Welcome to ICCCT

Richard Hooper, Chairman of the Copyright Hub, London, UK

29 April, 2014 - IKT Norge conference in Oslo

Thank you for inviting me to Oslo. It is a pleasure to be in Norway, a Nordic country for which the UK has always had a special affection and respect. Our television screens are regularly invaded these days by gripping Nordic TV dramas and every year Ibsen's brilliance comes to a London theatre – currently it is Ghosts.

So what have gripping Nordic TV dramas and Ibsen got to do with an ICT conference – I for information, C or Norwegian K for communication and T for technology. I hope to persuade you today that ICT could also in the modern digital converged world mean Information – Content – Technology or Information - Copyright – Technology or Information – Converged – Technology.

I want to focus on the topic of intellectual property, which in the knowledge-based economy plays an ever more important role. IP is the key asset of any knowledge-based business. I believe I can safely say that everyone in this room is in a knowledge-based business – you are IP-driven, not "smokestack-driven". I am going to focus on copyright

especially, without in any way reducing the importance of patents, trademarks and design rights, the other three key types of intellectual property. Technology/IT companies like yourselves, a few years ago, might have yawned and said: "Patents and design rights and trade marks – yes of course; but copyright, no thank you – not my concern. Except of course copyright in my computer software."

But no longer.

Apple's resurgence is partly to do with its move into the content business with the launch of iTunes. Content is copyright. Google Play is a content business. Content is copyright. Amazon is a content e-retailer. And creative industry companies themselves have to be incredibly technology-savvy to survive in the digital age – some of them becoming "sort of" technology companies – one thinks of the nearly 100 year old public service broadcaster, the BBC and its invention of the iconic iPlayer/video on demand. But at base the BBC is a content player.

The word "content" is an interesting one. We use it to refer to the stuff that creative people make, but it's a telling word. It implies that it is contained by something, it's the contents of something else. The substance of a product – a newspaper, film, book, app or website – is the content without which the empty container is worthless. But equally, the content on its own often has little individual value. Without the supporting structure,

the investment, the distribution network, the reception devices, the marketing, it's hard for content to realise its value. In other words copyright when it works well creates this rather brilliant symbiosis between content and container and licensing is the practical mechanism through which the content is delivered.

Many of you technology companies are, or provide components of, the container – software and hardware, products and services. You deliver, on behalf of yourselves or others, content to customers/audiences/users/creators in the converged world we now live in. That content is delivered over digital and analogue terrestrial broadcast transmitters, over satellite, over cable TV, over fixed broadband, over mobile broadband, over fixed wireless - to an ever widening range of reception devices with the hardware and the software designed and made by many people in this room – the TV sets, radio sets, games consoles, mobile phones, tablets, PCs. The internet is one huge content emporium, content supermarket, one huge digital container. The creators of this content can be the big corporations at one end and the individual end user himself herself at the other – UGC, user generated content. The one to many model of traditional communications – newspapers, books, radio and television programmes – has been joined by, but despite all the hype <u>not replaced by</u>, the many to many model of social media, LinkedIn, Twitter, Facebook. TV viewing in the UK or the USA has not declined

with the coming of social media and multiple screens. Or should I say "not declined yet".

Over the last few years in countries around the world there have been some quite violent wars between the pro-copyright forces, led by the creative industries and the anti-copyright forces led often by technology companies. I want to persuade you to do all you can to stop those wars as they are unproductive. I think that technology companies which distribute and deliver and creative companies which create the content to be delivered and distributed, can work together to deliver value to the citizen and the consumer at home or at work or at home/work. If end users are happy with the content services, eg music, they are receiving over the fixed and mobile internet then they will subscribe to more of them and use less pirated material, thus stimulating creators to come up with new content ideas, thus giving more opportunities for creative industry companies like the Scandinavian pioneer Spotify to build and launch new services with new business models, thus giving technology companies in this room more opportunities to build clever distribution, payment and delivery networks and easy to use reception equipment.

The copyright wars begin with claims that copyright is not fit for purpose for the digital age and that therefore the law should be changed to significantly widen exceptions to copyright. My argument, my narrative is different. There are indeed problems with copyright in the digital age and creative

copyright-based industries should acknowledge this and not be in denial. But before you rush off and change the law thus prolonging WWC (world war copyright), the creative industries need to be encouraged to take a long hard look at their copyright licensing processes and organisations because that is where some of the problems lie. That is the essence of my work for the British Government and for the creative industries in the UK over the last two and a half years. Copyright licensing processes and organisations can and must be streamlined to make copyright fit for purpose for the digital age. If this is done then some changes to copyright law will still be needed but they will be much narrower and much less controversial, and World War Copyright will recede and indeed abate. Make licensing simpler. That is my strapline.

Copyright law is, at its heart, very simple. It says "you own your stuff" and "you can decide what happens to it". It doesn't say much at all about the mechanisms through which this should actually work. So the mechanisms which have emerged in the pre-internet era are rather cumbersome and not very licensee-friendly. As far as the users are concerned – they have simple one-way licences to consume, but otherwise can do nothing with the content they now have even though the modern user may often be also be a creator – UGC, user generated content. Because the law doesn't define the mechanisms, they have been allowed to evolve in their own organic and complex way, to suit the needs of the licensors/rights holders but not always the licensees/the rights

users. The problem has been that the evolution seems to have stalled a bit in the face of the opportunities and challenges of the internet and people have mis-diagnosed this problem as a legal one when actually it's a practical one.

So what are the key problems with copyright that simpler and better licensing can help resolve? Some of the answers are very much at the nexus between technology companies and creative companies so I hope you in this audience are still finding this presentation of genuine interest to you.

The first problem stems from the nature of copyright licensing in the digital age. In the analogue age, there were a small volume of licensing transactions at the top end of the market with high prices and high transaction costs – lots of friction – lots of lawyers, for example Warner Studios acquiring the rights to Harry Potter. In the digital age there are still top end transactions with high prices and high transaction costs, for example Spotify doing its deal with Universal Music, but there is now the opportunity and the need for a very high volume of transactions at lower prices towards the bottom end of the market, for example a small business wanting to put music and pictures on its website, a family wanting to put music on the wedding video. This part of the market is all about the famous long tail of <u>uses</u> of content and as important the long tail of <u>users</u>, creating new revenue for creators and new services for the end user. To service that volume – and this is the key point – the transaction cost must be as close to zero as possible to

ensure that it is worth making the transaction. This means automating the transaction machine to machine as much as possible – hence the term digital copyright exchange and our creation in the UK of the Copyright Hub to which websites offering low cost licensing are encouraged to connect.

The second problem is data, especially metadata – data about data. We should all be grateful to Edward Snowden and his attacks on the activities of organisations such as the National Security Agency in the USA for at least one thing – he has made the word "metadata" common parlance. The security agencies are capturing not the content of telephone conversations but who is speaking to whom, when and (thanks to mobiles) where and for how long. The metadata. The metadata of the creative industries might have been just about alright for the slower moving lower volume more customised analogue world but it is absolutely not fit for purpose for the digital age when there are staggering volumes of data passing from machine to machine. Copyright works, such as images or musical works or television programmes like Borgen, need to have unique identifiers so that their use can be tracked and the right people paid, including the all-important creators – composers, actors, performers. The creative industries worldwide have a rather poor record in keeping databases of accurate identifiers. Even when content does carry an identifier, all too frequently it gets removed by some system or machine somewhere and so becomes untraceable. One composer, who composes for radio and television programmes,

said to me that his song goes into the production machine with his title, and then as it moves through the production cycle different titles are used thus making it difficult to track thereafter.

The third problem is knowing who to talk to if you want to use or reuse their copyright material. My first ever conversation about copyright licensing took place appropriately enough on Sunset Boulevard in Hollywood in November 2011, with a top Hollywood agent. I asked him if there were problems with copyright licensing expecting him to brush the question aside. Instead he replied and the words are branded on my memory: "Finding out who owns the rights to literary works is a nightmare."

The fourth problem is the lack of IP awareness, lack of education in copyright/intellectual property matters from school children onwards. For Lord David Puttnam, the producer of that iconic film Chariots of Fire, when I talked to him in the House of Lords in 2012, poor copyright education and awareness are at the base of the matter – leading to piracy of copyrighted information and disdain for the rights of creators almost without knowing it. The fourth problem is exacerbated by the sheer complexity of copyright laws and rules.

Let me close on some solutions that we are working on. Now "we" in this case is not what in the UK is called the "royal we"

– Her Majesty the Queen says we when she means I. I mean we as in first person plural. In 2012 and 2013, the we was myself and the excellent civil servant assigned to me to do the feasibility study of digital copyright exchanges[1], Dr Ros Lynch, and many people from the UK creative industries including from the UK's Intellectual Property Office (IPO), with growing interest and support for our work in Brussels (the Commission), Geneva (WIPO) and Washington DC (US Patent and Trademark Office and the US Copyright Office). In 2014, the we means myself and the new CEO of the Copyright Hub, Dominic Young, and even more people from the UK creative industries and the IPO, plus people from technology companies, plus increasing international interest.

There are three main solutions which we are working on to the four problems identified – they all come under the broad umbrella of the Copyright Hub. The Copyright Hub is a not for profit company limited by guarantee, with a small Executive Board which looks after day to day matters, a much larger Partners Board which advises and debates strategic direction, and a series of Working Groups grappling with specific problems – for example making educational licensing easier for schools and colleges; or irate photographers (who are right to be irate) trying to stop the stripping of metadata (ownership data) from images when web publishers such as newspapers publish text and images on web pages using

---

[1] Copyright works, London, IPO, July 2012

industry standard software which automatically strips out that metadata.

The first solution is the Big Idea – something that Dominic Young has very much brought to the party after years of grappling with these issues in executive posts in Murdoch's News Corporation and as chairman of the Newspaper Licensing Agency. The Big Idea is relatively easy to explain but is not so easy to implement. To make licensing simpler and thus to fulfil the ambition of the high volume low transaction licensing market, a person (or a computer) should be able to find – with a single click of a single query – where they can get permission to use an item of content in the ways that they want, with an automated, machine to machine response from the rights holder. That response says "Yes, you have permission" "No, you don't" or "Yes if the following conditions are met."

The technology will build on all the existing work done by the creative industries to identify works – Digital Object Identifiers (DOI), ISAN and EIDR in film and television, ISWC and ISRC in music, and ISBNs in publishing. The technology must be clever so that it can accept different types of existing identifier as well as providing new ones for those who need them. It must also make them easily resolved – in other words it needs to be easy, free and quick for a browser or machine to look up a content identifier and discover which other machine is next in the chain with knowledge of that identifier. A bit like the way

the Domain Name System instantly translates a URL into an IP address which then connects to a web server, connecting from a content identifier to a machine – or human - which can answer for it.

Whatever we come up with in this area needs to be open, non-proprietary and capable of wide adoption. A solution for the UK isn't a solution at all; this is a universal issue, the internet is a universal digital container and if our work is useful we don't want there to be any technical, legal or governance barriers to universal adoption.

The Big Idea also builds on the work of the Linked Content Coalition to develop a common language or communication protocol so that the dialogue between machine and machine about getting a licence works, thus keeping transaction costs very low – crucial to the high volume market.

The second solution is the website – copyrighthub.co.uk. We are currently running a pilot which focusses on the educational objective under the icon Find Out and simpler licensing under the icon Get Permission. We have carried out research with users on the pilot website which gave us a number of useful insights. Some users were not clear what the website was for as it has multiple audiences and multiple objectives. Was it too much all things to all men women and children? Other users felt it was cumbersome – too many clicks to get to where they wanted to get. 38% of rights users told us that they had tried to

obtain permissions but had found it too difficult so either used the content anyway (and infringed copyright) or decided against using the content – both of which are the exact opposite of what we are trying to do.

We are now renewing the website to respond to these and other comments. For example, we are looking at whether federated search would be useful where the user asks a natural language question in relation to getting permission to reuse some content, a picture for example and the Hub goes off and searches connecting websites to get the answer or answers. The problem is that most websites connected today to the Hub were designed for human beings to interact with them and cannot do machine to machine dialogues using APIs.

The third solution is that the Copyright Hub has organically, without it being planned, become a major forum for the different sectors of the creative industries to come together and talk about problems and find solutions to copyright issues. One of the most noticeable things that Dr Lynch and I discovered in 2012, year one of the work, was that licensing was very siloed and there was little exchange across sector boundaries. But the internet is profoundly multimedia and so exchange across sector boundaries is a strong requirement. Unlike in the analogue world where you had different communications networks optimised for voice and for data and for moving pictures, the digital language of the world deals seamlessly with pictures, still and moving, sound, text. Of

course the internet is also profoundly global (Marshall McLuhan's global village from the 1960s) and licensing across national boundaries is another major challenge.

I hope I have given you some insight into our work and also encouraged you to take copyright seriously in your own interest and certainly in the interests of the consumer/end user on one side and creators on the other. Perhaps I could suggest to Per Morten Hoff and yourselves that ICT becomes ICCCCT – Information – Communications – Content – Copyright – Convergent – Technology. Thank you