

28 April 2006

Gowers Review of Intellectual Property
Zone 4/E1
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

By post and email

Dear Sirs

Gowers Review of Intellectual Property – Call for Evidence

I write on behalf of the Society of London Theatre and the Theatrical Management Association, the trade associations representing the interests of those engaged in the production and presentation of medium to large-scale dramatic and lyric theatre in central London and elsewhere in the UK respectively.

Please find below our responses to some of the questions raised in the Call for Evidence paper.

General Questions

Please note that the answers to 3(a), (d) and (e) do not apply where rights are licensed through collecting societies.

- 2 (a) The principal type of IP used by our members is copyright.
- 2 (g) The presentation of wholly new work and new approaches to the presentation of existing work are a key part of the function of subsidised performing arts organisations across the UK.
- 2 (j) Generally speaking, our members have not encountered copyright being used defensively.

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The Society of London Theatre is the trading name of West End Theatre Managers Ltd, a company registered in England and Wales, whose registered office is at the above address. Company No 527227. VAT Registration No 242 2802 92.

Theatrical Management Association Ltd is a registered company in England and Wales, whose registered office is at the above address. Company No 323204. VAT Registration No 242 2801 94.

- 3 (a) It is quite straightforward to negotiate licences to use others' copyright as there is an established industry practice for doing so involving negotiation between producers and copyright owners or their agents.
- 3 (d) There are no specific barriers to licensing copyright.
- 3 (e) There can be barriers to licensing copyright on grounds of cost. These costs are driven by market rates and the individual negotiation, copyright licence fees being arrived at through negotiation.
- 3 (i) Differences between the laws of different jurisdictions can be a barrier to the trade and exchange of copyright internationally.
- 4 (a) There are no specific problems with enforcing copyright.
- 4 (c) Generally, our members do not make use of methods other than litigation.
- 4 (d) Our members tend not to use IP litigation insurance.

Specific Issues

Current term of protection on sound recordings and performers' rights

- (a) We do not consider that the current 50 year term of protection on sound recordings and performers' rights should be extended. Such an extension would restrict choice and therefore creativity.
- (c) We are not aware of the impact that different lengths of term have had on investment, creativity, and consumer interests in other countries.
- (e) An extension of term should be solely for new creations.

Copyright exceptions – fair use/fair dealing

- (a)&(b) We consider that there is a lack of clarity in the current exceptions and that more could be done to clarify them.
- (c) There are possibly other areas where copyright exceptions should apply, but more clarity on the existing exceptions is required in order to ascertain this.
- (d) It is doubtful whether, in public policy terms, there is merit in a regime which is effectively unenforceable against the private citizen.

Copyright – orphan works

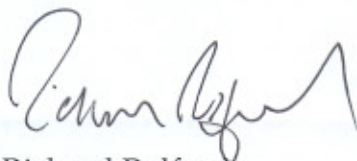
- (a) Occasionally our members experience difficulties in identifying the owners of copyright content when seeking permission.
- (b) Some sort of registration system for copyright would be a possible solution.

Copyright – licensing of public performances

- (a) Our members have encountered problems with the system of licensing and paying royalties to collecting societies for the public performance of music and/or sound recordings. A particular problem is that collecting societies can increase their tariffs unilaterally and, often, the only way to challenge such an increase is to take the expensive step of bringing an action in the Copyright Tribunal. Other problems include the lack of transparency of collecting societies and the administrative burden placed on those seeking a licence.
- (b) The system could be clarified or simplified, and the problems referred to above addressed.

Thank you for giving us the opportunity to contribute to the review. If you require any further information, please do not hesitate to contact me.

Yours faithfully



Richard Pulford
Chief Executive