

10th January 2014

Antoinette Graves
Senior Policy Officer
Copyright and IP Enforcement Directorate
IPO
4 Abbey Orchard Street
London

By e-mail to:- Antoinette.Graves@ipo.gov.uk

Dear Antoinette,

Orphan Works and Extended Collective Licensing

At a recent meeting, the BCC's Working Group on Copyright and Technology discussed the publication of proposed Regulations on Orphan Works and any consultation associated with the proposals.

One question, which the Working Group would like to see addressed during the consultation, is whether or not it is really necessary for the current criminal sanctions under s 107 CDPA to remain applicable to cases where a licensing body authorises the use of a group of works within an acknowledged licensing scheme, when some of the works may be deemed 'orphan' after diligent search.

We understand that it is the IPO's view that retention of s .107 in its current form is required by the Enforcement Directive but we are unclear as to why that is, since the Directive does not seem to require Member States to impose criminal sanctions as such. It only requires that sanctions be "effective, dissuasive and proportionate". It certainly requires a range of remedies and sanctions (such as injunctions, right of seizure of infringing goods) but does not specifically require that infringers be subject to criminal liability. Whilst copyright owners of course welcome the application of the criminal law in appropriate cases of piracy (infringement on a commercial scale) they don't believe that including CMOs operating recognised copyright licensing schemes in this category is helpful or appropriate. We believe the same point can be made about Extended Collective Licensing schemes to the extent they cover the use of what may be orphan works.

Kind regards.



Janet Ibbotson
Chief Executive Officer