



PRS for Music Response - IPO Consultation on changes to the penalties for offences under sections 107 (2A) and 198 (1A) of the Copyright, Designs and Patents Act 1988

PRS for Music¹ is a collecting society with over 111,000 composer, songwriter and publisher members. We license, through our network of reciprocal agreements with other societies, the rights for over 10 million musical works from 2 million rightsholders worldwide. These rightsholders depend on copyright and our ability to licence the use of their works to sustain their businesses and create new works which are so essential to the future success of the creative industries.

PRS welcomes the opportunity to comment on the IPO's consultation on equalising the maximum custodial sentence for online and physical copyright infringement.

PRS for Music works to protect the rights of its members, including the infringement of their works online. In 2014, *PRS for Music's* Anti-Piracy Unit (APU) shifted its strategic focus entirely away from physical piracy in order to focus all available resources on online piracy. The APU's current focus is to:

- build a new IT system for “notice and takedown”, in order to develop, streamline and enhance the unit's operations of dealing with online piracy,
- work in partnership with the City of London Police IP Crime Unit (PIPCU) to refer sites into “Operation Creative”, the centralised UK law enforcement and creative industries’ “follow-the-money” approach to tackling piracy, and
- tackle mobile app-based piracy, in particular apps and other technologies which allow for the “ripping” of music from streaming sites.

In the last year the APU has also undertaken various investigations into the operators of illegal online music services, including a referral to PIPCU relating to a BitTorrent file-sharing site for karaoke music which directly lead to enforcement action being carried out by the police. However, despite the extensive time and resources deployed to make the referral the suspect received only a caution for the offence.

More broadly PRS for Music works closely with other industry bodies, such as the BPI and Alliance for IP, to tackle copyright infringement. We are also funding the CCUK initiative and working with the Government to deliver a coherent copyright education campaign.

¹ *PRS for Music Limited* is a wholly owned subsidiary of PRS that provides operational services to PRS and also to MCPS through a services agreement.

The IPO's consultation notes the 2005 Gowers' review suggested "the intention and impact of physical and online infringement are the same". However, the online content market has grown considerably, driven by the changing behaviour of users and the increased availability of streaming services, over the last ten years. As a result it could be argued that the impact of online infringement is now even greater than physical infringement for music rightsholders.

Wave 5 of the Online Copyright Infringement Tracker published by the Intellectual Property Office showed that 62% of consumers (12+) consumed at least one item of online content. The report also showed that 57% of consumers have streamed or accessed content, with music (35%) the most accessed content online. At the same time a report² produced by the Digital Citizens Alliance, suggested the 30 largest copyright infringing sites they studied, supported by advertising revenues, averaged an annual income of \$4.4 million. While even the smaller sites could make in excess of \$100,000 a year.

With the evidence proving the fundamental shift from physical to online content consumption it is an imperative that the mechanisms for protecting intellectual property reflect the current markets realities. Therefore, we believe it is essential the government equalise the penalties for online with those current provided for physical infringement.

Importantly we note an increase in the maximum penalty from 2 to 10 years would make online infringement an arrestable offence. This will ensure the police, including the IP Crime Unit, have the same options available to them for tackling online infringement as they currently have for physical.

For the reasons set out above we support the proposals to equalise the penalties for copyright infringement. However, penalties are clearly only one part of the enforcement mix to tackle infringement, both physical and online. Improving users' levels of understanding and awareness through copyright education and awareness programmes is also essential, especially in light of the fact users are increasingly confused as to which sites are legal or not (according to the most recent Kantar study).

PRS also supports the response to this consultation provided by the Alliance for IP.

If you have any questions about this submission, or any other issues relating to PRS for Music, please contact us at policy@prsformusic.com

² <http://media.digitalcitizensactionalliance.org/314A5A5A9ABBBBC5E3BD824CF47C46EF4B9D3A76/4af7db7f-03e7-49cb-aeb8-ad0671a4e1c7.pdf>