



# Managing Copyright Infringement

February 2015

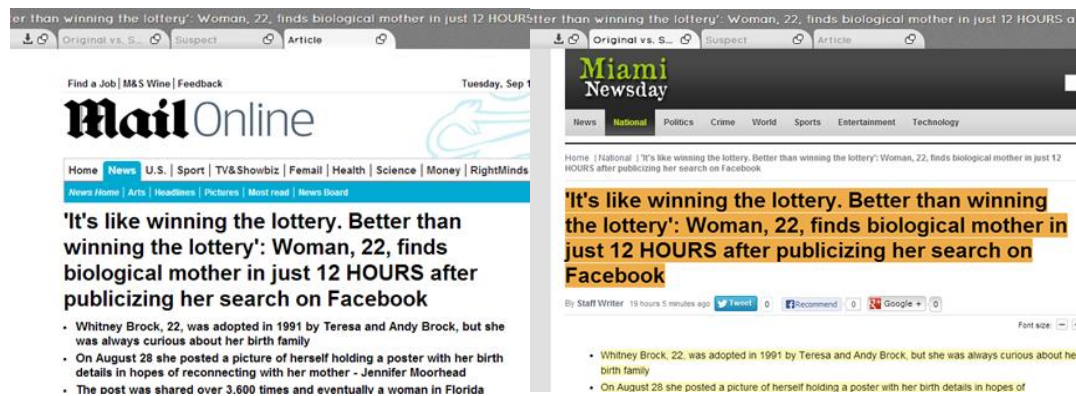
## Copyright Infringement – Stemming the Tide for News Organisations

### What is the problem?

Culture Secretary Sajid Javid said: *Copyright is one of the foundations the UK economy is built on. Our creative industries contribute £8 million to the UK economy every hour and we must ensure these businesses can protect their investments.*

Despite the value of the investment to the UK economy protecting the rights of creators from copyright infringement is no easy matter. UK newspapers and magazines have embraced the web and publish huge numbers of news stories daily. These are consumed by a growing global English speaking audience numbering in the hundreds of millions. But hundreds of UK news stories are stolen daily for profit, with publishers suffering infringement on an industrial scale.

NLA media access has developed technologies for tracking infringement and run an infringement prevention service since September 2013. In operating the service NLA has acquired significant experience of the scale, scope and type of abuse. In a typical week over <sup>1</sup>13,000 articles from 5 major UK newspapers are cut and copied into other sites. These are often professionally run sites supported by advertising and ecommerce services. One site alone took 488 articles in one week.



### Who copies newspaper content?

It would be easier to say 'who doesn't copy newspaper content?' but there are some clear general rules. In a review of 100 infringing sites in the 1<sup>st</sup> week of July 2014 we saw the majority of sites infringing copyright were news and sport sites. Specialist sector, travel and tourism, academic, entertainment, blog/forum, independent/non commercial sites were also seen infringing although at a lower volume.

We found that focusing on one nominally geographically located domain type (e.g. '.uk') is a suboptimal approach since of the 100 sites we reviewed that were infringing UK content, only 16 % were '.UK' domains, 67% '.com' and the remaining 17% other types (e.g. '.org', '.net' etc.).

This geographical picture is even more complex when the actual location of the infringing website (i.e. where the physical server resides) is taken into account. For example we have seen websites with a '.uk' name hosted in UK, Europe, USA/Americas and the Far East.

Infringement of UK content is happening on a global scale and not limited to one type of content.

### **What is copied?**

The scale and variety of abuse can make categorisation difficult but there are clear hotspots.

As one would expect, news content is the largest category as there are a high volume of news aggregators / businesses that republish articles. Sport related content features highly especially for news, fixtures, league tables etc. A high volume of sport content is also used by blog/forum sites and in particular football and other sports clubs. Entertainment/showbiz and celebrity content are also popular topics for infringement. Infringed content here highlighted third party use by syndication clients outside the scopes of existing licence terms.

Specialist sector, travel and tourism, and academic content was also seen to be infringed although at a lower volume - which is consistent with the nature of the specialist content they were infringing. It was also noted that there were also peaks and troughs of infringement when specific events occurred that created a large amount of interest.

As an example, from September to December (inclusive) 2014, NLA media access identified and successfully requested removal of content from more than 100 domains using infringing content. The total number of articles that were removed from the top 100 domains was 26,905.

### **The degree of copying**

We have seen a wide range of infringement ranging from what is obviously flagrant abuse where a website duplicated the entire source under their domain name using iFrames, to the most common form of infringement of using the headline, by-line and a significant percentage of the article; often including original or alternate images.

Less common forms are seen where the headline, by-line and standfirst are copied or just the headline and hyperlink.

### **What protection do publishers have?**

In addition to brokering a deal in infringement between ISPs and the film industry, UK Government has also funded a police unit (PICPU) to track and enforce copyright. The EC is also looking to provide support for anti-piracy initiatives. The creative industries have direct initiatives including the Publishers Association Copyright Infringement Portal, the long established PAFCT program amongst many others.

## **Combating infringement – NLA case studies**

*(names removed as infringement has now ceased)*

### **Case study 1 – same content alternative site**

*Website 1 covering news around the world reproduced circa 84 articles per week from the one newspaper website. Following due process of a first and subsequent second email the matter was referred to the publisher for further action. The publisher directly contacted the Website 1 owners which resulted in them taking down the content. In addition, we discovered two further websites that apparently were the same website but under a different name. After some further investigation the other websites were reproducing circa 200 articles and circa 60 articles per 1 day respectively and were both sent the initial take down request and the content was immediately removed.*

### **Case study 2 – breach of terms**

*Website 2 covering news in India had an existing reproduction agreement with one publisher however we identified that it was in breach of the terms and conditions of that agreement. The publisher contacted the Website 2 editors and uncovered that there was a misunderstanding about what was allowed. Since this misunderstanding had been resolved, Website 2 has been operating within the terms and conditions of their agreement.*

### **Case study 3 – infringer polices for us**

*Website 3 covering African matters was contacted when it was seen to be reproducing content. The response was to immediately remove the content and also apologise for the infringement. Subsequently the site owner of Website 3 provided information of another infringer reproducing content without permission which they took down immediately on first contact.*

### **Case study 4 – infringer agrees to take down**

*Website 4 were infringing the copyright of 4 publishers;- for one publisher alone they admitted to hosting over 3000 articles a month on their website. After initial contact failed to provoke a response, further emailing and persistence led to take down and removal of all 4 publishers content, Furthermore, after two new publishers joined the service, their content was also removed.*

### **Case study 5 – host provider shuts down site**

*Website 5 was using 2 publishers content for its entire sport and news sections. The sport section at one time hosted 10 articles per page and 1,338 pages. The website failed to respond to our emails; subsequently we contacted the Host Provider and the website was shut down.*

### **Case study 6- legal action to shut down site**

*News aggregator website based in Europe. Website failed to respond to emails and so contact was made with a lawyer from the Host Provider. Lawyer pursued their client on our behalf – chased for response when necessary and eventually all content was removed and the site was shut down. On one day alone the site hosted 57,715 articles from United Kingdom (this included BBC, and Irish newspapers).*

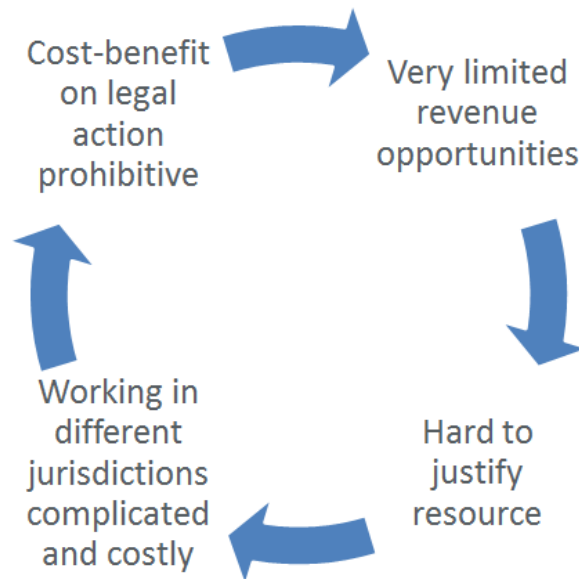
### **Case study 7 – US legislation used to close content farm**

*The US Digital Millenium Copyright Act – DMCA – includes enforcement provisions. 12 domains belonging to the same company heavily infringing 1 publisher's content. Initial emails to site failed to*

*provoke a response and abuse continued. Contact was made with host provider who required DMCA notices in order to pursue. DMCA notices were provided and 10/12 have ceased to exist with a total of 7000+ articles removed. We are currently dealing with the remaining 2 domains.*

### **The publisher problem on infringement**

Publishers know of infringement but the cost and complexity of taking action considered against the chances of recovery normally defeats progress.



### **NLA and infringement - getting your OATS**

Rapidly identifying and requesting removal of infringing content would not be possible without investment in technology and efficiencies of scale provided by NLA media access.

NLA has developed a copyright infringement management service for publishers, which we call OATS (the Online Article Tracking System). OATS uses web search technology to identify where newspaper articles are republished online, wrapped in a managed service solution where NLA acts to educate and enforce publishers rights on behalf of a range of UK national newspapers.

At the first stage sites identified as re-using content from the publishers are encouraged to link legitimately or to seek a licence from the content owner. Licensed users - for example syndication clients – are screened out of the process. If there is no response to the initial approach cease and desist letters are sent where appropriate



## The OATS process

A simplified workflow below includes constant publisher monitoring.

1. Base data – content from participating publishers is collected daily into a common pool
2. Scanning – data is matched against all web data using search engines, resulting in suspect sites being ranked and sorted by the extent and frequency of identified copying
3. White list – legitimate sites are removed from suspect lists
4. Contact 1 – initial educational enquiry email is sent, stressing fair linking rules and requesting proof of permission to re-use, and offering syndication contacts
5. Contact 2 – (if use continues without permission) take down request sent
6. Contact 3 – (if use continues without permission) cease and desist
7. Contact 4 – (if no response and continued use) via Registrant or Host Provider, submitting DMCA notices where required
8. Referral to publisher for legal action or further process.

## Publishers love the OATS service

### Sophie Hanbury – Content Partnership Director, Telegraph Media Group

*“Working with OATS, reiterates The Telegraph's commitment to protecting the copyright of our valuable news content whilst reinforcing a consistent strategic approach to our metered digital products and paid services. OATS has been highly effective in the drive to police large-scale systematic infringements and works in tandem with our Legal and Syndication teams to reassure our commercial partners that the contracted products and services they pay for are valuable, of a high quality and worth protecting. Endorsed by The Telegraph; NLA Media Access is actively educating the market place on the necessity to seek a legitimate license for content; it also clearly demonstrates that the terms and conditions we display on our website actually mean something. Policing unauthorised usage through OATS positively supports our journalists, contributors, advertisers and commercial partners”*

## NLA chase and pressure deliberate abusers

### Helen Wilson – Content Sales Manager, Syndication, The Guardian

*Using OATS has enabled Guardian News & Media Ltd to contact a much higher number of sites who are currently misusing our content online.*

*The weekly report provides rich metadata as to the type of site misusing content, the type of content which they are taking, in addition to the frequency of the misuse.*

*Being a member of OATS has significantly reduced the time spent by the Sales team contacting copyright infringers, enabling them to focus their energies on new sources of revenue generation.*

# OATS shows that **copyright matters**

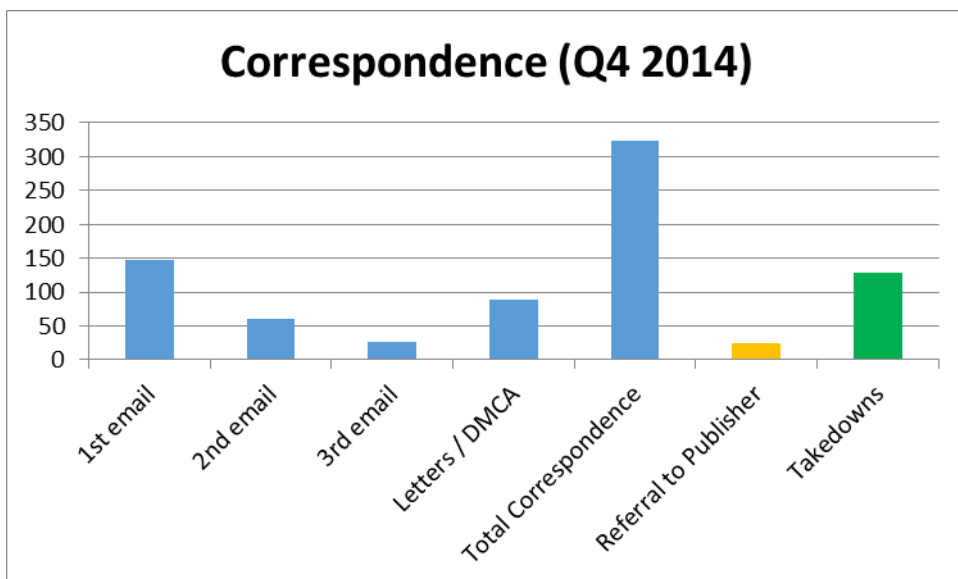
## Does it work?

OATS has had significant success over the past 15 months, with in excess of 500 domains contacted, of which 77% have removed infringed content.

The remaining 23% consisted of either:

- small websites with low volume copying that failed to respond and therefore the decision was taken that they were not viable for publishers to pursue
- domains where there was incorrect or no contact information available or
- domains that are mid process pending resolution.

As a general rule, most website owners responded to either the first or second contact and removed content immediately thereafter, although in a few cases - as can be seen in the graph below, we have resorted to sending recorded delivery hardcopy letters or legal notice in the form of a digital millennium copyright act notification (DMCA).



## **Why NLA uses a managed service approach**

Some publishers use the OATS software directly; either as a research resource or to operate their own direct copyright infringement monitoring service, but most prefer an NLA managed solution.

Because they rarely generate a direct financial return publishers addressing infringement need services to be extremely efficient. Sharing costs through collective action has proved effective and it also helps users if there is a consistent common approach.

Publishers are busy and have limited resources. Chasing infringement is a specialist full time job. Sharing that resource makes sense, as does the accumulation of expertise that result. The net effect is more infringers are found, more are contacted and more infringing content is removed.

The OATS processes have been designed through careful discussion with all participating publishers. It is the operational efficiency of a common collective approach operated by NLA which makes the service tick. The fact many major publishers are operating a common approach creates operational efficiencies. Most infringers take content from multiple newspapers, so a single approach can protect multiple publishers.

**OATS reduces costs through collective action**

## **Can't pay won't pay – why identifying infringement doesn't generate a return**

When we started the program NLA was not alone in hoping that offering licences to identified infringers would offer a direct commercial return. Sadly this isn't the case, as most infringement is either a product of ignorance of copyright principles by those with limited budgets or deliberate evasion by players with no intent of paying. The first category responds to education. The latter are evasive; - they know what they are doing is wrong and seek to avoid payment, sometimes going as far as rebranding and re-launching their infringing sites. Eventually they stop infringing.

However there are some licensing sales benefits. Examples we have seen include former syndication partners who continued to use content accepting payment was required, and syndication agreements being secured with Far Eastern publishers who had been lifting copy.

**NLA educate and inform the ignorant**

## **Why publishers invest in OATS**

Direct returns from copyright infringement monitoring may be limited but publishers who invest in content realise investing in compliance is a necessary component of protecting their business. The 'hygiene' benefit of letting the market know the owner is watching encourages legitimate use, and supports legitimate clients. Monitoring the legitimate clients has also been a benefit for many sponsors. At a wider level simply knowing what is happening to their content on the web creates insights that allow publishers to direct compliance efforts.



## **OATS Service options**

NLA offer the full managed OATS service on the following basis; -

### **A) System Access\*- £500 per month**

Publisher given access to own content in OATS system, plus one-hour training and on-going technical support

### **B) Ad-Hoc Reports - £750 per report**

NLA lists and reviews infringers over a defined one-month period, ranked and sorted. NLA will also provide contact details of known infringers where applicable

### **C) Managed service\*- £1000-£3000 per month dependant on volume**

- NLA representative manages OATS system on behalf of Publisher
- NLA runs searches, contacts and liaises with infringers and host providers to remove content
- Weekly reports and one-to-one calls with Publisher
- Monthly summary report

*NB \* denotes a 12 month minimum contract*

## **Current OATS clients**

Mail and Mailonline, News UK, Telegraph, Guardian, Trinity Mirror use the NLA managed service.

Financial Times and ESI (Evening Standard and Independent and i) use the software service

## **Further development**

OATS is a new service and NLA expects it to evolve and change in response to the market. We are keen to broaden the publisher coverage, and we see scope for legal enforcement to be centralised for example. The potential to link OATS with wider publisher and content owner initiatives needs to be explored; - NLA is just one of many publisher bodies active in this area and a common program might increase the effectiveness of efforts to educate and enforce copyright.

## **About NLA**

NLA media access was established in 1996 by eight national newspaper companies to protect the industry's copyright through collective licensing.

Our role is to enable media monitoring agencies, PR consultancies and a range of client organisations to reproduce content with permission.

Prior to the establishment of NLA organisations had to negotiate copyright charges directly with publishers, which was time consuming and expensive.

The NLA portfolio has grown steadily since 1996 and now consists of thousands of printed and online titles.

With the introduction of the eClips database, we've improved our service to the media monitoring industry, by providing a higher quality alternative to scanning - enabling media monitoring agencies to offer a better service to their clients.

In 2014 more than 9,500 organisations rely on our annual licences, and 33 monitoring agencies in 10 countries use eClips database services.

Eighty per cent of our revenues are returned to the publishers to be invested back into the industry. NLA media access revenues are the equivalent of over 1000 jobs in journalism.

Your copyright licence helps the industry maintain the standards of journalism for which it is recognised across the globe.

### **Contact NLA media access**

Publishers; - George Shepherd [gshepherd@nla.co.uk](mailto:gshepherd@nla.co.uk) , Jennifer Crewe [jcrewe@nla.co.uk](mailto:jcrewe@nla.co.uk)

Press, other; - Andrew Hughes [ahughes@nla.co.uk](mailto:ahughes@nla.co.uk)

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