



29th March 2010

Dear Lord Mandelson, David Lammy, Stephen Timms, Jeremy Hunt, Ed Vaizey, Adam Afriyie and Don Foster

DIGITAL ECONOMY BILL CLAUSE 43

As you are aware, the draft legislative provisions to enable the licensing of orphan works and extended collective licensing schemes have been the subject of intense debate and detailed amendment during the passage of the Digital Economy Bill through the House of Lords.

As the Bill awaits its Second Reading in the Commons, these provisions remain imperfect. But they are a significant improvement on the original Clause 42. As a satisfactory compromise between diverse interests, they should be considered a success.

A nuanced debate of the strengths and weaknesses of the Clause is now academic. The opportunity has passed for it to be amended further. But there is still a real danger that the Clause could be jettisoned altogether, during the wash-up.

We believe this outcome would be catastrophic for the creative industries. The strategic importance of making orphan works available and, for some industries, enabling extended collective licensing schemes, cannot be overstated. Failure to make orphan works available is likely to result in far cruder alternative solutions, which would run the risk of contravening the Berne 3 step test, and which would have far-reaching and damaging consequences for our sectors.

There will be many opportunities to engage in depth with the consultations and regulations which will be brought forward under Clause 43, and we look forward to doing so.

In the meantime, we would urge you to seek the consensus necessary to ensure that Clause 43 stays in the Bill.

Yours sincerely

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