

17 April 2013

Meltwater' legal case on temporary copies referred to ECJ

The Supreme Court today referred to the European Courts of Justice (ECJ) the NLA and Meltwater legal case relating to 'temporary copying'.

The European Courts of Justice will now consider whether an alerts service delivered as a web link would be covered by the temporary copies exception. The UK Supreme Court favoured the appeal but has sought confirmation from the ECJ before issuing any final ruling on this issue.

The Supreme Court considered whether a Meltwater service in which the end user opened articles on a publisher site might fall within the temporary copying exception. The case followed an appeal on one narrow technical aspect of the 'Meltwater' legal case Court of Appeal judgment in 2011 (all other issues decided in the NLA's favour remain unaffected).

There is no immediate impact on the NLA web licences. Newspaper headlines and text extracts continue to attract copyright, Media Monitoring Organisations (MMO's) will continue to require licences for the content they distribute, and end users will continue to require a licence for the content they receive by e-mail. The ECJ is expected to take many months to reach a conclusion so it could be two or three years before any final order is made.

David Pugh, Managing Director of the NLA said:

"We will now await the ECJ's judgement on this matter –which may take some time regardless of the final outcome, we welcome the fact that core NLA principles have been upheld by the Supreme Court – paid-for web monitoring services using publishers' content require copyright licences and therefore remuneration for publishers."

"We are also pleased to see that the Supreme Court acknowledged that if an end user of an alert service delivered as a web link (rather than by e-mail) were not required to pay a licence fee, then Meltwater's licence fee would very likely be substantially higher – a view that the NLA expressed before the Copyright Tribunal last year."

Notes to Editors

This Supreme Court referral to the ECJ relates to a narrow technical legal matter in the Meltwater legal case, following the resolution of earlier High and Appeal court proceedings and the Copyright Tribunal.

Meltwater continues to be licenced by the NLA for newspaper publishers online content.