



## Writers' Guild of Great Britain

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### **Response to the DIUS, BERR & DCMS document “Copyright in a Digital World – What Role for a Digital Rights Agency?”**

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The Writers' Guild of Great Britain is a trade union with 2,300 members, representing professional writers in TV and radio; theatre; film; publishing; writing for children; video games and multimedia.

We are grateful for the opportunity to comment on the document “Copyright in a Digital World – What Role for a Digital Rights Agency?” As the time available for submitting comments has been so short we will confine ourselves to a few brief comments at this stage, but we may wish to say more on this subject when the final Digital Britain report is issued later this year.

1. We think it is useful to distinguish between organised criminal piracy for profit on the one hand, and unlawful private use on the other. We welcome the suggestion of creating a Rights Agency that could encourage industry co-operation in tackling the latter while Government and the criminal justice system concentrate on the former.
2. The Rights Agency could have an important role in public information and education to help the public, and particularly young people, understand why free use of copyright material is undesirable and counterproductive.
3. The Rights Agency could have a role in researching, trialing and perhaps promoting business models that have the best chance of incentivising and rewarding creativity while maximising public acceptance and use. An intriguing debate is opening now on the relative merits of easy and moderately cheap availability on the iTunes model, and easy and very cheap availability which, it is suggested, might compensate for the low prices charged by the high volume of use that could be generated. This needs to be explored.
4. The Rights Agency could promote industry co-operation in developing micropayments systems that ensure that small amounts of aggregated and then distributed as fairly as possible among all relevant rights holders – including creators and performers as well as producers, publishers and distributors.

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5. We have long felt that it is unfair that rightsholders have less access to the Copyright Tribunal than users, but from recent discussions it appears to us that there is little prospect of meaningful reform. The Tribunal is a cumbersome and expensive recourse that may (or may not) be suitable for weighty and complex issues, but is of little use for the more everyday types of disputes. May we suggest that the Rights Agency could develop some kind of “small claims” procedure that could be informal and inexpensive, enabling disputes between rightsholders and users, or between different rightsholders, to be resolved without the full implications of court procedures, legal representation and costs, etc.

6. We are concerned that the idea of a Rights Agency is introduced in the Digital Britain consultation documents mainly as a resource for rightsholders that are sizeable companies such as film and TV producers, broadcasters, etc. For this initiative to be truly democratic and effective it needs to be equally open to individual creators who either hold copyright and moral rights in their works, or have assigned/licensed/waived those rights in return for monetary or other rights under commercial contracts. This could be partially achieved by involving representatives of such creators – for instance, trade unions (such as the Writers' Guild of Great Britain), collecting societies, and other associations, but to be entirely democratic and open, the Rights Agency will need to give full access to individuals.

7. Thought needs to be given to the costs of participation in the Rights Agency. A fee of £1,000 or £2,000 a year would be a token to a large company and would be realistic for even quite a small representative organisation, but would shut out most individuals. A fee of £5,000 a year would be difficult for many organisations and smaller companies. A fee higher than that would mean that the Rights Agency would be closed to all but the most economically powerful entities.

8. We are concerned that the operation of a Rights Agency may be seen as requiring some form of registration of works to be protected by the system. There are a number of problems associated with copyright registration, which is a requirement we would strongly oppose. For one thing the Berne Convention, etc., operate on the basis that no registration should be required for an author to benefit from copyright provisions. For many years in the UK full copyright protection has existed automatically for works of all types and we believe this should continue to be the case. Registration would introduce a two-tier system under which registered works would have enhanced protection and unregistered works would be more vulnerable or even unprotected. This is relevant because while an author might be likely to register a novel or screenplay, for example, an individual might be much less likely to register a personal diary, blog or YouTube video, and this in turn would be likely to lead to anomalies or injustices. A further problem would be the cost of registration. Even at a modest fee of £50 per work it would be difficult or unaffordable for many amateur or struggling writers, particularly authors of shorter works such as poetry or short films. Among those effectively denied the full protection of the copyright system would be children, students, prisoners and those living on benefits. Another problem with registration is that an obscure or unrecognised work may remain unregistered, which could cause complications when such a work subsequently transpires to be of great artistic and/or commercial value.

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9. While we cannot comment in detail on the costs of running a Rights Agency, we must say that the amounts suggested in the consultation document appear very optimistic, and we believe some government funding will be needed if the proposal is to work properly at all levels.

Thank you for the opportunity of presenting these comments.