

## **Online Platforms' Terms & Protecting the Images Sector**

The right to communication is intrinsically linked to copyright and a fundamental right; it is therefore crucial that in order to continue to foster the professional development of all creative genres keeping rights meaningful in the online environment is key. Online platforms have a profound effect on how visual copyright works are communicated to the public (see pdf illustration).

The current impact of sharing both non-permitted (i.e. infringed) and permitted images on social media sites and via ISP 'Images' sections is significant and damaging the professional capacity of the creative images sector, in three particular ways:

- Framing images, which discourages or disconnects the image from a rights holders' source;
- Hosting defence, which enables ISP & social media sites to stand at arms length to unconstrained and relentless infringement;
- Implied licence, which enables wholesale exploitation, as there is no transparency or ability to negotiate.

## **Social Media UGC Platform Terms & Conditions**

In response to providing evidence for this last point, where both types of content providers - professionals and general public, who will have little awareness or control of the terms and conditions for these types of platforms, are known as sub-licensing clauses.

There are specifically two different issues in relation to uploaded content:

- For the professional individual or organisation - who has little choice but to use these popular platforms to attract new business, there is no opportunity to negotiate a fair contract with having to give rights to exploitation in perpetuity;
- For images uploaded by others without the permission of the rights holder, thereby infringing copyright, and as consequence exploited in perpetuity for third party uses and advertising. Infringing is further exacerbated by sharing mechanisms promoted on such sites, for example used to illustrate blogs embedded within commercial websites of varying sizes, from SMEs to large retail brands.

Examples of in perpetuity sub-licence terms can be found on most ISP or social media platforms "*Terms of Service*" agreements.

## **Protection for the Creative Images Sector**

There cannot be meaningful protection for the creative images sector without improving the system for the enforcement of rights.

We believe that improvements can be made to promote further development of distribution platforms and business models, which can reward content creation and use, by a combination of approaches such as modernising legislation relating to the internet and responsibility by ISPs and Social Media Platforms to work more closely with the professional visual community. There are one or two online platforms that have been prepared to discuss alternative arrangements, however they tend to be held with the big players and usually after heavy and specific lobbying.

# BAPLA

British Association of Picture Libraries & Agencies

We have an interest in striking the right balance between protecting images and maintaining the benefits of communication, as it is key to adding value and reaching new markets, however it is important to redress the current imbalance to exploit images, to the benefit of visual works rights holders and promote future creative developments together.

On behalf of BAPLA

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