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Economic impact of legislative reform to reduce audio-visual piracy

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Executive Summary

This study examines the broader economic impact of proposed anti-piracy measures

Respect for Film, representing the audio-visual (AV) sector, has requested that Oxford Economics undertake a quantitative analysis of the financial benefits to the AV industry of suggested additional steps to combat Intellectual Property (IP) theft (particularly copyright theft) in the UK. This work also includes the broader effects of such measures on the UK economy.

Currently various forms of copyright theft directly cost the AV industry £531 million per annum...

The UK AV sector, incorporating cinema, video, television and digital platforms, has suffered from fraud and theft for many years, through what is commonly known as “piracy” (also often referred to in its various forms as “film theft”, “digital copyright theft” and/or “IP theft/crime”). Currently, key types of copyright theft include:

- Camcording;
- Sale/purchase of fake DVDs;
- Home copying;
- File-sharing/downloading;
- Streaming;
- Secondary market activity (the borrowing/viewing of material pirated by others)

Copyright theft continues to exact a significant toll on the AV industry. An ISPOS survey released in 2009 indicates an annual revenue loss of £531 million due to copyright theft of all kinds.

...so the AV industry has proposed a variety of reforms to tackle copyright theft. This report estimates that implementation of these reforms would provide direct gross revenue benefits to the AV sector of £268 million as well as benefits spread throughout the entire UK economy via “multiplier effects,” creating a total of £614 million in revenues to all industries, £310 million in GDP, 7,900 jobs and £155 million in taxes to government...

Modelling based on the estimated effectiveness of a spread of anti-piracy measures indicates that the direct AV industry benefits (i.e. reduced losses) would be in the region of £268 million in gross revenue terms.

However, the direct benefits of anti-piracy measures to the AV sector only account for part of their total economic impact on the **UK economy as a whole**. This is because such measures have flow-on effects throughout the rest of the economy, as the AV industry, in turn, increases its requirements for resources from other industries with the revenues recouped from reduced economic losses. These “indirect and induced” effects can be estimated through economic impact analysis and the final impacts can be assessed in terms of increased output, jobs, value added (GDP) and taxes on the economy as a whole.

An economic impact analysis of effects of the proposed measures on the entire UK economy was therefore conducted. The results are presented in Table ES1. This analysis shows that the proposed measures would generate £310 million in value added (GDP), some 7,900 jobs and £155 million to government in tax revenues across the UK economy in total.

Table ES1: Direct (AV industry) and whole economy impact of anti-piracy measures

Case	Direct Effects	Total (i.e. direct, indirect and induced) effects			
		Direct revenue benefits to AV industry (£m)	Output (£m)	GDP impacts (£m)	Employment impacts (jobs)
Net (final) impacts	268	614	310	7,888	155
Tax Break-up					
VAT impacts					40
Income and other personal tax impacts					86
Corporation tax impacts					29

Source: Oxford Economics

NB: Direct revenue benefits are inclusive of VAT and remittances abroad. The modelling results for total output and GDP across the whole of the economy exclude VAT and remittances abroad

... In particular lower levels of copyright theft means more jobs across many sectors of UK industry...

Of the total 7,900 jobs across the UK generated by the measures, some 2,500 will be in the “other services” category, which includes film exhibition, distribution and production. Other industries which will also be supported by the boost to AV revenues include a variety of financial and business services such as market research, accounting, consultancy, research and development, public relations, financial management, legal activities, advertising, and the rental of dwellings and of goods (which in total account for 1,500 jobs), retailing (1,400 jobs), transport and communications (400 jobs), wholesaling (over 400 jobs) and hotels (over 300 jobs).

...the Exchequer and thereby society are also big winners...

The estimated increase in Exchequer revenues of £155 million could be spent on other economically stimulating benefits in areas such as training and apprenticeship schemes and education.

...while the UK film industry and UK filmgoers are also set to benefit

To the extent that copyright theft reduces the revenues earned from films made in the UK, there may be a long run deterrent effect on film production and employment within the UK.

Copyright theft typically targets high grossing films, which include high grossing UK/US co-productions. Such co-productions accounted for 36% of the gross UK box office revenues earned by the top 20 highest

grossing films exhibited in the UK between 1998-2007. If it were assumed that copyright theft **only** targeted high grossing films, modelling by Oxford Economics indicates that, on average, such co-productions would earn an extra £39 million per annum in box office gross revenue per annum if the proposed measures were adopted. If co-productions account for similar revenue proportions across all media types examined, this implies a **total of roughly £96 million (i.e. £268 million*36%) in extra gross revenue accruing to UK/US co-productions** across all media types examined.

Such additional revenues could ultimately add to incentives to undertake more co-productions. Alternatively, more could be invested back into the same number of co-productions (i.e. higher budgets). Either way, some of the benefits would doubtless be reflected within the UK film industry through higher levels of employment, increased certainty of employment and/or greater opportunity for British actors, writers, directors, technicians, set designers and other film production specialists.

Note that this measure is likely to understate the true benefit to the local industry as many US films (in particular) use UK studios and staff but are not classified as “co-productions”. For example three out of the four Indiana Jones films were made in the UK with British studios, staff and talent. To the extent these films benefit from reduced levels of copyright theft in the UK they may also have an additional incentive to use UK facilities.

In addition, cinema patrons may benefit from the improved revenues enjoyed by cinema exhibitors. Modelling by Oxford Economics suggests that cinema exhibitors may gain £51 million per annum from the proposed measures. This additional revenue could be used to upgrade and refurbish existing cinemas, construct new cinemas and/or to rollout new technologies such as digital and 3D cinema. Another potential effect may be to prevent the loss of cinemas in small communities, which would have important community effects.

Finally, the diversion of monies recovered from copyright theft may allow for improved set design and visual effects. This may be true for co-productions (as indicated) but will obviously also be the case for films produced in the US and other locations. This will enhance the cinema and other media experience for UK patrons of such films (potentially increasing the “consumer surplus” in economic terms).

1. Introduction

1.1. Background

Respect for Film, representing the audio-visual sector, has requested that Oxford Economics undertake a quantitative analysis of the financial benefits to the AV industry of suggested additional steps to combat Intellectual Property (IP) theft (particularly copyright theft) in the UK. This analysis also includes the broader effects of such measures on the UK economy.

Some economic historians have viewed the development of Intellectual Property law and associated defence of property rights as the single biggest contributor to industrial development within modern Western economies. The defence of such rights is therefore of manifest significance.

Past Home Office and other research has pointed to the costs of fraud, in general, in the UK. For example, the Home Office study authored by Brand and Price (2000) previously estimated that fraud of all types is one of the costliest forms of crime, accounting for some 28% of the total cost of crime (excluding crime anticipation and response costs) in England and Wales. However, fraud response costs equated to only 5% of total response costs. More recently, Levi et. al. (2007) estimated that the total costs of anticipating and responding to fraud equate to £937 million per annum. However, this compares with total fraud costs of £13 billion. Further, much of these fraud prevention and response costs represented private expenditure and/or sums spent by HMRC combating VAT fraud (£428 million) - the sum spent by police, prosecutions and the courts *per se* amounted to only £156.5 million.

The AV sector in the UK has suffered from fraud and copyright theft for many years, through what is commonly known as “piracy” (also often referred to in its various forms as “film theft”, “digital copyright theft” and/or “IP theft/crime”)

¹. Currently key types of copyright theft include:

- *Camcording* – The camcording of films on cinema release for later sale, up-loading to the internet, or home use. The Motion Picture Association (MPA) estimates that some 90% of the first unauthorised version of films (subsequently distributed on DVD-Rs, counterfeit DVDs, over the internet and other platforms) can be sourced from camcording.
- *Sale/purchase of illegal DVDs* – Sellers in forums such as car boot sales, markets, pubs and on the streets sell illegally copied AV material to others.
- *Home copying* – Users circumventing encryption codes on DVDs in order to make copies for themselves and/or others, or up-load to the internet.

¹ The terms “piracy/pirates” and “copyright violation/violators” are used interchangeably in this report in the interest of simplicity. For the purposes of identifying economic loss, the “primary market” consists of those engaged in distributing and obtaining unauthorised material (e.g. file-sharing). The “secondary market” consists of those viewing the material obtained in the primary market.

-
- *File-sharing/downloading* – File-sharing involves distributing and receiving digital files over peer to peer (P2P) networks. Files are typically stored on personal computers or other mobile devices, with users typically making available and receiving files with file-sharing software via the internet. While there are legitimate uses of file-sharing, a massive market in file-sharing illegally copied films, TV series (together estimated by IPSOS to be in the order of 65 million files in 2008) and other copyright material exists over domestic and global networks. Apart from this, infringing material can also simply be downloaded from various websites and social networks.
 - *Streaming* – Streaming involves accessing content continuously online rather than downloading a file onto the hard drive.
 - *Secondary market activity* – This covers the borrowing/viewing of material which has previously been illegally copied onto memory sticks, discs, or other devices to give or lend to others.

The Motion Picture Association (MPA) has estimated that global losses to physical and digital copyright theft amounted to \$18.2 billion in 2005 (MPA & LEK 2005). Using a somewhat different methodology, in a tracking study run for the UK AV industry since 2002 (“the IPSOS study”) IPSOS estimated that the UK AV sector lost £531 million in 2008 due to copyright theft². It should be noted that both studies allow for the fact that not all copyright theft necessarily represents a lost sale (i.e. some of those who viewed illegal content would not necessarily have paid to see it at a cinema, on DVD, pay-TV, etc). Further, the IPSOS study is inherently conservative in that it excludes losses due to TV advertising on “free to air” television.

In order to review these and other variations of IP theft within the UK industry, HM Treasury commissioned an independent review into the UK Intellectual Property Framework. Commonly called the “Gowers Review”, the resulting report was published in December 2006.

The Gowers Review (HM Treasury 2006) made a number of significant recommendations with respect to copyright theft and other forms of IP crime including, all of which were accepted by the government. In particular:

- *Recommendation 36: Match penalties for online and physical copyright infringement by amending section 107 of the Copyright Designs & Patents Act by 2008;*

² The IPSOS figures cited in this report refer to the draft IPSOS findings released in early February 2009. A subsequent IPSOS report slightly modified these findings to produce a revised total loss of £526 million in 2008. As the effects of this change are non-material and the revised figures were not available within the timeframe required for the production of this report, the draft IPSOS figures have been used.

In addition, as detailed below, the IPSOS figures relate to a survey of consumers in Great Britain rather than the UK. However, the scope of this report deals with legislative and policy changes across the UK and the input-output modelling referred to below also relates to the UK economy as a whole. Therefore the IPSOS figures for Great Britain have been taken as representative of the UK as a whole. While “true” UK figures for items such as revenue loss are likely to be slightly different, given that Northern Ireland constitutes a relatively minor part of the UK economy (and, likewise, has a relatively small population) these differences are unlikely to be material.

- *Recommendation 38: Department of Constitutional Affairs (now replaced by the Ministry of Justice) should review the issues raised in its forthcoming consultation paper on damages and seek further evidence to ensure that an effective and dissuasive system of damages exists for civil IP cases and that it is operating effectively. It should bring forward any proposals for change by the end of 2007;*
- *Recommendation 39: Observe the industry agreement of protocols for sharing data between ISPs and rights holders to remove and disbar users engaged in 'piracy'. If this has not proved operationally successful by the end of 2007, Government should consider whether to legislate;*
- *Recommendation 40: DTI should consult on measures to tighten regulation of occasional sales and markets by 2007;*
- *Recommendation 41: The Home Office should recognise IP crime as an area for Police action as a component of organised crime within the updated National Community Safety Plan;*
- *Recommendation 42: Give Trading Standards the power to enforce copyright infringement by enacting section 107A of the Copyright, Designs and Patents Act 1988 by 2007.*

A notable omission in the list of recommendations was the creation of a criminal offence for camcording films in cinemas. The Gowers Review rejected the industry's appeal for camcording to be outlawed, on the basis of evidence from the music industry, which doesn't apply to the film sector. On 24 February 2009, however, at the launch of a report by the All Party Parliamentary IP Group into the effect of Gowers two years on, Andrew Gowers acknowledged that recent evidence has clearly demonstrated the case for camcording to be outlawed.

However, many of the fundamental issues examined in the Gowers Review have not yet been addressed by government and copyright theft continues to exact a significant toll on business. The ISPOS economic impact of £531 million cited above reflects the value of loss estimated in November 2008 – two years after the release of the Gowers Review.

Further, even this direct revenue loss figure represents only a fraction of the total damage done to the economy by various forms of copyright theft and related IP crime in the AV sector. Lost revenue in the AV industry reduces the purchases it can make from other sectors (such as marketing, retailing, catering, printing, computer services and financial services) and thereby reduces employment in those sectors. These sectors, in turn, reduce their demand from others and so on. These are what are known as the "indirect and induced" effects. Allowing for induced and indirect effects provides an indication of the economy-wide spread of the losses initially borne by the AV sector. This provides a much broader assessment of the economic damage inflicted by IP crime.

Together with the direct effects, these add up to the total economic impacts of copyright theft, which lower Gross Domestic Product (GDP), jobs and tax revenues to the Exchequer.

There may also be a long term “catalytic effects” due to lost creativity and the possible drift of resources and talent overseas if the UK fails to maintain a strong IP enforcement regime, while other countries introduce measures such as a ban on camcording.

The purpose of this report is to examine the total economic impacts in the UK of the implementation of a number of anti-piracy measures (“the proposed measures”). The proposed measures are aimed at reducing the revenue loss currently suffered by the AV industry (and its attendant effects across the whole of the economy). Therefore, this report is concerned not only with understanding the total economic impacts of the current losses due to copyright theft, but, particularly, the benefits (in terms of reduced losses) which would be felt across the AV industry and the entire economy following the introduction of the proposed measures.

More technically, this study is based on the following approach:

1. Using the IPSOS estimated loss of £531 million as a measure of the “base case” – i.e. the direct loss due to AV piracy in the UK.
2. Determining the effects of a number of the proposed measures on this direct loss and estimating a revised direct loss due to copyright theft (the “option case” direct loss).
3. Determining the direct benefits of the proposed measures as the difference between the base case losses and the option case losses (i.e. the difference between 1. and 2. above).
4. Estimating the broader economic benefits of the savings (3.) on the entire UK economy.

1.2. Report structure

The rest of this report is structured as follows:

- Chapter 2 discusses the basic assumptions used to develop the modelling approach.
- Chapter 3 estimates the reduction of direct revenue losses as a result of the implementation of anti-piracy measures.
- Chapter 4 details the economic modelling used to derive the total economic impacts of the proposed measures.
- Chapter 5 reviews the other, long term and/or non-market impacts of the proposed measures such as spin-off benefits of increased revenues being applied by the AV sector.

2. Basic assumptions and modelling

Key Points

- This report assumes implementation of the following measures:
 - Anti-camcording legislation
 - Regulation of car boot sales and occasional markets
 - Effective codes of practice with ISPs, underpinned by legislation
 - Implementation of additional damages regime
 - Ongoing copyright awareness campaign
- IPSOS estimated that copyright theft directly cost the UK AV industry £531 million in lost revenues in 2008. However there are also “indirect and induced” losses to the entire economy due to reduced industry purchases, wages, etc. The direct, indirect and induced effects add up to total economic impacts.
- Benefits of anti-piracy measures are determined by estimating how much of the loss can be recovered.
- Past empirical evidence in the UK and overseas confirms that copyright theft does indeed result in lost industry revenues and that enforcement measures are effective in curbing this.

2.1. Legislative initiatives and option definition

The Gowers Review considered a wide range of initiatives and made a number of recommendations aimed at tackling IP theft, all of which were accepted by government. However, not all those recommendations have been implemented. Further, the AV industry has been pressing for a number of additional reforms which it would like to see implemented in the near future.

In order to model the effects of a legislative regime implementing enhanced anti-piracy measures within the AV industry, it is necessary first to detail what such a regime would entail. After consultation with Respect For Film, Oxford Economics has adopted the following modelling assumptions. These “proposed measures” are provided in more detail in Appendix 1 and include:

- *Anti-camcording legislation* – Copyright legislation regarding camcording in UK cinemas would be created and enforced (by theatre staff and police), in combination with ongoing international efforts aimed at strengthening detection and enforcement. Offenders would be unambiguously subject to criminal prosecution. Proposed wording for new legislation is

presented in Appendix 1. This would assist in the removal and subsequent prosecution of camcorders.

- *Implementation and enforcement of the Occasional Sales Act* – This proposed measure was put forward as a private member’s bill to the House of Commons in 2005 but failed to get a second reading. It is primarily aimed at curbing the sale of fake goods at car boot sales and markets, where 15% of fake DVDs by volume were purchased in 2008 – the largest single public source in Britain, according to IPSOS 2009. It is assumed that this bill is passed and subsequently enforced. Such actions would help in clearing car boot sales of counterfeit DVDs and associated merchandise. A copy of the Bill is attached in Appendix 3.
- *Cooperation with ISPs, combined with enforcement* – In July 2008 an MOU was signed by the six major ISPs (estimated by industry sources to account for roughly 95% of UK internet users), the Government and music and film companies in the UK to carry out, amongst other things, a three month trial of sending infringement notices by ISPs to subscribers identified as file-sharers of unauthorised music content.
- Terms of the MOU were reflected in a consultation process on illicit P2P file-sharing co-ordinated by the Department of Business, Enterprise & Regulatory Reform (BERR 2008). (The consultation was also discussed in the recent government response (BERR 2009a) and *Digital Britain: Interim Report* (BERR 2009b).) It is assumed that similar arrangements to the MOU are made permanent **and that the features outlined in the BERR consultation documents are ultimately expanded to incorporate other major types of copyright material (targeting file-sharing and streaming as well as other forms of infringement).**
 - As indicated in BERR (2009a) ISPs would be legally obliged to notify file-sharers that their conduct was unlawful. They would also be required to collect information on serious repeat infringers through their notification activities.
 - It is also assumed that a graduated response procedure would be adopted by ISPs to tackle digital copyright theft. Initial notifications would be sent requesting that the alleged infringing activity cease. If it continued, technical measures would be applied by the ISP to prevent effectively the continuation of any unauthorised activity. Note that civil (or criminal) sanctions on users would not form a part of such a graduated response regime, although as outlined in BERR (2009a) legal sanctions might separately apply to the most significant infringers who are pursued in the courts.
 - A Rights Agency (or equivalent mechanism) as envisaged in BERR (2009b) would be set up to bring industry together and provide incentives for the legal use of copyright material as well as developing effective approaches to tackle violations of copyright.
- *Enforcement of an effective damages regime* – The implementation of an effective damages regime should act as a general deterrent to IP theft. Under the present civil damages

regime, courts hypothetically allow for a copyright holder's position to be restored to what it would have been in the absence of the infringement (entailing the payment of licence fees or other costs). There is some ambiguity about the extent to which "additional damages" above and beyond this can be or are awarded by the courts, and a recent Ministry of Justice consultation declined to extend current legal provisions (Ministry of Justice 2007). A more effective damages regime, including a specific provision for exemplary and/or aggravated damages, can be seen as constituting a more effective deterrent to piracy, in line with the EU Enforcement Directive 2004/48/EC. Such legislation would add to the risk of illegal acts.

- While it is difficult to assign damages legislation to a specific type of IP theft (and the literature on deterrent effects is sparse)³ it can be seen as enhancing the effects of other initiatives (e.g. the Occasional Sales Act, in combination with a new damages regime, has the potential to make enforcement of the former more effective in the long run, as identified illegal activity is less likely to be repeated)

In addition, it is assumed that there is an ongoing public awareness campaign "in the background", such as that undertaken by the Industry Trust for IP Awareness and others. These campaigns, along with enhanced visibility of a more determined anti-piracy regime, are assumed to help minimise the rate of any shifting (e.g. from car boot sales to street sellers to on-line copyright theft) due to heightened public awareness of the illegal nature and damage caused by copyright theft.

A common response by transgressors to legislative and enforcement initiatives is to seek other avenues to practise illegal activities (this is sometimes referred to as a response to "target hardening"). In this case, those selling illegal goods and those wishing to purchase them (or obtain them for free through channels such as the internet) may seek other avenues when one is blocked. It is therefore important to note that these initiatives are assumed to act in conjunction. A person intending to purchase a fake DVD at a car boot sale may be frustrated by the implementation of the Occasional Sales Act. However, turning to the internet might prove the solution for the buyer if an ISP agreement is not in place.

It is acknowledged that these initiatives will not prevent all transgressors (either sellers or buyers/free downloaders) from successfully turning to other sources (nor deter all copyright theft). However, the blocking off of a number of alternative channels for illegal content is a key part of the modelling assumptions in this report (and likely to be integral to successful anti-piracy measures).

In economic terms, as noted by Becker (1968) and many others since, participation in many forms of illegal activity can be seen as a balance between the marginal (i.e. additional) costs of illegal acts and the marginal benefits gained from such acts. Illegal acts become increasingly attractive to the extent that their benefits outweigh their costs. At present, the costs of many forms of IP theft in the UK are low for both organised criminals and occasional consumers of unauthorised material (though some time and effort are involved,

³ Anecdotal evidence suggests that loss of assets can exercise a considerable deterrent effect on criminal behaviour. This is often cited as a reason to support proceeds of crime legislation such as that introduced into the UK through the Proceeds of Crime Act 2002 (POCA). Evidence supplied by FACT also points to the effectiveness of such legislation in confiscating criminal gains made from AV sector piracy. For example, in one recent case involving the sales of counterfeit DVDs through a well-known street market, the court ordered confiscation of assets worth over £50,000.

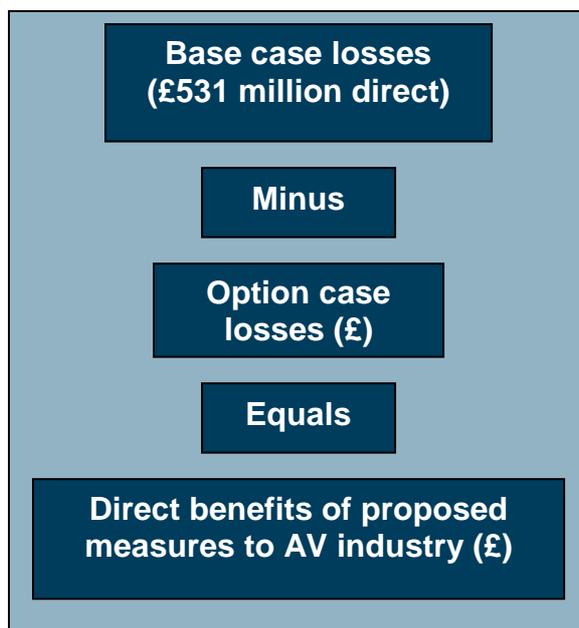
witness the ease of illegal file-sharing in an era of broadband connectivity). Conversely, the gains are considerable. Some past studies suggest that organised crime enjoys better yields from some forms of IP theft than from illegal drugs (Canadian Anti-Counterfeiting Network (2007), Guardian 13/7/04, Treverton et al. (2009)), while illegal file-sharers enjoy copyrighted works (in some form) without paying legitimate traders for them. By increasing the costs of illegal behaviour, relative to the gains, through the measures specified above, the attraction of copyright theft may be diminished.

Noting these proposals for change, two scenarios can then be specified:

- *Base case or status quo* – The situation as at present, with no legislative changes, ISP cooperation, etc, and a £531 million annual direct industry loss;
- *Option case* – The four legislative reforms detailed above are implemented. Various forms of copyright theft are reduced (though not eradicated) and some continues.

The difference between the base case and the option case represents the direct (gross revenue) AV industry benefit of introducing legislative measures to curb AV piracy, as indicated in Figure 2-1

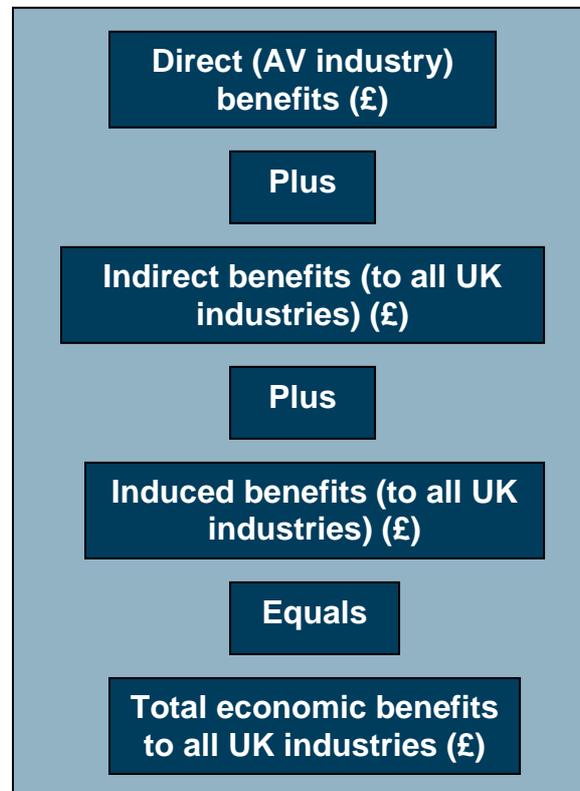
Figure 2-1: Direct (AV industry) benefit of introducing anti-piracy measures



In practice, this study will not only examine the direct benefits to the AV industry from reducing copyright theft but also what are known as the indirect and induced effects across the whole of the UK economy from doing so. The total economic benefits will be measured through additional output (revenue), “value added” (GDP), jobs and taxes.

Therefore the total economic benefits can be summarised as in Figure 2-2

Figure 2-2: Whole economy impact of anti-piracy measures



The input-output modelling described below seeks to measure these benefits⁴.

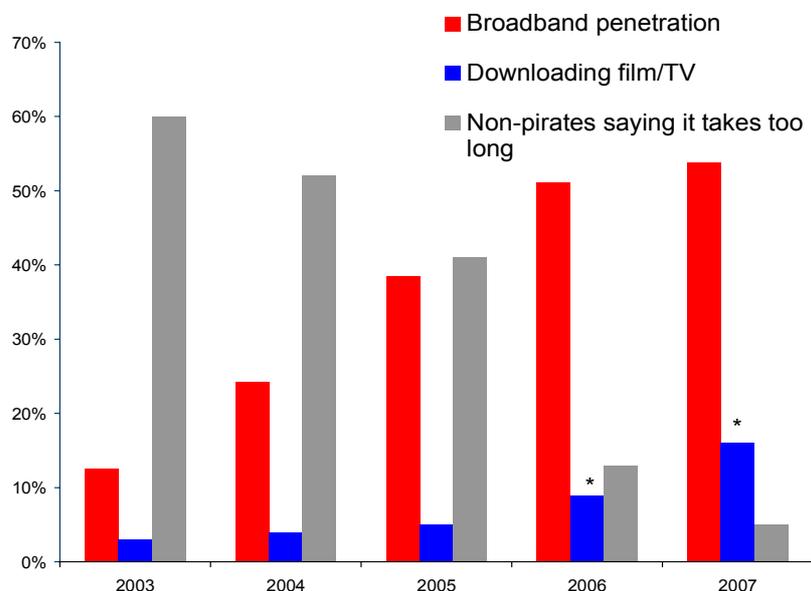
A number of other, long term and/or non-market benefits could also be added to the total economic benefits to give a measure of combined benefits. These are further discussed in Section 5.

Note that this approach may be considered conservative, particularly given the growth in digital copyright theft in the future. As a higher percentage of the population has access to broadband, this is likely to become easier in the absence of measures to prevent it.

Though caveats must be attached to survey responses over time, given changes in methodology, Figure 2-3 below charts the change in broadband access and rates of digital copyright theft in the UK. It also indicates non-participants' opinions about the acceptability of downloading times for films and TV series.

⁴ Note that the direct revenue benefits are inclusive of VAT and remittances abroad. The input-output modelling results for total output and GDP across the whole of the economy exclude VAT and remittances abroad

Figure 2-3 Broadband penetration and pirate behaviour



Sources: Oxford Economics, IPSOS, BVA

*2006 figure includes downloading and burning. 2007 figure includes downloading, illegal streaming, burning, emails and memory sticks

Taken together, these facts suggest that digital copyright theft is likely to grow over time as broadband penetration (and speed) increases. While it cannot be definitively proven that this will result in a net increase in copyright theft (as some of this growth may displace the physical market and also go to legal services) it does suggest that revenue losses from digital copyright theft may well grow over time. **Accordingly the benefits of anti-piracy measures will correspondingly increase, rather than remaining stable (as is generally assumed in the modelling below).**

For example, if anti-piracy measures were to halve the current digital copyright theft revenue loss of £235 million, this would produce a benefit of around £118 million. But if digital copyright theft grows in future years with increasing broadband access, losses could mount to some higher figure, say, £300m per annum. Consequently, halving these losses could produce direct benefits equal to £150m rather than £118 million.

2.2. Overview of approach

The key steps used in this study are:

1. Using the IPSOS assessed loss of £531 million as a measure of the “base case” direct loss due to AV piracy in the UK.
2. Determining the effects of a number of anti-piracy measures on this direct loss and estimating a revised

direct loss due to piracy (the “option case” direct loss).

3. Determining the direct benefits of anti-piracy measures as the difference between the base case losses and the option case losses (i.e. the difference between 1. and 2, above).

4. Using the direct benefits to estimate the broader economic benefits of reducing video piracy.

Before these steps can be completed, we need to consider two key questions, which have formed a backdrop to many debates about the impact of IP theft in the AV sector and elsewhere, namely:

- Are anti-piracy measures effective ?
- Does illegal consumption equate to lost sales (or increase sales)?

A number of past studies have investigated the issue of copyright theft in the AV, software and music industries. These are of use in helping to address such questions.

In considering these issues we do not necessarily suggest that identical enforcement measures be adopted to those discussed below (e.g. such as those employed by some United States jurisdictions). Instead this review is focused on the more central and key question of whether deterrence *per se* influences behaviour.

2.2.1. Are anti-piracy measures effective ?

Some commentators have suggested that copyright theft is entrenched and out of control, particular in its digital forms (MCPS-PRS Alliance (2008); *Guardian* 4/8/08; *The Times* 18/6/08). Often associated with these claims is the argument that consumers (particularly younger generations) have come to expect free content through forums such as file-sharing sites on the internet and therefore piracy is unstoppable. Importation (either physical or digital) from major counterfeit producers (such as China and Russia) is also sometimes mentioned in support of the contention.

However, the history of both analogue and digital copyright theft does not support such contentions. Even commentators who endorse methods of tackling copyright theft other than law enforcement acknowledge the role played by enforcement measures. The findings of the following studies should be noted:

- Short term indications from recent UK research (Entertainment Media Research 2008) of 520 users who obtained unauthorised content digitally indicated 70% would stop their activities if they received an email or call from an ISP.
- Likewise BERR (2009b) refers to international evidence that two thirds of copyright infringers change their behaviour after receiving notification that their conduct is unlawful.
- Waterman et. al.'s (2007) review of the history of film piracy notes how the MPAA tackled the earlier problem of VHS piracy. This involved the introduction of harsher penalties against commercial piracy in 1982, which were further strengthened with the Digital Millennium Copyright Act (DMCA) in 1998. US states simultaneously began to increase penalties. The MPAA also brought prosecutions and raids against video retailers involved in the

manufacture and distribution of counterfeit videos. The authors report that losses from US video piracy fell from some 10-15% of legitimate video release revenues to studios in 1987 to roughly 7% of all legitimate video revenues in 2005. While they note the role of changing retail practices and technology, the authors clearly point to enforcement of legislation as an effective deterrent.

- A more sceptical assessment of historical copyright theft - Alexander's (2007) analysis of legal attempts to confront illegal sheet music in the early 20th century – also acknowledges that the introduction of specific legal measures (the *Musical Copyright Act* 1906) played an important role in curbing this form of IP theft. She also pointed to the negative relationship between crime rates and the likelihood of conviction⁵. Alexander reviewed these issues in the context of the Gowers Review and the question of whether history could throw any light on the effectiveness of criminal sanctions.
- Walls (2008) conducts a 26 nation cross-country quantitative analysis of film theft in which the cost of enforcing legal contracts (to prevent film theft) is a statistically significant dependent variable. That is, the greater the obstacles to legal methods such as enforcement, the higher the rate of piracy. Likewise, Proserpio et al's (2005) 64 country study finds a higher degree of likely enforcement of international IP agreements is statistically related to lower movie piracy levels. Andres' (2006) survey of software piracy in 23 European countries over three time periods (1994, 1997 and 2000) finds a statistically significant negative relationship between software piracy and an index of copyright software protection (based on data from national copyright laws as well as civil and criminal codes and international data). Thus, countries with stronger anti-piracy legal provisions tend to have lower software piracy levels.
- Finally, on a theoretical level, Harbaugh and Khemka (2001) point to the fact that broader based copyright enforcement (i.e. which captures a wider range of copyright theft rather than just "high value" types such as government and business) can ultimately lead to both lower consumer prices and higher industry profits. So there are social welfare benefits from enforcement. They also argue that private enforcement by copyright holders will tend to be "insufficiently extensive". This suggests there is a need for government intervention through explicit copyright protection measures and that such measures should be broad in their scope.

2.2.2. Does consumption of illegal content equate to lost sales (or increase sales)?

A key criticism of past anti-piracy studies has been that downloads of illegal digital products such as software and/or music and films do not necessarily result in lost sales. One branch of this reasoning is that consumers are only downloading material that they would never have gone out to purchase in the first place. Therefore industry losses are not as great as sometimes claimed (New York Times 21/11/04; Economist, 19/5/05).

⁵ However Alexander argues that increasing penalties will do little to deter copyright violations or other forms of crime.

A secondary issue is the claim that copyright theft results in induced (i.e. **increased**) demand for legitimate products, such as films in either the short or long term. A common argument here is that copyright theft allows consumers to sample a product such as a first release movie. This may encourage the consumer to see the movie “on the big screen” and/or spread the word, which induces others to see it. Similar arguments may be advanced for DVD sales and rentals.

The terms “network effects”, “sampling effects”, “positive network externalities” and “benign piracy” are often used in this context. These arguments have historically been developed within the context of the software industry. There is considerable debate about their applicability to the film (and music industries) given the differing characteristics and historical development (Liebowitz 2005, 2006).

However, in the case of the IPSOS tracking study (based on 3,000 interviews with persons 15 and over, in Great Britain) care has been taken to question current users of pirated material about what they would do if they could not access such material. Respondents indicated whether, but for copyright theft, they would have viewed material in a cinema, through DVD rental or sale, paid for or free TV broadcasts, digitally and through various other forms of media. This allowed for estimates of the revenue losses for each of these media types by IPSOS.

Overall, some 16% of viewers of pirate film and TV material indicated that they would not view the material at all if it were unavailable in an unauthorised form. A substantial number also indicated that, in the absence of piracy, they would have viewed the material through means which do not necessarily involve payment (e.g. borrowing DVDs). The remainder indicated that they would have viewed the material through various paid formats (i.e. cinema, DVD sale, DVD rentals, downloads etc.)⁶

Based on these responses, the IPSOS work produces “raw” estimates that roughly 58% of all viewings of pirated films (and 21% of pirated TV series viewings) actually count as lost revenues. However, these raw estimates, in turn, are *further downweighted* by IPSOS to allow for the fact that many of those who say that they would have paid to watch copyright material in response to survey questions would not, in fact, do so in reality. This process produces an estimate of net revenue loss.

These findings were incorporated into the final IPSOS estimate of AV industry-wide losses of £531 million. **So, the IPSOS estimate of a £531 million loss is not based on the assumption that every pirate download/purchase/viewing is a lost sale**, but rather allows for the fact that some users will simply “drop out of the market” for AV material if it is not available in its pirated forms, that some viewers would not necessarily have paid for content in the absence of piracy and that viewers, in general, are likely to overstate their consumption of paid AV material. At the same time, the survey results suggest that copyright theft does indeed depress industry revenues (by £531 million in 2008). This reflects the estimated revenue loss from users who would have viewed the material through paid, legal, forums had they not had access to pirated content.

The IPSOS loss figure in turn, feeds into Oxford Economics’ input-output modelling of broader economic

6 In the case of TV series 14% indicated that they did not know how they would have watched the material otherwise.

effects, discussed below. Therefore, these estimates already allow for the fact that not every pirate viewing of AV material represents a lost sale.

Further, past studies relying on actual data have also quantified the loss of sales due to channels such as file-sharing sites in the film and music sectors. Several of these studies have relied on empirical data on the actual behaviours of users, supporting the IPSOS survey data findings discussed above. These studies include:

- Vany and Watts (2007) undertake a direct quantitative analysis of a first run theatrical release (released in theatres in US, UK, Spain and Argentina) with its pirated competitor (pirated copies were available two weeks before opening). They find a clear revenue loss to cinema exhibitors, with an active pirate site taking the equivalent of about 100 admissions from US theatrical revenue and total losses for a 14 week run of \$29.2-\$49.5 million.
- Rob and Waldfogel (2007) conduct a survey of 500 students to determine if unauthorised consumption of films displaces cinema and DVD consumption. They find that unpaid first and subsequent consumption of a film reduces total paid consumption incidence (across all consumers) by 3.5%⁷.
- Liebowitz's (2006) survey of past empirical studies finds that almost all concur that file-sharing harms rather than helps copyright owners. He also notes that the network and sampling effects argued for software are unlikely to apply to music, due to factors such as fixed time constraints. On balance "economic theory provides only a very thin foundation on which to support any expected impact of file-sharing on sales of sound recordings other than a negative one". Many of these arguments can be extended to film.
- Likewise Khouja and Rajagopalan (2008) find that there is no evidence for network externalities in the music or film industries and that arguments made about "beneficial piracy" in the software industry do not apply to these media. They also find that copyright theft puts upward pressure on prices.
- Zentner (2006) reviews the effects of illegal downloads on the probability of purchasing music using a European cross-section of 15,000 people from 2001. P2P usage is found to decrease the probability of buying music by 30% and without illegal downloads it is estimated that sales would have been 7.8% higher in 2002.

In short, the current study therefore:

- allows for the fact that not every unauthorised viewing of AV material counts as a lost sale;
- is based on the (well supported) contention that development of anti-piracy measures reduce the rate of copyright theft; and

⁷ Another finding is that an unpaid first consumption by copyright violators effectively reduces their paid consumption for first and subsequent viewings by some 80% - correspondingly 20% would not view the content if illegal copies were not available.

- is also based on the (equally well supported) contention that copyright theft reduces sales

3. Reduction in direct revenue losses

Key Points

- It is estimated that a total of £268 million in direct AV industry losses could be recovered by implementing the proposed measures. Even so, this equates to only 50% of industry losses, in part due to a conservative approach taken in this report.
- UK anti-camcording legislation, in concert with continuing enforcement measures in other countries, will assist by delaying an illegal copy “getting to market”.
- Physical sales could be restricted by implementation of an Occasional Sales Act, reducing illegal sales at markets and car boot sales.
- An enforced ISP cooperation agreement for AV material is estimated to deter nearly two-thirds of digital copyright theft.
- The reductions on physical and digital copyright theft flow through to the secondary market of viewers and borrowers of originally pirated materials.

As indicated in Section 2, an initial step is to estimate the change in “base losses” to the AV industry as a result of the introduction of more effective anti-piracy legislation and voluntary industry agreements.

There are few precedents for such work. While a number of past studies have estimated the direct and indirect economic effects of losses in the film and related industries due to copyright theft⁸, none of these impact studies appears to have measured the effectiveness of anti-piracy measures and the effects of a *partial reduction* in such losses.

In order to assist with the estimation task, a series of interviews with a number of key representatives within the AV industry (and associated anti-piracy bodies) were undertaken (“the industry interviews”). These representatives included a number of personnel from the major studios, Federation Against Copyright Theft (FACT), the UK Film Council (UKFC) and the Motion Picture Association (MPA). Respondents were questioned on the effectiveness of the proposed measures individually, without detailing the responses of other interviews. So these interviews allowed for the independent presentation of data and views on AV piracy.

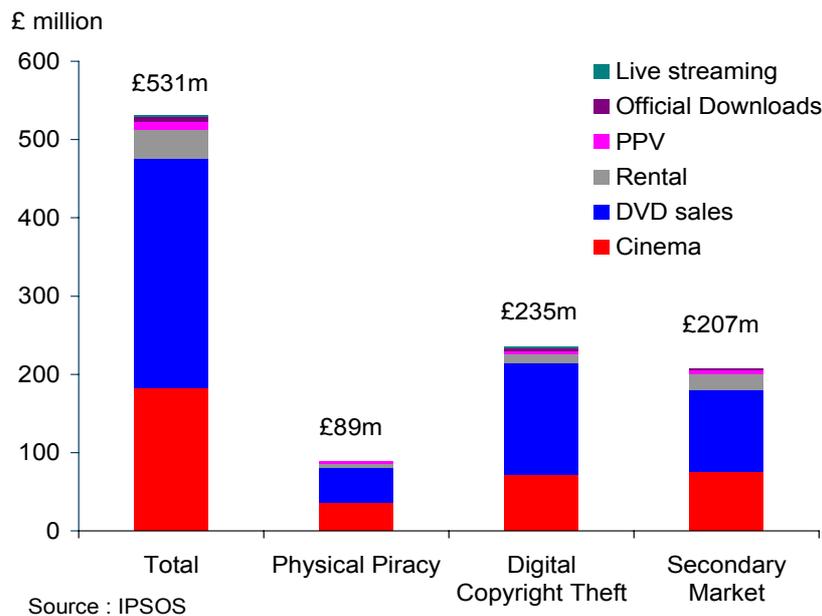
In addition, the task is simplified to some extent by the fact that the IPSOS report divides AV piracy into three different categories (primary – physical and digital - and secondary). Copyright theft in these categories adds up to the total loss of £531 million. These categories are defined as follows:

8 See for example Siwek (2006), Siwek (2007), MPA & LEK (2005)

- *Physical piracy* – Including the sale of counterfeit and home-copied DVDs. Note that both these forms are illegal. Counterfeit DVDs are any fake DVD produced commercially and sold from markets stalls, by street traders, at car boot sales, etc. Home-copied DVDs are those made by individuals for themselves and/or friends or colleagues or fellow students (these are often charged for at lower prices than counterfeits).
- *Digital copyright theft* – Unauthorised material which is ultimately sourced from and distributed via digital platforms such as the Internet - including material which is file-shared/downloaded onto a PC or other device, illegally streamed, copied onto a memory stick, burned onto a DVD or emailed.
- *Secondary market activity* – The subsequent additional viewing of material sourced from the above two forms by individuals who did not acquire the illegal copy themselves, as a result of which they do not pay for a legal source of this material.

Figure 3-1 illustrates the value of revenue losses for each category, as indicated in the 2008 IPSOS report.

Figure 3-1 –IPSOS estimate of costs of copyright theft



The purpose of the IPSOS report is somewhat different from that of the current study. In particular, the original source of the pirated content is of less significance to the IPSOS work and the emphasis is on the nature and impact of the illegal product. As a result, care must be taken in relating different legislative initiatives across the activities specified in the IPSOS report.

Nonetheless, the IPSOS report gives some indication of a rough “road map” for the types of copyright theft, which would be curtailed under an enhanced anti-piracy regime outlined in this report. The segmentation of revenue losses into physical, digital and secondary streams allows for some matching of proposed anti-

piracy measures with revenues. The approach below therefore reviews the impact of the proposed anti-piracy measures on these revenue streams.

In addition, the effects of a factor which “cuts across” these streams (anti-camcording legislation) is allowed for at the outset. In keeping with our broadly conservative approach to modelling the effects of anti-piracy measures (and in the interests of transparency), this factor is also allowed for at the outset, reducing the base from which subsequent anti-piracy measures are estimated.

Figure 3-2 illustrates and quantifies the basic approach. The figures used in this diagram are explained in the following sections.

Note that there remains considerable uncertainty over the precise revenue impacts of the proposed legislation. While this report has tended to err on the side of conservatism, this issue should be borne in mind when reviewing the results of the modelling. In addition, sensitivity tests have also been developed in Section 4. These explore a variety of factors, including a less effective response to the proposed measures than is assumed in the standard assumptions used in this report

Figure 3-2 – Summary of approach to estimating direct benefits

	Copyright Theft		Secondary Market
	Physical	Digital	
	<ul style="list-style-type: none"> ▶ Total loss: £89 million ▶ Adjusts to £84 million with anti-camcording legislation 	<ul style="list-style-type: none"> ▶ Total loss: £235 million ▶ Adjusts to £225 million with anti-camcording legislation 	<ul style="list-style-type: none"> ▶ Total loss: £207 million ▶ Adjusts to £196 million with anti-camcording legislation
Assumptions	<ul style="list-style-type: none"> ▶ Car Boot Sales (CBS) account for 15% of sales ▶ Current loss due to CBS = 15%*84m = £12 million 	<ul style="list-style-type: none"> ▶ Younger users, less likely to shift to physical with enforcement ▶ Pirate activity/revenue losses roughly constant per user 	<ul style="list-style-type: none"> ▶ Proportionate loss consistent with value of primary market titles pirated ▶ Implies 28% physical, 72% digital
Response	<ul style="list-style-type: none"> ▶ Occasional Sales Act + enforcement ▶ Industry suggests 50% effectiveness 	<ul style="list-style-type: none"> ▶ ISPs agree to long-term co-operation ▶ Notices dispatched to infringers ▶ Technical measures introduced by ISPs if no satisfactory response 	<ul style="list-style-type: none"> ▶ Knock on effects from enforcement ▶ Public info campaigns/newspaper
Post-response	<ul style="list-style-type: none"> ▶ Benefit = 0.5*£12 = £6 million ▶ Consumer shifting limited by demographics, awareness; restricted choice in physical sales 	<ul style="list-style-type: none"> ▶ Notices sent to 90% of infringers, of whom 70% stop ▶ Revenue benefit proportionate to user decline ▶ Benefit = 0.9*0.7*225m = £142 million 	<ul style="list-style-type: none"> ▶ 93% of physical; 37% of digital revenue losses still occur in primary markets ▶ Physical benefits = (28%*£196m) - (93%*28%*£196m) = £4 million ▶ Digital benefits = (72%*196) - (37%*72%*196) = £89 million
Revised loss	£89m-£5m-£6m = £78 million	£235m-£10m-£142m = £83 million	£207m-£11m-£4m-£89m = £103 million

Source: Oxford Economics

NB: Figures subject to rounding. Actual revised loss total after implementation of legislation is approximately £263 million.

3.1. Anti-camcording Legislation

3.1.1. Overseas experience

Camcording of films premiered in cinemas is a major problem in the UK and other countries. The MPA estimates that some 90% of the first unauthorised versions of films originate from cinema camcording. As indicated by Vany and Watts (2007), cinemas do indeed lose substantially from the circulation of illegal material.

Other major English speaking countries have already moved directly to address cinema camcording. Various states in the US, the US Federal government, Canada, Australia and New Zealand have either imposed amendments tightening existing copyright laws and/or enforced existing legislation more rigorously in order to curb cinema camcording. A specific anti-camcording proposal for the UK is discussed in Section 2.1 and in Appendix 1.

The effectiveness of such measures is difficult to assess due to the short timeframes which have elapsed

since their implementation and the globally inter-related nature of the problem. (For example, the US Federal legislation *The Artists' Rights and Theft Prevention Act* was only introduced in 2005, though 40 states have also developed anti-camcording legislation. Canada's "Bill C-59", creating new offences within the Criminal Code (Section 432), was passed in June 2007, while closer enforcement of Australian copyright law resulted in Australia's first conviction for cinema camcording in November 2007.)

Nonetheless, while it is difficult to quantify any precise effects on cinematic revenues, evidence provided by the MPA suggests that Canadian measures, in particular, are having a significant and measurable effect. Montreal theatres alone represented 18% of global sources (i.e. unique camcordings) in the first 10 months of 2007. However much of this activity was concentrated in the January-June period (i.e. preceding the passage of Canadian legislation in June 2007). The number of Montreal-sourced camcordings in the July-December 2007 period fell by 31% relative to the first half of the year. This fall off appears to be persistent to date. If the analysis is extended to compare the monthly average number of Montreal sources for Jan-June 2007 to those for the following 10 months (i.e. July 2007-April 2008), the monthly average falls by 41%, though it should be noted in both of these cases the absolute number of sources is relatively small.

The Canadian experience therefore points to the importance of anti-piracy measures as a deterrent. Indeed consultations with Canadian sources indicate that prior to the introduction of the legislation a number of individuals were ejected from cinemas, but no charges could be laid due to the inadequacy of existing law. The introduction of new legislation did not necessarily lead to large numbers of arrests but previously-identified camcorders stopped their activities, given knowledge of the consequences. (In effect the marginal costs of committing the crime were raised.)

Additional evidence provided by the MPA suggests that the effect of anti-piracy legislation in North America may be to delay the release of pirated content from a few hours after cinematic release to up to a week after such release in most North American cities (although this would appear to relate to physical rather than digital content). This was again the result of the arrest of a relatively small number of camcorders.

Evidence gathered by the MPA in Canada and the US also indicates that a surprising amount of camcording is concentrated among relatively few individuals, even within major centres such as New York and Montreal. MPA data suggest the arrest of such individuals would appear to make an important difference to the quality (i.e. saleability) and volume of camcorded material.

Further consultations with Canadian sources emphasise this point. These indicate that there is only a very small number of individuals who are involved in global piracy (one or two dozen) in a professional sense and that quality issues are of great importance. While copyright theft in Canada has continued, there have been clear effects on quality of illegal product. These sources note that it is very difficult to quantify the precise incremental effects of anti-camcording legislation in a single jurisdiction, such as Canada. However, to the extent that legislative measures such as those in Canada force camcording to be carried out elsewhere, these have added to the complexities of the business (requiring translation into English, in some cases and/or producing poorer quality product.). This adds to criminal expenses in terms of time and money and

may ultimately put them off camcording⁹.

3.1.2. The UK context

It is acknowledged that anti-camcording legislation can result in illegal camcorders shifting their efforts to other jurisdictions. (This emphasises the need for international action within other international markets in addition to the proposed measures outlined above.) There are indications that Canadian camcording became a larger problem after the introduction of stricter anti-camcording measures in New York. The MPA and FACT have also noted a significant upturn in UK camcording since the passage of Canadian anti-camcording legislation. Information from the MPA indicates that the UK is currently responsible for over 20% of European camcording sources.

However, this in turn is also suggestive of the need to develop and enforce legislation within the UK, which is of benefit to both the UK cinema exhibitors and the global market in film distribution. The measures already taken in other English-speaking markets, the effect UK camcording has on European piracy and the surprising importance of physical copyright theft in the UK to date (see below) reinforce the importance of such legislation and may well make its incremental effects more substantial and enduring. In addition, while criminals are increasingly adept at splicing sound and vision (allowing for distribution from foreign countries back to English speakers) this takes time and effort. This may reduce the attractiveness of commercial piracy – but perhaps more importantly will make it more difficult to compete with first release films in the UK during the first few days of releases, when a large portion of cinema revenues are earned. (Evidence from industry interviews indicated that, in some instances, street sellers are currently offering fake DVDs of first-release movies in streets and car parks behind cinemas.)

UK legislation should therefore be seen (and will only be effective) as a part of a global anti-camcording campaign rather than purely in isolation. To some extent such legislative measures have already been adopted (as noted), however failure to do so on the part of the UK is likely to impede anti-piracy efforts both locally and globally.

This issue has also taken on an added importance with the fact that many films in the UK are now released simultaneously with those in North America and other international markets. In some cases (such as the recent “Sex and the City” opening in London) film premieres now occur in the UK. These facts also add to the importance of introducing anti-camcording legislation. If UK legislative measures are less stringent than elsewhere, simultaneous releases mean that UK-based piracy undermines revenues in the UK and other markets, while UK-based film premieres constitute an even greater threat.

Another issue is that of UK “indigenous films,” which are produced and released within the UK before being released onto world markets – contingent upon a successful UK run. Although the size of this market is thought to be relatively small in revenue terms, as such films are not released worldwide at first they would obviously enjoy increased protection under UK anti-camcording legislation. This would also be of direct

9 Or put in terms more commonly used by economists, the incremental costs of the crime rise and there may be supply-side restrictions as well as problems on the demand side (given the poorer quality of product).

benefit to the UK film industry¹⁰.

Although camcording threatens all parts of the AV value chain (i.e. cinema first releases, DVD sales, rentals, etc) interviews with the MPA indicate that it is likely that the major impact of anti-camcording legislation would be on cinematic revenues. Anti-piracy legislation has the potential to lengthen the piracy-free “cinematic window” which films can enjoy on release without competition from illegal versions. This is especially important given the a high proportion of UK film revenues which are earned on the opening weekend. Some 28.5% of total UK box office revenues were earned on the opening weekend in 2007 (UKFC 2008).

This factor is significant because cinema camcording caters, in the very first instance, to the “impatient” consumer who wants to see a film as soon as possible. Those who indicated to IPSOS that but for piracy, they would have gone to see a film in the cinemas are therefore the group that is more likely to return to cinemas if they have no unauthorised alternative available within a very short timeframe. This is particularly so if, as indicated, other English speaking nations have already tightened their stance against copyright theft, making it far more difficult to access camcordings through the Internet. Forcing camcorders out of countries such as the UK may also serve to restrict global supply and reduce criminal profits and quality, with attendant supply and demand issues (as noted).

Conversely, those who indicate that (but for piracy) they would have seen features on DVD or through paid TV and digital means are less likely to change their behaviour due to UK anti-camcording legislation. Even with such legislation, unauthorised productions may ultimately reach UK consumers (from camcording in other jurisdictions and releasing onto the web or physical copy and/or producing superior copy through circumvention DVD copy protection). Since these consumers are more “patient” than those who indicate that they would have seen films in their cinematic releases, UK-specific anti-camcording legislation is likely to make a smaller impact on consumption in subsequent windows of exploitation.

3.1.3. Derivation of UK estimates

The following steps were therefore taken in estimating the benefits of the proposed measures in terms of anti-camcording legislation. **Note that this estimate is also contingent upon the assumption that other major jurisdictions gradually introduce and enforce stricter anti-camcording measures as part of global efforts to combat copyright theft.**

- The loss of cinema revenues was derived from the IPSOS report (i.e. £183 million in 2008).
- The proportion of this loss which is likely to stem from losses on the opening weekend was calculated. This assumes that the preferences of copyright violators are the same as those of the general population, and therefore that 28.5% of the revenue loss due to piracy is

¹⁰ This might constitute an additional source of revenue gain given that such films are effectively “captive” within the UK during their first release window here. However such effects have not been explicitly modelled due to uncertainties over the size of this market.

incurred in the opening weekend (i.e. $28.5\% * \text{£}183 \text{ million} = \text{£}52.2 \text{ million}$)¹¹.

- Combined with efforts already undertaken in other English speaking countries (and the assumption that other major markets continue to legislate against camcording), the UK anti-camcording legislation will (incrementally) restrict the speed, availability and quality of camcorded material and reduce criminals' profit margins both in the UK and, to some extent, globally. These are particularly critical issues in the opening weekend. Based on the delays noted in North America (of "up to" a week for (physical) copy), the assumed operation of an international anti-camcording regime and continuing efforts to block digital copyright theft in the UK (see below), the ultimate effect of such legislation might be to produce roughly similar results in terms of delay times.
- In the case of the UK, the potential pirate-free period was (more conservatively) assumed to be the opening weekend (rather than the entire week)¹² and the average effectiveness half of that of the maximum (i.e. "up to") figure. So, the assumption was that anti-camcording legislation could prevent half the revenue loss of the opening weekend (i.e. prevent the loss of 14.25% of total revenues). This equates to a revenue gain of £26.1 million (i.e. $50\% * \text{£}52.2 \text{ million} = \text{£}26.1 \text{ million}$).¹³
- While this figure necessarily involves a number of rough assumptions, it is also close to an estimate of legislative effectiveness provided by one major studio. As the case with the estimate for car boot sales, the revenue gain itself is relatively modest. (Note that an across the board "sensitivity test" of the effectiveness of all the proposed legislative measures is, in any case, provided below.)
- This figure was then split and allocated across the physical, digital and secondary categories assessed by IPSOS, based on IPSOS' estimates of the proportion of revenue loss accounted for by each of these categories. The figures for the split were deducted from the IPSOS totals in each of the categories to derive a new base figure from which other anti-piracy measures in the physical, digital and secondary categories could be assessed. While this might be interpreted as implying that anti-camcording legislation precedes other forms of legislation this was not the intent. Rather, this approach was not adopted for purposes of methodological clarity.

3.2. Physical copyright theft

The IPSOS report indicates that physical copyright theft resulted in a loss of some £89 million loss to the AV industry in 2008. As indicated above, it is assumed that this loss is reduced, in the first instance, due to the

11 In fact, as already indicated, those who watch camcorded movies are likely to be more "impatient" than the general population, so the proportion of opening weekend losses might be greater.

12 Discussions with the UK Film Council indicated that, currently, films released within the UK are often camcorded and distributed within 24 hours of their first showing.

13 As indicated, a further factor adding to conservative nature of this estimate is that copyright violators are likely to be more impatient than average filmgoers and so the potential opening weekend loss would be greater.

effects of anti-camcording legislation.

Physical copyright theft includes the sale of counterfeit DVDs and home-copied DVDs.

The IPSOS report indicates that the following represent the top five sources of counterfeit DVDs, in terms of volumes of counterfeit DVDs purchased.

- At someone else's home (28%)
- At work (28%)
- Car boot sales and markets (15% of respondents)
- In the street (12%)
- Pubs and cafes (6%)

3.2.1. Counterfeit DVDs (car boot sales)

The modelling of the effects of counterfeit DVDs adopted the following assumptions:

- The proposed Occasional Sales Act, described above, together with efficient enforcement of that Act and related measures. It is anticipated that the passage of the Act would have significant effects on the operation of car boot sales (CBS) in particular.
- An enhanced damages regime would assist in terms of the long term deterrent effects on would-be sellers at CBS.

In order to determine the potential revenue gain from the proposed Occasional Sales Act, the following steps were taken.

- Based on volume of sales, the current loss from CBS was assumed to correspond to 15% of assessed AV physical loss value, after adjustment for the introduction of camcording legislation, discussed above. This equated to a value of £12.6 million.
- Industry interviews were used to develop an enforcement effectiveness figure of 50% (i.e. half the revenue loss arising from CBS was assumed to cease with the passage and enforcement of the CBS). So the annual benefit of introduction of the proposed Occasional Sales Act was estimated at approximately £6.3 million.

It is anticipated that an enhanced damages regime would assist in terms of the long term deterrent effects on would-be sellers at CBS. This effect has not been explicitly modelled. A review undertaken for this study indicates that literature detailing the effects of damages regimes does not typically discuss the incremental deterrent effects of differing levels of damages. Nonetheless, it is likely that awareness of an increased risk would constitute a significant deterrent to would-be sellers, and CBS organisers/proprietors, alike.¹⁴ As these

¹⁴ As noted, a recent court sentence concerning counterfeit DVD sales within a street market ordered confiscation of assets worth over £50,000.

effects are not explicitly allowed for, if anything, this would add to the conservative bias of this study.

It is acknowledged that the calculation process above is somewhat rough. (IPSOS data are intended for a somewhat different purpose to that of this study, which can complicate estimates, though they constitute the best available measure of revenue loss.) However, the final benefit figure is relatively modest (£6.3 million). Variations to the assumptions, therefore produce only small differences.

In theory, purchasers may simply shift to other illegal sources if there is a crackdown on CBS. However, a number of factors are likely to deter both buyers and sellers from simply shifting into other physical media and/or a digital environment:

- The general environment of a CBS/market (i.e. set amongst the sale of legal goods) tends to enhance purchase legitimacy and many purchasers may be older, convenience shoppers, less likely to hunt out other sources.
- Correspondingly, turning to work sources is likely to be relevant only to the segment who work with relatively younger “IT savvy” friends and colleagues. A recent study by the Intellectual Property Office (2008) on IP crime in the Workplace also tends to support this. Survey work of over 1,000 adults indicated that only 3% of those aged 55–64 were aware that copying /downloading copyright material for other workers was taking place at their workplace, as against 11% of 18–34 year olds.
- Home sales often have common and recent titles but are likely to lack the range of DVDs found at CBS and, unlike CBS, depend to some extent on the nature of the buyers’ social network.
- Likewise street sellers only tend to have the most common titles and recent titles. There may also be additional time costs involved in making contact with street sellers as opposed to the (relatively) more fixed and certain nature of CBS. The operation of an enhanced damages regime may also assist in deterring sellers themselves.
- Many of the same issues would apply to pub sales. As indicated these occupy only a small segment of the market, and such sales are also the target of enforcement campaigns.
- Simply turning to the digital market for illegal content will be far more difficult in the wake of the ISP cooperation suggested above.
- Further, industry interviews indicate that the persistence of such a large physical market in the UK is in contrast to the experience in many other European nations, such as the Netherlands and Sweden. There may be many reasons for this, and industry consultation suggests that a “market culture” may constitute a reason. Regardless of the precise reason, it also suggests some resistance to switching to purely digital means, despite roughly two thirds (though at present relatively moderate speed) broadband penetration.

As indicated, other sources of counterfeit DVDs include street sellers, friends and imports. No change in the value of losses has been assumed, though the use of an enhanced damages regime may indeed deter some

sellers, as suggested above¹⁵. As such the estimate of a £6.3 million revenue gain represents a very conservative assessment of the effects of the Occasional Sales Act and an enhanced damages regime.

3.2.2. Home copying

Home copying of DVDs constitutes another obvious manifestation of physical copyright theft. However, the current study does not assume any change in this activity as a result of the proposed legislation. Although the Occasional Sales Act allows for the searching of private homes suspected of being the venue for private sales, with the issue of a warrant, it is anticipated that this would be a relatively rare event. Further, the proposed legislation does not affect home copying *per se* (though, naturally, existing copyright law is relevant).

Home copying requires some level of knowledge and determination. As such its share of the pirate market tends to remain stable over time and, given its diffuse nature, is likely to be more easily influenced by technical measures and greater control of the sale of such product in the workplace among company directors, rather than the legal remedies recommended in this report.

3.3. Digital copyright theft

The IPSOS report indicates that some £235 million was lost due to digital copyright theft in 2008. Allowing for the reduced losses to cinemas, following anti-camcording legislation as estimated above, still leaves a revenue loss of £225 million.

The assumed response to digital copyright theft focuses on a system of warnings followed by a series of measures being applied by the ISPs which would prevent continued unauthorised activity. The calculations of effectiveness were based on:

- The Entertainment Media Research (2008) survey result that 70% of those in the UK currently accessing pirated material through file-sharing and other means would cease their activities if they were presented with a first letter from their ISP indicating that they were in breach of copyright law and outlining the further actions to be taken if breaches continued. (Likewise, this study indicated that 75% of music file-sharers would stop if they were told to by their ISP (*BBC News Online* 12/10/08).)
- The results of industry interviews suggesting that some 90% of those engaged in file-sharing and other related illegal activities could be detected (in the long term) using a variety of methods.
- This suggests an effectiveness (i.e. proportionate reduction in digital copyright theft) of $0.9 \times 0.7 = 63\%$. Given an initial loss of £225 million this, in turn, implies a revised loss of $\text{£}225 \text{ million} \times (1 - 0.63) = \text{£}83.2 \text{ million}$. Correspondingly, the benefit of the proposed measures would be £141.7 million.

15 Further, although the Occasional Sales Act allows for the issue of warrants which could be used to investigate selling within private homes it is considered that this may be rare in practice.)

Consultations with staff familiar with the IPSOS study confirmed that this was a reasonable approach. Nonetheless, it is again acknowledged that this constitutes an approximate estimate. Sceptics of the industry's approach argue in support of other variables:

- Illegal activity may not directly equate with revenue loss. Digital copyright theft may be disproportionately concentrated among persistent users who are determined to continue their activities.
- A number of techniques are available to today's determined users of pirated material (*The Times* 17/01/08). They use a number of arguments, including these:
 - *Dynamic web addresses* – The location of sites to which content is posted can be changed as often as one second. In addition, fast flux DNS can change the server which a person visits in order to view a page. The domain name entered is the same by the changing servers make tracing more difficult.
 - *Botnets* – Pirated content can be placed on another “hijacked” machine. Malware attacks are launched from “bullet proof hosting sites” which are difficult to trace.
 - *Proxy servers* – These can be used to hide the location of an owner, making tracing by ISPs very difficult.
- ISPs may cap the number of people they target in any notice campaign. This would limit the number of notices actually sent out to identified offenders.
- Encryption can be used by file-sharers to avoid detection on-line.
- Streaming video is a recent phenomenon that will need to be tackled even as ISPs are coming to grips with file-sharing (*Slate* 21/11/07).
- A number of people obtained pirated material via memory sticks and/or emails in 2008. Not all of these people would necessarily have been involved in directly file-sharing.
- Users are increasingly downloading illegal content from cyberlocker services.
- There is the possibility that many users would simply resume their activities after an initial drop-off, feeling that it was now “safe” again. Correspondingly, the operation of the regime requires a long term willingness of ISPs to co-operate.

Against this are the facts that:

- The study by Entertainment Media Research (2008) indicated that 68% of those accessing unauthorised digital content believe that it is unlikely they would get caught illegally downloading, while 51% indicated they would keep downloading even with news stories, as there was little chance of getting caught. However, 66% of file-sharers would stop accessing pirated material if they thought they had a higher chance of being caught. Taken together this suggests the proposed measures would be effective. Users' activities are

clearly conditioned by the chances of being caught. Even if news stories *per se* were only partially effective, an ongoing campaign of notices would greatly increase those chances in the long term. Further, as indicated, the same users indicated that receipt of an actual letter results in a 70% drop out rate.

- Of obvious relevance is the fact that user **behaviour may be influenced whether or not they are directly sent a letter by ISPs** as knowledge of the campaign grows. Thus, recent research by Entertainment Media Research found that 61% of those who had downloaded music illegally were convinced that ISPs were monitoring their activity (*BBC News Online* 12/10/08). Therefore, the effects of the campaign may spread well beyond those who are directly detected and have notices sent to them.
- Countervailing user behaviours may therefore be cited - i.e. higher initial user responsiveness of, say, 90% versus a tendency to drift back into file-sharing when users feel “the coast is clear”. Our approach is to assume that while some people may lapse back into file-sharing etc. after an initial period of desisting, the operation of a continuing ISP enforcement regime will effectively counteract this. So the final figure of 63 % deterrence is taken as a reasonable reflection of user responsiveness/determination to direct and indirect enforcement by ISPs and adopted as a reflection of **long term** user responsiveness.
- The issue of ISP caps on targeting users should be seen in this context. Even if “caps” were to operate (which is unclear) over the longer term a large number of users would be directly targeted (and the “threat” would be constant). The “fear factor” for those not directly targeted would also be constant.
- Likewise, the assumed reduction of 63% is modest when compared with a “private” government objective of an 80% reduction in illegal file-sharing (*Guardian* 25/7/08) and official references to a 70% file-sharing reduction target (BERR 2009a). However, it should be noted that the reduction in this report is assumed to apply to all forms of digital copyright theft, whereas the government target refers to file-sharing *per se*.
- The effects of bandwidth throttling in particular are likely to be a significant inducement to refrain from illegal use of AV content. As indicated, a chief complaint of “pre-broadband” copyright violators (and an early impediment to digital copyright theft) was the length of time taken to download films. A return to that, in a society which is now accustomed to fast broadband (and an online environment which demands it in many cases) is likely to act as a substantial deterrent to copyright theft.
- Consultations through the industry interviews suggest that the measures taken above would also serve to “choke off” the source of pirated materials on memory sticks and through emails.
- The introduction of a Rights Agency (or equivalent mechanism) in conjunction with underpinning legislation would act to reinforce the long-term obligations of ISPs and help

ensure they do not “fall asleep on the job”.

3.4. Secondary market

The secondary market consists of the viewing/borrowing of material illegally copied by others. The IPSOS report indicates that the secondary market accounted for some £207 million of the total estimated industry revenue loss of £531 million – more than twice that of physical piracy. Allowing for the reduced losses to cinemas due to anti-camcording legislation, estimated above, still leaves a revenue loss of £196 million.

The effectiveness of the measures described above in tackling the secondary market is therefore dependent on their effectiveness in tackling the primary market in physical and digital formats. Knowledge of the ultimate sources of secondary content (e.g. fake DVDs or file-sharing) would therefore be useful in helping to determine the benefits of anti-piracy measures.

However, the IPSOS study is not aimed at uncovering the sources of physical piracy and inquiries with major studios indicate that they can not independently track the sources of the secondary market. It is therefore difficult to ascertain the extent to which physical and digital sources respectively contribute to the secondary market.

One approach to this problem is to calculate the respective proportions of revenue loss which the IPSOS report attributes to various primary market platforms and then apply these proportions to the equivalent platform losses from the secondary market. For example, IPSOS indicates that £44 million was lost in DVD sales due to physical piracy and £144 million to digital copyright theft. So physical piracy accounts for 23% ($44/(44+144)$) of total losses to DVD sales. Since we know from IPSOS that lost DVD sales revenue due to the secondary market equated to £104 million in 2008 (without adjusting for camcording measures), it can be inferred that losses due to physical piracy were £24 million, with the balance being digital losses.

Consultations with staff familiar with the IPSOS study confirmed that this was a reasonable approach. More formally:

- The primary market (i.e. physical plus digital) revenue losses attributable to forgone cinema exhibition, DVD sales and DVD rentals, were calculated based on the figures reported by IPSOS.
- The proportion of physical and digital cannibalisation of cinema, DVD sales and DVD rental revenues relative to total losses for these three categories were calculated. Physical losses accounted for 34% of cinema exhibition losses, 23% of DVD sales and 35% of DVD rentals, (or 28% of total primary market losses) with digital losses making up the balance.
- The proportion of physical and digital cannibalisation was applied to the secondary market impact reported in Chart 3-1. So, the total £196 million (post camcording legislation)

secondary market loss split was attributed as 28% physical, 72% digital¹⁶ (or approximately £54 million physical, £142 million digital).

- The effectiveness of action in the primary markets was utilised to calculate the revised losses due to anti-piracy measures (and therefore the effectiveness of these measures). For example, the effectiveness ratio for the digital anti-piracy measures (63% reduction in losses) was applied to the revenue loss estimates for digital copyright theft (£142 million) to produce a revised loss figure of £53 million ($£142 \text{ million} \times (1 - 0.63) \sim £53 \text{ million}$).
- By the same token, this produced a benefits figure for anti-piracy action in the secondary market (i.e. the difference between the “base case” and “option case” losses or £196 million - £103 million \sim £94 million).

Note that effectiveness in the enforcement of primary digital copyright theft of 63% is much higher than that estimated for the primary physical market (7%). Therefore the more the weighting of the secondary market split to digital, the greater the reduction in industry losses (i.e. benefit).

3.5. Summary of direct benefits of legislative and other measures

The direct benefits of enhanced legislative and other measures have been estimated above. In summary, these results indicate direct AV industry benefits (i.e. reduced losses) from enhanced anti-piracy measures of £268 million, due to the proposed anti-piracy measures.

It should be noted that this remains a relatively conservative estimate. **Even a saving of £268 million implies that, all else being equal, the AV industry would only save some 50% of lost revenues due to the proposed measures, with the remaining 50% continuing to be lost to piracy.** Nonetheless, as illustrated in the following section, the total economic impacts of these direct benefits are still substantial.

¹⁶ Cinema exhibition, DVD sales and DVD rental losses make up almost the entirety of estimated losses due to secondary market activity. The IPSOS report also attributes a small component of secondary revenue loss (about £7 million) to official downloading, streaming and Pay Per View. For simplicity the same split has been applied to this component of revenue loss, though technically these secondary losses would be wholly due to digital copyright theft.

4. Economic modelling

Key Points

- Higher AV industry revenues will have multiplier impacts on the entire UK economy.
- With an effective £268 million gain in revenues, the AV industry (and UK employees) increase their demand from other sectors of the economy (e.g. marketing, accommodation, retailing, business services).
- It is estimated that the proposed measures will increase UK value added (GDP) by £310 million, create 7,900 jobs and add £155 million to government revenues (which could then be applied to other areas, such as education and training).
- A range of sensitivity tests, considering the effects of less effective and more effective application of the proposed measures have also been estimated

4.1. Input output (multiplier) analysis - background

The implementation of anti-piracy measures will increase demand for AV industry products and thus increase AV industry gross revenues by some £268 million. This increase in revenues (for AV products such as cinema exhibition, DVD sales and rentals, Pay Per View (PPV) and paid-for downloads and streaming) will have flow through effects throughout the rest of the economy as the AV industry in turn increases its requirement for resources from other industries. These effects can be estimated through economic impact analysis.

Economic impact analysis generally focuses on the output, gross value added or GVA (i.e. GDP), employment and tax effects of an increase in the demand for the output of a given industry (such as the “shock” created by an increase in demand for legitimate AV products). More specifically, it seeks to evaluate three aspects of such increases in demand:

- Direct impacts
- Indirect impacts
- Induced impacts

Direct impacts quantify the effects of the businesses directly involved in a given project or industry. In terms of the benefits from anti-piracy measures they quantify the initial stimulus of a direct injection of revenues into the AV sector (i.e. the £268 million in recovered gross revenues noted above).

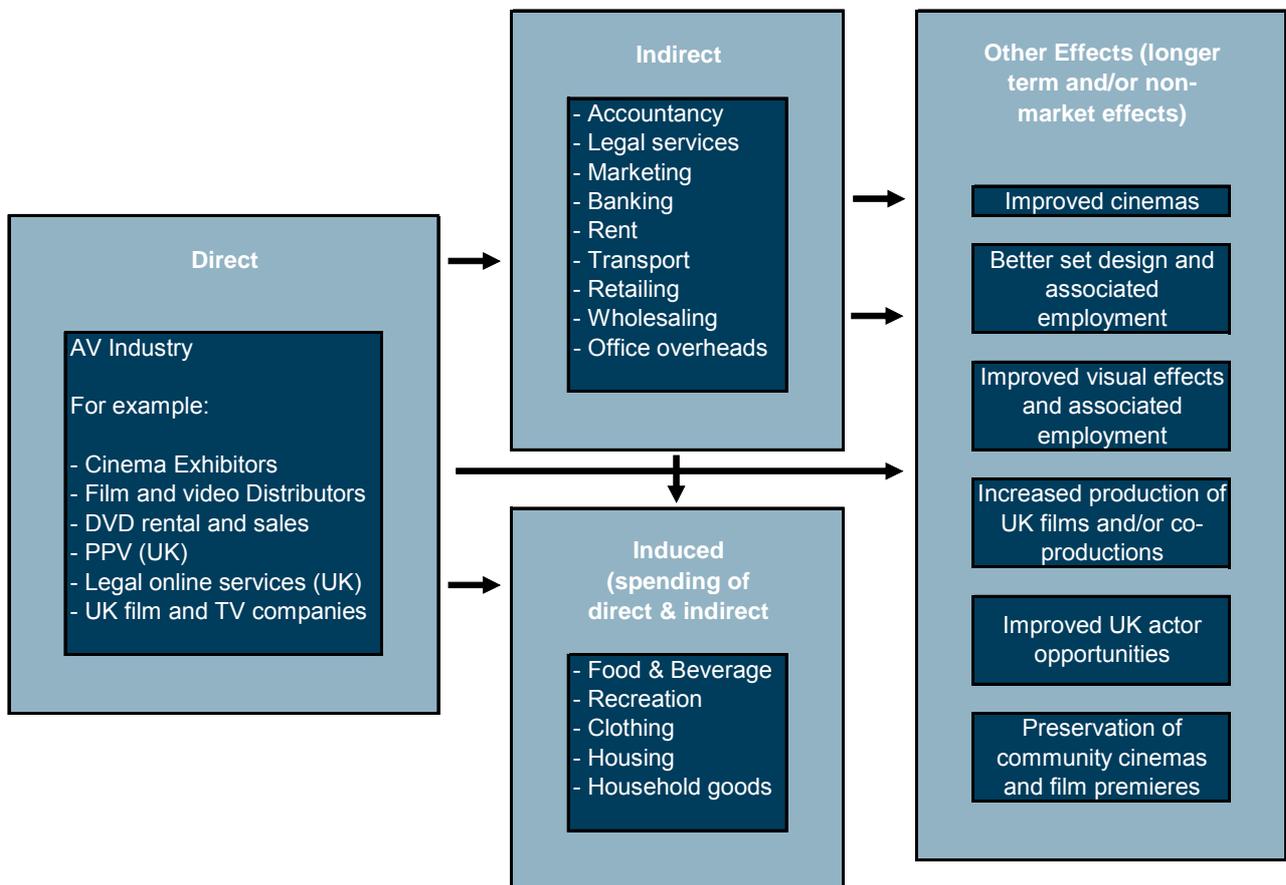
The indirect effects of this revenue gain are those which impact on the wider supply chain. They occur predominately through purchases of goods and services from UK-based suppliers. This spending generates

output, profits and employment among suppliers, who then go on to purchase from their own suppliers and so on.

Finally, the direct and indirect effects mean that additional wages are paid to households. Workers use their income to purchase goods and services for their own consumption. This spending then helps to support additional businesses (and so additional GVA) and jobs in the industries that supply these purchases.

The multiplication factors used to relate the initial output of relating to the AV industry's revenue gain with the final increase in output, GVA and/or jobs and tax are known as "multipliers". Input-output (I-O) tables are used to determine the size of such multipliers. Chart 4-1 indicates the basic I-O approach as well as flow through to other areas in the longer term (also discussed below).

Chart 4-1: Direct (AV industry) and whole economy impact of anti-piracy measures



Source: Oxford Economics

4.2. Input output analysis – application and results

As indicated in the previous chapter, it is estimated that the direct (gross revenue) benefits to the AV industry of introducing enhanced anti-piracy measures are some £268 million. However, these benefits (i.e. recovered revenues) will also flow through from the AV industry to other industries, as the AV industry increases its own demands for goods and services. This can be modelled as an “output shock” to the rest of the economy through an input-output model.

Appendix 2 includes a more detailed description of the approach used in the input-output model.

The input-output analysis indicates that the proposed anti-piracy measures produce a total (i.e. direct, indirect and induced) increase in UK national output of £614 million, an increase in GVA of £310 million, supports 7,900 additional Full Time Equivalent Employee (FTEE) jobs and provides the Exchequer with £155 million in additional tax revenues. Note that while the gross revenue gain to the AV industry of £268 million includes VAT and foreign remittances, the economy-wide measures of output and GDP, derived through input-output analysis are exclusive of VAT and foreign remittances. The tax impacts are inclusive of VAT.

The tax gain represents monies which government could employ for other social uses in areas such as training and apprenticeship schemes and education.

The results of the modelling are indicated below. Table 4-1 indicates the derivation of the total net impacts (allowing for direct, indirect and induced effects)

Table 4-1: Direct (AV industry) and whole economy impact of anti-piracy measures

Case	Direct Effects	Total (i.e. direct, indirect and induced) effects			
		Output (£m)	GDP impacts (£m)	Employment impacts (jobs)	Tax impacts (£m)
Net (final) impacts	268	614	310	7,888	155
Tax Break-up					
VAT impacts					40
Income and other personal tax impacts					86
Corporation tax impacts					29

Source: Oxford Economics

NB: Direct revenue benefits are inclusive of VAT and remittances abroad. The modelling results for total output and GDP across the whole of the economy exclude VAT and remittances abroad

4.3. Conservative modelling effects and sensitivity tests

4.3.1. Conservative modelling

As noted throughout this report, the modelling approach adopted has generally been conservative. The final

impact results reflect this conservatism. As indicated, the direct impact of the proposed measures is a 50% drop in the revenue loss due to copyright theft in the UK. Therefore, even with the proposed measures, 50% of the original direct revenue loss still remains.

A summary of the assumptions which bias the modelling towards conservatism is included below. The final results should be analysed with this in mind.

- *No allowance for future growth in digital copyright theft* – As indicated above, digital copyright theft is likely to grow in the future. This could boost the future benefits from enhanced anti-piracy measures as the difference between the base and option cases would increase.
- *No terrestrial TV impacts* – IPSOS does not allow for the loss of advertising revenues associated with terrestrial TV viewing and, accordingly, neither does this study.
- *Limited physical market impacts* – The modelling assumes only modest impacts on the physical market through the proposed measures (i.e. 7% of the current physical market revenue loss is regained). Together with the assumptions for digital copyright theft, this means that the model assumes only about 50% of existing losses are regained through the anti-piracy measures.
- *Limited digital market impacts* – As indicated above, the model effectively allows for the fact that over one-third of the revenue losses currently incurred through digital copyright theft continue after the imposition of the proposed measures. Use of a higher deterrent rate of copyright theft (as indicated by some trials) would increase this ratio further.
- *FTEE numbers applied to tax effects of average household* – The direct taxation figures relate to all non-retired households and these are matched against FTEE. However the former category would include unemployed and part time workers. So the derived direct tax benefit may be an underestimate.

4.3.2. Sensitivity tests

The results reported above reflect the benefits of introducing the proposed anti-piracy measures. As indicated, most studies of the effects of copyright theft in the AV industry concern themselves with the (simpler) task of estimating the total economic impacts of copyright theft of AV content (or of the AV sector) rather than the incremental benefits of anti-piracy measures.

Such an approach can also be adopted for the current study, however, and is presented in Table 4-2 below. The “base case” figures presented can be seen either as reflecting the total (negative) economic impact of copyright theft on the UK economy (or, equivalently, as an indication of the positive impacts on the economy which would result from a **total elimination** of such copyright theft). The option case represents the losses incurred even under the anti-piracy measures, while the “difference” represents the benefits estimated above.

Table 4-2: Comparison of base and option cases

Case	Direct Effects	Total (i.e. direct, indirect and induced) effects			
	Direct revenue loss to AV industry (£m)	Output (£m)	GDP impacts (£m)	Employment impacts (jobs)	Tax impacts (£m)
Base Case: (Current cost of piracy to UK economy)	531	1,222	618	15,710	309
Option Case: (Reduced Cost of piracy to UK economy)	263	608	308	7,822	154
Difference (Net Benefits to UK economy)	268	614	310	7,888	155

Source: Oxford Economics

NB: Figures subject to rounding

It is also possible to review the study assumptions made above to produce either higher or lower estimates of the benefits of the proposed modelling. As indicated above, the effectiveness of anti-piracy measures is a little-researched subject and there may be some uncertainty over the precise direct revenues. This will flow through to the modelled total economic impacts.

Accordingly, sensitivity tests have been developed in which it is assumed that the proposed measures are only half as effective and one quarter as effective, across the board, as suggested under the standard assumption used above. Thus the estimated direct (gross revenue) gain from the proposed measures is reduced to £134 million or £67 million respectively.

Table 4-3: Sensitivity Tests

Case	Direct Effects	Total (i.e. direct, indirect and induced) effects			
	Direct revenue benefit to AV industry (£m)	Output (£m)	GDP impacts (£m)	Employment impacts (jobs)	Tax impacts (£m)
Original Estimate	268	614	310	7,888	155
Proposed measures only half as effective	134	307	153	3,944	78
Proposed measures only quarter as effective	67	153	77	1,972	39

Source: Oxford Economics

NB: Figures subject to rounding

5. Long term and non-market impacts

Key Points

- The proposed measures may also have long term and/or non-market effects which are of benefit to the AV industry and its customers.
- Possible benefits include investment of the recovered revenues in improved cinemas, improved visual effects and set designs for both UK-based and non-UK films, increased film production, better employment opportunities for UK actors and assisting in halting a loss of creative drift.
- There are significant potential benefits for US/UK co-productions in particular. Modelling indicates that the proposed measures could increase gross co-production revenues by £39 million and potentially by £96 million across all platforms. This could be of substantial benefit to the local film industry.
- UK cinema exhibitors could also benefit by some £51 million, potentially allowing for the enhancement of the cinema experience.

5.1. How could a reduction in copyright theft benefit the AV sector?

The direct increase in AV revenues resulting from reduced levels of copyright theft has been estimated at £268 million above. This raises the question of how these revenues will be allocated within the AV sector over the longer term. Such impacts may not be fully reflected in an I-O framework, which deals with static short term changes and/or may include things which are not directly measured by I-O tables (such as increased enjoyment of films or the cinema-going experience).

Unfortunately, in practice is difficult to say with authority how the direct increase in industry revenues flowing from reduced piracy will be allocated in the long term. One approach is to review the existing split between cinema exhibitors and retailers and distributors as a guide to determining where incremental revenues may end up.

Data provided by the UKFC during industry consultations indicated that, after VAT, cinema exhibitors and distributors split revenues roughly along 55/45 in favour of exhibitors.¹⁷ (Similar proportions were also suggested by a major studio interviewed for this study.) Thus, of the £821 million in UK box office revenues in 2007 (UKFC 2008), and excluding VAT, £384 million would then accrue to UK exhibitors and £315 million to distributors. At least half the distributor revenues are then remitted to the US (in the case of Hollywood

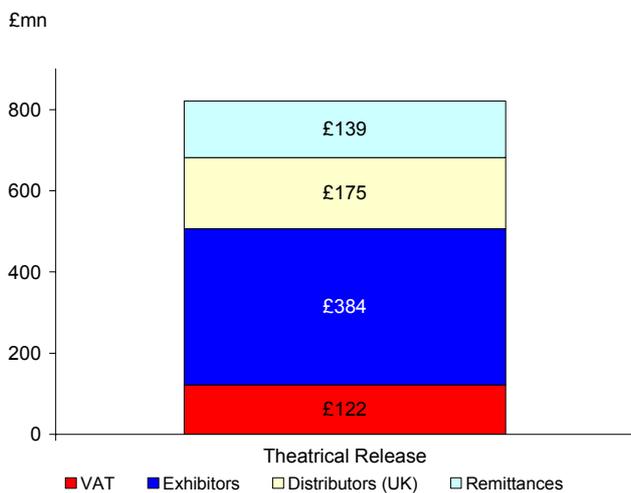
¹⁷ The UKFC (2008 and personal correspondence) also indicated that, many cinema releases in the UK are likely to make a loss for studios (or do little better than break even at best). This data suggested total UK marketing expenses of £237 million in 2007 as against distributor revenues of £315 million. The £78 million difference must then be distributed to investors, "talent shares" and, finally studio profits.

films) or to other overseas source countries. If half of all distributor revenues are remitted (and allowing for an adjustment for UK productions) then this implies that some £139.2 million (i.e. 17% of gross box office revenues) are “lost” to the UK due to remittances from theatrical exhibition.¹⁸

The UKFC suggests that DVD sales revenues are split 50/50, again with at least half of distributor revenues being remitted. Calculations based on this figure (and adjusting for UK film shares) indicate that roughly 18% of revenues may be remitted. Unfortunately details on revenue and remittance splits for other media forms are not available.

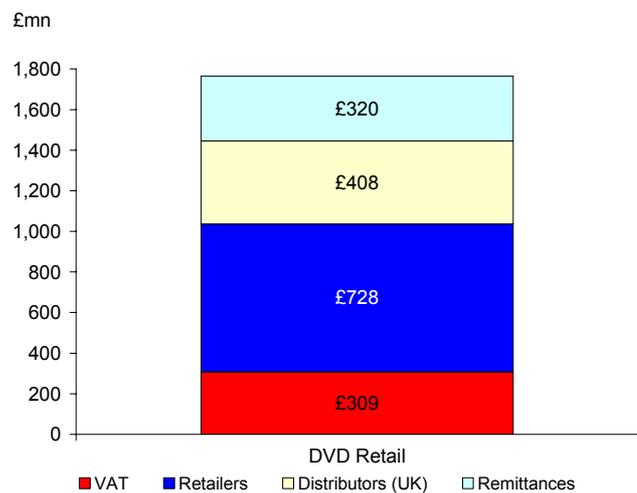
Charts 5-1 and 5-2 below attempt to summarise these splits.

Chart 5-1: Theatrical Revenues



Source: Oxford Economics, UKFC

Chart 5-2: DVD Retail Revenues



Source: Oxford Economics, UKFC

Another approach is to review gross “filmed entertainment market” revenues (across all platforms) of some £3.9 billion in 2006 and compare this with remittances of approximately £0.7 billion in the same year¹⁹. This suggests that royalties remitted overseas are some 18% of gross revenues across all platforms. This figure is similar to some of those sourced from the industry above.

The broad implication of these figures is that 17%-18% of gross AV revenues are likely to be remitted outside the UK. If this is so then, at the margin (based on current revenue splits) it could be conjectured that a similar proportion of additional revenues flowing from anti-piracy measures would also “leak out” of the domestic AV sector.

This is not to say that this remitted revenue would be of no benefit to UK consumers. While a portion of these

¹⁸ THE UKFC (2008) indicates that 11.6% of the UK box office share is attributable to UK films and UK co-productions. This excludes UK/US co-productions. It is assumed that in these cases distributor revenues are not remitted to a foreign country.

¹⁹ Data were derived from UKFC (2008). 2006 was the most recent year for which both sets of data were available.

remitted revenues would likely accrue to foreign actors, some may be spent on bigger film budgets involving improved movie design, sets and effects. These benefits would flow back to both UK (and international) consumers through the increased utility (i.e. enjoyment) of films with more dramatic themes and visual effects (even if the quality of acting and scriptwriting stays constant). In addition, increased revenues for Hollywood studios could ultimately result in increasing spending by such studios within the UK (see below).

Similar marginal analysis could be conducted in terms of the remaining 82% or so of revenues which remain within the UK. Combined with the direct revenue benefits of £268 million, estimated above, and the IPSOS splits from the losses from copyright theft, this allows for the following split of direct revenue benefits, indicated in Table 5-1

Table 5-1: Estimates of benefit distribution

Beneficiary	Cinema	DVD Sales	DVD Rental	PPV	Download	Streaming	Total
VAT	16	20	3	1	0	0	40
Cinema Exhibitors/ Retailers	51	57	7	2	1	0	119
Distributors (UK)	23	33	4	1	1	0	62
Remitted	19	24	3	1	0	0	47
Total	109	133	17	5	3	1	268

Source: Oxford Economics

NB: Figures may not add to totals due to rounding

To the extent that copyright theft reduces the revenues earned from films made in the UK, there may be a long run deterrent effect on film production and employment within the UK.

Copyright theft typically targets high grossing films, which include high grossing UK/US co-productions. Such co-productions accounted for 36% of the gross UK box office revenues earned by the top 20 highest grossing films exhibited in the UK between 1998-2007. If it were assumed that piracy **only** targeted high grossing films, modelling by Oxford Economics indicates that, on average, such co-productions would earn an extra £39 million per annum in box office gross revenue per annum if the proposed measures were adopted (i.e. £109 million * 36% = £39 million). If co-productions account for similar revenue proportions across all media types examined, this implies a **total of roughly £96 million (i.e. £268 million*36%) in extra gross revenue accruing to UK/US co-productions²⁰**.

Such additional revenues could ultimately add to incentives to undertake more co-productions. Alternatively, more could be invested back into the same number of co-productions (i.e. higher budgets). Either way, some

²⁰ It is acknowledged that this analysis is only a rough guide as pirates also target lower grossing titles, as noted in the discussion on CBS. Apart from co-productions, copyright theft may also have significant impacts on the UK independent film sector, particularly as the loss of revenues to such films may have disproportionately large effects given the smaller scale of production. Unfortunately, the true scale of losses to UK independent films is unknown. IPSOS survey work tends to focus on the most popular titles, making it difficult to determine how much impact copyright theft has on most UK independent films.

of the benefits would doubtless be reflected within the UK film industry, through higher levels of employment and/or increased certainty of employment for actors, writers, producers, directors, technicians, set designers and other film production specialists.

Note that this measure is likely to understate the true benefit to the local industry as many US films (in particular) use UK studios, facility houses and staff but are not classified as “co-productions”. For example three out of the four Indiana Jones films were made in the UK with British studios, special effects, staff and talent. To the extent these films benefit from a reduced risk of copyright theft in the UK they may also have an additional incentive to use UK facilities.

Oxford Economics also undertook industry consultation to try and further explore how the direct effects of reduced revenue losses from copyright theft might impact on the UK. Industry representatives suggested that the following benefits might flow from the increased revenues associated with a reduction in piracy. Note that these effects are only suggested as possible at a broad level and are ultimately contingent on a myriad of investment decisions:

- *Improvement of the theatre-going experience* – Cinema exhibitors may reinvest the increased revenues received (approximately £51 million based on the table above). This could involve upgrading and refurbishing cinemas and/or constructing new ones. Increased revenues may also help fund the rollout of innovations such as digital and 3D cinema across the UK.
- *Higher spending/employment on sets* – Spending by the indigenous UK film industry and/or, as indicated, in co-productions with US studios may increase, given greater certainty of revenue streams. As suggested above, higher budgets could result in higher quality productions and increased levels (and certainty) of employment in related industries such as set and costume design and lighting.
- *Improved visual effects (UK)* – Similar to the factor noted above, higher revenues could allow for improved techniques and visual effects for both indigenous UK films and co-productions.
- *Increased production of films* – At the margin, the production of films within the UK might increase (due to US/UK co-productions or, potentially, indigenous films) given the higher certainty of returns (and higher returns overall). This could assist both in developing more films of the *Harry Potter* genre and in assisting the local film industry. However, ultimately this will also be dependent on a variety of film financing and investment decisions.
- *Improved employment opportunities for UK actors* – As indicated above, increased certainty of revenues may at the very least support future US/UK co-productions. In exploring employment effects it should be noted that a broad literature exists in relation to the issues of under (or over) production of artistic services (Frey 2003, Frank and Cook 1995). Similar issues are also sometimes examined in the related area of the length of time over which copyright protection should be extended. While some might argue that that few additional

actors would be employed within the industry because of a long term oversupply, there is potential at the very least for opportunities for existing actors in the UK to increase. Some of this may be contingent on contractual and union issues however.

- *Better range/quality of legal online products* – Improved profitability would help the AV industry break out of a current “vicious circle” of low returns for online services vs. limited choice and low “user friendliness” of online sites. Once online transactions became more profitable, users would benefit from increased product range and potentially lower prices, creating a “virtuous circle” instead. (This is similar in concept to the framework of Harbaugh and Khemka (2001) above which argues that consumers benefit from anti-piracy measures through access to higher quality products and lower prices.)

Conversely, it is also important to consider what would occur if additional measures are **not implanted**. Several key issues were identified as a result of industry interviews:

- *Loss of first release rights/prestige* – The UK is an important film market and an increasing number of films are either released here simultaneously with North American release schedules or even in advance of them (e.g. 2008 London premieres of *Sex and the City* and *Quantum of Solace*). The use of London as a premiere venue brings additional prestige and revenues to the city. However, in the absence of anti-camcording legislation, studios premiering in London run the risk that films will instantly be camcordered and released across the world, as industry sources indicated was the case in Canada until recently. This may make them increasingly reluctant to run such premieres over time, particularly given the increasingly stringent measures undertaken in other jurisdictions.
 - A similar effect was noted by industry sources in Canada, where the piracy problem led major studios to ban pre-release screenings prior to the introduction of the current anti-piracy legislation.
- *Camcording in small cinemas and community effects* – Current anti-piracy technology allows studios to determine where camcording of films has taken place. If such technology persistently identifies a cinema as a target for camcorders there is the possibility that they would be reluctant to run first release films at such a venue. This could make it difficult for such establishments to turn a profit in the long term.
 - An ultimate effect could be the loss of a small cinema, which would be a significant blow to local communities in many cases.
- *Exodus of artistic talent* – A reluctance to clamp down on illegal activity may result in an outflow of artistic talent. This is effectively the converse of the benefits to talent suggested by anti-piracy measures above. That is, if there is an industry perception that the UK is not enforcing robust anti-piracy measures, indigenous filmmakers, co-productions and associated investment may suffer. Even if it is assumed that copyright theft has little effect on the employment of UK actors (as above) there may be a related outflow of successful

talent from the UK seeking opportunities and/or higher returns elsewhere.

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Appendix 1: Proposed anti-piracy measures

After consultation with Respect For Film, Oxford Economics has adopted the following modelling assumptions about what an effective anti-piracy regime would entail. These proposed measures include:

- *Anti-camcording legislation* – Copyright legislation regarding camcording in UK cinemas would be created and enforced (by theatre staff and police), in combination with ongoing international efforts aimed at strengthening detection and enforcement. Offenders would be unambiguously subject to criminal prosecution. This would assist in the removal and subsequent prosecution of cinema camcorders. It is proposed that an explicit provision be made in the *Copyright, Designs and Patents Act 1988* or elsewhere prohibiting camcording in cinemas. Proposed wording suggested by Respect For Film, is presented below:
 - *Draft legislative text*
 - *(i) Any person who in a place of public exhibition intentionally uses a device to copy or transmit an audio-visual work or any part thereof, without the consent of the owner of the place or other lawful authority, is guilty of an offence.*
 - *(ii) A “device” means a device capable of recording or transmitting sounds or images.*
 - *(iii) The expression “place of public exhibition” means any place used for the showing of audio-visual works to the public, whether or not members of the public are present at the time of the offence.*
 - *(iv) For the purpose of securing the assistance of a police officer, the owner of the place or any person authorised to act on his behalf may use reasonable force to detain for a reasonable period any person believed to have committed an offence under this Article.*
 - *(v) [Penalty]*
- *Implementation and enforcement of an Occasional Sales Act* – The Occasional Sales Bill was put forward as a private member’s Bill to the House of Commons in 2005 but failed to pass. It is primarily aimed at curbing the sale of fake goods at markets and car boot sales. It is assumed that this Bill is passed and subsequently enforced. Such actions would help in curbing illegal trade in counterfeit DVDs and associated merchandise. A copy of the Bill is attached in Appendix 3.
- The Bill places liability on the operator of the occasional sale or market in question, regardless of whether the sale involved “connivance” or negligence.
- *Cooperation with ISPs, combined with enforcement* – An MOU was signed by the six major

ISPs (estimated by industry sources to account for roughly 95% of UK internet users), the Government and music and film companies in the UK in July 2008, amongst other things to carry out a three-month trial of sending infringement notices to ISP subscribers identified as file-sharing unauthorised music content.

- Terms of the MOU were reflected in a consultation process on illicit P2P file-sharing co-ordinated by the Department of Business, Enterprise & Regulatory Reform (BERR 2008). (The consultation was also discussed in the recent government response (BERR 2009a) and *Digital Britain: Interim Report* (BERR 2009b).) It is assumed that similar arrangements to the MOU are made permanent **and that the features outlined in the BERR consultation documents are ultimately expanded to incorporate other major types of copyright material (targeting file-sharing, streaming as well as other forms of online infringement)**.
 - As indicated in BERR (2009a) ISPs would be legally obliged to notify file-sharers that their conduct was unlawful. They would also be required to collect information on serious repeat infringers through their notification activities.
 - It is also assumed that a graduated response procedure would be adopted by ISPs to tackle digital copyright theft. Initial notifications would be sent requesting that the alleged infringement cease. If it continued, technical measures would be applied by the ISP to effectively prevent the continuation of any unauthorised activity. Note that civil (or criminal) sanctions on users would not form part of such a graduated response, although as outlined in BERR (2009a) legal sanctions might separately apply to **the most significant infringers** who are pursued in the courts.
 - A Rights Agency (or equivalent mechanism) as envisaged in BERR (2009b) would be set up to bring industry together and provide incentives for the legal use of copyright material as well as developing effective approaches to tackle violations of copyright.
- *Enforcement of an effective damages regime* – The implementation of an effective damages regime should act as a general deterrent to copyright theft. At present, courts hypothetically allow for a copyright holder's positions to be restored to what they would have been in the absence of the infringement (entailing paying licence fees or other costs). There is some ambiguity about the extent to which "additional damages" above and beyond this can be or are awarded by the courts.
- A Ministry of Justice consultation held between May-July 2007 examined calls for "additional damages" to be replaced by "aggravated and restitutory damages" in the *Copyright and Patents Act 1988* and the *Patents Act 1977* (Ministry of Justice 2007). This follows on from the recommendation in the Gowers Review that the system of IP damages be reviewed and that consideration be given to whether damages in civil IP cases are effective.

- However, the consultation found that UK regulations fully implement Article 13 of EU Directive 2004/48/EC on the enforcement of intellectual property rights, which calls for “effective proportionate and dissuasive” civil remedies. The government was not minded, at that point, to extend civil damages to act as a further deterrent.
- The Ministry of Justice consultation therefore declined to extend current legal provisions relating to damages arising from copyright violations. However the AV industry – and in particular the Alliance Against IP Theft – has challenged the findings of the consultation in this respect. Accordingly, it is assumed that the following principles, proposed in the Alliance Against IP Theft submission (2007) are adopted by government:
 - *To recognise that civil actions can play a valuable role in regulating conduct which is against the public interest.*
 - *To acknowledge that the current out-of-date damages regime fails to discourage counterfeiting and piracy or to protect the UK’s vital creative economy.*
 - *To follow the lead of Canada, the US and other countries in introducing “statutory” or pre-established damages, to allow courts to award damages based on a straightforward monetary scale or a multiple of the legitimate retail price.*
 - *In addition, to follow the example of Ireland and amend section 97 of the Copyright, Designs and Patents Act 1988 explicitly to provide that the court may award exemplary or aggravated damages or both.*
 - *To make similar provision for cases of wilful trade mark infringement.*
- A more effective damages regime including a specific allowance for exemplary and/or aggravated damages can be seen as constituting a more effective deterrent to copyright theft. Such legislation would add to the costs of infringers.

In addition, it is assumed that the ongoing public awareness campaign continues “in the background” such as undertaken by the Industry Trust for IP Awareness, FACT, the theatrical sector and others. These campaigns, along with enhanced visibility of a more determined anti-piracy regime, are assumed to help minimise the rate of any shifting (e.g. from CBS to on-line infringement) due to heightened public awareness of the harm caused by copyright theft.

Appendix 2: Input Output modelling

As indicated in the main body of this report, it is estimated that that the direct (gross revenue) benefits to the AV industry of introducing enhanced anti-piracy measures are some £268 million. However, these benefits (i.e. recovered revenues) will flow through from the AV industry to other industries, as the AV industry increases its own demand for goods and services. This can be modelled as an “output shock” to the rest of the economy through an input-output (I-O) model.

Input-output tables for the UK economy (1995) were sourced from the Office of National Statistics²¹. The demand shock of an increase in demand for AV products was then modelled using the following methodological approach/adjustments:

- *Basic prices and VAT adjustment* – The I-O tables used are “basic prices” (i.e. the value of commodities is expressed in “factory or farm gate” prices, net of indirect taxes, transport costs and retailer and distributor margins). Accordingly VAT revenues were separated from the £268 million in revenue gain (however these are later “added back” and included in the total tax benefits listed below)²². VAT revenues were estimated at £40 million.
- *Allocation of activity to industry categories* – Oxford Economics developed a model for use in the modelling based on the original UK I-O tables published by the Office for National Statistics. Neither these, nor the original tables, specifically include an “AV sector” *per se*. However, most activities covered by the AV sector would fall under the “Other Services” industry category, which covers cultural and recreational services including: cinema projection, the distribution of AV content such as films and DVDs (to digital and physical outlets) and the broadcast of television programmes (but not cable or satellite transmissions). PPV and streaming were allocated to the “Communications” category, while DVD rentals were allocated to “Other Financial and Business Services”.²³
 - In addition, 50% of AV revenues for DVD sales and downloading of content were allocated as a margin to retailers. (The estimation of this proportion was based on evidence drawn from the industry interviews.)

21 The 1995 I-O tables were used for this purpose, as these are the most detailed tables amenable to analysis. While more recent input output tables (for 2004) are available, these are not in a form that allows for the easy exclusion of imports from changes in domestic demand or of indirect taxation (including VAT) effects. As the emphasis is on the broad economic effects of a change in demand and the basic interrelationships between industries, this approach is reasonable. Likewise the Australian Bureau of Statistics recently developed multipliers for the film, television and other cultural industries based on slightly older (1996-97) data than the most recent available, due to the superior levels of disaggregation they offered – see Australian Film Commission (2006) and Australian Bureau of Statistics http://www.culturaldata.gov.au/publications/statistics_working_group/other/multipliers_for_culture-related_industries#introduction

22 Note that for simplicity (and given the long term nature of the initiatives proposed, a VAT rate of 17.5% has been assumed – i.e. there has been no allowance for the temporary reduction in VAT, which will only apply over the period to 1 December 2008 to 1 January 2010.

23 The distribution to the 1995 I-O tables is informed by the definitions offered in the UK’s Standard Industrial Classification of Economic Activities (UK SIC(92)). This is used to classify business establishments and other statistical units by the type of economic activities they are engaged in.

- *Adjustment for higher AV industry import propensity* - When demand for commodities (such as AV products) increases, some of this will “leak out” of the domestic economy as imports. For example, if demand for food in the UK suddenly increased, some of this would need to be imported. This needs to be allowed for. The I-O tables provide detailed of the amounts imported for broad industry categories. However, the AV industry is likely to import a proportionately greater amount of goods and services than the broad industries listed in I-O tables, given the importance of US films, in particular, in the UK market and their associated royalties.
 - To allow for this, UKFC (2008) was used to compare the proportion of film royalties paid by the UK to overseas sources (£698 million in 2006) relative to the gross value of the UK filmed market including theatrical releases, DVD sales and rental, pay, terrestrial and “free” multi-channel TV and Video on-Demand/near VoD (£3,865 million in 2006). By this reckoning, royalties equate to some 18% of the gross value of the UK filmed market.²⁴ This compares to import propensities of 5-10% for the industry categories over which AV activity is allocated. The initial “demand shock” was therefore modified to allow for this higher AV import propensity. This was done by scaling down the shock from £228 million (excluding VAT) to £210 million (ex VAT).²⁵

The result of these adjustments was that the original direct revenue gain of £268 million was adjusted to a £210 million impact on the economy (i.e. excluding £40 million for VAT and £18 million for a higher import propensity). The effects of a £210 million “demand shock” on the UK economy were then simulated.

Note that these adjustments also capture employment and tax effects, as these flow from the estimates of the change in Gross Value Added (GVA) – i.e. GDP. Employment effects were modelled by utilising labour productivity data for the UK in 2007. As labour productivity relates to the labour per unit of GVA, this allows for the estimation of the number of employees required to produce the additional GVA associated with the demand shock. These effects are measured in terms of full time equivalent employees (FTEE).

Tax effects were based on three sources:

- *VAT* – The additional VAT of £40 million estimated above formed part of the total tax benefit. These revenues arise from the sale of additional (official) AV product, which, unlike pirated content, does not evade indirect taxation.
- *Direct and indirect tax* – As more people are employed across the economy, government direct tax earnings (including income tax, NICs and council tax) rise. ONS (2007) data indicate that average gross full time mean earnings (including overtime and bonuses) in the UK in 2007 were some £30,400 in April 2007. As some 7,900 new FTEE jobs are created,

²⁴ Note this relates to royalties only and excludes the imports of production services.

²⁵ For example, some 92% of “other services” output (which includes cinema projection) is domestically sourced compared to an estimated 82% for the AV industry. Therefore, the recovered revenues attributed to cinema projection were scaled down by $0.82/0.92 = 0.89$.

this suggests additional wages of some £239 million. ONS (2008) data indicate that the average household paid some 36% of its gross income in direct and indirect taxes in 2006/07. Applying this to the estimate of £239 million in additional earnings a value of £86 million is derived. Note that, as the figure of 36% relates to *all non-retired households* but the employment figures relate to FTEEs, the tax impacts may be underestimated.

- *Corporation tax* – Companies in the UK pay corporation tax of 30% or 19%, dependent on their size. For the purposes of this evaluation, an economy-wide rate of 24.5% was adopted. An analysis of the I-O tables indicates that gross operating surplus (roughly equivalent to corporate profits) equates to roughly 38% of GVA. Given additional GVA of £310 million, an estimate of £118 million in additional corporate profits is derived, from which approximately £29 million in corporation tax ($0.245 \times £118$) is estimated.

Allowing for all these adjustments, the proposed anti-piracy measures produce a total (i.e. direct, indirect and induced) increase in UK national output of £614 million, GVA of £310 million, support 7,900 additional FTEE jobs and provide the Exchequer with £155 million in additional tax revenues.

(Note that the £228 million in direct revenue gains (i.e. £268 million excluding £40 million in VAT) translates to a total (gross) output gain of £614 million across the entire UK economy (taking into account direct, indirect and induced effects). There is an equivalent value added (i.e. GDP) gain of £310 million. This implies a gross (Type II) multiplier of 2.7 and a value added (Type II) multiplier of 1.4.)

The estimated increase in Exchequer revenues of £155 million could be spent on other social benefits in areas such as training and apprenticeship schemes.

The results of the modelling are indicated below. Table A2-1 indicates the derivation of the total net impacts (allowing for direct, indirect and induced effects) while Table A2-2 indicates the breakdown of these net impacts in terms of industries.

Table A2-1: Direct (AV industry) and whole economy impact of anti-piracy measures

Case	Direct Effects	Total (i.e. direct, indirect and induced) effects			
		Output (£m)	GDP impacts (£m)	Employment impacts (jobs)	Tax impacts (£m)
Net (final) impacts	268	614	310	7,888	155
Tax Break-up					
	VAT impacts				40
	Income and other personal tax impacts				86
	Corporation tax impacts				29

Source: Oxford Economics

NB: Direct revenue benefits are inclusive of VAT and remittances abroad. The modelling results for total output and GDP across the whole of the economy exclude VAT and remittances abroad

Table A2-2: Output, GVA and employment impacts by industry

Industry	Output (£m)	Value added impacts (£m)	Employment impacts (jobs)
Agriculture, Forestry, Fishing	10.0	4.7	170
Oil & Gas	3.3	2.2	48
Other Mining	1.2	0.6	12
Food, Drink and Tobacco	25.9	7.5	123
Textiles and clothing	4.7	1.9	54
Wood & Wood Products	1.3	0.4	13
Paper, printing and publishing	12.9	5.5	107
Refining	3.7	0.8	7
Rubber and plastics	4.0	1.6	37
Metals	4.5	1.7	38
Minerals	2.3	1.0	16
Chemicals	5.7	2.1	20
Electrical and Optical	3.0	1.1	21
Transport Equipment	5.7	1.7	27
Machinery and Equipment	2.2	0.9	15
Other manufacturing	2.5	0.9	24
Gas, Electricity, Water	15.6	5.3	31
Construction	10.4	3.9	112
Wholesaling	28.8	13.2	410
Retailing	82.7	46.6	1444
Hotels	12.7	7.0	331
Transport	29.4	12.9	224
Communications	17.8	10.8	188
Banking & Insurance	31.5	14.1	123
Business services	45.2	33.6	734
Other F&Bs	63.3	34.9	760
Public Admin & Defence	1.3	0.7	18
Education	5.6	4.1	148
Health & Social Work	9.0	3.9	151
Other services	167.6	83.8	2484
Total	614	310	7,888

Source: Oxford Economics

Comparisons to multipliers from other studies

It is possible to derive multipliers based on the above analysis and compare them with those estimated by other countries and the UK. While nations will differ in the structure of their economies, this is a useful guide to the reasonableness of the multiplier results developed for this study.

Table A2-3 compares the multipliers obtained in this study with those developed by Cambridge Econometrics and in work done in Australia, Singapore and the United States. Note that scope and definition of terms will also vary from study to study, even within a single country. All multipliers, with the exception of those for Singapore, are Type II – i.e. include direct, indirect and induced effects.

In particular, the UK figure is derived from a Cambridge Econometrics study. While this indicates a gross output to GVA multiplier of 2.0, it is well above that of 1.4, estimated for this study. This may be seen as another indication of the relatively conservative nature of this study.

However, it should also be noted that Cambridge Econometrics' study focus and their definition of the "screen industries" (Film, TV, Corporate Video and Advertising) differ from the categories used in this study. In particular, the Cambridge Econometrics work is not as focussed on the retail level and includes spending on film and video production, which is not examined directly in this study. In addition, the Cambridge Econometrics study's modelling excludes the retail margin on video²⁶ sales and rental. Since the retail sector generally has lower multipliers than many other industries, and these margins constitute an important component of the current study, the smaller multiplier in the current work is unsurprising.

Notwithstanding these issues, the table suggests that the multipliers developed are a reasonable guide to the impacts of an increase in demand for AV industry services due to anti-piracy measures and if anything errs on the side of conservatism.

Table A2-3: Comparison of multipliers

Study	Sector	Output Multiplier	Value added multiplier
Oxford Economics (2008)	Physical and Digital Sale of Film and TV media	2.7	1.4
UK (Cambridge Econometrics (2005))	Screen Industries	na	2
Australian Film Commission (2006) and Australian Bureau of Statistics	Motion picture exhibition	2.6	1.3
	Film and video production and distribution	3.1	1.8
	Radio and TV services	2.8	1.4
IPI (2006)	Motion Picture/Video Industries (ex retail) – California	2.9	na
	Motion Picture/Video Industries (ex retail) – New York	2.6	na
	Motion Picture/Video Industries (retail) – California	2.3	na
	Motion Picture/Video Industries (retail) – New York	2	na
Singapore Ministry of Trade (2003)	Cinema Services*	1.8	0.6
	Media and Performing Arts*	1.7	0.6

*Type 1 Multipliers (i.e. including direct and indirect but excluding induced effects)

Sources: Oxford Economics and various (as indicated)

²⁶ "Video" includes DVD, Blu-ray, VHS, UMD platforms

Occasional Sales Bill

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A
B I L L

TO

Make provision about the regulation of occasional sales; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

PRELIMINARY

1 Interpretation

- (1) In this Act, except where the context otherwise requires—
- “authorised officer” means an officer of the enforcement authority; 5
 - “enforcement authority” shall be interpreted in accordance with section 2 below;
 - “occasional sale” means an event at which goods are exposed for supply or offered to the public by one or more suppliers acting in the course of a trade or business, but does not include— 10
 - (a) a market the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by statute;
 - (b) an event held wholly or mainly for the sale by auction of livestock or farm machinery, equipment or plant, or the contents of one or more buildings or other items associated with the building or buildings; 15
 - (c) an event held wholly or mainly for the sale of books;
 - (d) an event promoted or conducted by a body registered as a charity under section 3 of the Charities Act 1993 (c. 10) or excepted from registration by virtue of subsection (5) of that section; 20
 - (e) an event which consists of a concourse of, and only of, persons selling goods in the course of a trade or business and comprising not fewer than five stalls, stands, vehicles or pitches 25

- from which the goods are sold and which is held by a person who has held such an event in the same location –
- (i) on the same day or days of the week; or
 - (ii) on the same day or days of the month; or
- in at least 7 out of the 10 weeks or, as the case may be, months preceding the date of the event in question; 5
- “record” includes a computer record and references in this Act to the production of a record means, in the case of a computer record, the production of a record in printed form;
- “registered number” in respect of a vehicle means the number indicated by the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994 (c. 22)) assigned to the vehicle under that section by the Secretary of State. 10
- (2) For the purposes of this Act a person who holds an occasional sale includes any person who – 15
- (a) charges admission to the premises used for the sale;
 - (b) receives or is entitled to receive, as a person promoting the sale or as the agent, licensee or assignee of such a person, payment in respect of goods sold to persons attending the sale or for the granting of rights to other persons to sell goods to persons attending the sale; or 20
 - (c) receives or is entitled to receive payment for any space or pitch hired or let on the site of the sale to persons wishing to trade at the sale.

2 Enforcement

It shall be the duty of every weights and measures authority in England and Wales to enforce within their area the provisions of this Act. 25

PART 2

OCCASIONAL SALES

3 Notice of occasional sales

- (1) Any person who intends – 30
- (a) to hold an occasional sale, or
 - (b) to permit an occasional sale to be held on premises of which he is the occupier,
- shall, not less than 21 days before the holding of the intended occasional sale, give to the enforcement authority notice of his intention to hold the occasional sale or to permit those premises to be so used. 35
- (2) A notice given under subsection (1) shall be in writing and shall specify –
- (a) the proposed date and time of commencement, expected duration and location of the intended occasional sale;
 - (b) whether the occasional sale is to be held on other days and if so, what days, and the time of commencement and expected duration on those days; 40
 - (c) the extent of the premises to be occupied or used for the purposes of the occasional sale;
 - (d) the nature of the goods to be provided at the occasional sale; and

- (e) the name and address (other than an address temporarily occupied for the purposes of the occasional sale) of every person who it is proposed will hold or promote the occasional sale, and the name and address of a person appointed to receive and answer complaints about the sale.
- (3) If the enforcement authority has reason to believe that an occasional sale is to be held but that no notice thereof has been given under subsection (1) above by the relevant person, they may, as soon as reasonably practicable after the apparent intention to hold the sale has come to their knowledge, serve on – 5
- (a) the person who appears to be the relevant person, or
 - (b) the occupier of any premises on or in which it appears that such sale is to be, is being or was held, 10
- a notice requiring that person to give the enforcement authority the information required by subsection (2) above.
- (4) Any person on whom a notice given under subsection (3) is served shall supply to the enforcement authority the information required by subsection(2) within 7 days after the service of the notice, whether or not the occasional sale commenced before the expiry of that period. 15
- (5) If the enforcement authority has reason to believe that an occasional sale has been or is being held in its area, but that no notice thereof has been given under subsection (2) above by the relevant person, they may as soon as reasonably practicable after the holding of the sale has come to their knowledge, serve on the person specified in subsection (3) a notice requiring that person to give to the enforcement authority the information mentioned in subsection (6) below. 20
- (6) The information required by subsection (5) is –
- (a) the date and time of commencement and location of the occasional sale; 25
 - (b) the duration or expected duration of the occasional sale; and
 - (c) those matters required by virtue of subsection (2)(c) to (e) above.
- (7) The information required by subsection (5) above shall be supplied by the person on whom the notice is served within 7 days after the service of the notice. 30
- (8) The “relevant person” for the purposes of subsections (3) to (5) above is the person who is intending to hold, is holding or held the occasional sale.
- (9) A person shall be guilty of an offence if, in giving any information which is required of him by virtue of this section –
- (a) he makes any statement which he knows is false in a material particular, or 35
 - (b) he recklessly makes a statement which is false in a material particular.
- #### 4 Information to be kept by holders of certain occasional sales
- (1) In the case where an occasional sale is an event at which there is one or more supplier (being persons other than the person who holds the occasional sale), the person who holds the occasional sale shall ensure that the following information is entered, in a record kept by him for the purpose of this section – 40
- (a) the full name and address of every such supplier and (where different) the full name and address of a responsible adult;
 - (b) an entry describing the goods being offered or exposed for supply to the public by every such supplier, and the registered number in respect of any vehicle in or on which those goods were carried to the sale. 45

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- (2) Every entry made in every record kept by a person in pursuance of this section shall be retained by him until the end of the period of two years beginning with the day on which the entry was made in the record.
- (3) A person who keeps a record in pursuance of this section shall on demand, unless he has a reasonable excuse not to do so, produce the record to an authorised officer or to a constable. 5
- (4) If a person who holds an occasional sale enters any information in a record kept by him pursuant to this section which he knows is false in a material particular, he shall be guilty of an offence.
- 5 Display of name and address 10**
- (1) Any person who holds, promotes or conducts an occasional sale shall, in a prominent position on a part of the premises in which the sale is held and for the duration of the sale, display his full name and his business address or business telephone number and the full name and the business address or business telephone number of any other person concerned in the holding, or promotion of the occasional sale. 15
- (2) Any person who holds or promotes an occasional sale shall display on all notices, leaflets and posters given, distributed or exhibited by him or on his behalf in connection with the sale, his full name and his business address or business telephone number. 20
- 6 Conduct of occasional sales**
- (1) No person who holds an occasional sale shall permit a supplier to offer or expose for supply, or to supply, goods within the precincts of the occasional sale unless the supplier whose information is recorded pursuant to section 4(1)(a) is at least 18 years of age. 25
- (2) The supplier referred to in subsection (1) of this section shall ensure that he or another responsible adult remains within the precincts of the occasional sale at all times that goods are offered or exposed for supply, and is available to deal with enquiries properly put to him by an authorised officer during the course of the occasional sale. 30
- (3) If, in response to a request made by the holder of an occasional sale for the purpose of ascertaining the information required to be kept by him pursuant to this section, a supplier intentionally gives that person a false name or false address or a false registered number or false information relating to any certificate of registration, he shall be guilty of an offence. 35
- (4) In this Part “supplier” means a seller or supplier of goods in the course of a trade or business with whom the person who holds the occasional sale has made arrangements (whether or not on payment of a charge or fee) for the right to sell or supply goods at the occasional sale, whether or not from a stall or pitch. 40

PART 3

OFFENCES, POWERS OF INSPECTION AND ENFORCEMENT NOTICES

7 Powers of entry, inspection and examination

- (1) An authorised officer, on producing if so required a duly authenticated document showing his authority, or any constable may – 5
 - (a) subject to subsection (2) below, enter and inspect any premises if he has reasonable cause to believe that they are being, have been or are intended to be, used for or in connection with an occasional sale, for the purpose of ascertaining whether there is or has been, in, or in connection with, the premises a contravention of any provision of this Act; 10
 - (b) at all reasonable times enter any premises for the purpose of serving a notice under subsections (3) or (5) of section 3;
 - (c) at all reasonable times enter any premises for the purpose of inspecting or taking copies of any record kept in pursuance of section 4. 15
- (2) The powers of subsection (1) above in respect of premises used as a private dwelling-house may be exercised only on the grant of a warrant by a justice of the peace.
- (3) A justice may grant a warrant under subsection (2) above only if he is satisfied either – 20
 - (a) that notice of intention to apply for a warrant has been given to the occupier of the premises; or
 - (b) that the case is one of urgency, or the occupier is temporarily absent, or that the giving of a notice of intention to apply for a warrant would defeat the object of the entry. 25
- (4) A warrant under this section shall authorise entry, if need be, by force but shall cease to have effect at the end of the period of 7 days beginning with the day on which it is granted.

8 Enforcement notices

- (1) Where it appears to an enforcement authority that a breach or breaches of legislation listed in the Schedule to this Act (Section 8 Offences) has or have occurred within the previous 42 days they may issue a notice under this Part (an “enforcement notice”) requiring the person organising the occasional sale to remedy the breach or breaches by him or by any supplier by – 30
 - (a) preventing the supplier from attending the occasional sale for a period of 12 months beginning on the date of the next occurrence of the occasional sale; or 35
 - (b) ensuring that he or the relevant supplier remedies the breach forthwith.
- (2) An enforcement notice shall take effect on the date specified in it (the “specified date”). 40
- (3) An enforcement notice shall be served not later than 28 days before the specified date.
- (4) An enforcement authority may withdraw an enforcement notice at any time before it takes effect by giving a notice of withdrawal immediately to each person served with a copy of the notice. 45

- (5) An enforcement notice shall specify the matters alleged to constitute a breach of the legislation listed in the Schedule.
- (6) Any person who contravenes the provisions of an enforcement notice shall be guilty of an offence.
- 9 Appeals against enforcement** 5
- (1) Any person served with an enforcement notice which is for the time being in force may apply for an order setting aside the notice.
- (2) An application under this section may be made by way of complaint to a magistrates' court.
- (3) On an application under this section to a magistrates' court, the court shall make an order setting aside the enforcement notice only if the court is satisfied that there has been no contravention of any legislation listed in the Schedule to this Act. 10
- (4) Any person aggrieved by an order made under this section by a magistrates' court, or by a decision of such a court not to make such an order, may appeal against that order or decision to the Crown Court and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal. 15
- 10 Obstruction of authorised officer** 20
- (1) Any person who –
- (a) intentionally obstructs any authorised officer acting in the exercise of his powers under this Act, or
- (b) without reasonable cause fails to give any authorised officer any assistance or information which the officer may reasonably require of him for the purposes of the exercise of the officer's functions under any provision of this Act, shall be guilty of an offence. 25
- (2) Subsection (1)(b) above applies in relation to a constable as it applies in relation to an authorised officer. 30
- 11 Penalties**
- (1) Subject to subsection (2) below any person who contravenes any provision of this Act shall be guilty of any offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) Any person convicted of an offence under the provisions of sections 3(9), 4(4), 6(3), and 8(6) of this Act shall be liable on summary conviction to a term of imprisonment not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both. 35

PART 4

MISCELLANEOUS AND GENERAL

12 Defence of due diligence

- (1) In proceedings for any offence under this Act it shall be a defence for the person charged to prove that he took reasonable precautions and exercised due diligence to avoid the commission of the offence. 5
- (2) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, no later than 28 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of that other person. 10

13 Liability of directors, etc.

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence. 15
- (2) Where the affairs of the body corporate are managed by its members, subsection (1) above shall apply to the acts and default of a member in connection with his functions of management as if he were a director of the body corporate. 20

14 Service of notices, etc.

- Any notice or other document required or authorised to be served or given in writing under this Act may be served or given either – 25
- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode or business of that person, or, in a case where an address for service has been given by that person, at that address; or 30
- (c) by sending it by ordinary post addressed to that person at his usual or last known place of abode or business, or, in a case where an address for service has been given by that person, at that address; or
- (d) in the case of a company or body incorporated in England or Wales, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it by ordinary post addressed to the secretary or clerk of the company or body at that office. 35

15 Expenses

- There shall be paid out of money provided by Parliament – 40*
- (a) *any expenditure incurred by the Secretary of State in consequence of this Act, and*

(b) *any increase attributable to this Act in the sums payable out of money so provided under any other Act.*

16 Short title, commencement and extent

- (1) This Act may be cited as the Occasional Sales Act 2005.
- (2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed. 5
- (3) This Act extends to England and Wales.

SCHEDULE

Sections 8 and 9

SECTION 8 OFFENCES

Intellectual property

- | | | |
|---|--|----|
| 1 | (1) An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48) – | 5 |
| | (a) section 107(1) (making or dealing with an article which infringes copyright); | |
| | (b) section 107(2) (making or possessing an article designed or adapted for making a copy of a copyright work); | |
| | (c) section 198(1) (making or dealing in an illicit recording); | 10 |
| | (d) section 297A (making or dealing in unauthorised decoders). | |
| | (2) An offence under section 92(1), (2) or (3) (unauthorised use etc. of a trade mark) of the Trade Marks Act 1994 (c. 26) . | |

Consumer protection

- | | | |
|---|--|----|
| 2 | An offence under section 1 (false trade descriptions applied to goods etc.) of the Trade Descriptions Act 1968 (c. 29) . | 15 |
|---|--|----|

Inchoate offences

- | | | |
|---|---|----|
| 3 | (1) An offence of attempting, conspiring or inciting the commission of an offence specified in this Schedule. | |
| | (2) An offence of aiding, abetting, counselling or procuring the commission of such an offence. | 20 |

Occasional Sales Bill

A

B I L L

To make provision about the regulation of occasional sales; and for connected purposes.

*Presented by Mr John Whittingdale
supported by
other Members whose names
are to be provided.*

*Ordered, by The House of Commons,
to be printed, 22nd June 2005.*

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