

**BFI Response to**

**the IP All Party Group inquiry into**

**'The Role of Government in Protecting and**

**Promoting Intellectual Property'**

**March 2012**

## **Executive Summary**

We seek an intellectual property framework that benefits the public, audiences and users in research, education, industry and archiving alike, whilst providing effective protection of the interests and investment of rights holders.

Enhanced access will have many significant benefits such as helping the BFI and other archives across the UK to enhance access to materials they hold, to the benefit of the public, learners and the creative industries. It will enable learners to make more effective use of a wide and diverse range of films and moving images.

But such access needs to be accompanied by policies which ensure that copyright infringement and theft do not continue to harm the growth of film and the creative industries more generally.

There have been a number of Government reviews and consultations on intellectual property in recent years. It is now time for legislation, based on the extensive evidence gathered, to be drawn up and implemented, as soon as possible.

## **About the BFI**

The British Film Institute (BFI) is the lead organisation for film in the UK. Founded in 1933, it has always been a champion of film culture in the UK but in its new wider role, it has the additional purpose of supporting and helping to develop the entire film sector.

The BFI's Royal Charter emphasises its responsibilities to develop the arts of film, television, and the moving image. Its role as a Government arms-length body and distributor of Lottery funds for Good Causes, has widened the BFI's strategic focus.

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### ***1) What should the objective of IP policy be?***

The BFI strongly believes that the UK needs an intellectual property regime that maximises public access while protecting effectively the interests of rights holders – for example by tackling copyright infringement and theft.

A dynamic knowledge economy requires a regulatory framework that enables the UK to benefit from all the advantages of the digital age. The Hargreaves Review, the Government's response to the Hargreaves Review and its subsequent proposals for new copyright exceptions brings that a step nearer.

The BFI remains committed to the basic principles of the existing copyright system but we want to see the rapid introduction of measures which balance the rights of creators and investors with the opportunities to significantly expand public access to film in all its variety in a digital era.

This will help to create an intellectual property regime in the UK that benefits the public, audiences and users in research, education, industry and archiving alike, whilst providing effective protection of the interests and investment of rights holders. This is particularly important given the quantum of public money invested in film and other forms of creative IP.

A key policy objective should be to ensure that new measures are suitably future-proofed so that they are broadly capable of maintaining their relevance given the pace and breadth of change, especially as regards the way in which people wish to use, learn from and share material in a digital age. Like the Government, we strongly believe that all policy should be evidence-based.

It is extremely disappointing that no significant legislation has yet gone on to the statute book to reform the core intellectual property framework since Andrew Gowers' report recommending significant changes was published in December 2006. We hope that the Government's current consultation on changes to copyright regime arising from Hargreaves will rapidly lead to legislation.

Separately, provisions in the Digital Economy Act, which are designed to help tackle copyright infringement and theft have yet to be implemented (as a consequence of legal challenges) despite the Act receiving Royal Assent in April 2010.

***2) How well co-ordinated is the development of IP policy across Government? Is IP policy functioning effectively on a cross departmental basis? What changes to the machinery of government do you believe would deliver better IP policy outcomes?***

IP policy now straddles both the Department for Business, Innovation and Skills (BIS) and the Department for Culture, Media and Sport (DCMS). For the moment, we think that the co-ordination of policy is working relatively well and we don't see specific need for a change of Government machinery in this regard.

***3) There have been numerous attempts to update the IP framework in the light of changes brought about by the digital environment. How successful have these been and what lessons can be learnt from these for policy developments?***

As stated in the response to Question 1, to date these attempts have not resulted in legislation, aside from provisions in the Digital Economy Act which have yet to be implemented. While we appreciate that changes to the IP framework are often complex because they involve reference to European legislation and international treaties we would like to see the Government making much greater efforts to ensure that policy is designed and implemented in a much more timely manner – especially given the very rapid pace of change in a digital era which presents both opportunities and challenges to this framework.

***4) How effective is the Intellectual Property Office and what should its priorities be?***

The UK IPO is generally effective and we support its work. Its priorities should be to consult on and help implement any proposed Government legislation on intellectual property.

***5) UK IP policy sits within European and supranational agreements. How should the UK government co-ordinate its policy at an international level and what should it do to promote IP abroad to encourage economic growth? Do you have examples of good and poor practice in this area?***

The BFI believes that the Government should base its activities internationally on the principles set out in our response to Question 1 above.

**6) Protecting, and enforcement of, the IP framework often sits in very different departments to those that develop IP policy and those that have responsibility for the industries most affected. What impact does this have and how can it be improved?**

See answer to Question 2.