

## COVER SHEET FOR RESPONSES

Contact details of respondent	
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Please indicate below which issues are covered by your response. Not all issues will be relevant to all respondents – please feel free to skip questions that are not relevant to you.

General Questions covered:	
How IP is awarded	
How IP is used	
How IP is licensed and exchanged	
How IP is challenged and enforced	

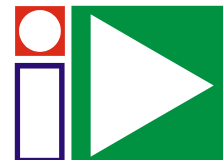
Specific Issues covered:	
Current term of protection on sound recordings and performers' rights	
Copyright exceptions – fair use and fair dealing	<b>X</b>
Copyright – digital rights management	
Copyright – orphan works	
Copyright – licensing of public performances	<b>X</b>
Copyright – designated archive status	
Patents – utility patents	
Pharmaceutical Supplementary Protection Certificates (SPCs)	
Trade Marks – international issues	
Designs – registered designs and unregistered design rights	
Legal sanctions on IP infringement	
Parallel Imports / International Exhaustion	
Coherence between competition policy and IP policy	

**Have you raised any other issues in your response?**

**X / N**

Details of accompanying documents (Please continue on additional sheet if necessary)
<p>Pages 3 &amp; 4 detail a proposed licence scheme for Professional Videographers which has already been presented to MCPS &amp; PPL.</p>

- Please TICK BOX if you DO NOT want your response posted on the Gowers Review website.**



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# Gower Review - Call for Evidence

Presented by IOV (Institute of Videography)

Key: **Blue = Original Question**  
**Black = IOV Comment**

## Copyright Exceptions – fair use /fair dealing

**Background:** There are a number of exceptions to copyright that allow limited use of copyright works without the permission of the copyright holder.

**(a) What are your views on the current exceptions in copyright law?**

The IOV represents professional videographers, who as a matter of course video record at private functions where there is commercial music being played in the background. This music is quite often recorded as part of the soundtrack, but we understand this is not considered to be incidental under the current Copyright Designs & Patents Act as the act of recording is deemed as intentional.

A typical example of this is a wedding, where the videographer is recording the service, festivities, dancing and general atmosphere. Even though the music is part of the general scene, it is not the subject of the recording – and we would therefore like to see this activity established as being incidental and not requiring a licence.

Presently, we feel obliged to advise our members to buy both MCPS and PPL licences in order to legally provide this service to their clients. The combined cost of these licences (for producing up to 5 copies – with a maximum of 30-minutes of music) would cost £57.58 including VAT from the sub-agents of MCPS and PPL ([www.videollicence.co.uk](http://www.videollicence.co.uk)). This represents 7-10% of the average total cost of a wedding video – and is therefore disproportionate.

The result is that most of the industry either totally or partially ignores these licences. Apart from the high costs involved, there is no policing of these licences and the fees paid cannot be distributed to the rights owners as there is no facility for the videographer to state what music was recorded when applying for these licences.

**(b) Could more be done to clarify the various exceptions?**

The simple answer is Yes. Combining the licences issued by MCPS and PPL into one. See attached licence proposal which has so far been rejected by MCPS and PPL.

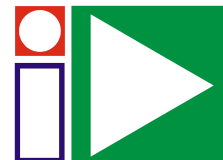
**(c) Are there other areas where copyright exceptions should apply?**

If our attached proposal is not acceptable, as weddings and similar social events are purely private functions, we believe that videographers should be allowed to dub their clients' original CDs to their production. As long as a genuine original copy of the music was owned and supplied by the client, it is simply a case of the videographer transferring the client's music to different media.



**PROMOTING PROFESSIONALISM IN VIDEO PRODUCTION**

Institute of Videography Ltd Reg. Office: Morgans, White Gritt, Minsterley, Shropshire SY5 0JL Reg. No: 2623169



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Cont...

(d) Are the current exceptions adequate or in need of updating to reflect technological change? For example copyright law in the UK does not currently have a private "fair use" exception. Such an exception might allow individuals to copy music CDs onto their PC and MP3 player for their personal use. Should UK law include a statutory exception for "fair use"?

Yes. This is mainly due to the rapid change in technology and the rate at which old technology becomes obsolete. It seems unfair that an individual has to buy a completely new copy of the content when their old copy becomes unplayable due to their equipment being beyond economical repair or when they update their equipment and the old format is incompatible.

(e) How would you see content owners being compensated for such use?

The original purchase of the content should contain sufficient royalties to enable the purchaser to own the rights for personal use in perpetuity. The only costs associated with copying the content should be in the process (if carried out by a third party) and the media on which it is being copied. There may be a case for a nominal licence fee being added to the cost of the media – and for this fee to be distributed to the rights owner according to historic sales of the original.

(f) To what extent has technological change presented difficulties in use of copyrighted material in the field of education?

N/A

(g) Are there issues concerning the archiving of material covered by copyright?

N/A

## **Copyright - licensing of public performances**

(a) Have you encountered problems with the system of licensing and paying royalties to collecting societies for public performance of music and/or sound recordings?

Mainly as mentioned in item a) *Copyright Exceptions – fair use /fair dealing*. However, a growing problem is occurring in churches where the organist, choir or any other performers will double their standard fees if the ceremony is being recorded. This can sometimes result in many hundreds of additional pounds being charged – and subsequently makes the video too expensive for the client.

(b) Could the system be clarified or simplified, and if so how do you see this working?

Additional charges for video recordings being made for private functions should not be subject to additional public performance royalties.



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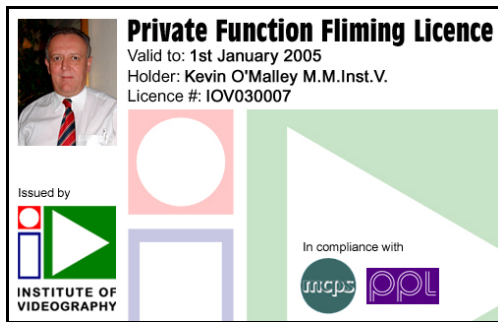
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**Proposal Outline – Strictly Private & Confidential**  
**IOV – Professional Videography Licences**

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**Outline**

To introduce an annual professional videographer's photo-identity card (Photo ID Licence) as proof of compliance with MCPS and PPL members' rights in respect to actuality video recordings made at Private Functions.



Furthermore, to provide an application process for rights clearance to dub commercially produced music tracks which include works by MCPS and PPL members on a Private Function video programme (a Dubbing Licence).

The IOV will be the issuing body for the Photo ID Licence and Dubbing Licence, and be responsible for promoting the scheme to the professional videography market, policing its members, maintaining records and accounting to MCPS and PPL.

**Private Function**

Any event or celebration attended by an invited audience – of which no more than 50 copies of the final video are supplied.

**Methods of Policing Scheme**

The IOV will only include members who hold a Photo ID Licence in lists it provides to the general public looking for a videographer to produce a Private Function video (these are published on the IOV's website, in its monthly magazine – and distributed by post). The IOV will also only accept Private Function videos for submission for assessment, and for entry to the IOV's annual awards, from videographers who hold a Photo ID Licence.

## Marketing

The IOV will advertise the Photo ID Licence in Bridal magazines and media directed at wedding venues and churches.



Licence holders will also be supplied with information to distribute to wedding venues and officials. The IOV will also include information on the licences on its website, within its monthly publication – and distribute information to all delegates at its annual convention.

## Anticipated take-up

Within 6-months of launch, the IOV believes it would issue 200 Photo ID Licences, and 2,000 Dubbing Licences. Within 12-months, there would be 400 Photo ID Licence holders, and 4,000 Dubbing Licences sold. At the end of the 3rd year, the IOV would anticipate 1,000 Photo-ID Licences to be issued per year, along with 10,000 Dubbing Licences.

## Cost of licences

The Photo ID Licence will cost £100 per annum. The Dubbing Licence will cost £10 per video.

## Distribution of licence fees

The monies collected for all licences will be divided four ways. 30% to the IOV for administration, producing Photo ID & Dubbing Licences, policing and marketing, 30% to MCPS, 30% to PPL and 10% to be held on account for any instances whereby an owner's rights are infringed who are not members of MCPS or PPL. This money should be left to accrue for a given period, after which it will be distributed to all parties equally.

## Timescale

The IOV would be able to set up the administration of the licences within two months of all parties signing to the agreement.

END