
Industrial Strategy: IPO Call for Views

In response to this Call for Views, DACS proposes that the Intellectual Property Office (IPO), supported by BEIS and DCMS:

- explores the potential for blockchain applications for the arts and creative industries to maximise the exploitation of creators' copyright protected works,
- facilitate innovation between government and industry and
- looks to create business and funding opportunities in this area.

Furthermore, DACS recommends in this response to the Industrial Strategy Call for Views that the IPO does not adopt the voluntary copyright register as proposed in the Annex to the consultation, but instead considers how blockchain applications could help fulfil that role.

As a member of the Alliance for Intellectual Property and the British Copyright Council, DACS also supports their submissions.

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Introduction

Copyright is an asset with a long lifespan such as that an artistic work could have copyright protection for well over 100 years. Copyright in artistic works are not only personal assets, but cultural and economic assets that go on to benefit heirs whether individuals or institutions.

Rights management organisations, such as DACS, can help artists utilise their rights through the licensing of their work, but for artists to maximise their economic potential they also need their own access to the right tools. Blockchain applications can create additional and complementary economic opportunities, for instance by allowing artists to have a secure record of their work and to take more control over how they manage and transfer their rights in a digital environment.

About DACS

DACS, the Design and Artists Copyright Society, is the UK's flagship not-for-profit visual artists' rights management organisation. We act as a trusted broker for 100,000 visual artists worldwide. DACS campaigns for artists' rights, championing their sustained and vital contribution to the creative economy. We collect and distribute royalties to visual artists and their estates through Payback (collective licensing), Artist's Resale Right, and Copyright Licensing. Since we were founded in 1984, we have paid over £100 million in royalties to artists and their estates – a significant source of income supporting artists' livelihoods, their practice and legacy.

Managing artists' rights for over 30 years, DACS has had close experience of the issues facing creators in maximising the economic potential of their rights and of licensing their artistic works in a digitally-centric arena.

DACS is currently exploring new technologies and working with partners in the field to research how blockchain could create new revenue models that would support artists even further in making the return value of copyright more tangible. We would be happy to provide more details to the IPO on the specifics of this research and its potential applications outside of this submission.

What is blockchain?

Much has been written about blockchain, but its association with cryptocurrency and finance can be diverting. The website TechCrunch explains in clear terms how blockchain can be used for the music industry, which we paraphrase¹:

At its very core, blockchain is a distributed, de-centralised ledger that can validate and register transactions without the need for a central authority. The ledger is not owned privately, but is publicly available to everyone via a series of 'nodes' (essentially a set of computers) that constitute its network. These ledgers are immutable, so they cannot be tampered with, and make exchanges of data very secure. For example, if an artist publishes their work on a ledger, that has a unique ID and is time stamped in a way that is unalterable, a record can store metadata containing ownership information in a transparent way for everyone to see.

¹ <https://techcrunch.com/2016/10/08/how-blockchain-can-change-the-music-industry/>

The infrastructure of blockchain is based on smart contracts, which are self-executing contracts that are written into lines of code. These contracts can make instant releases: for instance, if someone is to receive a transfer of rights on their birthday, this will happen immediately on this day. Smart contracts can also support micro payments, which has been trialled in instances where users can select music to listen to but in pressing play have immediately rewarded the creator with a micropayment².

British musician Imogen Heap pioneered a blockchain-based music streaming platform called Mycelia³, which allows musicians to dictate their own terms of use, how their songs will be credited, where and when they can be played.

How blockchain could benefit the arts

The applications of blockchain technology could greatly benefit artists and the arts by making it easier to tackle infringements and improve enforcement, provide better transparency, increase the ability to digitally license and support cultural heritage.

The benefit from a copyright royalty could be a small payment, which compound over the lifespan of copyright protection in a work to be economically significant – many creators spend royalties on their cost of living, studio spaces or invest it back into their practice. But the time and resources needed to track unauthorised uses and follow up on infringements could far outweigh the royalty received and divert from the positive reinvestment into their artistic practice. DACS offers an infringement service to its members and artists regularly confirm that following up on infringements requires time, resource and access to free legal support⁴.

If works are registered on a blockchain ledger, this could assist creators as a tool for tracking authorised and unauthorised uses of their work. This could also start to counteract bad practices by some platforms and users such as removing metadata from digital images, metadata that would have identified the copyright owner and other unique criteria related to that image.

The *Independent Review of the Creative Industries*⁵ highlighted the need to improve data transparency around creative content and unlock revenue models. Artistic works registered on a blockchain ledger benefit from transparency, which in turn aids licensing of content in a digital and international environment.

Our licensing clients have increasingly required digital licences but the data DACS receives back on usage does not yet have the depth of detail to help make improvements on the cost and application of mass digital licensing. Smart contracts that contain built-in information such as licensing preferences could allow for automated licensing where the usage request meets the licensing preference criteria and would speed up transfers of rights.

Legacy planning is a vital instrument for artists' works to continue to contribute to cultural heritage. Registration on blockchain ledgers would not only secure provenance of works⁶, and create a

² See Resonate who are running a micro payment music streaming service: <https://resonate.is/>

³ Reviewed in Quartz, 19 February 2016: <https://qz.com/620454/imogen-heap-wants-to-use-blockchain-technology-to-revolutionize-the-music-industry/>

⁴ Interview with artist Beth Nicholas, 19 December 2016: <https://www.dacs.org.uk/latest-news/beth-nicholas-interview?category=For+Artists&title=N>

⁵ Sir Peter Bazalgette, *Independent Review of the Creative Industries*, p.35

⁶ 'Could blockchain help to block art market fraud?' Melanie Gerlis, Financial Times, 7 July 2017. <https://www.ft.com/content/a8ab14c0-61a5-11e7-8814-0ac7eb84e5f1>

detailed log of an artist's archive – benefitting both artists and the art market but it would also allow the transfer of assets on the death of an artist to reach multiple beneficiaries. For example, artists could elect to pass their rights in their Will to their heirs for a fixed period of time, after which the rights could transfer to other parties. This flexibility in complex estate planning could be facilitated by smart contracts and an immutable, decentralised ledger.

Alternative to voluntary registration

The premise of a voluntary copyright register is to increase transparency on who own rights in which works, and whilst DACS understand that desire, we do not recommend that government adopt the proposal in the Annex to the consultation, which we consider to be flawed. DACS is a member of the Alliance for Intellectual Property and British Copyright Council and supports their positions on recommending against the voluntary copyright register proposal.

Individuals and small businesses will be most likely prejudiced as they will need to apply an additional administrative task to simply enjoy their rights that are granted under the law. Artists, for example photographers, may create thousands of works just in one day so the time it would take to register these would seriously outweigh any benefit. A voluntary register, especially when supported by the government, would add confusion over whether registration is a legal requirement. It may risk the abuse of the register by 'copyright trolls' registering other people's work as their own and will also create two tiers of copyright – registered and unregistered. Furthermore, the voluntary register would not provide any additional service or value as licensing would still be done by collective management organisations especially where this is compulsory as it is with the Artist's Resale Right.

Recording rights on a blockchain ledger on the other hand would be an alternative to the voluntary registration system. The main difference is that there is no central system that controls the ledger; the ledger can be utilised by different applications in the same way that most people have email addresses but not all from the same provider. Making a record in the ledger does not amount to a registration of a right – it can simply be used as a robust book-keeping tool where an artist makes a public record that they've created a work, digitised a work, uploaded a work or sold a work. As such it is not a registry of rights. By also tying in with payments, options and asset transfers the blockchain is multifunctional, unlike a registry.

Industry examples

In recent years several projects and organisations have worked successfully in developing blockchain applications for creators, which have been well-documented. Here are two examples of start-ups operating in the arts and imaging sector that TechCrunch documented in July 2015⁷:

Verisart

Verisart describes itself as "the world's leading platform to certify and verify artworks and collectibles using the Bitcoin blockchain." The start-up responded to research by the respected Hiscox Online Art Trade Report that showed art collectors want to see certificates of authenticity and condition reports when buying artworks online. Verisart claims that it "combines museum certification standards, distributed ledger

⁷ 7 July 2015: <https://techcrunch.com/2015/07/07/verisart-plans-to-use-the-blockchain-to-verify-the-authenticity-of-artworks/>

technology and image recognition to its provenance and registry services". With artworks being verified online and in real time, the benefit would be felt by artists, dealers and collectors alike. Founder and CEO Robert Norton said that "the blockchain allows potential buyers to verify the chain of title in a work without relying on any single node of verification".

Bigchain DB (formerly ascribe)

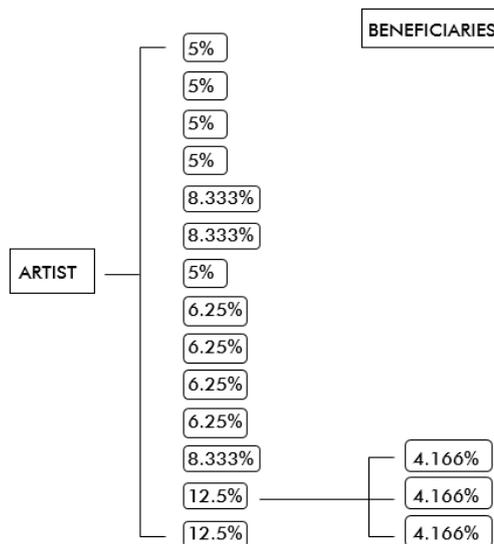
The project formerly known as ascribe is described as "blockchain based intellectual property attribution", which allows digital art to be owned in the same way as bitcoin. Bigchain DB allows artists to create unique copies of their work that can be bought and sold but cannot in theory be duplicated. An artist can upload a digital image and state it is the definitive version, allowing the artist to loan it out to people or transfer it in whole to another person. The company also worked on creating a large scale blockchain database and a web-crawler, which searches the web for copies of an artist's images allowing them to have more transparency on when their works are used without their permission.

Further Reading:

- Going digital: Understanding the impact of digital innovation within the arts: <https://www.dacs.org.uk/latest-news/going-digital-dacs-carroll-fletcher-debate?category=For+Artists&title=N>
- Art and the Blockchain, Furtherfield: <https://www.digitalcatapultcentre.org.uk/art-and-the-blockchain/>
- Could blockchain help to block art market fraud? Financial Times: <https://www.ft.com/content/a8ab14c0-61a5-11e7-8814-0ac7eb84e5f1>
- How blockchain technology is 'disrupting' the art economy as we know it, Forbes: <https://www.forbes.com/sites/rogeraitken/2017/08/17/how-the-blockchain-is-disrupting-the-art-economy-as-we-know-it/#7dbdcaa74fe7>
- Artists Re:Thinking the blockchain: <http://www.torqueorque.net/publications/artists-rethinking-the-blockchain/>
- 9982 Summit, DACS presentation 'Artists' Rights in the Era of the Distributed Ledger': https://www.youtube.com/watch?v=OrhX_Oz-l-w

Streamlining royalty distribution

DACS represents and is a broker for over 100,000 artists worldwide through a network of international sister societies. In 30 years of distributing royalties to artists and their heirs through different revenue streams, DACS has experienced complex beneficiary structures, requiring a high level of manual administration. An artist may have copyright and related rights in their work, and these rights are subject to different rules regarding testamentary disposition.



This example above depicts a beneficiary structure in relation to an artist's copyright. Where one of the primary beneficiaries has passed away, their share of copyright royalties is split between their heirs. Note however that this is simply in relation to copyright, and this artist's share of Artist's Resale Right (ARR) royalties may not go to the same beneficiaries.

Tracing these rights more easily using blockchain applications would allow a quicker and more streamlined distribution process.

As mentioned above, DACS is currently exploring new technologies and working with partners in the field to research how blockchain could create new revenue models and improve current systems to benefit artists and their copyright assets. We would be happy to provide more details to the IPO on the specifics of this research and its potential applications outside of this submission.

Conclusion

DACS recommends that the UK government conduct appropriate research into the use and application of blockchain technology to assist creators, particularly in visual arts whose works can benefit from securitisation of physical and digital assets. DACS considers the IPO, together with DCMS and BEIS should play a key role in facilitating dialogue between innovation led organisations and the creative industries, backed by business and funding opportunities.

DACS also strongly recommends against the IPO adopting a voluntary copyright register but instead investigating how blockchain applications can fulfil the role.