



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

**Government Response to the  
Culture, Media and Sport Select  
Committee Report into New Media  
and the Creative Industries**

*Presented to Parliament by the  
Secretary of State for Culture, Media and Sport  
by Command of Her Majesty  
July 2007*



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

**Government Response to the  
Culture, Media and Sport Select  
Committee Report into New Media  
and the Creative Industries**

*Presented to Parliament by the  
Secretary of State for Culture, Media and Sport  
by Command of Her Majesty  
July 2007*

**© Crown Copyright 2007**

The text in this document (excluding the Royal Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be addressed to The Licensing Division, HMSO, St Clements House, 2-16 Colegate, Norwich, NR3 1BQ. Fax: 01603 723000 or e-mail: [licensing@cabinet-office.x.gsi.gov.uk](mailto:licensing@cabinet-office.x.gsi.gov.uk)

# Culture, Media and Sport Select Committee Report into New Media and the Creative Industries

## Introduction

First of all we would like to congratulate and thank the Culture, Media and Sport Select Committee for an excellent and thorough report, highlighting the strength and vibrancy of the UK's creative industries.

The creative, knowledge economy is a key global driver for economic prosperity. The UK's creative industries are a real success story. They are one of the economy's fastest growing sectors – contributing over £56 billion to the UK in 2004, accounting for over 7% of GDP, supporting 1.8 million jobs, and growing at an average of 5% per year between 1997 and 2004, compared to an average of 3% for the economy as a whole during that period.

To maintain this performance it is vital that creative businesses are fully able to exploit the exciting new media technology that has opened up access to creative content. But for business to be able to make returns on their creativity and invest in new talent and innovation, it is also important that they have the necessary protection.

The Committee's report has been timely, coinciding with the Creative Economy Programme – in particular the publication on 25th June of the Work Foundation's report *Staying Ahead: The economic performance of the UK's creative industries* – and the work being done to implement the recommendations of the Gowers Report on Intellectual Property.

The Work Foundation's report examines the role of creative businesses and entrepreneurs within the UK economy and in doing so recognises both their cultural influence and their critical economic value. It also highlights the significance of design and innovation not only to the creative and cultural industries, but also to the wider economy, in line with George Cox's report on creativity in business, the Roberts review of creativity in schools, and the Creative UK Strategy recently published by UK Trade and Investment.

The challenges and opportunities facing new media and the creative industries, as highlighted by the Committee, are evolving apace and it is important for Government and industry to work together in order that we can create the right economic framework in which business can thrive. We would welcome the Committee's continuing interest and support for this exciting and vital sector of the UK economy.

## Government Response

**1. We believe that Creative Commons licences are a valid option for creators who make a conscious and informed decision to make their work available for re-use. We accept that they can in fact be a useful marketing tool, as long as licensees understand the limitations on future commercial exploitation. Creative Commons licences should not, however, be regarded as the norm; nor should more radical rights-free regimes. Creators are entitled to demand payment for their product and the success of the creative industries depends on their ability to do so. (Paragraph 60)**

The Government recognises the intense debate that has surrounded the Creative Commons licences. The debate was in part fuelled by suggestions that they were something other than alternative licences based on copyright. In fact these licences are just one of several options for copyright owners to consider when exploiting their works. Whether they are used in any particular case will depend on the nature of the exposure that the creator wants, what sort of access to their work they are prepared to give consumers, and what rights they have control over in the first place. As with any form of licence, the licensor should be clear about the extent of both the rights being retained and the rights being relinquished.

**2. Royalty levels are a commercial matter for negotiation between relevant parties. We acknowledge that, whatever the means of distribution of their product, recording companies incur a major part of their costs in identifying and promoting artists, the majority of which may never provide a return on the investment. As digital distribution increases, costs are bound to fall, as may revenues. We would expect the recording industry to ensure that there is a fair sharing of both risk and profits with creators. (Paragraph 69)**

The Government notes this recommendation, which is principally for the industry.

**3. As the strategic agency for film in the UK whose aim is to stimulate a competitive, successful and vibrant UK film industry and culture, and with multi-million pound Government funding, the Film Council might have been expected to have commissioned and reported on this area [the potential for digital platforms to enhance public access to British and specialised films] some time ago. (Paragraph 71)**

The Government notes this recommendation, which is principally for the UK Film Council.

**4. There is no doubt that commercial broadcasters will come under increasing pressure from fragmentation of audiences and of advertising revenue. We are convinced that there will remain a market for televisual content free at the point of use but the decline in revenues from traditional advertisements may be permanent. We believe that commercial broadcasters will need to adopt a flexible approach and to be willing to diversify. Broadcasters are already recognising the need to tap into the online market themselves and to make use of opportunities presented by the development of technology, e.g. the ability to integrate advertisements into downloads on demand. We also encourage Ofcom to take advantage of the proposed derogation in the Audio Visual Media Services Directive, under which limited use may be made of product placement. We will examine further the implications of the decline in advertising revenues for the provision of public service media content by commercial broadcasters in our forthcoming Report on this issue. (Paragraph 94)**

We agree with the Committee's analysis and look forward to their report on public service media content. The Government will wish to consider further the use of the proposed derogation on product placement in the Audio-Visual Media Services Directive as we approach implementation, taking account of Ofcom's earlier consultation on the subject.

**5. Although we will continue to listen to the arguments, we do not believe that a persuasive case has yet been made to justify reserving spectrum for High Definition Television following digital switchover, and we endorse Ofcom's approach in not favouring any particular technology or application in the framework being drawn up for re-allocation of spectrum under the Digital Dividend Review. However, we do recognise the special case of the programme-making and special events (PMSE) sector which risks losing access to spectrum it has traditionally enjoyed as a result of switch-off and we believe that it is essential that an acceptable solution to their difficulties be found. (Paragraph 100)**

The Government's policy is that future use of the spectrum released following digital switchover should be determined through a technology-neutral auction or auctions, as the market is better placed to decide the optimal use of this scarce resource. In developing proposals for such an award process, we expect Ofcom to adhere to its principal duty to further the interests of citizens and of consumers. Like Ofcom, we believe that some applications can generate social value, and that it is important to avoid market failure so that this value can be captured. We are interested in this issue and will continue to listen to all the relevant arguments.

We agree that the programme-making and special events (PMSE) sector appears to be in a unique position. We welcomed Ofcom's decision to issue a further consultation in June focusing solely on PMSE issues, and hope that a solution can be found to these difficulties which is satisfactory to all the parties involved, and which provides maximum value to UK citizens.

**6. The Digital Dividend Review is complex and its outcome will have far-reaching consequences; we accept that Ofcom should not be pressured into taking hasty decisions. But it should bear in mind that delays in reaching decisions in the DDR process create uncertainty for all and can have adverse economic consequences for some. (Paragraph 101)**

The Government agrees that the Digital Dividend Review is complex and welcomes the Report's acknowledgement of this, along with the considerable consequences of the decisions made relating to the Review. For this reason we are reassured by Ofcom's current indicative timetable, which sees Ofcom issuing a policy statement and a further consultation on detailed award proposals in late 2007, leading to a possible award process in late 2008/early 2009 – over three years before the switchover process is completed.

**7. The new terms of trade between producers and broadcasters have swung the balance towards producers. Steps to strengthen the ability of content originators to retain greater control over their rights are welcome; but commissioning channels need to be able to derive fair value for the product which they have financed, particularly as the climate for advertising on terrestrial television becomes harsher. While we welcome the fact that agreement has eventually been reached between producers and broadcasters, we expect that a further review of the terms of trade will become necessary once the value of on-demand services to broadcasters' funding models becomes clearer—probably sooner rather than later. (Paragraph 117)**

We share the Committee's welcome for the agreement on terms of trade between producers and broadcasters and agree that they are likely to need to be reviewed periodically given the importance of rights to the different sectors of our creative economy.

**8. Some of the restrictive practices described to us in evidence as being used by broadcasters when commissioning programming and driving deals on rights for future transmission were, if accurately reported, counter to the spirit of the Communications Act. We believe that they are less likely to occur under the new terms of trade, although Ofcom must remain vigilant. (Paragraph 118)**

The Government notes this recommendation, which is principally for Ofcom.

**9. We welcome the commitment made by the Government to bring into force section 107A of the Copyright, Designs and Patents Act 1988 and to provide £5 million to local government to fund enforcement. These steps are long overdue. (Paragraph 132)**

We are pleased that Section 107A of the Copyright, Designs and Patents Act 1988 was enacted in April this year. The allocation of £5 million to fund the new power to enforce copyright offences has been welcomed by local authorities.

To assist local authorities to enforce the new power, the UK Intellectual Property Office, in liaison with representatives from the creative industries, has embarked on a national training programme.

**10. The Department for Constitutional Affairs should investigate reports that the award of additional damages for infringement of intellectual property is difficult to secure. The deterrent effect of the present law in this respect is near zero: it should be substantial, as are some of the illicit profits being made. (Paragraph 134)**

A consultation paper on the law on damages was published by the Department for Constitutional Affairs (now the Ministry of Justice) on 4th May 2007. In accordance with the relevant recommendation of the Gowers Review, Chapter 7 of the consultation paper seeks views on how the system of damages works in relation to: patents; designs; trade marks and passing off; and copyright and related rights. The consultation closes on 27th July 2007. A paper summarising the responses to the consultation paper will be published by the Ministry of Justice in October 2007.

**11. We therefore recommend that unauthorised copying and commercial distribution of audiovisual content projected onto a cinema screen should be made a criminal offence. (Paragraph 135)**

The Government recognises that piracy is a growing concern and this was one of the primary reasons that the national IP Crime Strategy was implemented in August 2004. The Gowers Review's report reinforced the need to continue to strengthen the IP enforcement regime.

Legislation is already in place to help deter unauthorised copying of films shown in cinemas. For example, the commercial distribution of pirated films is a criminal offence, which can now be enforced by Trading Standards Officers following the enactment of Section 107A in April this year.

In the interests of improving the enforcement landscape we would welcome substantive evidence which supports the claim for a specific criminal offence for camcording in cinemas.

**12. We do not believe that the present statutory exemptions from infringement of copyright are providing clarity or confidence for users or for the creative industries, particularly in relation to home copying. We do not believe that it is satisfactory that consumers should be advised by the industry that they can ignore certain provisions of the existing law and not others, and we believe that this must contribute towards a general lack of understanding and respect for copyright law. (Paragraph 143)**

**13. We recommend that the Government should draw up a new exemption permitting copying within domestic premises for domestic use (including portable devices such as MP3 players, and vehicles owned or used regularly by the household) but not onward transmission of copied material. We also recommend that the Government should consult representatives of the creative industries and of consumers on an ongoing basis to ensure that it can respond appropriately. This will allow it to act more effectively and to establish where the existing regime of exceptions is either vulnerable to abuse, failing to respond to advances in digital technology, or unduly restrictive. (Paragraph 143)**

Taking 12 & 13 together, the complexity of copyright law arises because of a need to balance carefully rights given to creators and exceptions to those rights. We are committed to maintaining an appropriate balance between rights holders and users, but recognise that many users in particular are not aware of what the law actually says and, of those who are, many simply do not care. We therefore believe that the recommendation which the Gowers report made, to introduce a limited format-shifting exception applicable only for personal use, will help improve the position in two ways. Firstly, the change in the law will reflect a reality recognised by industry. Secondly, amending the law will present an opportunity, both during the consultation and in subsequent preparation for the change, to raise awareness about copyright and to put across clear messages to the public about what is permitted.

The Government will undertake a public consultation this Autumn about making an exception to copyright legislation to allow format-shifting for private use. This first consultation will allow us to gauge opinions of both rights holders and copyright users before deciding what legislative amendments are required. A second consultation on the draft legislation will then be carried out.

This two stage consultation, and the informal discussions which have preceded it, are indicative of the Government's commitment to engage in ongoing dialogue with stakeholders. We recognise the challenges and opportunities that developments in technology present and have regular dialogues with many stakeholders, including the British Copyright Council, members of the music industry and users of the current exceptions regime. We fully accept that this commitment should not change.

**14. We accept that home copying can damage business models. We agree with the conclusion of the Gowers review, however, that levies are a blunt instrument for exacting recompense, and we do not recommend that they should be imposed on either hardware or software. (Paragraph 146)**

We agree. Whilst the Government is aware that a levy system which places an additional charge on certain copy-capable equipment to compensate rights holders for private copying is used in some EU countries, it does not consider that consumers should be forced to pay more money for buying items which may never be used for copying copyright works. For example, many computers and blank CDs are used only for storing personal documents and photographs. We do not believe it appropriate to penalise such uses, particularly when they are likely to have a disproportionate effect on certain sections of society: for example, visually impaired people often have to rely on the use of computers and recording systems for access to information for leisure, communication and educational purposes.

**15. We accept the argument, in principle, that delaying universal access to film through the use of release windows, and holding back rights to broadcast television programming via new media, contributes to a climate in which piracy flourishes. The film and television industries cannot ignore this. However, we recognise that cinema exhibitors have relied on a period of exclusivity of release to sustain their businesses. While this has declined, there will continue to be pressure for further reductions and we believe that in future cinemas will need to rely more and more upon providing a distinct experience and environment. The UK Film Council should support and publicise new approaches by cinemas to retaining and developing their audiences. (Paragraph 152)**

The Government notes this recommendation, which is principally for the UK Film Council.

**16. We recommend that the BBC should amend the slogan for the Creative Archive, if it proceeds beyond the pilot phase, to convey the message to users that content should be respected. The BBC should examine whether more can be done to oblige users of the Creative Archive to read the terms of the licence governing use of the material before downloading and consider what other action it can take to educate consumers about the purpose and importance of copyright law. (Paragraph 156)**

The Government notes the recommendation, which is for the BBC to consider.

**17. We share the Minister's reservations about adding copyright as a specific item to the core curriculum. However, we believe that a less formal approach would be better and that teachers should be encouraged to promote an understanding of copyright as it becomes relevant, whether in music, creative writing or information technology lessons. (Paragraph 158)**

We note that the Committee shares our reservations about adding copyright to what is an already crowded curriculum. Like the Committee we believe that raising awareness of and respect for copyright amongst students and young people can best be achieved by making it relevant to them. This means including it within the current framework of subjects. The British Music Rights campaign recognised this and did so in relation to music lessons, whilst the UK Intellectual Property Office continues to do so with its Think Kit resource, aimed at business studies and design and technology students, and its new Wallace and Gromit Primary Schools campaign.

We recognise that raising awareness is a long term aim, and is best done by all the interested stakeholders taking a coherent approach. This is why we have set up the CREATE Group, chaired by the UK Intellectual Property Office, with membership from DCMS, BERR, DIUS and DfCSF and industry, which is working to take forward the IP and education agenda, using the CREATE principles. The CREATE group takes a similar approach to the Committee in endorsing the inclusion of copyright in lessons covering relevant subjects such as music, media and film studies.



**18. We are in no doubt that Digital Rights Management copy control mechanisms have damaged consumer trust and have sometimes provided a very poor deal for consumers. They should not be allowed to operate in defiance of exemptions for unlicensed copying enshrined in UK copyright law. We do not, however, believe that a rush to regulate is the answer, particularly as the technology is still in an early stage of development. DRM systems have value and can, if constantly refined, play a major part in fighting piracy. We agree with evidence that they constitute a way ahead for protection of creative content. We believe that DRM tools could in future allow the sale of digital files at a range of prices to reflect the extent of reproduction permitted. (Paragraph 168)**

**19. We believe that it is a matter for companies to decide the extent to which they wish to impose restrictions on the use of downloads and physical product. However, Digital Rights Management technology must be applied with care, and the impact of any DRM tools, whether designed for copy control or for other purposes, should be made clear to consumers at the time of purchase. It should also be borne in mind that any excessive restriction of consumers' ability to copy and share content, and unwelcome consequences for consumers' use of their own computer hardware, will only dissuade them from using the legitimate market. DRM could, if used carelessly, be an own goal. We welcome the recent evidence that record companies are now choosing to make available content free from DRM for commercial reasons. (Paragraph 169)**

Taking 18 and 19 together, we note the Committee's view that Digital Rights Management (DRM) has damaged consumer trust, sometimes resulting in a poor deal for them, and should not be allowed to override copyright exceptions. There certainly have been instances where DRM was used clumsily, and as a consequence the rights holders have suffered very poor publicity, but we would agree with the Committee that use of DRM is still at an early stage, and the market should be given the opportunity to sort this out for itself, without regulatory intervention. As the Committee suggests, this may lead to more content being offered DRM free as well as more flexible and imaginative use of DRM itself.

Andrew Gowers addressed the issue about information being provided to consumers, and recommended that Government should look at whether a labeling convention, without excessive regulation, was a way forward. We agree that the principle of consumers being provided with sufficient information to make an informed decision is one that should be supported, and will continue to investigate how such a convention might work in practice.

**20. Internet service providers and search-based businesses have already demonstrated that they accept the principle that access to unlicensed material on websites is undesirable and should be prevented if at all possible. It may be impractical for such businesses to be made legally liable for providing access to certain material, but we believe strongly that the industry should do more to discourage piracy. We are not persuaded that an industry-funded body with a remit to examine claims that unlicensed material is being made available on a website cannot be made to succeed, and we believe that the industry should establish such a body without delay. (Paragraph 175)**

This is a complicated area with strong views on all sides, but there is a distinction to be drawn between what is a criminal and what is a civil offence, and the steps that should be taken to address each. Criminal activity, such as piracy on a commercial scale, calls for a different response from civil infringement. It is actually the civil infringement where much of the concern rests because of its huge cumulative effect, but there are encouraging signs that the ISPs and the rights holders are having fruitful discussions on a way forward. This was something that Andrew Gowers also recommended, and we will be monitoring this closely to ensure that a practical, fair and effective industry protocol is established.

**21. We do not find the representations made by the publishing industry about Internet news portals to be convincing. Newspaper websites on the Internet are part of a public arena; there is no legal bar to providing an indexing service; and we have yet to be persuaded that the establishment of Internet news portals is causing damage to commercial publishing enterprises. We recommend that the onus should remain with firms to opt out of Internet search engine listings rather than opt in. (Paragraph 181)**

We acknowledge that activities such as indexing may serve useful public functions by enabling public access to and dissemination of information. We are nevertheless aware of the concerns raised by publishers and would urge both sides to continue to work together to resolve specific issues.

**22. We have yet to see whether the new arrangements for governance of the BBC will inspire any greater confidence in the commercial sector that the BBC will take account of its privileged position in the market when considering new projects. The onus is on the BBC Trust to acknowledge that there is potential for the BBC's activities to have a damaging impact on the commercial sector and that different elements of its plans have differing impacts, and we believe that the BBC must be scrupulous in addressing all the relevant markets and impacts in its Public Value Tests. It is recognised that the Trust will need to make fine judgements about conducting Public Value Tests from time to time (as well as Ofcom with respect to Market Impact Assessments), but a sensible approach would be, "When in doubt, test." Public and commercial confidence in self-regulation by the BBC Trust will be boosted by evidence that the Trust will act, as it has done in the case of BBC Jam: we see this as an encouraging sign of real change. (Paragraph 195)**

These comments are for the BBC Trust to consider. The Royal Charter places the Trust under a specific obligation to have regard to the competitive impact of the BBC's activities on the wider market. The incoming Chairman has stated that under his leadership the Trust will continue to ensure that the BBC operates fairly, that it is aware of its own strength in the market, listens to the commercial sector and responds by making changes where doing so will ensure better public value.

**23. We agree with the approach taken by the Government and by Ofcom in negotiations with other EU Member States and with the European Commission on the draft Audio Visual Media Services Directive. The Government took a pragmatic decision to support the regulation of on-demand broadcast services, although we accept that there is in any case some logic underlying such a policy. It must be recognised, however, that the EU has chosen to extend the scope of new media regulation in ways that may disadvantage it in a globally competitive and increasingly technologically borderless world, and could see some existing businesses as well as start-ups in future choose to operate from more liberal jurisdictions. We believe that any such regulation of on-demand services should be self-regulation, both by the industry and within the home. In line with its duty to promote media literacy, Ofcom, with the assistance of all broadcasters and media regulators, should seek to increase public awareness that the protection of children from harmful content accessed via both new and traditional media will become increasingly a responsibility for parents. (Paragraph 211)**

We believe that the risks noted by the Committee have been minimised in the text of the Directive on which the Ministerial Council reached political agreement on May 24th; the Directive is likely to be adopted later this year. The new Directive will apply to television services and to on-demand services which are similar to television (that is, video-on-demand services) only.

The Government has made clear its intention to implement the Directive provisions applying to on-demand services by means of co-regulation, as explicitly encouraged in the text.

Beyond this, we entirely agree that self-regulation should be the preferred option for on-demand services, coupled as the report suggests with increasing public awareness of the role of parents in ensuring that children are protected from harmful content.

**24. We recommend that proposals for policy development in the forthcoming Green Paper on Creative Industries should be accompanied by a strategy for research, to include an assessment of the investment climate for start-up businesses in new media sectors. (Paragraph 221).**

**26. We welcome the intention to publish a Green Paper on the Creative Industries. We believe that it will mark a long overdue recognition of the importance of their role in the UK economy. (Paragraph 225)**

Taking 24 and 26 together, the Committee will have noted that the Work Foundation published its report to Government, “Staying Ahead: The economic performance of the UK’s creative industries”, on 25th June 2007. The Report raises many issues for Government, including those relating to evidence, data and research. The Government will consider this report and any feedback we receive from stakeholders over the summer. We plan to publish the Creative Economy Programme Green Paper later this year.

**25. We request that the Government provide this information [on the results of the Creative Economy Task Force launched in 1998, together with actions which have been undertaken in its wake] in its response to this report. (Paragraph 224)**

As stated in the Government’s submission to the Committee, the creative industries continue to be an important and dynamic sector of the UK’s economy. Since the establishment of the Creative Industries Task Force and the publication of the first Mapping Document in 1998, employment has grown from around 1.5 million to over 1.8 million; the contribution to the economy has doubled from 4% to 8%; and between 1997 and 2004 the creative industries as a whole averaged 6% growth. That is around twice that of the economy as a whole.

During this period the main issues impacting on the sector have been common to all industries: a stable economy; favourable exchange rates; removal of unnecessary regulation; and a range of employment issues. The Government, through the Creative Industries Task Force, identified six areas in which the creative industries had a particular interest, and in which they felt that government could help. These were:

- Access to finance;
- Intellectual property rights;
- Exports;
- Providing a skills base;
- The impact of new technology; and
- Creativity

The Government and industry have made significant progress in creating the right economic framework in which the creative industries can flourish. However, whilst the core issues remain the same for many of the UK’s successful creative industries, the technology and the business models at the centre of their activity continue to evolve apace.

On the key areas highlighted by the Task Force, Government and industry stakeholders have made considerable progress.

**Access to finance.** Getting the finance necessary to grow their businesses can be a real problem for many small and medium sized enterprises (SMEs). This is certainly an issue for the creative industries because they tend to have a higher than normal proportion of small firms. Generally speaking, creative industries SMEs need the same advice and support as SMEs in other sectors – such as that available from Business Links and under the Small Firms Loan Guarantee Scheme. Figures suggest that SMEs in the creative industries have not been slow in taking advantage of the support available, but at the same time there does seem to be evidence that some businesses do not see the relevance to them of the generic help on offer. We may need to see how we can reach out to these businesses more effectively and draw them into mainstream support services.

In order to address this information gap we devised a “Money Map” that collected into one place information on access to finance assistance available. We are also considering how we can best market our help to firms in the creative industries who may still not recognise the relevance of the generic support available.

We have also carried out a study into the problems faced by SMEs in the music sector in accessing finance and acquiring business skills. Among other things, the results of this study indicated that music industry SMEs possess relatively low levels of skill in financial and business management, and that this is likely to be a contributory factor when assessing the difficulties many face in securing debt finance. These findings will be reflected in our development of the proposed Green Paper on the Creative Economy.

**Intellectual property rights.** The UK Intellectual Property Office (UK-IPO) plays a central role in our efforts to promote the Knowledge Economy as IP underpins so much innovation. To reflect this, the UK-IPO has widened its remit beyond the administration of the IP system to becoming the hub for IP enforcement. The UK-IPO also supports innovation through a comprehensive programme of IP education and awareness initiatives. For example, the educational resource ‘Think Kit’, has been requested by over 80% of UK Secondary Schools. This resource is teaching children about the value of IP in a positive way, making it relevant to their lives. Furthermore, the Government is working closely with the creative industries, through the CREATE group, to look at how best to raise awareness of the value of IP amongst all stakeholders.

The UK-IPO has worked closely with industry stakeholders to ensure that its policy initiatives and its negotiations with European partners take account of the needs of all the UK’s sectors, including the creative industries. The Government, through the Creative Industries IP Forum, which published its report in October 2005, and through its sponsorship of a Creative Economy Conference within the UK’s Presidency of the EU, has continued to work closely with the creative industries in order to help address its concerns.

New industry stakeholder groups have been formed to work with and implement the Forum’s recommendations, including the UK-IPO’s National IP Crime Strategy and its associated prevention and enforcement groups. We have brought stakeholders together in the IP Crime Group. Group members – including the Police, the Trading Standards Agency and creative industries’ representatives – are working together to ensure that criminal activity, from the large importers to the small dealers, is dealt with in a co-ordinated way. This collaborative approach is already producing results. The Government has put in place a structure for pooling information and identifying priority areas to target enforcement action.

The Gowers Review of Intellectual Property has also provided an opportunity for a more coherent debate on a range of issues around copyright and IP generally, which is covered in the response to Recommendation 27.

**Exports.** The Government has continued to work with sector advisory groups – the Creative Exports Group, Design Partners, and the Performing Arts International Development Group – to consider how best to tackle barriers to trade, to identify priority territories and to inform Government policy.

Since the establishment of the Task Force, UK Trade and Investment (UKTI) has doubled its investment in the creative industries. Exports from the creative industries have grown from £7.5bn in 1998 to £13 billion in 2004, equating to 4.3% of all goods and services exported.

UKTI has identified the creative industries sector as one of five priorities for input and investment by Government, given its potential in world markets. A commitment has been made to develop – in collaboration with relevant bodies from the private and public sectors – a five-year marketing strategy to help boost the sector's share of the global market for creative services and products, and to attract a greater flow of inward investment.

**Providing a skills base.** A series of Government White and Green papers over the last three years has reflected a renewed policy focus on education and skills as major drivers for economic development and growth. As part of this, the need not just to stimulate and nurture creativity in all young people, but also to give appropriate entrepreneurial and business skills to those who wish to pursue a relevant career has been fully recognised.

Creativity is a key part of the Early Years foundation stage and the Primary and Secondary National Strategies. The recent Roberts Review further noted that the basic framework of creative provision in primary and secondary education is strongly supported by a large number of creative organisations and agencies. Programmes such as Creative Partnerships, Renaissance in the Regions, the Arts Award, First Light, and Youth Music, give young people the chance to explore and develop their creative skills.

A new DCMS/DCSF Creative and Cultural Education Advisory Board – chaired by Paul Roberts – has been established to take this approach to the next stage, helping to build strong and sustainable connections between the creative and cultural educational sectors.

In order that young people are given the skills that they might build a career based on their creative skills, all schools with Key Stage 4 students receive funding for Enterprise Education, including the development of innovation, creativity and the drive to make ideas happen.

It remains true that employers from the creative, media and IT sectors often claim that courses in their subject areas do not equip students with the intellectual, specialist or transferable skills they need to pursue careers in those industries. Evidence from the Creative and Cultural Skills Council demonstrates that, across the whole range of creative/cultural organisations, employers see new job applicants lacking in the appropriate skills (although they do not lack qualifications).

The new 14-19 Diplomas in Creative and Media, Construction and the Built Environment, and IT form a critical part of this pathway. The 14-19 Diplomas will blend general education and applied learning to provide a motivating and challenging programme of study, developing transferable skills that meet employers' needs and ensuring clear progression routes into and beyond the Diploma.

**Impact of new technology.** In the context of the Creative Industries Forum on Intellectual Property, we carried out some interesting work in this area, including producing a report on the impact of the Internet, and also looking at how business models were evolving in the digital age. We have also made a significant contribution to the Technology Strategy Board's programme, highlighting the importance of the creative and media sectors, and their high level of innovation. This has resulted in a number of calls for proposals that are of direct relevance to the creative and media sectors, and it is excellent news that a Knowledge Transfer Network is being set up for the creative industries which will allow them to co-operate much more effectively on technological challenges and opportunities. However, we have also recognised that there is a limited role for Government in this area – industry itself is more than capable of making its own assessment, and acting accordingly.

**Creativity.** In addition to the work that has been carried out in the education and skills arena, the then Chancellor of the Exchequer, commissioned Sir George Cox, Chair of the Design Council, to undertake a review of creativity in business. Sir George published his report in October 2005, and made a number of recommendations, which the Government accepted in principle.

The review considered how to raise design awareness and the potential benefits of design for SMEs, particularly in modern manufacturing, as well as the steps needed to ensure that SMEs are able to draw on the UK's world-leading creative skills. It also examined how links can be improved between universities and colleges, and SMEs.

Significant progress has been made in the implementation of all the recommendations of the Cox Review and achievements in the areas of education and the design for business programme were recognised in the 2006 Pre-Budget Report.

**27. We believe that the Gowers Review of Intellectual Property was timely. We hope that it will help to galvanise the Government into action in improving enforcement of copyright law and amending it where necessary. However, we note that a number have expressed disappointment at its findings. (Paragraph 230)**

The Government is committed to taking forward those recommendations of the Gowers Review for which it is responsible and an implementation plan (available at <http://www.ipo.gov.uk/policy/policy-issues/policy-issues-gowers.htm>) has been put in place to ensure this happens. Some recommendations have already been successfully implemented. For example, Trading Standards Officers now have the power to enforce copyright offences with £5 million allocated to fund this new power, and IP crime has been recognised as an area for Police action in the updated National Community Safety Plan.

The recommendations on copyright law and enforcement have been generally well received by stakeholders across the board, but as the Committee notes some have expressed disappointment at its findings. In an area such as copyright law, with disparate and sometimes conflicting consumer and rights holders interests, this is to be expected. The recommendations on copyright exceptions are part of a balanced package of recommendations designed to serve the interests of all users of the IP system. The Government is confident that these recommendations can be implemented in a way that does not damage the interests of rights holders and will consult with stakeholders on implementation options.

**28. We recommend that the Government should press the European Commission to bring forward proposals for an extension of copyright term for sound recordings to at least 70 years, to provide reasonable certainty that an artist will be able to derive benefit from a recording throughout his or her lifetime. (Paragraph 236)**

The Government appreciates the work of the Committee and the deliberation it has given to this subject. As the Committee noted, the independent Gowers Review also considered this issue in detail and recommended that the European Commission retain a term of protection for sound recordings and performers of 50 years. The Review undertook a detailed analysis of all the arguments put forward, including the moral arguments regarding the treatment of performers. It concluded that an extension would not benefit the majority of performers, most of whom have contractual relationships requiring their royalties be paid back to the record label. It also concluded that an extension would have a negative impact on the balance of trade and that it would not increase incentives to create new works. Furthermore, it considered not just the impact on the music industry but on the economy as a whole, and concluded that an extension would lead to increased costs to industry, such as those who use music – whether to provide ambience in a shop or restaurant or for TV or radio broadcasting – and to consumers who would have to pay royalties for longer. In reaching such conclusions, the Review took account of the question of parity with other countries such as the US, and concluded that, although royalties were payable for longer there, the total amount was likely to be similar – or possibly less – as there were fewer revenue streams available under the US system.

An independent report<sup>1</sup>, commissioned by the European Commission as part of its ongoing work in reviewing the copyright acquis, also considered the issue of term. It reached the same overall conclusion on this matter as the Gowers Review.

Taking account of the findings of these reports, which carefully considered the impact on the economy as a whole, and without further substantive evidence to the contrary, it does not seem appropriate for the Government to press the Commission for action at this stage.

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office  
ID5604607 07/07 375268 19585

Printed on Paper containing 75% recycled fibre content minimum.

---

<sup>1</sup> The Recasting of Copyright and Related Rights for the Knowledge Economy, November 2006, Institute for Information Law, University of Amsterdam.



Published by TSO (The Stationery Office) and available from:

**Online**

[www.tsoshop.co.uk](http://www.tsoshop.co.uk)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Order through the Parliamentary Hotline *Lo-call* 0845 7 023474

Fax orders: 0870 600 5533

Email: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0870 240 3701

**TSO Shops**

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

**The Parliamentary Bookshop**

12 Bridge Street, Parliament Square

London SW1A 2JX

**TSO@Blackwell and other Accredited Agents**

ISBN 978-0-10-171862-2



9 780101 718622