



July 2014

## **Copyright and Rights in Performances (Personal Copies for Private Use) Regulations 2014**

The Government is changing the law to enable people to copy copyright material they have lawfully acquired for their own private and personal use.

The UK music industry supports the right for individuals to make copies of their music for their personal use. It is already normal practice for music listeners to copy their music between devices and to create back-up copies of their music and therefore, we believe a private-copying exception has been long overdue.

We are deeply concerned, however, that the Government has failed to deliver a private-copying system which would strength the UK's creative industries, ensuring our competitiveness in Europe and around the world to the benefit of the UK economy as a whole.

The manner in which the private-copying exception has been implemented means it will fail even to deliver the Government's own objectives and will in practice do no more than create confusion as to what copies an individual can legally make, specifically in the growing market of cloud services.

We note that Parliament's Joint Committee on Statutory Instruments has taken the unusual step of drawing the regulations to the special attention of both Houses of Parliament on grounds of "vires", ie there is a doubt as to whether the Government can lawfully implement the regulations in the way that they are currently proposing.<sup>1</sup> This is only the 3<sup>rd</sup> time an affirmative SI has been reported to Parliament under these terms since the 2010 General Election.

### **Fair Compensation**

- The Copyright Directive includes a requirement on Member States to provide for fair compensation to rights-holders in relation to the harm arising to them from private copying.
- The UK Government has ignored this and instead argued that any compensation due is factored in at the point of sale. This position is contradicted by the Government's own

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<sup>1</sup> <http://www.publications.parliament.uk/pa/jt201415/jtselect/jtstatin/13/13.pdf>

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research which states, in the case of music, they “did not find any evidence in support of a widely-held view that stores are including in their price the permission to copy.”<sup>2</sup>

- UK Music estimates that the measure will cause a potential loss of revenue to the music industry of approximately £58 million per year.<sup>3</sup>
- The House of Commons Culture, Media and Sport Select Committee<sup>4</sup> and House of Lords Secondary Legislation Scrutiny Committee<sup>5</sup> has criticised the Government on this proposal and lack of evidential basis.
- **UK Music asks the Government to redraft the proposal to ensure there is a process where harm arising out of the exception can be fairly compensated.**

### Cloud Services

- The UK’s private-copying exception extends the right to copy to “electronic storage areas”, this includes cloud locker services.
- Cloud locker services are already being licensed by rightsholders in the UK and we expect this to be a future growth area for the UK’s creative industries. Such services derive revenues from the copying and storage of musical works, a share of this value is rightly returned to the creators via licensing.
- The UK has been a leader in the development of licensing solutions which allow rightsholders to derive fair value for their works. These solutions allow new business models to evolve and users to enjoy their music in innovative ways. The decision to apply an exception to a licensable activity cuts across these fundamental principles.
- The Government’s failure to understand how cloud locker services actually operate will result in consumers being confused about what type of copying they are legally permitted to do under the exception.
- **UK Music asks the Government to redraft the proposal so that it does not intrude on the licensing of Cloud based services.**

For more information please contact Tom Kiehl, Director of Government and Public Affairs at UK Music, on [tom.kiehl@ukmusic.org](mailto:tom.kiehl@ukmusic.org) or 020 7306 4465

UK Music is the umbrella organisation which represents the collective interests of the UK’s commercial music industry - from artists, musicians, songwriters and composers, to record labels, music managers, music publishers, studio producers and music licensing organisations. The members of UK Music are: AIM, BASCA, BPI, MMF, MPA, MPG, MU, PPL and PRS for Music.

<sup>2</sup> <http://www.ipso.gov.uk/ipresearch-private-150313.pdf>

<sup>3</sup> [http://www.ukmusic.org/assets/general/SLSC\\_Copyright\\_Exceptions\\_Submission\\_April\\_2014.pdf](http://www.ukmusic.org/assets/general/SLSC_Copyright_Exceptions_Submission_April_2014.pdf)

<sup>4</sup> <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmcomeds/674/674.pdf>

<sup>5</sup> <http://www.publications.parliament.uk/pa/ld201314/ldselect/ldsecleg/180/180.pdf>