



Enterprise and Regulatory Reform Bill

Clause 66 and copyright exceptions - Briefing from the Authors' Licensing and Collecting Society

Clause 66 – what does it say?

Clause 66 amends the Copyright, Designs and Patents Act (1988) to grant new powers to the Secretary of State to determine by regulations that certain acts are or are not permitted in relation to works protected by copyright, providing new powers to amend the current copyright exceptions regime.

Authors and copyright exceptions

Copyright enables authors to exercise their rights (e.g. licensing the use of their work to publishers) in return for the royalties and other compensation (e.g. Public Lending Right royalties for the lending of books in public libraries, royalties for the photocopying of their work, etc) they need to sustain the creation of further works. Through this regenerative cycle, authors support and promote annual investment of £3bn in the UK's publishing, film and TV industries.

The Government is currently undertaking a major review of copyright law on the back of the Hargreaves Review of Intellectual Property and Growth; Hargreaves recommended that UK copyright exceptions should be implemented to the full extent permitted by the EU Copyright Directive. The range of exceptions envisaged by the Directive covers a broad and diverse range of activities.

Copyright exceptions dilute the rights authors hold in their works; as such they should only be implemented in cases of proven need following a substantive review process. To avoid adverse impacts on the UK creative industries, legislative proposals on exceptions must be justified by clear evidence and presented so as to allow a full evaluation of their impact.

Concerns surrounding the current process

As noted in the recent All-Party IP Group report on the role of Government in protecting and promoting IP (www.allpartyipgroup.org.uk), concerns persist regarding the quality of evidence supporting these reforms and the way this evidence is interpreted to develop policy.

During the Bill's Report Stage debate in the Commons, the Government Minister confirmed that proposals on exceptions would be enacted through secondary legislation (though naturally primary legislation and full scrutiny and debate is the most desirable option) but failed to provide the requested assurances that individual exceptions would be the subject of individual statutory instruments (and individual impact assessments).

Given the potential for these reforms to have significant impacts on the creative industries (and the individuals contributing to those industries) and the concerns expressed as to the robustness of the Government's evidence, we hope you will feel able to press upon the Minister the need for such assurances to be brought forward without delay.

For further information please contact Barbara Hayes, Deputy Chief Executive, ALCS
T: 020 7264 5709
E: Barbara.hayes@alcs.co.uk
ALCS Ltd, The Writers' House, 13 Haydon Street, London, EC3N 1DB