



Mr. Mat Pflieger,
The Copyright Licensing Agency,
Saffron House,
6-10, Kirby Street,
LONDON, EC1N 8TS.

15 October 2010

Dear Mat,

Trial Further Education Copyright Licence

Further to our recent correspondence, there are a number of matters arising from the copyright licensing arrangements for Further Education Colleges and Sixth Form Colleges which give us cause for concern. We have set out below eleven points which we would like to discuss at our meeting on Monday 18th October. We have also listed below ten questions; we would appreciate your considered reply to each of them in due course.

1. CLA acknowledges that it derives most of its income from publically accountable institutions and very little from those businesses which are not publically accountable. We believe that they are abusing their monopolistic position to unfairly penalise those complying with the law to cover those who are not.
What steps are CLA taking to increase the contribution from training providers which are not Colleges of Further Education or Sixth form Colleges?
2. The differential rates charged by CLA to businesses and education appear increasingly disparate. CLA's business licence fee is based on a maximum £40.40 + VAT charge per "professional employee" raising a minimal amount of money compared to the 10% of their total worldwide 08/09 income raised from the 422 Colleges in the UK. This would appear to indicate a massive cross-subsidy to non-publically accountable businesses.
Might CLA be able to explain why total CLA income is derived mostly from the education sector , itself mostly reliant on the public purse?
3. Colleges of Further Education and Sixth form Colleges pay a disproportionate amount of their income compared to schools and Higher Education (HE), as shown in the table below and yet are likely to make significantly lower use of the licence than their counterparts in schools.
Why are CLA asking those with the fewest resources being asked to pay the most?

	CLA fees £m 2008/09	Total UK income £m	Percentage of fee over income
HE	£ 10.5	£ 25,000	0.0420%
Schools	£ 10.9	£ 50,000	0.0218%
Colleges	£ 5.7	£ 8,000	0.0713%

4. CLA argue that their income is naturally derived from education in line with their international colleagues. In Australia, for example, 75% of copyright income derives from education establishments. Interestingly, only 3% of CAL's income comes from Colleges in Australia, compared with 10% in Britain seen in the table below.

Education establishment	CAL fee income (AUS)	CLA fee income (UK)
Schools	48%	19%
Universities	21%	18%
Colleges	3%	10%
Independent Colleges	3%	?
Government	12%	11%
Commercial licences	12%	34%
International agencies	1%	8%

5. Changes in the nature of delivering training and education in Colleges over the past twenty years and the marked reduction in the use of copyrighted material in Colleges. The CLA does not have any robust data on the use of copyrighted material in Colleges; the annual survey does not take account of non-copyrighted material and is used primarily to drive the formulae of copyright royalty payments to rights holders.

We would therefore request that CLA justifies its insistence on continuing with an outdated licence charging basis.

6. The consistent application of RPI to the FTE charge, without recourse to the rationale behind the increased charge. Most organisations have now adopted CPI as the basis of their inflationary increases. Additionally, CLA have increased the College fee by 5.3% in 2010/11 over 2009/10. The business rates have increased by 4.935% (Band Rate A), 4.85% (Band Rate B) and 5.04% (Band Rate C). We do not have data on other charges levied by CLA, but it appears that Colleges alone have suffered the largest increase in fees.

Might CLA be able to explain why those which already pay the highest proportion of their income to CLA are being asked to pay the highest increases?

7. The calculation of full-time equivalent in Colleges derives from unknown sources and may be incorrect. We suspect that these may well be standard learner numbers (SLNs), and not full-time equivalents (FTEs). The licence must be based on FTEs, and not SLNs, which can rise above 1.0 per person.

What action is CLA taking to ensure that the calculation of full-time equivalent students is correct?

8. The significant discount offered to those 16-18 year old students in schools discriminates against those 16-18 year olds in Colleges, on whom a much higher fee is levied. The discounted fee per secondary pupil in 2010/11 is **£1.50**, compared with the discounted FE FTE charge of **£4.79** for AoC members. Additional to this is the added cost of VAT, which is levied on the College charge, which local authorities (as funding bodies for schools) do not have to pay. We would be interested to discover how you account for academy enrolled pupils. ERA have agreed to introduce the secondary school tariff for all 16-18 year olds from 2011/12.

What timetable have CLA adopted to introduce equal charges for all 16-18 years olds undergoing publically funded training and education in schools and Colleges?

9. The significant reduction in College funding over the past few years and the relentless rise in CLA charges means that Colleges are paying a disproportionate amount of money for licensing.

What steps will CLA take to ensure that their licensing fees do not prevent students from being denied places in Colleges?

10. We would be grateful if CLA might clarify if the blanket licence is a legal requirement and what alternatives are there for copyright. Does CLA offer piecemeal rates for photocopying as they used to, for example?

What alternatives does CLA offer to the current blanket licence?

11. CLA maintain that they use April's RPI figures to ascertain the increase in annual levy. We are unable to match RPI as per the Office of National Statistics against the increases in the licence fee as below.

Will CLA rectify the apparent error in increases from previous years?

Year	CLA charge per FE FTE	CLA increase	April RPI ONS
2006/07	£4.04		
2007/08	£4.22	4.5	4.5
2008/09	£4.40	4.3	4.2
2009/10	£4.55	3.4	-1.2
2010/11	£4.79	5.3	5.3

Please feel free to get in touch with me on 020 7034 9956 if you would like to discuss any matter contained in this letter, or contact me by email at Robert_russell@aoc.co.uk.

Yours sincerely,

Robert Russell
AoC