

Business Support Policy Team
Room 3R35
UK Intellectual Property Office
Concept House
Cardiff Road
Newport
Gwent
South Wales NP10 8QQ

24 July 2012

By e-mail to SME@ipo.gov.uk

Dear Sir or Madam,

IPO Mediation Service – Call for Evidence

The British Copyright Council represents those who create, hold interests or manage rights in literary, dramatic, musical and artistic works, performances, films, sound recordings, broadcasts and other material in which there are rights of copyright and related rights.

Our members include professional associations, industry bodies and trade unions which together represent hundreds of thousands of authors, creators, performers, publishers and producers. These right holders include many individual freelancers, sole traders and SMEs as well as larger corporations within the Creative and Cultural Industries. Our members also include collecting societies which represent right holders and which enable access to works of creativity. A complete list of BCC members can be found on our website at <http://www.britishcopyright.org/page/12/members/>.

Mediation is a matter of some interest to our members and to their individual members. However, many of the questions posed by this consultation are aimed directly at these individuals (particularly sole traders and SME's) which might use a mediation service or ADR. Therefore, it is not possible for the BCC to provide detailed answers to these questions or to provide evidence. We have instead chosen to respond by giving our more general view under each of the main headings provided in the consultation paper.

Background

The British Copyright Council supports the use of mediation and other forms of ADR as one of a range of means for resolving disputes. An attractive/beneficial mediation service is one that is authoritative, impartial, cheap and is accessible to sole traders as well as to SMEs.

The IPO Mediation Service

The British Copyright Council was already aware of the IPO Mediation Service and it was last discussed between IPO representatives and the BCC in September 2009. The points we made at that meeting about the lack of suitable information about the service still appears to be valid.

We have checked again and find that:-

1. Information about the service is buried on the IPO website under the section on Patents and in the sub-menu on resolving disputes. There is nothing about the service in the Copyright section of the site, not even a link. Nor does a search of IPOs website for "Mediation Service" throw up an obvious link to the "resolving disputes" section.
2. The section of the site on "Mediation" provides general information about the subject and though there is some reference to the Service, it would not be immediately apparent to a layperson.
3. Most importantly from a copyright point of view, the siting of the information about the Service and the wording of the leaflet about Mediation do not make it clear that the service covers Copyright disputes.
4. The Mediation leaflet provides useful general information about mediation but the Service itself is only promoted in the latter part of the document, should the reader get that far.
5. It would be more helpful if the Service was promoted separately from IPOs role as an impartial information provider.

In summary, the factors that influence decisions not to use the Service are lack of information, lack of knowledge that the Service is available to copyright owners and users, concerns that the service might not be tailored to the needs of copyright owners and users, and costs.

Furthermore, it is our view that while IPO has a valuable role to play in education and awareness about rights, its role as policymaker may make it unsuited to providing mediation between right holders and right users. There is a feeling amongst some of our members that IPO should not be involved in providing such services but should, in fact, play a more active role in the enforcement of copyright. In the context of IPO's mediation service we feel, therefore, that it has greater potential and is likely to prove more useful for some copyright issues than it is for others. For example, mediation may be more suited to a copyright matter involving two or more parties arguing about "who owns what" than it is where one party is ignoring that copyright exists and is making unauthorised use of a work.

Other schemes

We have no experience of other schemes.

If you need any further information or assistance, please do not hesitate to contact me.

Yours faithfully



Janet Ibbotson
Chief Executive Officer