



ALLIANCE
FOR INTELLECTUAL PROPERTY

The UK Creative Industries and the Digital Economy: An independent review to the Labour Party

Submission from the Alliance for Intellectual Property

The Alliance for Intellectual Property represents 23 trade associations across the creative, branded and design industries concerned with ensuring that intellectual property rights are valued in the UK and that a legislative regime exists which enables the value and contribution of these rights to be fully realised. Our members include representatives of the audiovisual, music, games and business software, and sports industries, branded manufactured goods, publishers, retailers and designers.

We welcome the Review's recognition that intellectual property rights are the foundation of the creative industries. As noted by the Review, the UK's creative industries are among the strongest in the world and have remained a robust part of the economy despite the recession. The opening up of the digital economy has presented a range of new opportunities for business and creators in the creative sectors, but this has also come with some challenges.

As such, the Alliance for Intellectual Property asks that:

- IP rights continue to be recognised as one of the cornerstones of the UK's creative industries;
- Any UK Government makes the case for IP rights and the UK's creative industries both in Europe and further abroad, including encouraging the protection of rights at a European level;
- It is recognised that the market for the UK's creative industries is functioning well with the UK being home to a wide and innovative range of ways to access content both from established players and from newer start-ups, and as such the Government should encourage the UK's burgeoning understanding of and expertise in content licensing;
- The value of brands is recognised, especially as these brands have been key to flying the flag for UK businesses at home, abroad and in new and emerging markets;
- While ongoing development of the digital economy is welcome, this should not be done at the expense of the UK's creative business and the next Government should focus reform on a small number of anomalies that exist in the protection of IP rights, e.g., in protection of unregistered design rights and unequal penalties for copyright infringement.
- A framework exists that allows for IP rights to be properly protected, especially against those who seek to make money from their infringement. The next Government should draw together ministers from BIS and DCMS alongside ministers from the Home Office and Ministry of Justice to support enforcement of rights, particularly in relation to the role internet intermediaries have in protecting IP.

Promotion of IP

IP rights allow both new and incumbent businesses to compete effectively with each other because they provide equal protection over core assets. Where a new company may naturally find it harder to compete, for example, in terms of size, IP rights allow a business or creator to realise commercial success. For example, the rights protected in J.K Rowling's *Harry Potter* book series allowed for the creation of a series of films, toys, theme parks, coming theatre shows, innovative websites which tie into the fan experience, representing real jobs and investment in the UK creative economy. This ability to invest and compete must be promoted and protected for the UK creative sector to flourish.

The UK is now home to one of the most varied markets for access to digital goods in the world. This success has been underpinned by IP rights and a strong licensing regime, which has allowed for appropriate remuneration for creators and rights holders and encouraged a competitive digital retail market.

Over the last few years, there have been a number of reviews into the UK's IP regime. This has created uncertainty for creative businesses as they wait to discover how their property and investment might be affected by the decisions of Government. There has been underlying concern that such reviews demonstrate a lack of confidence by Government in the UK creative industries, and the next Government should look less to undertaking another review of the policy landscape as it should look to provide practical support to the UK's industries.

Additionally, the European Commission is currently undergoing a review into the Information Society Directive. Any potential changes that may emerge as the result of this process will have a lasting impact on the ability for the UK's creative sector to compete in its current world-leading position. It is, therefore, important that a UK Government strongly promotes its creative industries both at home and abroad.

Additionally, it must be recognised that brands hold a key place in any debate on the digital economy and the creative industries. IP is the basis for the £33 billion companies invest in the UK to build brands, and iconic UK brands such as Burberry have been engaging with digital content to promote their creativity across the world.

The public

We need to move away from the polarised debate of the past where the interests and needs of the public have been deemed separate and in conflict with the interests and needs of the owners of intellectual property.

The relationship between business and the consumer is at the heart of the success of the UK's creative businesses. Innovations in methods of viewing and engaging with content are allowing consumers to experience their favourite music, TV shows, books and films in ways that were never possible before. This virtual circle also enables creators to reinvest in new content for the benefit of the public.

The UK's creative industries produce engaging content that people love. These businesses are developing and harnessing state of the art technology to design and launch innovative ways for consumers to access this content digitally when they want to, on the electronic device they want to, and at a range of price points (see www.thecontentmap.com).

The UK has more digital music services than any other country. There are a range of new audiovisual services that are competing with traditional platforms and the gaming and publishing industries have fully embraced the digital environment.

The next Government should embrace the opportunities of licensing and the expertise the UK industry has in this area, which will only increase as more content is available digitally. This is an area that can bring competitive advantage for the UK but these new skills will be lost if the Government decides that reform of copyright, rather than finding new ways of exploiting the existing law through licensing, is the answer.

Protection of rights

The development of businesses that legitimately compete and trade through the provision of creative content has meant that there is now a huge diversity in the ways that people can access and interact with creative content. However, the provision and availability of access to infringing content represents an ongoing risk to creators, rights holders and legitimate content providers. IP infringement means that creators are not paid for their creativity, rights holders cannot seek a return on their investment, and content providers are undercut by illegal websites which have not taken on any burden of cost for licensing or developing legitimate content. For a successful and healthy market for digital creative content to continue to develop, the UK's enforcement regime must be fit for purpose. This is also important for consumers as pirate websites have little concern about age ratings or the provision of appropriate content and these sites often carry malware and viruses. With sites selling counterfeit goods, quality and safety is a serious concern.

Development of the internet as a space for retail activity has opened up new avenues of commerce to creators and rights owners and new access points for the public. However, social networks, such as Facebook in particular, are becoming hubs of activity for the sale and distribution of counterfeit goods and without proper enforcement represent a serious challenge to businesses and potential harm for consumers. Protection of IP rights online does not just translate into the protection of digital content, but physical products being sold online and the legitimate online retail market itself.

There are a number of initiatives underway to tackle the issue of IP infringement. Industry has led the way in providing education campaigns to the public on the value of IP and the impact of infringement, and also in tackling the sources of revenue which make infringing websites economically viable for criminals. This has included looking at the roles that search engines, advertisers and payment providers play in supporting and directing the public to infringing sites. The next Government must support such initiatives in order to tackle infringement online, and require businesses operating in the online economy such as search engines, payment system providers and advertising networks to take seriously the impact of IP-infringement on the creative economy.

The UK's creative economy

The UK's current IP regime has allowed for the development of a very strong market for creative content in the online economy. This has meant that the UK's consumers have some of the widest access to creative content in the world, as well as being the home for some of the best creative content produced. For the UK to continue to build on this success, IP rights need to be fought for and supported by the UK Government, both at home and abroad.