

Response to the Gower's Review of Intellectual Property

The Scottish Funding Council welcomes the opportunity to respond to the consultation on matters relating to intellectual property. The Council's interest is essentially twofold:

- a key objective of the Council's funding of Scotland's colleges and universities is to contribute to Scotland's economic development by supporting all types of research in universities and knowledge transfer activities in both the college and university sectors. The creation, protection, and exploitation of intellectual property are clearly key elements in achieving this objective; and
- enhancing the awareness of intellectual property issues among staff and students in colleges and universities and, in particular, in the practices of the researchers and teachers who need to make decisions on how knowledge is transmitted.

Context

In Scotland, as in the UK as a whole, our universities and higher education institutions contain the major part of our creative and innovative capacity. Their role and influence is increasing both in absolute terms, through growth, and also in relative terms, due to the marked decline of investment by the UK private sector. This is brought out very clearly, for example, in the recent council for industry in higher education report on international competitiveness.

Scope of the review

We are content that the scope of the review is sufficiently broad and captures all of the significant issues at an appropriate level of detail.

Our concerns

We are concerned that many of the features of intellectual property protection, including patenting, copyright and trade marking, are over-complex, cumbersome and inhibiting to entrepreneurial growth. In particular, we believe there is a need to balance the effort and cost of protection with:

- a realistic assessment of potential benefit;

- the smothering effect of over-protection on entrepreneurial endeavour and innovation;
- the disbenefit of distracting researchers and innovators with ownership issues too early in the process of evaluating worth; and
- the disbenefit of targeting too many researchers on short to medium-term goals which are justified by economic potential and therefore need protection.

We also consider that there is much we could learn from competitor countries, for example USA and Germany, and that, in any event, there will be a need to harmonise EU member states processes.

We recognise, however, that making improvement will be no easy matter. Policies to improve the UK's performance in managing intellectual property will need to be extremely well crafted to prevent small but important players from being further undermined. Policies should recognise the enormous diversity of activities that need to be nurtured and safeguarded while, at the same time, simplifying the processes for achieving a rapid and adequate level of protection.

Finally, we hope there will be ample opportunity to reflect on the findings of the review before policies are finalised and we wish the team every success in streamlining the UK's existing arrangements for protecting intellectual property.