



Department
for Education

Nigel Adams MP
House of Commons
Westminster
London
SW1A 0AA



Department for
Business, Energy
& Industrial Strategy

Jo Johnson MP
Minister of State for Universities, Science,
Research and Innovation

1 Victoria Street
London
SW1H 0ET

T +44 (0) 20 7215 5000
E enquiries@beis.gov.uk
W www.gov.uk

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I am writing following the Westminster Hall debate which took place on a motion in your name on 28 February 2017, on the subject of “The importance of intellectual property to the British Economy”. I was pleased to be able to respond to a well-informed debate on this important topic. However, I was unfortunately unable to address all the points raised by Honourable Members in the time available, and therefore am taking the opportunity to make some additional comments in writing.

The Digital Single Market and Brexit

As part of its wider strategy for developing the digital single market, the EU Commission has brought forward a range of measures intended to make the European copyright framework fit for the digital age.

While we remain a member of the EU we will continue to engage in the Digital Single Market negotiations, in good faith, and the national interest, taking into account our exit from the EU as negotiations progress. Existing EU Directives and Regulations will also continue to apply to the UK until our departure. However, the continued effect of EU Directives and Regulations following our exit from the EU will depend on the terms of our future relationship.

The status of Intellectual Property in future trade negotiations

Provisions on intellectual property rights are an important feature of modern Free Trade Agreements (FTAs). We are currently considering what the UK would seek to include in the Intellectual Property Rights chapter of future FTAs. As we develop our trading relationships with other countries, the focus will be on getting the right outcome for UK inventors, creators and consumers.

Online liability and exemptions

On exemptions from liability for online platforms, the current regime seeks to protect the interests of rights holders while encouraging digital innovation and protecting consumer freedoms. However, I appreciate that many right holders feel the balance is not right, and that the current framework makes it difficult for them to negotiate fair deals with the major platforms. Online platforms, like all businesses, must act fairly and responsibly and we are currently engaging with value chain issues at EU level to help to clarify their role and responsibilities in relation to the content which they host.

We take the view that the borderless nature of the internet means that international solutions in this space are desirable, and we hope that a solution which secures support at EU level can be found. The outcome of this engagement will determine whether bespoke domestic solutions are necessary.

Fair remuneration for creators

The Government wants to see creators and performers remunerated fairly for the work they produce while making sure that we continue to encourage investment in new content and innovative services. Our view is that this would be good for everyone and would maximise benefits across the value chain.

We know that transparency is an important feature of well-functioning markets and we therefore welcome the European Commission's focus on this issue in the draft Copyright Directive. The UK will remain actively engaged in these discussions while we remain a member of the EU. We believe it is right to let this process take its course before considering the case for domestic intervention.

The Government believes it is important that we give careful consideration to the part industry-led initiatives can play in improving contractual standards for creators. One such example referred to during our recent debate is the Fair Digital Deals Declaration operated by the Worldwide Independents Network. We welcome such initiatives – however, we believe that it is for the relevant industries to determine how to proceed with them in the first instance.

Government support for Creative Commons licences

The Government supports simplicity in the copyright licensing framework, and the availability of systems which can help make copyright content legally available for use. The specific use of creative commons licences, or any other licensing models, is a matter for the rights holder in each case.

“Lookalike” packaging

Law already provides for the protection of distinctive packaging under the scope of trade mark and design infringement, and the common law tort of ‘passing off’. There have been examples of brands successfully using passing off remedies to protect against lookalikes, e.g. the cases of Jiff Lemon, and United Biscuits v Asda. The recent Consumer Protection Regulation review, which looked at providing business with a private right of action against lookalikes, did not make the case for granting any civil injunctive powers. There was little clear evidence that the use of similar packaging is causing any significant consumer detriment, hindering competition or innovation. However, the IPO will continue to work with brand owners to consider what more

can be done to mitigate against lookalike packaging, including through raising awareness with Trading Standards.

Further information on Internet Protocol TV Boxes

During the debate, I addressed a number of points made by Honourable Members on the issue of illicit IPTV streaming devices. I would like to add though that, in addition to the recently published Call for Views, we are preparing guidance for investigators and prosecutors, and continuing to engage with sales platforms and intermediaries to tackle this problem. A collaborative, multi-pronged approach is needed, and that is the route we are pursuing.

I hope this information is helpful. I am copying this letter to Ian Paisley MP, Kevin Brennan MP, Pete Wishart MP, Chris White MP, Jessica Morden MP, Patrick Grady MP, and Bill Esterson MP. I am also placing a copy of this letter in the House of Commons Library.

JO JOHNSON MP