A Communications Review for the Digital Age
Response from The Publishers Association

June 2011

Introduction

The Publishers Association ('the PA') is the representative body for the book, journal, audio and electronic publishers in the UK. Our membership of 113 companies spans the academic, education and trade sectors, comprising small and medium enterprises through to globally successful companies. The PA's members annually account for around £4.6bn of revenue, with £3.1bn derived from the sales of books and £1.5bn from the sales of learned journals.

The PA welcomes the opportunity to contribute to this Communications Review and looks forward to contributing as the Review progresses.

The UK publishing industry is truly world-leading, exporting more published content than any other nation in the world, including the US. UK publishing is recognised around the world as a mark of quality, particularly in the academic, professional and educational sectors where it is seen as the gold standard. We welcome the Review's stated aim of ensuring that "UK communications and media markets [are established] as amongst the most dynamic and successful in the world" and we firmly see ourselves as sitting within that constituency.

Publishing is a vital part of the UK's creative and knowledge economies. Trade publishers works in fiction and non-fiction are not only enjoyed by millions in their own right, but also often seed ideas in television, film and other areas of the creative economy. And in the scientific community, academic publishers work with learned and professional societies to ensure the evaluation, dissemination and curation of research. There are a number of additional 'spill-over' effects on other parts of the economy, society, culture and the future prospects of the UK's citizens. Literacy in childhood has been demonstrated to be the best indicator of an individual's future life chances. The outputs of publishing carry beneficial impacts into many other sectors, such as films, music, merchandising and theatre, as books often seed ideas in other areas of the creative economy. Publishing is not just about creativity and fiction: it also drives innovation, research, development and academic endeavour through the publication of quality journals and peer-reviewed research.

The UK publishing sector remains vibrant, despite the global downturn. As we come out of recession and into recovery, the UK should be looking to these growth industries to provide new jobs and economic output which can champion 'UK Plc' around the world. Promoting and supporting the knowledge economy will be key to helping the UK on the road to recovery, and publishing is ideally placed at the crossroads of creativity, knowledge and innovation to play a large role.

We have responded to the consultation questions which we feel are most appropriate for our sector, so have necessarily omitted to answer some questions where we felt our views were not as relevant.

Response to Review Questions

Q4. What barriers can be removed to facilitate greater exports and inward investment and make the UK more globally competitive in digital communications?

The UK is the world leader in terms of the value and volume of published content exported abroad, beating other English-speaking nations such as the US. Despite this, there remains scope for an increase in exports.

Currently, legitimate services (both digital and print) are forced to compete with illegal operators which infringe the copyright of UK content owners, most of which are based outside of the UK. More robust enforcement, particularly at a UK and EU level, would assist industry in tackling this challenge and ensure that consumers could have confidence in their online purchases, and that taxation revenue from legitimate business was increased within the UK and EU.

The current review of the EU Enforcement Directive is encouraging and the publishing industry supports the Commission's efforts to make enforcement of IP rights more robust and appropriate for the challenges of the digital age.

In the UK, implementation of the Digital Economy Act will assist in tackling the problem of online copyright infringement. In addition, Government support for voluntary agreements on site blocking and search rankings is very welcome, as this assists both the content industries and the internet intermediaries in coming to mutually agreeable solutions to tackle the shared problems of enforcement.

In addition, the UK Government should use all the avenues available to it to ensure that the property rights of UK businesses are respected around the world, through EU Free Trade Agreements with third countries, bilateral trade negotiations with individual nations, and regular intergovernmental meetings. The PA welcomed the Government's commitment to creating a network of IP attaches announced in the June 2011 Budget, who will be based in UK embassies around the world and will assist in informing, supporting and advocating for the UK's IP-based industries operating overseas. This is a very worthwhile and practical step in supporting the IP industries overseas and we look forward to working with the Government as this scheme is rolled out.

In our answer to Question 10, we cover other barriers to investment in content, such as lack of access to finance, which could usefully be addressed. In much the same vein, lowering corporation tax and creating other incentives which assist businesses to compete more effectively from a UK base would be welcomed by the industry, as well as ensuring that the UK remains an attractive and welcoming place from which to do business.

Q10. Are there disproportionate regulatory barriers to investment in content? If so, what are they and how can increased investment in UK content production be encouraged?

There are no disproportionate regulatory barriers to investment in content in the publishing industry. There are however non-regulatory barriers.

Instability

Where there are barriers to investment in content, these are mainly driven by a lack of long-term stability and security in the market. Instability stems from uncertainty such as the shape of the IP system in the future (for example, which of the Hargreaves recommendations will be taken forward), the tools which will be available to rightsholders to tackle the challenge of online copyright infringement (for example, when, whether and how the Digital Economy Act will be implemented) and how seriously the UK government will take the issues of IP infringement and enforcement of existing IP legislation online. Investment decisions require long term stability to enable an assessment of risk versus potential reward, and the uncertainty at present continues to challenge the desire to invest from both private investors and companies.

Finance and Entrepreneurship
The ability of small companies to innovate and grow is critically linked to access to finance, be it equity finance or debt funding. Without access to the appropriate levels of capital, all of the essential facets of business, from capital investment and product development to marketing and sales, will suffer. Creative companies, whose potential assets may be nothing more than their intellectual property, have historically suffered from low levels of engagement from venture capital finance. Typically, this is because it is difficult to ascribe value, given the uncertainties around likely returns and the risks involved (notably copyright infringement).

This issue was closely analysed as part of the Creative Economy Programme and is currently being revisited by the CBI and the Department for Business, Innovation and Skills.

Availability of finance has been identified by leaders within the creative industries as one of the key barriers to growth for their business. In a NESTA survey on the issue, 19% of respondents said that access to finance was a barrier to growth, third behind access to potential customers and commercial conditions. Interestingly, larger SMEs have more trouble than smaller SMEs in obtaining finance.[1] It has been argued that SMEs trying to break the ceiling of £300,000 - £400,000 annual turnover may provide the greatest potential for growth once capital has been made available to their needs.[2]

Businesses in the creative industries find obtaining finance difficult through both formal (through investors, venture capital, bank loans or bank overdrafts) and informal (from angel investors or intercompany financing) sources.[3]

Formal finance is difficult to obtain because of the difficulties in valuing IP as a balance sheet asset and the risk of investing in a 'hit' or 'flop', with many investors remaining "unwilling to consider creative industries as an investment asset class." As a result, where formal financing is made available, this is usually at a significantly inflated cost to the creative enterprise. Both the unavailability of finance and the high cost of available finance have a restrictive effect on growth in the sector.

Informal capital, particularly that offered by angel investors, suffers from similar restraining factors. The Work Foundation report commissioned for the Creative Economy Programme by DCMS found that "the high risks in many creative industries deter many angels from looking at creative businesses as investable propositions. Even angels with industry-specific expertise can be highly risk-averse." Leaders within the creative industries have also observed that finance between companies has become significantly scarcer since the arrival of more multi-national corporations into the sector, with large companies preferring to purchase smaller companies, rather than extend finance to them.[4] The lack of available informal capital stifles growth amongst innovative SMEs in the creative sector.

A variety of different reports have recognised access to finance as a major barrier to growth within the creative industries, including the EU Commission's recent Green Paper on *Unlocking the potential of cultural and creative industries.* The report specifically cited the problem of valuing

[1] NESTA 'Creative Businesses Research Report', ICM report prepared for NESTA, 2006, page 14
[2] Clayton, L., Mason, H. (2006), *The financing of UK Creative Industries SMEs*, London: BOP, Pembridge, page 11

[3] *Staying ahead: the economic performance of the UK's creative industries*, Work Foundation, page 155
[4] CBI roundtable on access to finance, November 2010

copyright as an asset and recognised the need for "improved awareness of the economic value and potential of CCIs [cultural and creative industries],"[5]

Q12. What barriers are there to innovation in new digital media sectors, including video games, telemedicine, local television and education?

The rights offered by the IP framework in the UK have helped to drive innovation and experimentation in the publishing industry, and continue to do so. It is only through the robust rights provided by copyright that investors and businesses are able to take the risks necessary to invest in new business models, products and services.

Publishing has maintained its position ahead of the UK GDP's growth curve by ensuring that it makes the most of the opportunities for innovation, is quick to grasp new opportunities and seize on new technologies.

A passion for innovation lies at the heart of the British publishing sector: long before other creative businesses were encoding their works for use in the digital environment, publishers in the academic world were developing ways to ensure that their content was available to researchers online. Now, some fifteen years on from those first digital steps, all parts of the publishing world are finding new and exciting ways to deliver their works to their readers. So whether it is a picture book for toddlers or a database of academic literature for PhD students, the service is tailored to the expectations and demands of the reader. This gives rise to very different reading experiences, but demonstrates the sheer flexibility of thinking and design at work in publishing.

Some examples of this innovation are:

- Leading scientific publishers like **Wiley** and **Elsevier** have developed comprehensive world-class online access to their research. The ***Wiley** Online Library* allows access to over 4 million articles from 1500 journals as well as 9000 e-books, and hundreds of encyclopaedias, laboratory protocols and databases. It supports a variety of monetisation models, including subscription, online advertising, individual article sales (PayPerView or pre-bought tokens) and author-funded open access.

- **Elsevier's** *ScienceDirect* is the world's largest database of full text peer reviewed scientific journal articles and holds around 10 million articles in digital format, some dating back to the 1820s. Around 250,000 new articles are added each year. *ScienceDirect* provides extensive online functionality to 10 million users globally, such as live links to cited articles, RSS feeds, and e-mail alerts. *ScienceDirect* delivered over 600 million full text articles downloads in 2010, i.e. over one and a half million article downloads per day and has delivered over 3 billion downloads since 1999.

- But it is not just the academic publishing world which is developing new ways of delivering their content. **Faber and Faber** has collaborated with the technology firm Touch Press on the publication *Solar System* for the iPad. The publication fuses Faber's literary experience with Touch Press's brilliance in interactive design.

- Children's publishing is a particular area where the development of e-reading technology throws up exciting opportunities for innovating how the content is enjoyed by the reader. One example of this is with **Penguin's** highly popular *Spot the Dog* books, which are being successfully transformed for the digital market. The *Spot Goes To School* picture book app

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[5] Green Paper on *Unlocking the potential of the creative and cultural industries*, EU Commission, page 12

allows children to swipe through the story, touch the screen to lift flaps and interact with the story through enhanced elements built into the app. The app provides an entirely new and modern domain for the Spot the Dog character to be enjoyed by future generations of children. Children can shake the screen to mess up Spot's room and search for interactive elements embedded on each page. Skills such as coordination and observation are encouraged through the app, and parents are given guidelines on usage.

Q13. Where has self- and co-regulation worked successfully and what can be learnt from specific approaches? Where specific approaches haven't worked, how can the framework of content regulation be made sufficiently coherent and not create barriers to growth, but at the same time protect citizens and enable consumer confidence?

The PA is committed to finding self-and co-regulatory solutions to IP protection as well as seeking legislative solutions when appropriate. It is for this reason that the PA operates a Copyright Infringement Portal (CIP) which serves notices of infringing material to sites and ISPs, allowing them to take action to remove the infringing content from their domain. In 2011, the CIP has so far served notices on just over 53,500 web pages. In the vast majority of cases, those who own the domains or ISPs are responsive and remove infringing content quickly, ensuring that the internet is safer for consumers and continues to bring benefits to UK Plc.

Through our membership of the Alliance Against IP Theft, we are also working with Nominet to assist them in creating an internal abuse policy to combat sites which are egregious offenders in terms of copyright or trademark infringement.

The PA is one of a number of rightsholder organisations engaged with ISPs in pursuit of the development of a voluntary code on site-blocking, which would seek to expedite the process prior to application to the High Court.

We are committed to working with intermediaries, such as ISPs, advertisers, search engines, social media networks, e-commerce sites and financial networks, to help deliver a digital environment which promotes legitimate commerce and discourages fraud, theft and other illegal or illicit activity. The Government has a key role to play in bringing groups together to encourage dialogue to help deliver that environment. We would hope that this type of dialogue prevents the need for legislation, but experience also notes that ultimately a backstop of legislation can be required both at a national and EU level. We would therefore hope that as the Communications Review progresses, the Government encourages more discussions with the intermediaries mentioned as an alternative to legislation, but that it holds open the option of such legislation to help maintain momentum.

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