

BRITISH COPYRIGHT COUNCIL

Gowers Review of Intellectual Property Response from the British Copyright Council

The British Copyright Council is an association of bodies (see Appendix III) representing those who create, or hold interests or rights in, literary, dramatic, musical and artistic works in which rights of copyright subsist under the United Kingdom's copyright law (Copyright, Designs and Patents Act 1988 as amended), and those who perform such works.

We welcome the Treasury's interest in the UK's IP Framework and the recognition that it is a critical component in the success of the knowledge economy. That part of the knowledge economy for which we speak itself forms a major component of the creative industries. We represent creators, performers and their partners and copyright is the currency by which our constituency carries out its business.

Before responding to the questions we wish to make two general points:

- Copyright, which is bound by international and regional agreements, most notably by the Berne Convention, is different from many other Intellectual Property rights, which are registered rights. Registration of copyright would be contrary to the Berne Convention. The right of copyright subsists automatically at the point of creation of an original work or at the point at which an original work is recorded.
- Copyright plays a vital role in the success of the creative industries. It empowers creators and provides them with a source of income. As well as economic reward, it incentivises creativity through moral rights, acknowledging the integrity of the work and providing recognition for the author.

GENERAL QUESTIONS

1. How IP is awarded

(a) Are there barriers to obtaining IP rights due to system complexity? What could be done to improve this situation?

Copyright is not a registerable right and is obtained automatically. There are no barriers to obtaining copyright; protection depends on three things only:

- the work must fall into a category of protected work;
- be by a qualifying author; and
- be an original work.

We make this somewhat obvious point because we believe that the flexibility of the copyright system is not always clearly understood and there is considerable confusion in the minds of the public and the media between categories of rights and between those which are registerable and

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those which are not. This problem could be resolved through improved education aimed at raising public awareness of IP matters.

To function smoothly, the creative industries rely largely on copyright and on an established system of copyright licensing. These facilitate that industry rather than acting as barriers to it. We note also that Creative Commons and other forms of Open Access licensing are in themselves based on the copyright system and are copyright licences.

We believe that a perceived lack of trust in the entire IP system has a potentially negative impact on copyright and will damage our creative industries with a knock on effect on all creators and performers. That lack of trust is unwarranted and the result of misunderstanding.

In a European context, concerns over copyright being a barrier to industry between the UK and other EU Member States have been addressed by legislative initiatives to provide an appropriate degree of copyright harmonisation across the European Union.

The UK's membership of the Berne Union means that UK authors can benefit, via the Berne convention, from copyright protection for literary and artistic works in many countries of the world, without formality.

(b) How easy is it to find out about obtaining IP rights? What could be done to improve awareness for businesses and innovators? Is there sufficient awareness of the need to protect IP internationally?

As already stated, we recognise the need for greater education and awareness about copyright and other forms of IP. We commend recent Patent Office initiatives to help improve IP education, and the opening of the British Library's Business & IP Centre, but more needs to be done across government and across industry. We particularly welcome recent cross-governmental interest and initiatives such as CREATE (see Appendix I). There is a real need amongst the public for greater and easier access to information on intellectual property.

As far as industry is concerned, the provision of specialist advice through bodies such as Business Links and other support services should be priorities.

In the creative industries there should be a much greater emphasis on IP in vocational training for those who will work in the creative industries, whether as creators and performers or as commercial users. We believe the Sector Skills Councils could play a key role in this.

We note also that a number of professional associations, including many of the British Copyright Council's member organisations, have devised forms of agreement for use by creators for the use of their works and also provide information on rights and agreements to commercial users. These can be of value in clarifying the copyright position and we believe that the professional associations have an important advisory role to play in education and awareness in their sectors.

International aspects of IP may seem remote or perhaps a high level issue but with globalisation (every photographer and designer has a website which is accessible worldwide), education about

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the international aspects of IP are vital and the costs of international protection are a real issue for freelancers, micro-businesses and SMEs.

(c) **Are there barriers to obtaining UK IP rights on grounds of cost? What drives these costs?**

Again, this flags up the difference between copyright and other forms of IP. There is no cost to obtaining copyright as it is not a registerable right. Costs are most likely to arise when a copyright owner or user carries out a transaction involving the work, or when the rights in the work are enforced.

This lack of knowledge about the value of copyright affects freelancers, micro-businesses and SMEs working or setting up new businesses in the creative and other industries. Whilst not in itself a barrier, the failure of those involved in the creative industries, whether as creators or commercial users of rights, to understand or recognise the value of copyright, has an impact. It leaves creators and performers of works vulnerable to unfair practices, while users can be ignorant of the need to clear rights. Both are subject to the practical difficulties and costs of enforcing rights.

(f) **Is lack of trust in the system a barrier? To what extent do you rely on other tools to bring innovation to the marketplace, such as being first to market, maintaining trade secrets, or using an open innovation model to generate value through reputation or network effects?**

Speaking on behalf of authors and other creators and for performers of copyright protected work, it is our experience that the vast majority want their work to be read, seen or viewed, disseminated in every possible way and accessible to as many people as possible. Copyright provides them with the best possible means of achieving that whilst giving them a degree of control and the possibility for remuneration. It is therefore essential that users and consumers of creative content trust the copyright system.

Improving trust in the IP system between rights owners and users, within industry and between companies and consumers will be a key part of the welcome education and awareness initiatives highlighted by the recent work of the Creative Industries Forum on Intellectual Property.

Whilst industry has a role to play in promoting greater understanding about the conditions which attach to use of copyright works in the digital world, this understanding will be helped by the wider education and awareness initiatives which exist and are being developed on the back of the work of the Creative Industries Forum on Intellectual Property.

The Education Working Group within the Forum recognised:

“Intellectual Property Rights are an intangible concept that is difficult to grasp and generally very poorly understood. Improving the communications and educational messages, and the way they are targeted at specific audiences, as the way to improve understanding, are therefore central to the whole IP agenda. A snapshot of current communication activity shows that there are many agencies and organisations communicating about IP, but that this communication lacks a consistency and co-ordination of message. The working group’s primary focus therefore, has

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been to consider the tone and theme of IP communications and their appropriateness to particular audiences.”

The Group agreed that messages should be positive and empowering. The Group therefore developed a Statement of Principles, the “CREATE” statement (see Appendix I), to capture and enunciate the importance of IP as a social, creative and economic tool.

It is hoped that the Review will endorse development of work to develop adoption and promotion of the CREATE principles within industry and Government in the future.

Coordinated support to improve education and awareness about the value of intellectual property and the role that it plays within the economy, supporting jobs and providing reward for innovation, will be increasingly important. The Patent Office has an important role to play in encouraging this coordination across Government and in connecting with creators and industry. However this will need the support and involvement of key Government Departments if their work is to have the best effect.

The work being undertaken by The Patent Office to further develop its “Think Kit” for secondary schools to cover information for primary schools, and for further and higher education is important. However, they will need engagement from the DfES to ensure that support is provided for lesson plans and other background, to help appreciation of the value of IP form part of the wider citizenship curriculum.

It is hoped that the Review team will support and encourage the involvement of DfES in this respect.

Improving trust should also be addressed through encouraging improved media literacy across the whole of society, and through industry becoming more transparent about the way in which it explains to consumers the conditions which attach to the licensing or authorised use of copyright works.

(g) Are there specific barriers to obtaining IP rights in your sector?

As mentioned above, there are no barriers to copyright protection. Please see our response to Question 1(a).

(h) Are there specific barriers to obtaining IP rights for small businesses or individuals?

Again, please see our response to Question 1 (a) and also our comments relating to education and awareness under Question 1(b) and (c), which are particularly pertinent to small businesses and individuals.

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- (i) **How well does the national system for awarding IP, administered by the Patent Office perform? How well do the international and European systems work?**

As far as copyright is concerned we feel that the system under which copyright subsists automatically is satisfactory. However, we would like to see The Patent Office taking on a greater role in the promotion and protection of IP rights for UK business.

2. **How IP is used**

- (a) **What types of IP does your organisation use and why?**

The British Copyright Council does not itself use IP. Our members are in a better position to answer this question.

- (b) **To what extent do you seek multiple overlapping forms of IP protection?**

Our members seek protection in the main through copyright. We do not perceive IP rights as ‘overlapping’ but rather as ‘supplementing’ one another. In the creative industries, this is particularly true for anti-piracy operations.

The reason is that effective enforcement of IP rights (along with protection of consumers and legitimate business) is being hampered by a lack of resources and powers for Trading Standards officers. Most importantly, the continued delay in the implementation of Sections 107A and 198A CDPA 1988 (which will give Trading Standards officers the duty to enforce copyright law) makes it important for publishers and producers to have the benefit of both trademark and copyright protection to enable reliance upon trademark rights by Trading Standards officers when bringing cases for offences under Section 92 of the Trademarks Act 1994.

The enactment of Sections 107A and 198A CDPA 1988 remains crucial, as is the proposed incentivisation scheme whereby Trading Standards officers can recoup a percentage of the costs of prosecutions from assets seized under the Proceeds of Crime Act 2002.

We also note the anomaly between trademark and copyright law concerning Trading Standards officers’ duty to act.

- (c) **To what extent are these decisions influenced by sector-specific considerations?**

Branding is becoming increasingly important for companies in the digital world. The links between copyright and trademarks are particularly important for magazine publishers, but similar issues will apply in other creative industry sectors with which BCC members are associated. We leave it to our members to provide examples of such sector-specific considerations.

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- (d) **How does your company value its IP? Are there problems with raising finance against intangible assets based on IP? What improvements could be made in this area?**

Again we leave it to our members to respond to this question on a sector by sector basis.

- (e) **To what extent does the term of IP rights at the margin affect investment decisions?**

Copyright underpins the work of members of the organisations making up the British Copyright Council. In this sense the value of copyright as a whole will be relevant to investment decisions. Clarity and a sense of the true value of rights will affect those decisions.

- (f) **How well does the UK IP system promote innovation?**

The UK is a world leader in creativity and innovation and it is our view that this is in part due to a stable and well-functioning system of IP rights. The Government should continue to encourage the recoupment of investment through IP and to ensure a proper reward through copyright and respect for creators and performers through moral rights.

- (g) **To what extent does your organisation make use of other methods used by Government to encourage innovation, such as public funding?**

We note that copyright and other forms of IP do not need the support of public funding to succeed.

- (i) **Do you have any evidence as to the static or dynamic costs that IP rights (as statutory monopolies) impose on the economy?**

We do not believe that copyright protection provides a ‘monopoly’ in the sense that protection can apply distinctly to two similar works which are produced wholly independently of one another. The owner of copyright has the right to prevent copying, but not independent creation.

- (j) **Have you encountered patents or other IP rights being used defensively, i.e. obtained not to develop products, but only to prevent others from doing so? Under what circumstances do you consider this acceptable?**

Copyright does not lend itself to defensive use and the British Copyright Council is not aware of any situations in which defensive use has arisen. Copyright is viewed by our members as a positive and essential mechanism for encouraging continued creativity, promoting exploitation and securing appropriate reward. It is not used negatively as a defensive tool.

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3. How IP is licensed and exchanged

(a) How easy is it to negotiate licences to use others' IP for commercial or non-profit purposes?

The British Copyright Council's membership is comprised of organisations that themselves represent creators and other rights holders. As such, it is often the case that our members provide a licensing service to those they represent. Many individual copyright holders, for example, entrust their rights to collecting societies which have in place well-established one-stop shop blanket licensing structures and efficient royalty collection and distribution mechanisms. Through their ability to offer licences covering international works (please see also our response to Question 3(i) on this point) collecting societies undertake an important role in reducing the hurdles a user might otherwise have to face in a world of individual rights management.

We note that this question is about the licensing of works and in this context we do not believe it is necessary to make any distinction between commercial and non-profit purposes. Some activities of non-profit organisations will qualify for copyright exceptions but in respect of those that do not it is reasonable that they should seek a licence. An organisation might benefit from its exploitation of copyright material in ways other than pure financial profit. Furthermore, collecting societies, publishers and other rights owners and their representatives are sufficiently flexible in their approach to licensing to be able to negotiate licences with a wide-range of potential licensees, from major corporate users to non-profit organisations and charities. Negotiations take into account the type of use proposed and whether there is a revenue base against which to apply a licence fee.

(c) How easy is it to use others' IP for research purposes? Have you experienced difficulty around research exemptions?

This question seems to refer to those 'research exemptions' that are specific to patent law. If that is not the case then please see our answer to 'private use and study' under Question 7 below.

(d) Are there specific barriers to licensing in the main forms of IP currently used: patents, copyright, trade marks, and designs?

The Council is not aware of any barriers to licensing in the field of copyright. We stress that copyright is very different from other forms of IP. Unlike patents and trade marks, collective licensing is a feature of many copyright industries and plays a major role in helping the practical difficulties associated with licensing to be overcome.

In terms of copyright licensing, we believe the system works well providing a level playing field for all those who are interested in securing copyright licences. Furthermore, as far as Council members are concerned, a main focus is increasing licence take-up in order to maximise the royalties due to creators. Any grant of rights will of course be subject to payment of a reasonable royalty and agreement to certain terms and conditions – these are factors that will feature in any licence negotiation and in no way constitute a barrier to licensing.

For further information on this point please refer to the individual submissions of our members.

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(e) Are there barriers to licensing IP on grounds of cost? What drives these costs?

We are not aware of any barriers to licensing on grounds of cost and we note the success of the UK's creative industries, which rely on copyright licensing, in relation to the rest of the world. We leave it to our members to provide more specific information.

(f) Are there specific barriers to licensing IP in your sector?

We leave it to our members to provide more specific information on their sectors.

(g) Does your organisation use methods to facilitate exchange of IP - such as crosslicensing or pooling IP rights with other firms or organisations?

Again we leave this question to those members of the British Copyright Council which are directly involved in licensing activities.

(h) Are there specific barriers to licensing IP rights for small businesses or individuals - for example barriers to entry to patent pools?

In our view the barriers are as previously stated (see the response to Question 1(b)), that is, lack of knowledge about copyright and other forms of IP, lack of business skills including poor understanding of contract law and inability to negotiate. There are also practical problems and the high costs of enforcing rights and licences for individuals and SMEs (see the response to Question 4). However, we reiterate our previous comments on the one-stop shop approach of collective licensing which provides clear benefits for small businesses and individuals seeking licences and we also note that the high costs of enforcing rights and licences can be ameliorated for individuals by collective administration.

(i) Are there barriers to trade and exchange of IP internationally?

The exchange of national repertoires between collecting societies under the provisions of reciprocal representation agreements provides a valuable framework within which users are granted access to international works and rights holders are able to receive royalties for overseas exploitation.

The Council acknowledges however that current collective management structures are perceived by some as posing a barrier to the licensing of global online exploitation. Copyright by its very nature is territorial – even as between EU Member States copyright law is not entirely harmonised – and the international reciprocal representation network has developed in response to traditional forms of copyright exploitation licensed on a territory by territory basis. Consequently, online service providers have become frustrated at the societies' inability to grant licences for pan-territorial use and argue that the process of acquiring separate licences from a different collecting society for each territory is prohibitive in terms of cost.

The British Copyright Council agrees that solutions are required in order to encourage the development of the online market for creative works – but any solution must recognise the rights and needs of creators and ensure that the value of copyright is sustained. A solution which puts

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at risk the collective management model would be detrimental to the rights holder community as a whole. As such, the British Copyright Council notes the European Commission's Recommendation of October 2005 on the cross-border provision of online music services which it believes will encourage fairer and more transparent cross-border distribution of royalties and ensure good standards of society governance, accountability and non-discrimination at the same time as going some way to addressing users' concerns. The music collecting societies in the UK and the rest of Europe are now developing solutions to implement the Recommendation, and the British Copyright Council urges that (a) sufficient time is allowed for new rights structures and systems to be put in place in this sector and (b) that account is taken of the differences between the variety of sectors that comprise the copyright industries before rushing to take further action.

The Communication from the Commission stated that most collecting societies form part of a network of interlocking agreements, by which rights are cross licensed between societies in different Member States. However, it is important to remember that this is not always the case. The important locally recognised role played by some collecting societies (such as The Educational Recording Agency within the UK) must not be forgotten.

4. How IP is challenged and enforced

(a) Are there specific problems with enforcing the main different forms of IP: patents, copyright, trade marks, and designs?

The enforcement of rights in the digital environment poses a huge challenge for copyright owners and this is not helped by some inadequacies in UK copyright law. To take an example, peer-to-peer filesharing should be viewed by rights holders as a welcome opportunity for the dissemination of copyright content, in other words, a form of exploitation to be controlled, licensed and monetised. However, this is currently impossible due to the perceived lack of liability on the part of the software providers behind peer-to-peer services or the ISPs that provide access to them. The problem is this: it is the end user that directly carries out the restricted act, not the software or access provider. This means that a copyright owner would have to show that a peer-to-peer operator, software supplier or ISP had *authorised* the carrying out of the restricted act, something which is by no means certain given the precedent set in *CBS v Amstrad* (1988). In the meantime, many peer to peer operators are able to shun attempts by rights holders to license and legitimise their activities yet they continue to benefit from high volumes of use resulting from the sharing of copyright material.

There is a clear argument for their taking greater responsibility for the mass infringement of copyright that occurs through use of their facilities but the law gives little support to the rights holders that are pushing for this. Whilst it might be possible for a court to bypass the *Amstrad* precedent by either finding authorisation based on different facts or by the use of the separate doctrines of joint tortfeasance or procuring a breach of copyright (a similar approach as taken in the *Grokster* case in the USA) far greater certainty would be achieved for rights holders by some form of legislative solution. We refer you to the submission of one of our members, the MCPS-PRS Alliance, which proposes two possible approaches for consideration by the Government;

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greater clarity within the CDPA as to the meaning of “authorisation”, perhaps using Section 36 of the Australian Copyright Act 1968 as a model; and the introduction of a new act of secondary infringement to cover the provision of software or access to network services for the communication of infringing copies, with a knowledge requirement based on a belief on reasonable grounds that the communication would not infringe copyright. The BCC thinks that both suggestions are worthy of further consideration and notes that an approach based on secondary infringement would provide an opportunity to craft a targeted measure to deal with a particular type of wrongdoing.

On a general note, there are a number of evidential challenges that rights holders face when bringing copyright infringement actions, for example, the absence of a presumption of copyright subsistence, proving authorship and ownership and proving lack of grant of licence from all possible licensees. These difficulties have considerable implications for our members’ ability to adequately enforce their rights. For more detail please refer to the response submitted by the MCPS-PRS Alliance.

(b) Are there barriers to challenging infringement and enforcing your IP rights on grounds of cost? What drives these costs?

Costs are certainly a barrier to enforcement – not only for individual creators, micro businesses and SMEs but also to larger rights organisations, in particular those that operate on a non-profit making basis. There are a number of factors that might dissuade copyright holders from initiating infringement proceedings:

- Under the Civil Procedure Rules thorough case preparation is required. This racks up the costs at a very early stage;
- Full costs are rarely recovered, even if the judgment itself is in the claimant’s favour. This means that a degree of “cost-benefit” consideration plays a part – if the amount of damages is unlikely to meet the costs it may dissuade a rights holder from enforcing his rights;
- The cost of bringing a copyright infringement action are high and can be exacerbated by the defendant’s tactic of forcing the claimant to research technical points and thus run up unnecessary costs.

Please see also the response submitted by the MCPS-PRS Alliance.

(c) To what extent does your organisation make use of other methods than litigation to resolve IP infringement cases, for example the Patent Office opinion service, mediation services, Alternative Dispute Resolution, or the Copyright Tribunal?

We support the introduction of the new Patent Office Mediation Service and hope this will provide a means of cost effective dispute resolution. We note, however, that literature received so far about the new service makes explicit reference only to patents and trade marks though it applies to IP more generally. If Government wishes those working in the creative industries to benefit from this new service, then it should be made absolutely clear that the service also provides cost effective dispute resolution for copyright matters.

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As far as the Tribunal is concerned the British Copyright Council supports the current review of the Tribunal and believes that the principal aims should be to:

- Reduce the cost and time involved in cases laid before the Copyright Tribunal;
- Lessen the adversarial nature of the Tribunal by simplifying procedures;
- Develop the role of the Tribunal to cater for the needs of SMEs as well as for industry bodies and trade associations;
- Improve the expertise and balance of interests represented by Tribunal members;
- Raise awareness of authors' interests, as members of collecting societies, and as distinct from the collecting society itself;
- Consider potential issues for the future e.g. increasing numbers of challenges on the scope of licences.

(d) To what extent do you use IP litigation insurance? How effective is it?

Experience shows that IP litigation insurance is only rarely used by freelancers, micro-businesses and SMEs in the creative industries. It is a costly form of insurance with premiums as high as 30-40% of the cost of actually pursuing a case. It can unreasonably raise the expectations of those insured and encourage litigation where this is unnecessary and where negotiated settlement would be better. It is generally tied to standardised rather than specialist legal services.

(f) Are there specific barriers to challenging and enforcement of IP rights for small businesses or individuals?

The greatest barrier to the enforcement of IP rights for small businesses and individuals is cost (see our answer to Question 3(b), and bearing in mind the costs involved the disproportionately low level of damages available to the copyright owner. Additional barriers are the lack of easily accessible and readily understood specialist knowledge which is available to individuals and SMEs when trying to assess their position, compounded by the high level of uncertainty of success in pursuing a case for copyright infringement.

SPECIFIC ISSUES

- **Current term of protection on sound recordings and performers' rights**

Background: The Review will fulfill the Government's commitment to examine whether the current 50 year term of protection on sound recordings and performers' rights in sound recordings is appropriate, in the light of its extension to 95 years in a number of other jurisdictions.

(a) What are your views on this issue?

This is a European issue which the Commission will address in its forthcoming review of the *acquis*. We acknowledge that there is an anomaly and recognise that an extension of term would be of benefit to our performer members.

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We leave it to our performer members to answer the remaining specific questions under this heading.

- **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?

Exceptions and limitations to copyright have evolved over time providing a flexible system which caters for the needs of both users and rights owners. We believe that the underlying principles set down in the three-step test as established in International Treaties, and more recently within Article 5.5 of the Copyright Directive, must continue to be applied and supported.

The three-step test provides an essential yardstick by which to measure potential conflict with commercial use. This provides that:

“Exceptions and limitations... shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other subject matter and do not unreasonably prejudice the legitimate interests of the right holder”.

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

Further legislation is not appropriate to clarify exceptions: whilst in the UK the system of exceptions is already very detailed, as compared to the USA (e.g. fair dealing for the purpose of educational use, libraries and archives, etc), their application in practice can sometimes be unclear. Since general exceptions cannot take into account every possible situation which may arise in every case, we suggest that the decision in specific cases be left to the Courts, taking into account the facts in hand and the three-step test (see (a) above).

Having said that, the BCC is aware that some of its members have concerns about willful misinterpretation of certain exceptions by commercial users as a negotiation tactic to try to reduce licence fees.

Possible extension of exceptions for Internet intermediaries in Articles 12-14 of the E-Commerce Directive

The British Copyright Council believes that the existing copyright and other intellectual property regimes within the EU provide for a carefully developed system of rights and exceptions which it would be wrong to alter by changes to Articles 12 to 14 of the Directive.

Although Article 21(2) recognised that the European Commission’s review of the E-Commerce Directive should include examination of the need for adaptation of the Directive, it is submitted that such review is the wrong forum and route through which to look at any extension of (or

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change to) the carefully balanced provisions for copyright exceptions and limitations outlined and provided for in the EC Copyright Directive.

The British Copyright Council would urge the Government to recognise this and the other concerns below in the context of addressing the review at European Commission level during 2007.

The meaning of ‘hyperlink’ and ‘location tool service’ is not defined by the E-Commerce Directive. The Member States which have applied additional provisions to the concept of liability of hyperlinkers and location tool services may not be correctly focused to take account of the way that the concepts have evolved since the Directive was adopted. The range of information services which might include hyperlinks and location tool services is increasing. Some of these may promote unauthorised or other illegal use of copyright or other material in which IP rights exist, to the overall disadvantage of the creative industries.

The harmonisation intended by the Directive has already been challenged as a result of some Member States having included liability limitation cover for hyperlinks, location tool and content aggregation services. This lack of uniformity would be aggravated, if the United Kingdom enacted its own additions to the liability provisions of Articles 12 to 14 at this stage.

The evolving e-commerce market place needs to distinguish responsibilities for different types of hyperlinks, location tool services and aggregation services, taking into account the economic intentions of those providing the links or services, the practical business procedures which are developing and the importance of the protection and respect for copyright and IP rights.

Exempting hyperlinkers or location tool providers from liability for copyright infringements would increase the burden on all copyright owners to ‘police’ the Internet for unauthorised use of their material.

Exempting content aggregation services from the normal commercial rules which should apply to the licensing of copyright material will diminish the protection that creators, publishers and producers of original material currently enjoy. Caught between online service providers and aggregators, they lose control over their contribution to online programme/content provision, and as a result their potential to obtain remuneration for that original programming/content provision.

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

See our comments below on the possibility of a US style review for so called “orphan works”.

(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”?

Given that the UK is one of only three countries in the European Union which does not provide for an exception for private copying linked to a private copying levy system, any act of copying

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which takes place without the authorisation of the rights owner is illegal if none of the limited exceptions apply.

Exceptions relating to private copying in the UK are narrowly defined and relate to specific activities such as non-commercial research and private study and copying for the purposes of “time-shifting” (Section 70, CDPA 1988). As regards the widespread unauthorised activity that falls outside these exceptions rights owners cannot enforce their rights because infringers are impossible to trace and it would not be economically or politically viable to pursue them. Accordingly extensive copying of works is taking place without creators receiving any remuneration.

As far as Digital Rights Management is concerned, whilst technological protection measures and rights management information might support the licensing of, for example, on-line music services, “traditional” copying from one physical (pre-recorded) format such as CD, DVD, or hard drive to another physical format or device is, in practical terms, incapable of being prevented to any significant degree by existing or future technology, since there is always access to an analogue signal (the “analogue hole”). Additionally there is already a vast number and range of works available which are not copy-protected.

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

Whilst the European Copyright Directive granted Member States the freedom to implement a private copying exception (Article 5(2)(b)), it is important to note that should the Government consider the introduction of an exception for private copying, it would be essential to accompany this with a mechanism for remuneration. Furthermore, any private copying exception would have to be limited to the copying of legitimately purchased copyright material for the consumers’ own personal use.

The British Copyright Council is currently reviewing available options for ensuring fair remuneration for the vast amount of private copying taking place in practice. Rights owners prefer to use licensing models wherever these are possible, but the licensing of “traditional” private copying from one format to another (“formatshifting”) is often impractical or agreed by rights owners to be undesirable at the point of consumption.

We are at the initial stages of developing our views on this very complex issue. We expect to develop our views further in the context of ongoing discussions at European level and we anticipate a European Commission Recommendation on private copying by the end of the year.

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

It is our view that technological change has enabled use of copyright material in the field of education rather than creating difficulties. Of course, that use is not necessarily legitimate in nature, for example, widespread plagiarism by pupils and students. Those working in education must recognise and understand the parallels between the plagiarism problem and their willingness to respect the rights of others.

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However, as far as copyright is concerned, the British Copyright Council believes that the correct balance has been established under the law applicable in the UK and the effectiveness of the “three step test” for copyright exceptions and limitations¹ is nowhere better illustrated than in the field of education.

The British Copyright Council also commented on the question of technological change and the use of copyright material in the field of education in its response to the European Commission’s i2010 Digital Libraries consultation.

To those comments we would add that the choice already available to rights owners has enabled new projects such as Creative Commons licences and services to make available certain material for copying and adaptation for educational use to be developed. The choice has proved an enabling force, without unduly threatening the ability of rights owners to develop new (and sometimes parallel) goods and services through which to interest consumers in their work.

A further example of a good balance between the interests of rights owners and those of educational users was established in Section 35 and paragraph 6 of Schedule 2 to CDPA 1988².

Those sections recognised that certain acts could be carried out by or on behalf of an educational establishment without infringing copyright, unless there is a licensing scheme certified for the purposes of the Act, providing for the grant of licences.

This system has worked well for both educational establishments and rights owners³. In practice rights owners have been given the incentive to act collectively in order to operate an economically effective licensing scheme for the narrow areas of licensing provided for by Sections 35 and paragraph 6 of Schedule 2, whilst at the same time being able to preserve their entitlement to secure fair compensation for the uses licensed.

- 1 See Article 5.5 of the EC Copyright Directive “apply in special cases which do not conflict with the normal exploitation of the work or subject-matter and do not unreasonably prejudice the legitimate interests of the rights owner.
- 2 Option afforded rights holders of either waiving rights or participating in a certified licensing scheme covering the off-air recording of broadcast works for educational use.
- 3 See the educational licensing scheme operated by the Educational Recording Agency Limited, www.era.org.uk.

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

In its recent submission to the DCMS and EC Information Society Department consultation on the creation of digital libraries under the EC i2010 programme, our member ALCS argued for the need to find solutions to enable copyright protected works to be included, in appropriate circumstances. The text of that submission is as follows:

“If copyright works are to be archived on a large scale, and made available to users for access in digital form, the main issues to address involve the legal and operational framework within which these activities are to take place. ALCS would strongly argue that the necessary elements of this framework already exist. In the analogue environment libraries and archives have traditionally selected content for preservation and acted as gatekeeper between the various forms of content

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and the user. We submit that the same expertise and resources can and should be employed in the context of digital libraries. Similarly new initiatives should recognise the facility offered by collective rights management organisations to a) clear the secondary rights in large repertoires of works, for digitisation and making available, and b) provide trusted and reliable mechanisms for payment of any resulting remuneration fees.”

- **Copyright – digital rights management**

Background: Increasingly digital media content is distributed with digital rights management (DRM) technologies that can enable rights-holders to track usage and prevent unlicensed copying by technological means.

However concerns have been raised about interoperability and that such technologies may impair the content consumer’s legal rights. For example they may be unable to take into account exceptions to copyright, the ultimate expiry of copyright term, or the future evolution of technology.

They may therefore undermine legitimate rights to access digital content, now and in the future. (NB: We are aware of all formal submissions that have been made to the All Party Parliamentary Internet Group on this issue.)

Do you have a view on how the use of digital rights management technologies should be regulated?

The following are the key points made in the British Copyright Council’s submission to the All Party Parliamentary Internet Group:

- i. Need for a better understanding of the term “Digital Rights Management Systems”;
- ii. Digital Rights Management Systems do not distort the balance of copyright law;
- iii. Content sharing licences, such as Creative Commons, are based on the existing framework of copyright legislation;
- iv. Digital Rights Management Systems are beneficial to copyright deposit libraries which should work closely with other stakeholders to maximise those benefits;
- v. Changes in technology pose a problem for all but interoperability reduces the likelihood of discontinuity;
- vi. Stakeholder initiatives lead the way in using Digital Rights Management Systems to improve access for people with impairments;
- vii. Legal protections against the circumvention of Digital Rights Management Systems are already in place and further legal protection would be premature;
- viii. Prevention of the unintentional consequences of new technology is the function of consumer law;
- ix. UK Parliament has a role in ensuring that all stakeholders are properly informed and consulted, particularly individual creators and performers and others involved in the publication and dissemination of creative and cultural products.

We would add the following in relation to particular issues:

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To what extent DRM systems should be forced to make exceptions for the partially sighted and people with other disabilities

The legal framework on the UK and EU level exists and should continue to be applied in practice.

In practice publishers have shown very little interest in technical protection measures, and actively work in partnership to make publications widely accessible to the broadest possible range of people. Rights metadata management can greatly assist with this. The “Publishing Partnership” is an on-going collaboration between the Royal National Institute for the Blind (RNIB) and the UK publishing industry. This project will use rights management metadata and content from publishers to enable RNIB to provide a wide-range of accessible formats to visually impaired and partially sighted people.

How copyright deposit libraries should deal with DRM issues

Libraries and rights holders already discuss the relevant issues in a number of forms, some voluntary and some supported by specific legislative provision. In particular, appropriate application of technical protection measures and rights management information when published works are made available in digital format for the convenience of users on the premises of libraries. These discussions also include Legal Deposit libraries and in particular include the Joint Committee on Legal Deposit (JCLD), involving representatives of the library and publishing communities. The respective expertise of the JCLD has enabled pilot deposit projects to be put in place to establish practicalities over access to material without endangering future investment in new work.

How consumers should be protected when DRM systems are discontinued

It is our view that the problems caused by discontinuance of technological platforms are not only a matter related to copyright and to DRM systems but concern more widely the rapid obsolescence of all technological solutions and platforms.

Companies which develop products that fall under a generic heading of “Digital Rights Management” are generally not the owners of copyright in the materials to which they are applied. Hence the existence or discontinuation of Digital Rights Management will not influence the availability of specific copyright works but only particular formats. However, there is the facility for consumers who for example change their pc to obtain a reissued licence for the new machine, effectively transferring an existing licence. Additionally, technical protection measures have no impact on traditional formats such as books. However, this question highlights the importance of interoperability of Digital Rights Management systems - which cannot be driven by content owners but by manufacturers of hardware and software - and the promotion of common standards by the market. A number of industries – including the UK record industry – are involved in the work of organisations that are developing common standards for DRM systems.

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Access

The recent All Party Internet Group inquiry into Digital Rights Management raised a number of questions relating to access to copyright works which are made available with technological protection measures. For example, whether new types of content sharing licence (such as Creative Commons or Copyleft) need legislation changed to be effective? The existing system of copyright licensing (including the legitimate versions of content sharing licences presumably referred to in the question) has evolved over many years of practice based on internationally established copyright legislation. This system has already enabled these new forms of licence to be developed. Consequently, there is no case for legislative changes.

- **Copyright – orphan works**

(a) **Have you experienced any difficulties in identifying the owners of copyright content when seeking permission to use that content?**

We are aware of the problem which honest users, wishing to get permission, face when they are unable to find the right owner and then must choose between infringement or desisting from use.

The term “orphan works” is not a category of works defined by CDPA 1988 and is not a familiar one in English copyright law. It is our understanding that the term was used in a report on the subject published by the US Copyright Office in January 2006 and describes a situation where the owner of a copyright work cannot be identified and located by someone who wishes to make use of the work in a manner that requires permission of the copyright owner. We adopt that meaning for the purpose of this submission, but with the understanding that it applies to all subject matter protected under CDPA 1988 (i.e. embracing all rights established under the Act).

The British Copyright Council agrees that this issue warrants further consideration. A “one size fits all” solution may not work. In particular we recognise the difficulties in the fields of photography and illustration where creators are rarely given contractual credits for their work and have no entitlement to be identified under moral rights¹, yet where re-use (i.e. sales of ‘stock’ images) is an important source of revenue for those creators.

In our view the matters to be reviewed fall into two groups. Firstly, in relation to orphan works, what steps can the potential user be reasonably expected to take in order to identify and locate the copyright owner.

Secondly, when the potential user has, without success, taken reasonable steps to identify and locate the copyright owner, what provisions can be made to facilitate the potential user’s lawful use of the material?

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We also recognise there are particular problems in relation to the determination of works in copyright in the case of unpublished works, which though the authors have been dead for more than 70 years, are still in copyright².

1. CDPA 1988 Section 79(6) exception to right to be identified as the author.
2. Letter by Professor J.A.L. Sterling published in The Times, 2 December 2005.

(b) Do you have any suggestions on how this problem could be overcome?

Collecting societies as a source of information on rights owners

This problem has been alleviated to a degree by the building and maintaining by collecting societies of databases of work and rights holders. Societies' databases are essential tools for their licensing and royalty distribution and much resource is invested in ensuring that data is as comprehensive and accurate as possible. As such collecting societies are often the first port of call for any enquirer seeking information as to copyright ownership of a particular work.

Application to the Copyright Tribunal

In our view consideration should be given to the statutory establishment of a system (on the lines of CDPA 1988 Section 190) under which the potential user may apply to the Copyright Tribunal for the necessary permission, the application to be advertised to allow the owner to intervene; where no intervention in the statutory period, a statutory licence to issue at a remuneration rate fixed by the Tribunal. Royalties collected to be held for claim for a statutory period, and then distributed according to an approved scheme for the benefit of copyright owners and performers. Such a licensing scheme would be structured to conform to the "three step test" (Berne Convention, Article 9(2)).

Limitation on remedies available to copyright owners

Consideration should be given to the proposals now under consideration within the USA whereby a limitation is provided on the remedies that are available for copyright infringement if the owner of orphan works cannot reasonably be identified, works are used, and the owner subsequently seeks to assert their copyright and make a claim against the user. The limitation under the US proposal would provide that, in cases of commercial use, there would be no claim for statutory damages (a major concern under US law) and that any remedies which a copyright owner may obtain would be limited to a reasonable licence fee which would be chargeable at the time the copying first occurred.

Further, under the US proposal, where use of orphan works is non commercial, no monetary relief should be available provided that the orphan work is not further used, removed, and is removed or taken down expeditiously when the user has received notice from the copyright owner.

In this context the provision under consideration within the USA whereby:

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- i) there must be evidence of a “reasonably diligent search” for the rights holder, or for permission; and
- ii) there will be a sunset clause in order that the provision will be kept under review;

will be important, and should be considered in any consultation about the impact of any change to be considered for the purposes of legislation applicable within the UK.

Conclusion

Without detracting from the scope of Article 5 of the EC Copyright Directive, the British Copyright Council would suggest that the above proposals are worth further consideration. Clarifying the position may help improve transparency within the copyright licensing system, and encourage rights owners to ensure that their rights ownership is traceable by ensuring that their interests are noted on industry databases where appropriate.

- **Copyright - licensing of public performances**

Please see the response from our member the MCPS-PRS Alliance on this issue.

- **Designs – registered designs and unregistered design rights**

- (a) **To what extent does your organisation rely on registered designs? And on unregistered design rights?**
- (b) **To what extent does your organisation register its design at the European rather than national level?**
- (d) **Could the UK registered design be improved to work better alongside the European system?**

Although a number of associations belonging to the BCC include designers within their membership, the Council has, a rule, confined the expression of its views to copyright and related rights, rather than the registered rights provided by the IP system. However, in view of the close relationship between artistic works and designs, we make the following general observations.

The distinction between designs and other forms of artistic works covered by copyright was widely understood before the amendments to the law brought about by the 1988 CDPA, despite certain anomalies resulting from court decisions. The introduction of the unregistered design right in 1989 considerably complicated the position, especially for non-specialists and the further amendments necessitated by the Designs Directive exacerbated the situation. If the law is to be understood by those it is intended to benefit, drastic simplification is required. However, unlike Community unregistered design, the UK unregistered design right has the advantage of protecting designs before they are published

Where copyright continues to apply to designs (including particularly all graphic works, surface decoration and works of artistic craftsmanship, as well as photographs and works of fine art), the position remains generally clear and satisfactory.

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- (c) **To what extent does your organisation rely on the European unregistered design right rather than the national UK unregistered design right?**
- (e) **Could the UK unregistered design right be simplified to work better alongside the European unregistered design right?**
- (f) **Do you see a useful role for the UK unregistered design right alongside the European design right?**

Designers working alone and as SMEs are likely to prefer a system which provides automatic protection, obviating the need for (and cost of) registration.

However, the differences between the unregistered rights provided by the European and UK systems make it difficult to compare the two. The European right may be of interest to designers working in international markets, but its attraction will be reduced by its limited term.

Many UK designers confine themselves to national markets and here the UK unregistered design right has a number of advantages. In particular, the longer term (although this has always been seen as arbitrary and undermined by the availability of licences of right in the final five years) and the protection it affords in the research and development phase of the work.

We believe that this right will continue to be regarded as important by UK designers.

- **Coherence between Competition Policy and IP Policy**

- (a) **Has your organisation experienced any activity linked to IP rights that you regarded as unfair competition?**
- (b) **How did you deal with this problem?**
- (c) **Was competition law effective at controlling this behaviour?**
- (d) **Should competition law have a greater role to play in regulating IP?**
- (e) **How would you see the system working?**

This series of questions would seem to conflate two separate issues – one being the law of unfair competition, and the other the general law of competition. The former is a part of the law of intellectual property, but is of much greater scope in other European countries than it is in the UK, where it is represented by the law of passing off. As such the law of unfair competition supplements other intellectual property laws. In contrast the general law of competition can act as a constraint on the exercise of intellectual property, as has most often been seen in European Community law, as in the *Magill* case under Article 82 EC Treaty.

We believe that there is also a need to balance between the benefits of collective licensing with the apparently contradictory pure competition law principles.

Thus, and contrary to the suggestion implicit in the question “should competition law have a greater role to play in regulating IP?” we see competition law as already performing a considerable role in overseeing the proper exercise of IP.

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- **Parallel Imports / International Exhaustion**

Background: European law does not allow firms to use trade mark or copyright law to prevent their goods sold in one EEA Member State from being imported and resold in another Member State – i.e. they are not able to segment the EU market. However European law does allow the use of trade mark and copyright law to restrict the imports to EU Member States of goods sold outside the EEA. It also specifically inhibits EU Member States from legislating to remove such import restrictions at the national level – so called “international exhaustion” of trade marks or copyright. There has been a good deal of debate, both here in the UK and at EU level, about the costs and benefits of removing restrictions on parallel imports. There is a further issue of firms taking advantage of variations in prices on pharmaceutical products across the EU and repackaging drugs bought cheaply elsewhere within the EEA to resell within the UK.

- (a) **Has your company been affected by parallel trade?**
- (b) **What would be the impact on your organisation of a change in the current rules?**
- (c) **What evidence is there of the costs and benefits, both for consumers and firms of the current rules?**

It is important to distinguish between copyright and trade marks in the context of this issue. International exhaustion has never been part of UK copyright law, and we do not believe that such status quo has ever seriously been questioned. In contrast it is only in relation to trade marks that the effect of European Community law has been to preclude Member States from applying a doctrine of international exhaustion. The main controversy in this area in recent years has thus been in relation to trade marks, as to which we express no view. Lest it be in doubt, we are strongly opposed to any attempt to introduce international exhaustion for copyright.

OTHER ISSUES

We note that respondents to the consultation have been invited to raise other points which they feel may be of interest to the Gowers Review of IP.

- **Making Available**

The British Copyright Council regards the legislative identification of the place of “making available” as of major and urgent importance.

While by Article 3 of the Information Society Directive, the restricted act of communicating the work to the public embraces “making available”, the Directive provides no definition of the places where such making available takes place. Such definition is crucial for rights owners and consumers, and should be incorporated in legislation by provisions which clarify that such making available occurs, *inter alia* (1) at the place of upload of the protected material to the server, site or sites, (2) at the server site or sites at which the protected material is or may be accessed, and (3) at the end user reception point or points where the protected material is or may be accessed.

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The liability for “making available” as described is on the person or persons so making the communication, not on the end user who merely accesses.

- **Review of Database Directive**

The Commission’s review of the Database Directive has raised concerns for many British Copyright Council members. It is not thought that the Commission has been able to fully consider the variety of ways in which the *sui generis* right has application. Database protection does not just have application to entirely new databases, but is important in providing a climate for optimisation of and investment in existing databases. Given the limited data available to the Commission, a fuller regulatory impact assessment would be warranted before the Commission proposes taking any action other than to leave matters as they are. The British Copyright Council would refer the Review team to its recent submission on this issue attached as Appendix II.

25th April 2006

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Appendix I

CREATE for the future

Tools for innovation, enterprise and reward in the 21st century.

C Creativity improves the quality of our lives, and our economic prosperity at home and abroad.

R Respect for rights promotes investment in innovation, empowers artists, authors and rights holders to receive appropriate reward and respect for their work, and stimulates choice of access for consumers.

E Education is vital to help people understand what intellectual property is, and how, like physical things, it is relevant to and improves their everyday lives.

A Access to art and creativity enhances diversity of expression and quality of life for everyone when properly balanced with reward for those creating and investing in new work.

T Trust between the creators and consumers of intellectual property is to deliver access to creativity with respect for rights.

E Economic benefits from intellectual property must be publicly recognised by government and understood by the community, if they are to continue to provide the new jobs and the growth which have resulted from intellectual property in the last decade.

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Appendix II

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Response to the First Evaluation of Directive 96/9/EC on the legal protection of databases

The British Copyright Council is an association of bodies representing those who create, or hold interests or rights in, literary, dramatic, musical and artistic works in which rights of copyright subsist under the United Kingdom's copyright law (Copyright, Designs and Patents Act 1988), and those who perform such works. The British Copyright Council also numbers amongst its members bodies representing publishers of literary works. We thus have an interest in the subject of database protection, and wish to make submissions in relation to the Commission's First Evaluation of Directive 96/9/EC on the legal protection of databases of 12 December 2005.

As a general point, as representatives of creators of copyright works and publishers of literary works, we are concerned that the future development of this area of the law should be driven by the needs of those, such as our members, for whom the Database Directive was originally envisaged, rather than by the concerns expressed on behalf of those who have subsequently seen fit to seek to establish and to structure business models on their understanding, since proved to be wrong, of the application and scope of the sui generis right that it established. As our members come from a legal tradition which uniquely, as the Commission Evaluation recognises, was required by the Database Directive to "lift the bar" in terms of the threshold for copyright protection for databases they have a particular interest in and perspective on such matters.

Thus, whilst we applaud the open way in which the Commission Evaluation recognises that the judgments of the European Court of Justice in the *BHB - William Hill* and *Fixtures Marketing* cases have given occasion for reflection as to the sui generis aspect of the measure, we are equally concerned that nothing more be done to disrupt the framework within which our members have been operating since the introduction of the Directive, especially since the sui generis right introduced by it was in part intended to fulfil the role met uniquely in our jurisdiction by the law of copyright, a role which the Directive removed.

In particular we would wish to emphasise the very special nature of those entities that sought to assert the sui generis rights in those cases – in essence entities in the area of sports who devised the very fixtures information that they sought to protect by means of the sui generis right. Thus we do not regard the judgments of the European Court of Justice as in any way adversely impacting those publishing activities that involve the aggregation of pre-existing content. Indeed, we see such judgments as strengthening the sui generis right as applied to such activities, in that these adopt a broad interpretation of the restricted acts under the sui generis right that favours the rights owner.

In the light of these considerations, we would strongly urge against the Second Option presented in the Commission evaluation, the withdrawal of the sui generis right, as this would have the effect of depriving our members of a protection that was in part intended to fulfil the role previously met uniquely in our jurisdiction by the law of copyright, which role the Directive removed.

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Neither do we see the First Option, the repeal of the whole directive, as realistic, as the clock cannot be turned back in practice and the law reinstated as was, because much of that law will have rested on tacit assumptions as to its scope that may now, in the light of what has happened, be open to challenge.

We also have serious reservations about the Third Option, that of amending the sui generis provisions. Not only will this reopen the whole issue of sui generis database protection again, which might ultimately result in reduced protection, but it will inevitably introduce new concepts and possible uncertainties which will themselves require interpretation by the European Court of Justice.

We thus favour the Fourth Option presented in the Commission Evaluation, which is to maintain the status quo. However, certain questions arising from judgments of the European Court of Justice in the above cases should be authoritatively clarified, namely:

- (1) The European Court of Justice refers to “the creation of data”. The word “creation” in copyright/author’s right is applied exclusively in the context of originality: *vide* the criterion of “authors own intellectual creation” in the Computer Program, Term and Database Directives. Does the Court’s use of the term “creation” in relation to data imply that data may constitute an original work? If not, this should be clarified and a more suitable term, e.g. “production” should be used in place of “creation”, which term we consider to be inappropriate and confusing in this context.
- (2) Is the investment in the obtaining of information about facts which already exist (e.g. the height of mountains) to be excluded from the assessment of qualifying investment?
- (3) How is investment in “creation” of data (to use the European Court of Justice term) to be distinguished, as a matter of practice, from investment in obtaining data?

Authoritative answers to these questions will ensure harmony of interpretation throughout the Community, and avoid the necessity of amending the Database Directive. We would therefore suggest that consideration might also be given to the preparation of a Commission interpretative communication which might serve to clarify the scope of the Directive in the light of the decisions of the European Court of Justice with particular reference to the questions posed above and to those areas which the Directive was intended at the outset to address.

30th March 2006
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Appendix III

The following organisations are members of the British Copyright Council:

Association of Authors' Agents
Association of Illustrators
Association of Learned and Professional Society Publishers
Association of Photographers
Authors' Licensing and Collecting Society
British Association of Picture Libraries and Agencies
British Computer Society
British Equity Collecting Society
British Institute of Professional Photography
Broadcasting Entertainment Cinematograph and Theatre Union
Chartered Institute of Journalists
Design and Artists' Copyright Society
Directors' and Producers' Rights Society
Equity
Mechanical Copyright Protection Society
Music Managers' Forum
Music Publishers' Association
Musicians' Union
National Union of Journalists
Performing Artists' Media Rights Association
Performing Right Society
Periodical Publishers' Association
Publishers Association
Publishers' Licensing Society
Royal Photographic Society
Society of Authors
Writers' Guild of Great Britain