

Vince Cable's speech to the Alliance Against IP Theft conference

I recognise that, for people here, intellectual property (IP) and its enforcement are daily concerns. I'd like to think that I understand at least some of the issues you face. In 2002, I put through a private member's bill to increase penalties for copyright piracy. I appreciated then – as I do today – that our economy depends to a significant degree on making the most of our great ideas.

In particular exports from the UK's creative industries alone are worth £16 billion annually, and they represent over four per cent of all exported goods and services. For industries like design, advertising, television, and architecture, we enjoy a fantastic, enduring advantage.

For future growth, we are relying on exports and on investment in the private sector. Increasingly, this will mean growth from businesses with intangible assets, including intellectual property. UK firms invest more in IP and other intangible assets than in tangible ones: £137 billion of intangible investment against £104 billion of tangible investment in 2008.

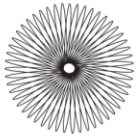
So it's vital to get the IP regime right. And not just for the sake of the creative industries. This is about realising the success of UK brands, design and new technologies. Our ability to sell our goods and services across the world is critically dependent on IP – it is a critical raw material for our modern economy.

Which is why the Prime Minister commissioned Ian Hargreaves to look at how the IP system could do more to help the UK economy grow.

Professor Hargreaves has now reported to the Chancellor and me, and I take pleasure today in formally publishing his report and supporting documents. There's already been much discussion in the media about the Hargreaves report – and although we won't be issuing a formal response for some weeks, I'd like to take this opportunity to clarify the Government's position.

First, this review isn't about sacrificing the interests of Britain's creative industries to those of Google. Neither is it about "preserving the business models of the creative industries in aspic," to borrow a phrase from my colleague Jeremy Hunt. It's actually about reforming our system to stimulate both technology and content creation. There is no reason to believe that encouraging and rewarding content creation should be at odds with the fantastic new opportunities brought about by the Internet and the possibilities it creates for imaginative uses of data.

The Hargreaves Review demonstrates that both these important aims can be furthered if we choose the right policies.



Ian Hargreaves describes how digital technology is challenging existing business models while enabling new ones. Our IP system – and particularly the copyright system – have not kept pace. In some cases, they represent obstacles to important research, innovation and growth.

For millions of consumers, for example, copyright now impinges on their daily lives – whether they share family photos online via Flickr, quote other people in a blog post, or burn a CD. Digital technology is all around us, and copyright affects ordinary individuals, often to a bizarre degree. In 2009 American student Justin Gawronski's copy of Orwell's 1984 was deleted from his Kindle because of a licensing dispute – rendering the notes he'd made unusable. He sued.

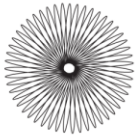
One of Hargreaves' great contributions has been to show the importance of copyright in less obvious contexts. He describes how academic work on malaria – which seeks to draw on previous research through a process known as data mining – is being stymied by copyright and contract restrictions. In other words, scientists cannot get permission to copy the datasets they need for the mining to work.

Elsewhere, the report examines the case of Brennan, a British firm whose music player can – amongst other things – copy the owner's CDs to a hard disc to create a kind of virtual jukebox. Now, such format-shifting is unlawful, though the music industry has made it clear that it does not intend to act against consumers who do it. In any case, the practice is already widespread. So the consequence of the ban on format-shifting is simply to make it harder for a British entrepreneur to compete with technology developed in the US and other countries where there's no such ban. That means less choice for consumers, less competition, fewer incentives to innovate.

Some copyrighted works, meanwhile, are locked away entirely, because their authors either aren't known or can't be traced to give permission for use. In the worst cases, where a single owner of a single right cannot be located – just one out of hundreds contained in a film or TV programme – it becomes a criminal offence to exploit that work commercially. One unknown author can effectively hold the interests of the others to ransom. This hampers the BBC – and it hampers our hosts today, the BFI. Other institutions have similar issues: Hargreaves describes a British Library project to digitise jazz recordings being hampered, because more than a quarter of the people being sought to grant permission couldn't be found.

This is symptomatic of a larger problem, whereby it is often hard to find out who owns the rights to a work, and harder still to agree terms on which to license it. Our system makes the creation of so-called orphan works more likely, and income from licences less probable – a pointless waste, for both creator and consumer of the product.

And even firms which have the rights to their work – patents, designs, trade marks, copyrights, report concerns about being able to enforce them. This is a problem for inventors like Trevor Bayliss and John Mitchell, the Chairman of the SME Innovation Alliance; for people here today; for businesses of all kinds.



To address these and other problems, Hargreaves has made ten recommendations. I'll restrict myself to highlighting measures which relate to his three main goals: stimulating innovation, developing an evidence-based IP framework and helping UK businesses.

To deal with copyright ownership and licensing copyright, he proposes a Digital Copyright Exchange: a sort of online copyright shop, through which firms might advertise their ownership of copyrights and buy and sell licences to use them. He argues for a scheme to allow use of orphan works in archives like the BBC's and BFI's. And he suggests greater flexibility within the copyright framework which will not undermine the benefits to owners from the underlying creativity in their work. Flexibility that would allow data mining and permit new technologies that consumers want to be manufactured, advertised and used lawfully.

Having found a lack of evidence on some issues and an IP system insufficiently grounded in the evidence that is available, Hargreaves has called for reforms to base the IP system on hard data rather than lobbying. He recommends a stronger role for government in using this evidence to test how well markets are adapting to technological change and to tackle emerging problems. That includes, for example, looking at evidence on design and design rights.

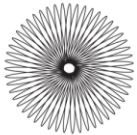
Hargreaves also wants changes to help UK firms succeed here and overseas. A small claims track for IP cases in the courts, to control legal costs and enable small firms to challenge infringement of their IP more effectively. Better access to professional advice for smaller businesses who need it. An integrated approach to enforcement that includes stronger legitimate markets for goods and services that incorporate IP. And resolute pursuit of the UK's international interests in IP, which – I would say – definitely includes reducing infringement.

Given that this conference has been organised by the Alliance Against IP Theft, let me say a little more about IP enforcement and how it relates to the review's remit to stimulate growth and innovation.

We know the harm that infringing IP rights is reported to do the economy. A BASCAP report last year suggests the UK loses around £1.2 billion a year to piracy in the creative industries – more than the annual profits of BSkyB or Alliance Boots. Looking globally, the OECD estimates that counterfeits represent 1.95 per cent of world trade.

What is the significance of these figures? We don't know – and, as I've said, Hargreaves identifies a need for more robust data. Not just on the incidence of IP infringement but on its impact and – crucially – on what really works in reducing it.

Government has not always helped here. Five years ago, the Intellectual Property Office did not employ a single economist. Today it has an economics team and a healthy research programme. But



more is required. Industry has to bring its own evidence out of the shadows and into the light of transparency and peer review.

Regarding our legal framework, the UK has an IP crime strategy, but it hasn't been revised since 2006. We are renewing now it to make sure we tackle the problems that online infringement brings.

Some high-profile cases against infringers have failed, like a recent case involving a company called "Oink". So we've developed guidelines for prosecutors to help them make the strongest possible case against IP criminals. We are rolling out that training now to 350 prosecutors.

Small firms, meanwhile, tell us that it's hard to get justice when their IP is infringed. In the last year, we've made improvements to the court system to make it easier for smaller firms to bring cases and protect their IP.

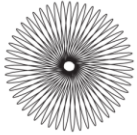
Enforcement is part of delivering growth but it is not the entire answer. I suspect Hargreaves is right when he says that technology will continue to challenge the assertion of rights. He is right that consumers will continue to want what technology can do over what some rights owners will let them do. And he is therefore right in saying that firms have little choice but to sell into this context. Business models will need to adapt. Fighting against the sweep of technology will look soon no more realistic, than were medieval persecutions of illegal Bible translations.

This would suggest that Hargreaves' prescription of balanced and proportionate enforcement is a good one. So what does that mean in practice?

We are back to evidence again. Hargreaves has taken a robust view of the evidence on enforcement – not to dismiss what there is but to highlight that more is needed. We need to know more in order to provide more effective help. But that can't be and won't be a recipe for inaction. We won't wait around for perfect evidence. We will follow the Hargreaves advice to "guess and get on with it" where we have to. But to tackle IP crime, we would prefer to know and nail it.

We should be clear that it is high time for the Intellectual Property regime to be brought up to date, and in this context the Hargreaves Review is a valuable piece of work. While the Alliance for IP theft acknowledges that "the UK is considered to be the best IP framework in the world for protecting, exploiting and enforcing intellectual property", the review has identified significant potential for economic growth if we improve our IP system: an annual addition of 0.3 per cent to 0.6 per cent to GDP by 2020 – equivalent to between £5.5 and £7.9 billion – and an estimated £750 million a year in efficiency savings.

This is consistent with the OECD study last year, which suggested that stronger protection for IP rights correlates with higher foreign direct investment: a 1 per cent increase in the strength of



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protection was associated with 2.8 per cent more FDI for patents, 3.8 per more FDI for trade marks and 6.8 per cent more for copyright.

This is not the end of our thinking about IP and growth. It is the beginning of turning thinking into doing.