

Newspaper Websites – Copyright Law

This note provides a summary of the legal decisions regarding the commercial use of UK newspaper website content, by professional media monitoring service providers and their clients.

The main issue at stake in the litigation has always been whether NLA media access (NLA) could legally require those who paid for Meltwater’s services to have NLA licences. On that key principle, the NLA’s position has been upheld by two UK courts and its broad licensing scheme has been upheld by the Copyright Tribunal.

2009	<u>Newspaper Licensing Agency</u> introduces a new licensing scheme for media monitoring agencies and their clients to make commercial use of content published on websites owned by newspaper publishers.
December 2009	<u>Meltwater Group</u> and the <u>PRCA</u> referred the NLA website licensing scheme to the <u>Copyright Tribunal</u> . The Copyright Tribunal is the body responsible for determining the reasonableness and commercial terms of the scheme. The NLA agreed to suspend invoicing of the new licence until the conclusion of the Copyright Tribunal.
November 2010	The NLA referred the principles of licensing to the UK High Court. The court ruled that <u>online newspapers are copyright protected</u> mirroring the copyright principles for printed newspapers.
July 2011	The <u>Court of Appeal</u> upheld the decision of the High Court and provided a clear declaration for the Copyright Tribunal that most (if not all) businesses subscribing to a paid-for media monitoring service, which contains content from online newspapers require a licence.
September 2011	The Copyright Tribunal hearing commenced reviewing the terms and pricing of the Web End User Licence.
February 2012	The Copyright Tribunal issued an <u>Interim Decision</u> which upheld the principle and structure of the Web End User Licence and confirmed licence prices with some adjustments.
April 2012	Web End User Licence <u>fees</u> and <u>terms</u> were finalised and issued by the Copyright Tribunal in its <u>Final Decision</u> .

May 2012	Licensed media monitoring organisations begin the communication process with clients and licensing commenced.
February 2013	The case is appealed to the Supreme Court. The appeal is on the question of whether the act of accessing a web page (and the copies made in doing so) is covered by the temporary copying exception. The NLA's position was that it did not, because it is far removed from the not-for-profit temporary copies that the exception was intended to cover.
April 2013	The UK <u>Supreme Court</u> referred to the European Courts of Justice (ECJ) the NLA and Meltwater legal case relating to 'temporary copying'.
June 2014	The European Courts of Justice considered whether a web link would be covered by the temporary copies exception of the EU Directive. The decision confirmed that cached copies of web pages generated by end users in the course of browsing may be made without the authorisation of the copyright holder.