

Rt Hon Kwasi Kwarteng MP
Secretary of State for Business, Energy and Industrial Strategy
Department for Business, Energy and Industrial Strategy
1 Victoria Street
London
SW1H 0ET

cc: Lord Callanan, Parliamentary Under Secretary of State

25 July 2022

Dear Secretary of State,

The Publishers Content Forum is a group of cross sector companies, trade bodies and collective management organisations focused on publishing. We are writing to you to express our collective concern with the government's decision to introduce a new copyright and database exception to allow for free text and data mining of any content accessible on subscription for commercial use and ask to meet you at the earliest available opportunity to discuss the matter further.

We believe that the government's decision to create a broad copyright exception will seriously undermine the UK's intellectual property framework, conflict with international law, and will unintentionally provide international rights holders and non-UK based research organisations with a competitive advantage. The exception proposed will have a severe negative impact on UK rights holders and will create an unfairness that benefits those using content for purposes of TDM. The immediate consequences of the exception will be that, without the ability to license and receive payment for the use of their data and content, certain businesses will have no choice but to exit the UK market or apply paywalls where access to content is currently free.

The UK's world-leading copyright framework is fundamental to the success of the UK publishing industry, as well as the wider creative economy. It empowers people and businesses from across the country to invest in and create a wealth of different products, from novels to academic journals, from databases to newspapers. We welcome the government's acknowledgment of the strength of that framework and its commitment to maintaining its status. In an answer to a written parliamentary question published on 1 June 2022, the Minister for Business, Energy and Corporate Responsibility stated that the UK's IP framework is consistently rated among the best in the world and confirmed that the government intended for it to remain that way¹.

The UK's strong domestic copyright framework has been an important influence in trying to raise standards of copyright around the world through free trade agreements. The promotion abroad of high copyright standards is essential for the protection of UK originated content which is so widely exported.

We draw the government's attention to the incompatibility of the proposed exception with the Berne Three Step Test and Article 13 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). It is essential that the government maintains the UK's status as a world leader in copyright protection and upholds internationally agreed protections afforded to rights holders and does not expand exceptions to copyright. The proposed exception would undermine not only the UK's copyright framework and its publishing industry, but also its reputation abroad as a global leader in copyright.

¹ <https://questions-statements.parliament.uk/written-questions/detail/2022-05-25/hl522>

The PCF wish to be a constructive voice in any discussion about how copyright can assist the growth of innovation in the UK. We are broadly supportive of the government's aims to improve innovation and maintain the UK as an AI superpower over the next decade. We believe, however, that such goals should not be pursued to the detriment of the UK's copyright framework and the successful industries who contribute considerably to 'UK plc'.

The UK publishing industry is a successful national asset that generates billions in income for businesses across the country and is a net exporter around the world, with continued growth amid difficult economic circumstances in both domestic and export markets. UK publishing therefore is not only significant domestically, but also plays a key role in promoting 'Global Britain' abroad. UK publishing is consumed, loved, and admired globally and is a significant soft power asset that benefits our country and its economy far beyond its own monetary value.

Although a relatively recent development, the UK's publishing industry has worked to meet the needs of TDM researchers with a licensing market already established to allow for TDM. On review of the responses to the government's consultation, we do not recognise much of the criticism of the licensing system. The publishing industry has been supportive of requests to license content and have themselves played an important role in the development of AI. We of course recognise, however, that there should be continuous engagement with those requiring copyrighted work for TDM research to ensure that licensing is as accessible, straightforward, and affordable as possible.

We were pleased to learn that, at a meeting arranged by the Alliance for IP on 6 July 2022, the former IP minister, George Freeman MP, gave an undertaking that the government would look again at the decision. We would therefore be very grateful if you would confirm that in looking at the decision again you will consider evidence provided on the impact of the proposed exception and the current licensing market.

We would also like to request a meeting with you at the earliest convenient opportunity to discuss our concerns more fully, present data to show how the licensing system operates and the size of the market and provide information on the potential opportunities that rightsholders may have to contribute to the successful achievement of the government's AI and innovation goals.

Yours sincerely



Angela Mills Wade
Chair, Publishers Content Forum

Sent on behalf of:

Association of Learned and Professional Society Publishers

Independent Publishers Guild

News Media Association

NLA Media Access

Press Database and Licensing Network

Professional Publishers Association

Publishers Association

Publishers' Licensing Services