and damages were agreed. The company is now licensed.

PLS specific objectives

These are reviewed towards the end of each year. In 1995 one of our primary aims was to increase communication with our mandating publishers. PLS is run by a small staff. The directors are non-executive and the office is looked after by me, the manager, and my assistant, Cath Delaney, who joined in October 1995. We also have a part-time consultant, Richard Balkwill. My publishing career has been in STM publishing covering rights and marketing, while Richard Balkwill worked for many years in educational publishing. Cath Delaney, as a recent graduate, has views from the user's side. We produce an annual report and a newsletter, PLS Plus, which is sent out three times a year. We also visit mandating publishers to let them know how licences are running, to talk to them about issues of current concern and to get their views about how PLS should work in the future.

Other objectives include supporting CLA in the issuing of licences, particularly to businesses and government departments, supporting renegotiation of established licences, encouraging the use of the Copyright Licensing Agency Rapid Clearance Service (CLARCS), ensuring swift distribution of revenue and cost control.

Educational licences

As UKSG members are probably aware, the first licences issued by CLA covered copying in schools and universities. CLA also licenses government departments, public bodies including the British Library, and businesses.

Licences have been in place in all universities since 1990, following some earlier experimental licences, and were amended in 1993 to enable course pack clearance through CLARCS. The present university licence is based on the number of full-time equivalent students and the fee per student is increased annually in line with the retail price index. The licence is due for renewal and CLA is negotiating with the Committee of Vice-Chancellors and Principals. Surveys have revealed the extent of copying is much greater than the levels agreed in the last licence and student numbers have increased considerably.

CLARCS

The Copyright Licensing Agency's Rapid Clearance Service is a transactional system which allows publishers to set their own fees for copying material over and above the terms of a blanket licence. There are separate bands of fees to cover copying in education, business and document delivery suppliers. The system is fairly flexible and publishers can set fees for individual titles or they may set a sliding scale based on the number of copies. The fees generated at present are about £250,000 a year.

British Library

The new agreement to cover commercial document delivery by the British Library was signed in April 1995. Publishers may set their own fees for this service offered by the British Library Document Supply Centre. The fees that are set on CLARCS for document supply are the fees that BLDSC will charge. The new licence permits faxing of the article from the British Library to the customer but covers only paper-to-paper transmission (electronic storage is not permitted). The British Library have agreed that they will no longer send royalty free fax copies to customers outside the European Union. All commercial organisations outside the EU will have to pay for photocopies, plus organisations in Belgium, France, Greece, Italy, Luxembourg and Portugal. They continue to provide only fee-paid services to the USA.

Business

Licensing business has been slow and difficult and CLA has decided to focus on R&D driven companies, the financial services sector and law firms. In the summer of 1995 they agreed a draft contract with the Association of British Pharmaceutical Industries and they are now licensing the individual pharmaceutical companies; over 50 pharmaceutical companies including Glaxo Wellcome, Zeneca and SmithKline Beecham are now licensed. CLA has made presentations to law publishers outlining the type of agreement they would like to offer to law firms and they are now negotiating with The Law Society. There are some licences already in place with law firms, accountants, banks, and

building societies. One of the large banks has been surveyed.

Copywatch

In November 1995 CLA launched Copywatch. This is a campaign aimed at stopping illegal copying and is specifically targeted at business. CLA estimate that nearly eight out of ten people photocopy illegally at work. The campaign emphasises that CLA will take legal action on behalf of their members when they obtain evidence of copyright infringement. Morgan Stanley, a US securities house, made illegal copies of a book retailing at £75. CLA took legal action on behalf of the publisher, IFR Publishing, and obtained an out of court settlement of over £4,000. The company was obliged to deliver up the illegal copies and to give an undertaking against further infringements. Another case covered copying in a copyshop near Glasgow University Library which was copying textbooks for students. CLA representing Butterworth & Co obtained an injunction to stop the practice and comply with copyright legislation. CLA has prepared advertisements to publicise their copyright licensing scheme to businesses and publishers are including these in their publications on a space-available basis. Having targeted the pharmaceutical sector, over the next few months CLA will approach building societies, government, public bodies, accountancy firms, chemical companies, the gas, electric, nuclear and water industries and, later in the year, finance, electronics, media and defence.

Overseas

The Copyright Licensing Agency has reciprocal agreements with fourteen other reproduction rights organisations which are members of the International Federation of Reproduction Rights Organisations (IFRRO). The countries covered are Australia, Canada (including Quebec), Denmark, France, Germany, Iceland, Ireland, New Zealand, Norway, South Africa, Spain, Sweden, and the United States of America. The sums received for UK copyright holders from these sources vary greatly. Those contributing most are Norway, Germany and the United States. PLS is an associate member of IFRRO.

Electronic copying

At the end of 1995 PLS held an open meeting which was attended by members of the PA, PPA, ALPSP and PLS mandating publishers to seek views on what role it should take in the licensing and administration of electronic copying. We have now commissioned a report and plan to make the results known during 1996. CLA does not at present issue licences to permit electronic use and digital copying but has prepared a draft agreement to cover electronic storage of material for the purposes of the IT part of the school curriculum. This was sent to Local Education Authority representatives at the end of 1994. They have not yet responded and it still remains an issue.

Payments

Distribution of revenue from licences is based on surveys and record keeping. Surveys have been taking place in universities since 1993 and were agreed as part of a contract amendment that also brought in the use of CLARCS. They replaced record keeping in the higher and further education sectors because this proved to be unsatisfactory. To enable efficient supervision of the surveys the UK has been divided into twelve regions and, by the end of the spring term 1996, selected universities in all regions will have been covered. Surveys in libraries are supervised (students are hired to make sure the information labels are completed) while the academic departments work to the rules set out below. The CLA consultant statistician includes a representative sample of old and new universities in each survey and tries to ensure a broad range

of subjects is covered. Reprographics units are always surveyed.

The survey lasts for six weeks. A meter reading is taken from the copier at the beginning of the survey and again each time the CLA field officer visits. (This is usually weekly.) CLA provide a 'letterbox', sticky labels and a poster for each copier. When copying from a journal, the person copying should take a copy of the front cover of the journal and the first page of the article. He/she should complete a label indicating the number of pages copied and the number of copies taken and then post it in the box. For a book the title page should be copied and the label completed. These copies are collected and passed to the CLA statistician for analysis.

These surveys and, in the case of schools, the selected sample of 600 schools that have to keep full records, are used when CLA make their payments. The money passed on to authors and publishers reflects the volume of copying of each title. For books, the money collected is shared equally between publishers and authors. For journals, where copyright has normally been assigned by the writer, the money goes to the publisher for onward distribution as appropriate.

In its last financial year PLS paid out just over £6 million to copyright holders. CLA has distributed over £37 million to authors and publishers in the UK and overseas since 1987 and expects to pass the £50 million mark by their fifteenth anniversary in 1997.

For further information about PLS please write to us at 90 Tottenham Court Road, London, W1P 9HE. CLA is at the same address and ALCS are at 74 New Oxford Street, London WC1A 1EF.