

Submission to the Independent Review into IP and Growth

Introduction

The All-Party IP Group has taken a keen interest in the many different reviews that have looked at the UK's IP framework in recent years. We are not providing a detailed response to the independent inquiry being led by Ian Hargreaves, but believe it is important that the review recognises the political importance attached to IP policy.

We see it as a positive trend that IP, which not many years ago was seen as a subject that was the preserve of a small band of technical legal experts, is now seen as a mainstream topic that generates significant debate. The fact the UK has an IP Minister demonstrates that it is an issue of importance to Government and Parliament, as is the existence of an All-Party Group.

The importance of IP

Debates around IP are important to Parliamentarians because the ability to protect and monetise IP rights is a fundamental foundation on which our economy is built. Without intellectual property laws, our economy would wither and be at the mercy of those who would copy and reproduce, often at much lower cost, without remuneration back to the creator. A strong intellectual property framework is therefore fundamental to UK growth and is responsible for much of the "added value economy" that creates income for our companies, provides employment, generates taxation and creates profit that can be reinvested in the development of further products, services and businesses – which in turn rely on IP.

However, it is important to remember that while intellectual property law is the means by which we as a country protect our intellectual property or ideas, it does not in itself create those ideas. There is, on occasion, confusion about this fact. It is not the law that creates ideas or economic output, that is what artists, scientists, designers, directors, authors and musicians do alongside manufacturers, retailers, distributors and exhibitors of that IP. The legal framework simply provides the protection that enables creators to exploit and monetise their ideas, should they want to.

IP Law as a macro-economic policy lever

We do not, therefore, see intellectual property law as a macro-economic lever by which growth can be stimulated. Of much greater import in this regard are policy tools such as the taxation system, specific industry targeted policy measures, reducing barriers to capital funding, infrastructure provision and education and skills policy.

It is clear, though, that what reform of the IP legal framework can do is provide a means by which there is a value transfer between different types of company. There has always been a commercial tension between those that own property and those that wish to use that property to improve their own

economic standing. In this regards it is no different from the relationship between retailers and property owners - their leases have legal standing and codify each other's rights, but the monetary level at which they are set is based on commercial negotiation.

Picking winners

It is true that changing IP laws could create a value transfer between those that hold intellectual property and those that exploit that IP in their course of business. As a good example, relaxing copyright law might reduce the revenues of creative industries, but increase those of organisations wishing to use that property at lower cost.

But what needs to be recognised is that this process is not a zero sum game. While economic output might be increased by making it easier to access works that are not currently being exploited, such as finding a mechanism to exploit orphan works more easily for example, the economic benefits of other reforms are less clear. They might, of course, create growth in companies whose business models are based on exploiting IP at the lowest cost or with the lowest legal protection, but only at the cost of those other companies who hold that IP.

We are not clear whether any modelling has been undertaken that provides the macro-analysis of the consequences of changing the IP legal framework and the value transfer that policy decision might lead to. When taxation changes are proposed, the Treasury uses models to forecast both the intended and unintended consequences of those changes. This is to ensure policy does not pick 'winners' at the overall expense of economic output - the well known law of unintended consequences that haunts all policy makers.

Conclusion

Ultimately, we would urge the Inquiry to be very careful in recommending the use of the IP framework as a macro-economic lever through which growth, which we as a group take to mean an overall increase in economic output, is delivered. We do not deny that the digital environment requires industries to find new ways of doing business. We doubt whether a change in IP law would further encourage that process.