



House of Commons
Culture, Media and Sport
Committee

**Supporting the
creative economy**

Third Report of Session 2013–14

Volume I

*Volume I: Report, together with formal
minutes, oral and written evidence*

*Additional written evidence is contained in
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The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Culture, Media and Sport and its associated public bodies.

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The following members were also a member of the committee during the parliament:

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Dr Thérèse Coffey MP (*Conservative, Suffolk Coastal*)
Damian Collins MP (*Conservative, Folkestone and Hythe*)
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The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/cmscom. A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some of the written evidence are available in a printed volume.

Additional written evidence is published on the internet only.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Grahame Danby (Second Clerk), Kevin Candy (Inquiry Manager), Emily Gregory (Senior Committee Assistant), Keely Bishop (Committee Assistant) and Jessica Bridges-Palmer (Media Officer).

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Conclusions and recommendations

Olympic and Paralympic legacy

1. We welcome the efforts of UKTI to promote the UK creative industries overseas and believe international trade missions should contain wide cultural representation. The greatest effort should continue to be directed towards ensuring that UK creative talent and businesses are assiduously promoted not only by UKTI but in all work to promote British business overseas. (Paragraph 14)
2. The excessive constraints imposed by the Olympic No Marketing Rights Protocol and the inadequacy of the Supplier Recognition Scheme mean that the benefits from the participation of UK businesses in the 2012 Olympic and Paralympic Games are not being properly realised. This deeply disappointing state of affairs endangers the economic legacy that British companies in the creative and allied sectors have a legitimate right to benefit from. It reflects badly on the wider Olympic movement that, in other contexts, is all too ready to celebrate individual and collective achievement. (Paragraph 17)
3. We recommend that the Government review, as a matter of urgency, whether the supplier recognition scheme can be improved to meet the objective of allowing British firms to promote their contributions to the 2012 Olympics and Paralympics. This is all the more pressing as firms throughout the UK seek to gain contracts for the next games in Rio de Janeiro. (Paragraph 18)

Copyright protection

4. The relationship between the strength of Britain's creative industries and robust copyright laws is acknowledged by the Open Rights Group which aims radically to liberalise the use and sharing of copyrighted content. While we share the Open Rights Group's attachment to freedom of expression via the internet, we firmly repudiate their laissez-faire attitudes towards copyright infringement. (Paragraph 19)
5. We encourage businesses to use the current law to bring claims wherever it is feasible for them to do so. There nonetheless remains a systemic failure to enforce the existing laws effectively against rife online piracy. (Paragraph 28)
6. We strongly condemn the failure of Google, notable among technology companies, to provide an adequate response to creative industry requests to prevent its search engine directing consumers to copyright-infringing websites. We are unimpressed by their evident reluctance to block infringing websites on the flimsy grounds that some operate under the cover of hosting some legal content. The continuing promotion by search engines of illegal content on the internet is unacceptable. So far, their attempts to remedy this have been derisively ineffective. (Paragraph 31)
7. We do not believe it to be beyond the wit of the engineers employed by Google and others to demote and, ideally, remove copyright infringing material from search engine results. Google co-operates with law enforcement agencies to block child pornographic content from search results and it has provided no coherent,

responsible answer as to why it cannot do the same for sites which blatantly, and illegally, offer pirated content. (Paragraph 32)

8. There should be within Government a powerful champion of IP with a duty to protect and promote the interests of UK IP, to co-ordinate enforcement of IP rights in the UK and overseas and to educate consumers on the value of IP and the importance of respecting IP rights. Logically the IPO should take on this role. Yet too often it is seen as wishing to dilute copyright rather than defend and enforce it. (Paragraph 34)
9. We recommend that the Intellectual Property Office's annual reports include an assessment of the degree of online copyright infringement and the extent to which identified search engines and other internet services facilitate this. We further recommend that the Government consider how it might incentivise technology companies to hinder access via the internet to copyright infringing material. (Paragraph 35)
10. We recommend that the maximum penalty for serious online copyright theft be extended to ten years' imprisonment. Criminal offences in the online world should attract the same penalties as those provided for the physical world by the Copyright, etc. and Trade Marks (Offences and Enforcement) Act 2002. (Paragraph 37)

Discouraging piracy

11. While the practical implementation of the Digital Economy Act continues to be delayed, millions of pounds are being lost by the creative industries with serious consequences for the wider economy. We urge the Government to resolve the current impasse on implementing the Online Copyright Infringement Code without further delay, and in response to this Report to set out a clear timetable for doing so. (Paragraph 41)
12. We recommend that a copyright infringement notification system envisaged by the Digital Economy Act be implemented with far greater speed than the Government currently plans. By targeting information letters to the worst infringers, early implementation will, we believe, serve an important educative purpose which could percolate more widely. (Paragraph 46)
13. We are encouraged by the progress that has been made towards instituting a voluntary system of warning letters following discussions involving internet service providers and rights owners. If this can be achieved by mutual cooperation rather than legislation, it will be a major step forward. However, should voluntary initiatives such as this prove unsuccessful then the Government should ensure that the equivalent measures in the Digital Economy Act are promptly put into effect. (Paragraph 47)
14. Following all the evidence we have received, we think Hargreaves is wrong in the benefits his report claims for his recommended changes to UK copyright law. We regret that the Hargreaves report adopts a significantly low standard in relation to the need for objective evidence in determining copyright policy. We do not consider Professor Hargreaves has adequately assessed the dangers of putting the established

system of copyright at risk for no obvious benefit. We are deeply concerned that there is an underlying agenda driven at least partly by technology companies (Google foremost among them) which, if pursued uncritically, could cause irreversible damage to the creative sector on which the United Kingdom's future prosperity will significantly depend. (Paragraph 55)

15. The Copyright Hub is a welcome development which should prompt the Government to redouble its efforts at working with industry to develop overseas markets for British IP content. (Paragraph 58)
16. We believe participation in a copyright exchange or membership of a collecting society should both be voluntary, though the former will offer rights holders the advantage of visibility and the latter can provide an administratively convenient way of obtaining royalties. (Paragraph 60)

Exemptions from copyright law

17. We are not persuaded that the introduction of new copyright exceptions will bring the benefits claimed and believe that generally the existing law works well. We recommend that the introduction or amendment of copyright exceptions should be contemplated only following detailed impact assessments and after proper parliamentary scrutiny on an individual basis. (Paragraph 68)
18. We are not convinced by Hargreaves' implication that a facility for private copying is factored into the purchase either of music or devices that store, play or copy it. (Paragraph 73)
19. Legal subscription-based cloud services are already emerging from business-to-business deals in which rights holders are properly rewarded. We consider this to be a welcome development that should be encouraged and we would not want it compromised by a hastily drawn private copying exception that the Government might subsequently regret. (Paragraph 76)
20. We believe that there needs to be far more detailed consideration before any private copying exception is introduced. In particular, we recommend that any changes to copyright law should take full account of the material differences between the audiovisual and music sectors and indeed current and likely future technological changes. We do not believe a case has been made for applying a private copying exception to audiovisual content and it should therefore be excluded. (Paragraph 82)

Funding and finance

21. Increasing use is being made of personal data to target online advertising better. While concerns around this have prompted reviews of data protection legislation, we do not think the targeting of appropriate advertising—essential to so many business models—represents the greatest threat to privacy. (Paragraph 85)
22. We are disappointed by the blinkered and unimaginative approach of lending institutions. Investors need to talk to and engage with the creative industries which

represent no higher risk than many accepted by the banks and which may produce considerable rewards. (Paragraph 87)

23. The Government should vigorously promote both the Enterprise Investment Scheme and the Seed Enterprise Investment Scheme. Given their particular importance to creative industries it is essential that their availability, and legitimacy, be communicated to the widest possible range of potential investors. (Paragraph 91)
24. We believe that crowd-funding has significant potential, not least in that it might allow small creative start-up companies to retain control of their IP. The Government needs to examine whether existing financial regulation is hampering the growth of crowd-funding and whether more guidance can be made available to potential investors. (Paragraph 93)
25. We recommend that the Government open and promote a clear channel of advice to creative individuals interested in setting up business—a creative business ‘hub’. We anticipate this will include a key supporting role for public libraries as long-established knowledge centres. (Paragraph 95)

Tax régime

26. We strongly support the film tax credit. The benefits it has brought in terms of film production have spread across the country, from Glasgow to Chatham, from London to Liverpool. (Paragraph 100)
27. Among the initiatives we heard about during our visit to Paramount Pictures is a proposal to include in the opening credits of films some information about the economic benefits and job opportunities a given picture created. This is likely to be an effective way of illustrating the economic value of film productions. We endorse this approach and encourage its wide adoption. Furthermore, we do not doubt that the more people see how many livelihoods depend on receiving a fair reward for intellectual property, the more copyright infringement will become socially unacceptable as well as being illegal. (Paragraph 101)
28. We deeply regret the European Commission’s decision to investigate the validity of the proposed tax relief for video games. Introduction of the credit is long overdue, following its postponement by the Government after the election in 2010. There is clear evidence that such a tax credit would be of great benefit and delays in introducing it are greatly harmful to the industry. We urge the Government to make this point forcefully in its efforts to ensure the video games tax relief gets the go-ahead from the European Commission. (Paragraph 104)
29. We recommend that the Government closely monitor the operation of the new tax reliefs for animation, high-end television and video games. Consideration should be given to applying a lower core expenditure cost to documentaries if it becomes evident, as we believe likely, that they will fail to qualify for relief on a significant scale. (Paragraph 106)
30. The income tax system needs to better recognise the freelance nature of employment in much of the creative sector, and the Government should demonstrate how it will effectively acknowledge and respond to this. (Paragraph 109)

Education, skills and training

31. The broader arts curriculum has been seriously hit by the Government's approach to performance measurement which we deeply regret. The danger remains that schools will in practice see a continued diminution in the provision of dance, drama and other creative subjects. We therefore recommend that arts are added to the five subject areas currently on which the EBacc assessment is based. (Paragraph 114)
32. We welcome a greater focus on computing in schools, not least because, in the digital age, a practical ability to program computers amounts to basic literacy. It is vital that enough teachers are trained to impart to their students a solid grounding in IT and programming skills. (Paragraph 115)
33. Our inquiry has found clear evidence that the Government's focus on subjects like science, technology, engineering and mathematics (STEM) is already having a pronounced impact on the arts and other creative subjects. We believe that the crucial role of arts subjects in a modern education should be recognised and that art subjects should be added to the STEM subjects, changing STEM to STEAM. (Paragraph 117)
34. As it continues to introduce further changes to the national curriculum, the Government must ensure that students up to key stage 3 receive a solid grounding in the arts and design. We believe that students aged 14-16 (key stage 4) must be able to access the widest possible programme of creative subjects to prepare them to play a full part in the knowledge economy. (Paragraph 118)
35. We recommend that school children be introduced to the ideas of intellectual property and the nature of business to gain a better understanding of the importance of creativity both to the learning process and to wider society and the economy. (Paragraph 121)
36. When it comes to strengthening and nurturing apprenticeships, the Government needs to do much more than exhort and encourage industry to participate. Government has to communicate clearly and widely about the opportunities that exist, giving examples of good practice. The case for tax reliefs for companies—particularly in the creative sector—should be examined more closely. (Paragraph 124)
37. Overseas students make a vital contribution to the growth of the UK's creative economy and there are signs that visa and employment restrictions sometimes fail in practice to recognise this. We urge the Government to take more account of the special situation of the creative individuals, many of them uniquely talented, who wish to study and work in the United Kingdom. (Paragraph 126)

Creative hubs

38. While allowing for local concerns, the planning system should adequately recognise the significance of creative industry infrastructure. A useful initial step would be to revisit the advice to local authorities given in the National Planning Policy Framework. (Paragraph 130)

Creative Industries Council

39. We recommend that meetings of the Creative Industries Council should always be attended by a Minister with direct policy responsibility for intellectual property, given the central importance of this to the creative industries. In practice this will mean either the Minister for Intellectual Property or the Secretary of State for Business, Innovation and Skills. (Paragraph 136)
40. We recommend that a Treasury Minister and a Minister from the Department for Education attend at least one meeting of the Creative Industries Council annually. Ministers and officials from other Departments should attend as determined by agenda items. (Paragraph 137)
41. The Creative Industries Council should publish an annual report which includes an update on the implementation of recommendations made by itself and its sub-groups. Such an annual report should be laid before Parliament. (Paragraph 138)

1 Introduction

Creative industries

1. Creativity is the key to both cultural and economic progress in an increasingly competitive world. In the United Kingdom, we rightly celebrate the successes and achievements of our artists and designers, our musicians and engineers, our writers and creative entrepreneurs. Our creative industries define us as a nation and provide a visible celebration of our diversity and ingenuity. If we are to sustain this success, and build on it, the Government must do all it reasonably can to help. Necessarily, this involves examining a wide range of policies in areas such as intellectual property, education and taxation. Such is the importance of the creative industries to the UK economy, and the scale of the challenges they now face from technological change, that we believed the time was ripe to mount this enquiry, to listen to a wide range of key players and to make recommendations to Government for future action.

2. The Department for Culture, Media and Sport (DCMS) adopts a definition of the creative industries given in the 2001 Creative Industries Mapping Document: “those industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property”. The following specific sectors are identified: advertising, architecture, art and antiques markets, crafts, design, designer fashion, film & video, interactive leisure software, music, performing arts, publishing, software & computer services, television and radio.

3. The Creative Industries Economic Estimates (DCMS, December 2011) contain statistics on gross value added (GVA), employment and numbers of businesses within the creative industries. These represent the most recent statistics, cited also in written evidence to us by the DCMS.¹ Some headline figures are as follows:

- creative industries contributed 2.9% of the UK’s Gross Value Added in 2009, equivalent to £36.3 billion (GVA + taxes on products – subsidies on products = Gross Domestic Product)
- 1.5 million people are employed in the creative industries or in creative roles in other industries,² 5.1% of the UK’s employment
- exports of services by the creative industries accounted for 10.6% of the UK’s exports of services, equivalent to £8.9 billion (2009 figures)
- there were an estimated 106,700 businesses in the creative industries on the Inter-Departmental Business Register (IDBR) in 2011, representing 5.1% of all companies on the IDBR.

4. The DCMS plans to update its figures in Autumn 2013 following a recent consultation on the classification of creative industries.³ This should provide much needed data with

1 Ev 202

2 Creative roles in other industries means creative occupations in businesses which are classed as being outside these industries, e.g. graphic designers working in a manufacturing firm.

which to inform the Government policies necessary to promote these key sectors of the economy which, we have no doubt, will assume even greater significance in the years ahead.

5. Examples of unique British successes can be found in a wide variety of areas including film, television, music, video games and fashion. The core UK film industry supports 117,400 full time equivalent jobs, contributes over £4.6 billion to UK Gross Domestic Product (GDP) and over £1.3 billion to the exchequer.⁴ Between 2010 and 2012, 42 blockbuster films (over \$100 million budget) were produced globally and Pinewood and Shepperton Studios alone were used either entirely or in part to film 24 of them.⁵ BBC Worldwide is the largest television programme distributor in the world outside the US major studios, selling programmes and formats produced by the BBC and by over 200 UK independent producers.⁶ Independent television sector revenues alone have grown from £1.3 billion in 2005 to nearly £2.4 billion in 2011.⁷ The British music industry is the second biggest exporter of recorded music in the world, after the USA, with a 12% global share. Adele's *21* was the biggest selling album in the world in 2011—the fourth time in five years that a UK artist has held this position.⁸ The boxed and digital UK video game retail market was worth almost £3 billion in 2011.⁹ UK global successes have included 'Batman: Arkham City' and 'Football Manager 2013'. This is not to mention web-based successes like 'Moshi Monsters' and the online role-playing game 'Runescape', with over 100 million registered users between them.¹⁰ In 2009, the UK fashion industry contributed £20.9 billion (1.7% of total UK GDP) and supported approximately 816,000 jobs—more than telecommunications, car manufacturing and publishing combined.¹¹ Even though these figures are based on a broad definition of fashion, which includes retail distribution, they nonetheless illustrate the wider impact of creativity in the national economy.¹²

The Committee's inquiry

6. We published a call for evidence on 10 October 2012 with an emphasis on the following issues:

- How best to develop the legacy from the Olympics and Paralympics of the display of UK talent in the creative industries in both Opening and Closing ceremonies and more generally in the design of the Games;
- Barriers to growth in the creative industries—such as difficulties in accessing private finance—and the ways in which Government policy should address them;

3 DCMS, *Classifying and Measuring the Creative Industries: Consultation on Proposed Changes*, April 2013

4 Ev 299 (British Film Institute)

5 Ev 204 (Pinewood Shepperton plc)

6 Ev 320 (BBC)

7 Ev 225 (Pact)

8 Ev 232 (BPI)

9 Ev 309 (Association for UK Interactive Entertainment)

10 Ev 310 (Association for UK Interactive Entertainment)

11 Ev w173 (British Fashion Council)

12 The Value of the UK Fashion Industry, British Fashion Council and Oxford Economics, 2010

whether lack of co-ordination between Government departments inhibits this sector;

- The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government's Response to it. The impact of the failure, as yet, to implement the Digital Economy Act, which was intended to strengthen copyright enforcement. The impact of proposals to change copyright law without recourse to primary legislation [under the Enterprise and Regulatory Reform Bill then before Parliament];
- The extent to which taxation supports the growth of the creative economy, including whether it would be desirable to extend the tax reliefs targeted at certain sectors in the 2012 Budget;
- Ways to establish a strong skills base to support the creative economy, including the role of further and higher education in this;
- The importance of 'clusters' and 'hubs' in facilitating innovation and growth in the creative sector. Whether there is too much focus on hubs at the expense of encouraging a greater geographical spread of companies through effective universal communication; and
- The work of the Creative Industries Council and other public bodies responsible for supporting the sector.

7. The call for evidence stated that we wished to focus on particular sectors as examples of the creative industries, especially the film, music, television, design and games sectors. However, we were pleased to receive written evidence from a range of interests well beyond those of our initial focus in recognition of common concerns within the creative industries. We received 120 written submissions from a wide range of organisations, a reflection of the scale and diversity of the sector and the breadth of the inquiry's terms of reference. Oral evidence was taken from 51 witnesses and we consulted with a large number of individuals and organisations during visits in both the UK and the USA. In addition, we received particularly useful assistance and advice from our specialist adviser, Sara John.¹³ We are grateful to all those who have provided evidence, whether written or oral, and to our hosts during our visits.

Visits

8. During the course of the inquiry we visited several organisations and companies. Members of the Committee went to Discovery Communications in Chiswick, west London, to the British Library and Soho. The Soho visit, hosted by the Advertising Association, enabled us to hold discussions at Fallon, Ridley Scott Associates, Smoke & Mirrors and Spotify. Taken together, these three visits provided some useful insights into the future potential of creative sector tax reliefs (including those for television documentaries), the significance of advertising both as a source of income and a creative

¹³ Sara John is an independent consultant. She is a trustee/director of the Young Persons Concert Foundation, a charity providing music educational workshops and concerts to schools.

industry in its own right, the huge range of skills needed to support film production and special effects and online music businesses. The visit to the British Library's Business and IP Centre underlined the importance of accessible advice for creative enterprises and the centrality of intellectual property to their business models.

9. We visited two studios: at Warner Bros. Studios, Leavesden, we saw at first hand the physical infrastructure and craft skills involved in supporting the film industry, and in Middlesex we toured the Sky Skills Studios which provide an innovative educational resource for schools. A visit to Silicon Roundabout began with Modern Jago in Shoreditch, east London, followed by the nearby Google Campus. Both provided examples of how technology companies are providing opportunities and advice as well as platforms for creative entrepreneurs. We were also briefed at the BPI's¹⁴ offices in central London as guests of the Creative Coalition Campaign.

10. During the course of the inquiry we visited California. As well as observing a British creative industries trade delegation's visit ('Creative London comes to Silicon Valley') organised by the Advertising Producers Association, we held meetings at SNR Denton to discuss tax and other incentives for film production and at Facebook and Google to cover the interaction of technology companies with content providers and to discuss online piracy. We met Viacom at Paramount Pictures, the UCLA School of Theater, Film and Television, Exclusive Media and Warner Brothers. We saw how the audiovisual sector is developing new business models in the digital space, how business skills are being integrated into university education and how film productions can be financed. We held informal discussions with BAFTA LA members and were briefed on film production incentives by Joseph Chianese of Entertainment Partners before going on to meetings at Walt Disney Studios and Technicolor; the latter two visits included discussions on shortages of engineering talent in both film production and post-production. We held further meetings with the music, film and computer games industries. At Universal Music Group we were briefed on how the industry's response to the internet has evolved to embrace a wide variety of business models. Like the other film studios, Twentieth Century Fox gave us a wide-ranging briefing, but with a strong—and compelling—focus on how the introduction of a private copying exception could jeopardise the emergence of legitimate digital products. Finally, at Activision we saw how important the interplay between art, design and engineering is in the production of computer games.

14 BPI represents the British Recorded Music Industry

2 Olympic and Paralympic legacy

11. The opening and closing ceremonies of both the Olympics and Paralympics were widely considered a success. They were undoubtedly a great showcase for British creative talent.¹⁵ More than any other recent events, they have greatly enhanced ‘Brand GB’ and were a fitting accompaniment to the magnificent achievements of athletes from across the United Kingdom and the rest of the world. The Paralympics further provided a hugely significant backdrop and boost for disabled artists, allowing all to acknowledge some of the contributions people with disabilities make to our cultural lives.¹⁶

12. Some 800 paid performers and stage managers were engaged, together with a further 10,000 volunteers.¹⁷ Trade unions have highlighted the importance of recognising music and entertainment as legitimate, paid, careers as one factor that will influence the sustainability of the Olympic and Paralympic legacy.¹⁸ Both the ceremonies and the London 2012 Festival—a cultural programme bigger than the Festival of Britain—showcased the UK creative industries across genres. The 12-week London 2012 Festival was the culmination of the four-year Cultural Olympiad which began with a nationwide series of events in 2008. An assessment has been completed by the University of Liverpool: among the many opportunities identified as arising from the successes of the Cultural Olympiad are the further development of cultural tourism, particularly in the context of VisitBritain’s work, the GREAT campaign, and the new partnership between Arts Council England and VisitEngland.¹⁹

13. The UK Government provides financial support to independent television producers, among others, to help them access markets in the form of grants from UK Trade & Investment, and Brazil, the next Olympic host, is a particularly important market.²⁰ British architects are winning contracts for work on venues for the Rio Olympics and Lord Green, the Minister of State for Trade and Investment, has reportedly stated that there have already been 160 missions to Brazil.²¹ In written evidence, the DCMS informed us of the establishment by UKTI of a new creative industries Sector Advisory Group and an executive delivery group to lead work in promoting businesses overseas.²² The written evidence goes on: “The success of the 2012 London Olympic and Paralympic Games has focused the world’s attention on the UK’s creativity. UK Trade & Investment (UKTI) plan to build on this by helping UK companies, including those involved in the delivery of the London Games, to access opportunities in key markets which will be hosting major international events in the next few years.”²³ We believe that the ambitions of UKTI and

15 Ev w60-62, Ev 224-230, Ev 283-287, Ev 299-304

16 Q 134

17 Ev w4 (Equity)

18 Ev w4-7 (Equity); Ev w7-11 (Musicians’ Union)

19 London 2012: Cultural Olympiad Evaluation, University of Liverpool, April 2013

20 Ev 226

21 ‘London 2012 was a shop window for the companies that staged it’, *Financial Times*, 11 June 2013

22 Ev 199 (Department for Culture, Media and Sport)

23 *Ibid.*

the Government more generally should extend even wider than this to showcase the United Kingdom's unique strengths throughout the creative and cultural sectors.

14. We welcome the efforts of UKTI to promote the UK creative industries overseas and believe international trade missions should contain wide cultural representation. The greatest effort should continue to be directed towards ensuring that UK creative talent and businesses are assiduously promoted not only by UKTI but in all work to promote British business overseas.

15. The spectacular success of the opening and closing ceremonies for the Olympics and Paralympics owed much to the efforts and ingenuity of the British entertainment technology industry. The trade association, PLASA (Professional Lighting and Sound Association), gave written evidence containing case studies of the impressive special effects provided by two of the companies involved.²⁴ These special effects ranged from the fiery appearance of the iconic Olympic rings in the Opening Ceremony, to the 70,500 LED²⁵ Tablets placed at every seat to integrate the audience into the projection element of the shows.²⁶ In drawing attention to this, we pay tribute to all the UK companies who supplied the professional audio, audiovisual, lighting, projection, staging, special effects and related services. This links to a specific concern PLASA has about developing the Olympic legacy: London 2012 suppliers were required to sign supply agreements which included No Marketing Rights clauses, preventing them from proactively talking about or marketing their involvement in the London 2012 Games.²⁷ PLASA told us: "The Olympic No Marketing Rights Protocol has prevented each of the companies involved from being able to proudly publicise their involvement in London 2012. PLASA is calling on the Government, LOCOG²⁸ and BOA²⁹ to urgently lift the marketing restriction, to allow British companies to publicise their work at London 2012."³⁰

16. Businesses that have successfully delivered goods and services to the Olympic and Paralympic Games can apply to the BOA for a licence under a supplier recognition scheme.³¹ This is the first time that No Marketing Rights restrictions have been relaxed in this way.³² However, PLASA have told us that this has not provided an adequate remedy.³³ Whole categories of business (such as audio, video and audio-visual equipment) are excluded from this scheme to protect, indefinitely, the rights of Olympic TOP³⁴ sponsors.³⁵ The British Olympic Association told us that, in developing the Supplier Recognition Scheme, they and the International Olympic Committee "had to strike a balance between

24 Ev 355-357 (PLASA)

25 Light emitting diode

26 Ev 355 (PLASA)

27 Ev w198-200 (British Olympic Association)

28 London Organising Committee of the Olympic Games and Paralympic Games

29 British Olympic Association

30 Ev 355 (PLASA)

31 Q 837

32 Ev w198 (British Olympic Association)

33 Qq 734-739, 752-759; Ev 363 (PLASA)

34 The Olympic Partner

35 <http://www.srs2012.com/faq>

supporting the interests of London 2012 suppliers and our responsibility to ensure we do not infringe upon the rights of worldwide Olympic sponsors, whose long term support is essential to the future of the Olympic movement.”³⁶ By way of contrast, Alan Davey, Chief Executive of Arts Council England, told us that people can publicise their involvement in the Cultural Olympiad.³⁷

17. The excessive constraints imposed by the Olympic No Marketing Rights Protocol and the inadequacy of the Supplier Recognition Scheme mean that the benefits from the participation of UK businesses in the 2012 Olympic and Paralympic Games are not being properly realised. This deeply disappointing state of affairs endangers the economic legacy that British companies in the creative and allied sectors have a legitimate right to benefit from. It reflects badly on the wider Olympic movement that, in other contexts, is all too ready to celebrate individual and collective achievement.

18. We recommend that the Government review, as a matter of urgency, whether the supplier recognition scheme can be improved to meet the objective of allowing British firms to promote their contributions to the 2012 Olympics and Paralympics. This is all the more pressing as firms throughout the UK seek to gain contracts for the next games in Rio de Janeiro.

36 Ev w198 (British Olympic Association)

37 Q 135

3 Intellectual property

Copyright and piracy

19. If creative people and businesses are to profit from their labour, there must be in place a strong regime for the protection of intellectual property including copyright. The copyright system is not only crucial in recognising and rewarding creative endeavour, but also in supporting the investment necessary for success. Claire Enders of Enders Analysis and others told us that the UK's enviable knowledge economy is indeed very significantly underpinned by copyright protection.³⁸ **The relationship between the strength of Britain's creative industries and robust copyright laws is acknowledged by the Open Rights Group which aims radically to liberalise the use and sharing of copyrighted content.³⁹ While we share the Open Rights Group's attachment to freedom of expression via the internet, we firmly repudiate their laissez-faire attitudes towards copyright infringement.** Changes to UK copyright law should not be undertaken lightly: the value to the economy of copyright and creativity runs to £36 billion a year, a figure cited by both Viscount Younger of Leckie,⁴⁰ Parliamentary Under-Secretary of State for Intellectual Property and Richard Mollet, Chair, Alliance for Intellectual Property.⁴¹

20. Peter Jenner, Visiting Professor, University of Hertfordshire and Consultant to the World Intellectual Property Organisation, suggested that there was too much "fussing around" with the copyright system at the expense of looking at other ways in which creators can be paid for their work.⁴² We hope his comments will trigger academic debate that, one day, might lead to practical policy proposals for other ways to foster and reward creativity in the internet age. In the meantime, we start with the more practical proposition that we have an established model based on copyright that has continued to adapt well to changing technologies. Lavinia Carey, Director General, British Video Association, pointed to the "proliferation of digital services" as evidence that "copyright is not broken" in the online world.⁴³ This is not to deny that tensions exist. The internet was described to us by Jeremy Silver (an industry expert)⁴⁴ as a copying machine⁴⁵ and, by Richard Mollet, as a distribution machine;⁴⁶ necessarily this poses challenges to copyright enforcement⁴⁷ but not, in our view, to the principle of intellectual property rights.

21. We heard, many times, of the tensions between rights holders who create content and technology companies which exploit it. Claire Enders referred to her defending

38 Q 153

39 Q 485

40 Q 829

41 Q 505

42 Q 410

43 Q 495

44 Chairman of Semetric Limited and Lead Specialist on Creative Industries, Technology Strategy Board

45 Q 454

46 Q 503

47 Q 393

“songwriters and composers against the predations of Google and Apple”⁴⁸ and to Apple’s “plan to destroy copyright”.⁴⁹ Andy Heath, Chairman, UK Music, said:

The business community and the finance community always say to me, “Yes, but Government hates copyright. They are going to bring in all sorts of laws that are going to make it easier for Google to steal your music that they already steal, so why should we invest?” and that is a story I get every month of every year.⁵⁰

22. Sarah Hunter, Head of UK Public Policy, Google, did not agree that Google is a “bogeyman” for the creative industries. She told us: “I think Google is the proxy for everything the internet is bringing, but we are trying hard to create business models and revenues for those creative industries.”⁵¹

23. The relationships between individual artists and record companies can also give rise to friction, though much of this is due to variations in individual contracts. The welcome decision⁵² to extend from 50 to 70 years the copyright term for sound recordings⁵³ will, we hope, ensure artists and performers continue to benefit from sales of their performances or works; they deserve a fair reward, not least for digital downloads of their work.⁵⁴

24. The greatest threat to recognition and just reward for creativity is illegal copying, particularly online piracy. Industry representatives put a figure of £400 million on foregone revenue for film and music piracy in one year alone.⁵⁵ These figures take into account the fact that not every illegal download could necessarily be converted into a legal one; in fact, one estimate is that there are £1 billion worth of illegal downloads in music alone.⁵⁶ It is estimated that 35% all films online are consumed illegally.⁵⁷ These industry figures were questioned by the Open Rights Group⁵⁸ and Viscount Younger of Leckie stated they were not based on exact science.⁵⁹ Such quibbles in our view, however, should not detract from the existential threat that online piracy clearly poses to the creative economy.

25. Evidently, the relative ease of breaching copyright online instils a false sense of legitimacy in the eyes of some. Peter Jenner outlined an illustration of one mindset: “One of the things that has been clear with the whole issue of piracy is a feeling that somehow or another it wasn't really quite fair that if you were providing your own computer and your own broadband service you should have to pay the same as if you were going to a shop and

48 Q 153

49 Q 158

50 Q 219

51 Q 363

52 Directive 2011/77/EU; *The Copyright and Duration of Rights in Performances Regulations* SI 2013/1782 (in force 1 November 2013)

53 Q 798; Ev w8 (Musicians’ Union)

54 Qq 795-796

55 Qq 501-502, Ev 297

56 Qq 775, 832-833

57 Q 327

58 Q 453

59 Q 832

buying a physical good.”⁶⁰ Jeremy Silver attempted to get into the mind of a teenager downloading content illegally: “They feel that it is not a property theft because it does not produce scarcity. They know that if they take it, it is still there for everybody else to take.”⁶¹ Viscount Younger of Leckie rightly alluded to the need to balance the interests of consumers and rights holders.⁶²

26. There is within the music industry acknowledgment, if not acceptance, that piracy is a feature of a successful industry.⁶³ Individuals who commit copyright infringing acts lay themselves open to civil action in the courts. In practice, the music industry now tends to target people who commit criminal offences by making or dealing with infringing articles on a commercial scale.⁶⁴ Both Viscount Younger of Leckie and the Parliamentary Under-Secretary of State for Culture, Communications and Creative Industries, Edward Vaizey, outlined ongoing interventions to support the copyright system and to enforce it.⁶⁵ Practical measures are being taken such as the involvement of the City of London Police, including the new IP Crime Unit,⁶⁶ and the planned global enforcement conference.⁶⁷ Viscount Younger of Leckie provided us with more information on the latter:

...we are planning, from the intellectual property perspective, an enforcement conference, and we think this will be a very important thing for the UK. We don't know quite when it will be, but it is likely to be 2014. It will be a global conference to bring players from across the world to London, to spend two days discussing enforcement issues, airing views and a bit of networking. This has never been done before, and we are taking the initiative.⁶⁸

27. There are signs that courts are making it easier to block illegal websites. The Motion Picture Association informed us: “We also support improvements to the judicial system to allow site blocking orders to be obtained more efficiently under section 97A of the Copyright, Designs and Patents Act 1988, especially taking on board the High Court decision requiring a number of internet service providers (ISPs) to block access to the pirate website Newzbin2.”⁶⁹

28. We encourage businesses to use the current law to bring claims wherever it is feasible for them to do so. There nonetheless remains a systemic failure to enforce the existing laws effectively against rife online piracy.

29. Sarah Hunter told us how Google responds when rights-holders identify copyright infringing material online: “When they do tell us about finding illegal content we remove it

60 Q 420

61 Q 464

62 Q 852

63 Q 222

64 Section 107, Copyright, Designs and Patents Act 1988

65 Qq 822, 865

66 <http://www.ipo.gov.uk/about/press/press-release/press-release-2013/press-release-20130628.htm>

67 Q 864

68 Q 864

69 Ev w89

straightaway. I think last month we removed 9 million URLs from our web index.”⁷⁰ When asked whether Google could block the worst offending domains she pointed out that a lot of pages within such domains were hosting legal content.⁷¹

30. We were told that changes to Google’s search algorithm have been made.⁷² These aim to demote illegal sites in search results. However, recent BPI work,⁷³ based on a cross-section of searches of the type [Artist] + [Title] + “mp3”, has shown that 61% of the top 10 sites in the Google rankings are infringing sites, compared to 63% in August 2012. This headline figure sums up the inadequacy of Google’s response in the context of illegal downloading, though we acknowledge that is just one way in which music is now consumed online.⁷⁴ Google cannot claim ignorance over the scale of illegal activity on the internet. At present, the BPI alone sends Google well in excess of 2 million notices per month relating to individual pages on sites which encourage and promote large scale copyright infringement. One domain, filetube.com, has been the subject of notices identifying 5,096,282 URLs⁷⁵ in the past year.⁷⁶

31. We strongly condemn the failure of Google, notable among technology companies, to provide an adequate response to creative industry requests to prevent its search engine directing consumers to copyright-infringing websites. We are unimpressed by their evident reluctance to block infringing websites on the flimsy grounds that some operate under the cover of hosting some legal content. The continuing promotion by search engines of illegal content on the internet is unacceptable. So far, their attempts to remedy this have been derisively ineffective.

32. We do not believe it to be beyond the wit of the engineers employed by Google and others to demote and, ideally, remove copyright infringing material from search engine results. Google co-operates with law enforcement agencies to block child pornographic content from search results and it has provided no coherent, responsible answer as to why it cannot do the same for sites which blatantly, and illegally, offer pirated content.

33. The Intellectual Property Office—which currently resides in the Department for Business, Innovation and Skills—can also certainly do more than it appears to have done of late. The BPI told us:

The measures on enforcement of copyright need to be backed up by an Intellectual Property Office that is properly resourced and focused on defending the rights of UK creators. The IPO has spent a lot of energy looking at how the rights of UK companies can be reduced, the BPI would also ask the committee to look at the energy the IPO puts into its role in enforcing copyright.⁷⁷

70 Q 350

71 Q 356

72 Q 352

73 Q 881

74 Qq 353-354

75 A uniform resource locator is a specific web address

76 <http://www.google.com/transparencyreport/removals/copyright/domains/> [accessed 19 July 2013]

77 Ev 235-236

34. The IPO must champion the creative sector which gives rise to intellectual property in the first place.⁷⁸ Given the importance of the creative sector to the UK economy and the relative importance to that sector of strong IP protection, strongly enforced, the Government must do more to protect and promote UK IP as a system for growth. The Digital Economy Act 2010, legislation designed to support new legitimate online business models, has still not been fully implemented, and much more needs to be done to encourage copyright compliance and to discourage infringement. **There should be within Government a powerful champion of IP with a duty to protect and promote the interests of UK IP, to co-ordinate enforcement of IP rights in the UK and overseas and to educate consumers on the value of IP and the importance of respecting IP rights. Logically the IPO should take on this role. Yet too often it is seen as wishing to dilute copyright rather than defend and enforce it.** It cannot have helped that, since the 2010 General Election, three individuals have held the post of Parliamentary Under Secretary of State for Intellectual Property.⁷⁹ Nor can it be helpful that the copyright responsibilities of the IPO remain under the aegis of the Department for Business, Innovation and Skills when responsibility for the creative industries naturally rests with the DCMS.

35. **We recommend that the Intellectual Property Office's annual reports include an assessment of the degree of online copyright infringement and the extent to which identified search engines and other internet services facilitate this. We further recommend that the Government consider how it might incentivise technology companies to hinder access via the internet to copyright infringing material.**

36. One particular anomaly in existing legislation has been persuasively drawn to our attention.⁸⁰ Copyright theft in the offline world can attract penalties of up to ten years' imprisonment—under the Copyright, etc. and Trade Marks (Offences and Enforcement) Act 2002. However, the maximum penalty for digital copyright theft is two years' imprisonment. This is because the relevant legislation is in the form of regulations brought in under section 2(2) of the European Communities Act 1972: Parliament limited the criminal penalties that might be applied in implementing European Union legislation in this way.⁸¹ The relevant 2003 regulations make direct reference to the internet and illustrate one way in which copyright law has shown itself adaptable to the online world. However, if organised crime involving online piracy on a commercial scale is to be tackled and deterred, it is essential that this discrepancy between the online and offline worlds be rectified. In the context of current proposals to introduce copyright exceptions, the Government has already shown signs that it accepts this point.⁸² The Alliance for Intellectual Property gave us an example of how the Federation Against Copyright Theft has responded to this anomaly:

The problem this has created for law enforcement was seen recently in FACT's significant, landmark, private prosecution of Anton Vickerman. Vickerman was

78 Q 515

79 Viscount Younger of Leckie (2013), The Rt Hon Lord Marland (2012 to 2013) and Baroness Wilcox (2010 to 2012)

80 Qq 892-893

81 Copyright and Related Rights Regulations SI 2003/2498, which implement Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society.

82 HL Deb 11 March 2013 c18

making £50,000 each month running a website which facilitated mass scale copyright infringement. He was prosecuted and subsequently convicted on two counts of Conspiracy to Defraud and sentenced to four years imprisonment—a sentence that would not have been possible if prosecuted under copyright law.⁸³

37. We recommend that the maximum penalty for serious online copyright theft be extended to ten years' imprisonment. Criminal offences in the online world should attract the same penalties as those provided for the physical world by the Copyright, etc. and Trade Marks (Offences and Enforcement) Act 2002.

Digital Economy Act

38. Although it contains a raft of measures across media, communications and spectrum, the Digital Economy Act 2010 ('DEA') is largely associated, in the public eye at least, with copyright. Measures to tackle internet piracy survived the 'wash-up' process at the end of the last Parliament: sections 3-18 of the Act cover online infringement of copyright. However, almost none of these provisions have yet been implemented in practice, including those imposing penalties on people who persistently infringe copyright.

39. Following amendments made during the House of Commons committee stage, any secondary legislation under section 10 (Obligations to limit internet access), would be subject to a super-affirmative procedure: the relevant statutory instrument would be available for consideration in draft by a Committee of either House and a final draft (with or without modifications) would then require approval by both Houses of Parliament.⁸⁴ Furthermore, no order may be made under this section for at least a year—this being the period during which "initial obligations" (a warning system backed up with the potential for court action) would first be given a chance to work.

40. On 28 May 2010, Ofcom launched a consultation on how to give effect to measures introduced in the DEA that are aimed at reducing online copyright infringement. Specifically, views were sought on a code of practice called "the Online Copyright Infringement Initial Obligations Code". This consultation ended on 30 July 2010.

41. The draft code would require large internet service providers to inform customers of allegations that their internet connection had been used to infringe copyright. Persistent infringement could lead to legal action initiated by the copyright owner. A draft statutory instrument—the "Costs Order"—on the costs of administering the scheme was laid in June 2012.⁸⁵ This was subsequently withdrawn following scrutiny by the House of Lords Secondary Legislation Scrutiny Committee.⁸⁶ The Minister, Edward Vaizey, told us: "we now have a classic Whitehall discussion about whether the statutory instrument is appropriate; whether the Ofcom costs are regarded as a tax or a fee. We are in discussions with the Treasury to ensure that we get it absolutely right, but we intend to proceed as soon as we can come to an agreement with the Treasury about the proper way forward. I would

83 Ev 294 (Alliance for Intellectual Property)

84 Section 10, Digital Economy Act 2010

85 Online Infringement of Copyright (Initial Obligations) (Sharing of Costs) Order 2012 (laid 26 June 2012).

86 Secondary Legislation Scrutiny Committee (HL Paper 32), Seventh Report of Session 2012-13, 12 July 2012

reject any notion that we have delayed on the Digital Economy Act.”⁸⁷ **While the practical implementation of the Digital Economy Act continues to be delayed, millions of pounds are being lost by the creative industries with serious consequences for the wider economy. We urge the Government to resolve the current impasse on implementing the Online Copyright Infringement Code without further delay, and in response to this Report to set out a clear timetable for doing so.**

42. The copyright infringement notification system, embodied by the above code, has already survived the challenge of a Judicial Review instigated by BT and TalkTalk.⁸⁸ These two internet service providers had claimed that the measures in the Act were not compliant with EU law and were not proportionate. On 20 April 2011, the High Court rejected this challenge, though it provided the ISPs with limited succour in releasing them from paying Ofcom’s costs in setting up, monitoring and enforcing the system.⁸⁹ As a result of the judgment, ISPs would still have to share the cost of operating the system and its associated appeals process.

43. The delays in implementing the DEA are thus by no means all attributable to the Government: the legal action by BT and TalkTalk certainly contributed. As, perhaps, did the haste with which the presaging Bill was originally rushed through Parliament with relatively little debate in the House of Commons. We acknowledge that the DEA has its limitations; for example it is not applicable to mobile devices⁹⁰ and there needs to be greater clarity over the situation of public Wi-Fi.⁹¹ We recognise, too, that effective enforcement of copyright is likely to focus more on targeting illegal activities on a commercial scale—on “following the money”⁹²—than, to quote Ian Hargreaves, Professor of Digital Economy, Cardiff University, “writing letters to teenagers”.⁹³ This is to miss the point that the DEA is primarily about education.⁹⁴ In America, there are signs that ISPs as well as rights-holders are beginning to acknowledge the role of a graduated approach as envisaged by the DEA. The Minister, Edward Vaizey, told us:

I also think it is very important that the industry itself continues to work together. One of the things that I hope will change and has changed is that you have ISPs like BT—and remember BT did not want this Act and tried to undermine it in the courts or, to put it more objectively, sought a judicial review of its implications—that have now made a massive investment in content by buying Premier League rights. Now, I cannot believe anyone in BT is going to sit idly by while pirate sites put up live-streaming of a Premier League match that they are providing for their customers. The Americans are pressing ahead with a voluntary three-strikes process with the main cable companies and rights holders, and they are certainly looking to implement something like that in the UK.

87 Q 865

88 Ev w154-157 (BT)

89 <http://www.bailii.org/ew/cases/EWHC/Admin/2011/1021.html>

90 Q 801

91 Q 488

92 Qq 466, 508-509

93 Qq 430-431

94 Q 499

I think that industry itself has to work together, and one of the reasons I have brought both sides together is to illustrate the point that ISPs have as much interest in protecting IP as rights holders do.⁹⁵

44. The Minister stated that the first letters to suspected copyright infringers were not expected until 2015, some five years after the Digital Economy Act came into force.⁹⁶ Even this strikes us as being optimistic given that, when the Government lays the revised “Costs Order” before Parliament, Ofcom will need to consult on a revised draft initial obligations code which will also need approval by the European Commission under the Technical Standards Directive. An independent body to hear subscriber appeals will have to be appointed and ISPs will have to put in place systems for processing copyright infringement reports.

45. In our view, there has been an unjustified delay in the issuing of the first warning letters resulting from Ofcom’s Online Copyright Infringement Code. The costs, and their attribution, of issuing warning letters under the Digital Economy Act should be seen less as a justification for ongoing delays than as an incentive for better targeting the worst examples of copyright infringement.

46. We recommend that a copyright infringement notification system envisaged by the Digital Economy Act be implemented with far greater speed than the Government currently plans. By targeting information letters to the worst infringers, early implementation will, we believe, serve an important educative purpose which could percolate more widely.

47. We are encouraged by the progress that has been made towards instituting a voluntary system of warning letters following discussions involving internet service providers and rights owners.⁹⁷ If this can be achieved by mutual cooperation rather than legislation, it will be a major step forward. However, should voluntary initiatives such as this prove unsuccessful then the Government should ensure that the equivalent measures in the Digital Economy Act are promptly put into effect.

Proposals for change

48. In November 2010 the Prime Minister announced an independent review of how the intellectual property framework supports growth and innovation. The Review was chaired by Ian Hargreaves and culminated with the publication in May 2011 of *Digital Opportunity*. It made wide-ranging recommendations, which the Government broadly accepted. The most contentious recommendations relate to copyright exceptions, which we discuss further below. A requirement that copyright collecting societies should be required by law to adopt codes of practice has been met with some scepticism by PPL⁹⁸ though we also heard criticism on behalf of individual artists it represents.⁹⁹ There was a

95 Q 867

96 Q 868

97 ‘Families who pirate films or music face warning letters’, *Sunday Times*, 1 September 2013

98 formerly known as Phonographic Performance Limited

99 Qq 767, 780

subsequent public consultation on implementing the Hargreaves proposals, to which the Government published a response in July 2012.¹⁰⁰

49. The first recommendation of the Hargreaves report is that:

Government should ensure that development of the IP System is driven as far as possible by objective evidence. Policy should balance measurable economic objectives against social goals and potential benefits for rights holders against impacts on consumers and other interests. These concerns will be of particular importance in assessing future claims to extend rights or in determining desirable limits to rights.

50. A supporting document on the benefits of the Hargreaves recommendations puts a total figure of between £5.5 billion and £7.9 billion for the economic growth impact per annum. A private copying exception—format shifting for private use¹⁰¹—is said to contribute between £0.3 billion and £2 billion towards this. Viscount Younger of Leckie did not instil great confidence in the underlying calculations when he told us: “When it comes to private copying, that figure of £2 billion, which I think has been cited before, is meant at the upper end of the spectrum. I don’t particularly recognise that figure, by the way.”¹⁰² In evidence, indeed, the Minister pointed to the Government’s assessment being towards the bottom end of the cited range: “The figure that we have is nearer £300 million, and that is the impact assessment that we have produced, if that is a help.”¹⁰³

51. Professor Hargreaves himself was unconvincing when defending these calculations, and appeared unable to justify them beyond a vague assertion that, for example, the £2 billion benefit from a private copying exception might be generated by ending “uncertainty” and consumer confusion. His evidence suggested that in any event there could be no negative result from introducing a series of measures designed to limit the application of copyright law. “Would you seriously wish to counter-argue that the number here would be a negative rather than a positive? ... I do not think it is possible to argue convincingly that you would substitute a negative,” he told us.¹⁰⁴

52. During this inquiry, however, we have received plenty of views which do, indeed, challenge not only the figures used by Hargreaves, but also the likely direction of travel. We have also heard numerous complaints from across the creative spectrum about the perceived power and influence of Google in the Government’s inner, policy-making sanctum. The minister Viscount Younger of Leckie hardly dispelled this impression: “Google is one of several search engines,” he told us, “and I am very aware of their power, put it that way. I am also very aware, I think, that they have access, for whatever reason, to higher levels than me in No. 10, I understand.”¹⁰⁵

100 HM Government, *Government Policy Statement: Consultation on Modernising Copyright*, 2 July 2012

101 An example of format shifting would be copying music from a CD to an iPod

102 Q 871

103 Q 874

104 Q 395

105 Q 848

53. Antipathy towards Google—and other large US exploiters of content, Apple and Amazon—is undoubtedly reinforced by their well-publicised corporate tax avoidance structures. This not only means that they pay little or no corporation tax on their sizeable activities here and major European markets, but that those companies which do are not operating on a level, competitive playing field.

54. Andy Heath, a director of independent music producer Beggars Group, was reflective of those views: in corporation tax last year, he said, his label paid “double what the tech companies paid between them”.¹⁰⁶ Google, pointed out John McVay of PACT, competes to take advertising from ITV, Channel 4 and other commercial broadcasters, who invest in British content while paying their tax dues as well.¹⁰⁷ As a result, Claire Enders, too, was sceptical about the wider social benefit of UK copyright changes: “unless this organisation ... is prepared to contribute to the skills base, to the education base, to the fabric of our society from which these creative works are developed, then I just don’t buy their argument at all because they are the prime beneficiaries of America fair use provisions. Therefore I mistrust their motives,’ she said.¹⁰⁸

55. Following all the evidence we have received, we think Hargreaves is wrong in the benefits his report claims for his recommended changes to UK copyright law. We regret that the Hargreaves report adopts a significantly low standard in relation to the need for objective evidence in determining copyright policy. We do not consider Professor Hargreaves has adequately assessed the dangers of putting the established system of copyright at risk for no obvious benefit. We are deeply concerned that there is an underlying agenda driven at least partly by technology companies (Google foremost among them) which, if pursued uncritically, could cause irreversible damage to the creative sector on which the United Kingdom’s future prosperity will significantly depend.

56. We heard evidence which conflicts with Professor Hargreaves’ points, notably from representatives of the music business such as Andy Heath and Martin Mills, Chairman, Beggars Group, who spoke about the problems caused to their business not only by high rates of piracy but also from the perception among many—from pirates to providers of finance—that the Government is more interested in weakening copyright law than enforcing it. Andy Heath said:

I think one of the biggest problems for the music industry and the cultural industries generally is the bewildering attitude that we seem to be getting from the Government about its ambivalence towards the benefit of copyright. It seems to me that Governments for some time, but especially this Government, have bought the line that intellectual property is a barrier to growth, and that simply is a lie. It is not true.¹⁰⁹

106 Q 247

107 Q 211

108 Q 153

109 Q 219

57. Martin Mills referred to delays in the DEA, proposed copyright exceptions and the influence of technology companies:

When you look at how long it has taken to implement the Digital Economy Act, when you look at what has been proposed with the copyright exceptions at the moment, when you look at the influence that technology companies have with Government against the creative industries, you have to think that Government is more swayed towards those industries than towards ours, and that militates against investment, which I think is a real problem.¹¹⁰

58. The Hargreaves report included a recommendation that the UK should have a Digital Copyright Exchange (DCE): a digital market place where licences in copyright content could be readily bought and sold, a sort of online copyright shop. Richard Hooper, Managing Partner, Hooper Communications, was subsequently appointed by the Secretary of State for Business, Innovation and Skills, Vince Cable, to lead an independent feasibility study on creating the DCE, and his final report, entitled 'Copyright Works' was published in July 2012. Hooper expanded the idea of a digital copyright exchange to propose a copyright hub, an online portal to which people would turn for three things: finding their ways through the complexities of copyright, finding out who owns what rights and, most importantly, making easier licensing arrangements.¹¹¹ The Copyright Hub was subsequently launched on 8 July 2013. It is described in the following terms: "The Copyright Hub is your gateway to information about copyright in the UK. It points you in the right direction whether you want to learn about copyright, get permission to use somebody else's work or find out about protecting your work."¹¹² **The Copyright Hub is a welcome development which should prompt the Government to redouble its efforts at working with industry to develop overseas markets for British IP content.**

59. During the course of our inquiry we made plain to the Government our firmest support for the establishment of a Global Repertoire Database (GRD) in London.¹¹³ The GRD will serve as a centralised, authoritative source of the metadata used to describe musical works. It is an industry-led initiative on behalf of songwriters, composers and publishers. The idea behind it is to provide a single authoritative database of the owners of copyrighted musical works. Locating it in London would be entirely consistent with making the UK a global centre for copyright exchanges. We were delighted with the announcement, on 13 May 2013, that the Global Repertoire Database would be setting up its global headquarters in London. An operations centre will be based in Berlin.¹¹⁴

60. While we are persuaded of the merits of copyright exchanges, we note the resistance of Pact, representing independent audiovisual producers. Pact's chief executive, John McVay, told us of his concerns that a digital copyright exchange could become the "thin edge of a wedge to collective licensing"¹¹⁵ which in turn might end up forcing producers to sell their

¹¹⁰ Q 317

¹¹¹ Q 414

¹¹² <http://www.copyrightclub.co.uk/>

¹¹³ Ev w197-198

¹¹⁴ <http://www.globalrepertoiredatabase.com/images/press/grd-location.pdf>

¹¹⁵ Q 192

intellectual property rights on a non-commercial basis.¹¹⁶ **We believe participation in a copyright exchange or membership of a collecting society should both be voluntary, though the former will offer rights holders the advantage of visibility and the latter can provide an administratively convenient way of obtaining royalties.**

61. Much of the work of independent producers is commissioned by the public service broadcasters: the BBC, ITV, Channel 4 and Five. Public service broadcasters have long set a bar to which others can aspire and it is refreshing to see that, in terms of commissioning UK content, commercial broadcasters are now capable of more than matching this.¹¹⁷ We explored whether any further changes were necessary to support this development. Adam Minns of the Commercial Broadcasters Association emphasised to us the need for regulatory certainty—a plea for no change—and Adam Kinsley, Director of Policy, BSkyB, added that he came with no ‘wish list’ for further policy interventions. We remain alert to the need to protect and promote the ongoing health of the mixed economy in broadcasting, recognising the competition it faces from overseas producers, particularly in the USA.¹¹⁸

62. For the public service broadcasters, Dan Brooke of Channel 4 emphasised the need for a strong IP regime, and told us he believed the current system “is strong and works well”.¹¹⁹ Magnus Brooke of ITV expressed strong support for the Digital Economy Act.¹²⁰ Both, together with John Tate of the BBC, expressed broad support for the Hargreaves reforms—with some reservations. The most significant of these related to copyright exceptions and the need to have any drawn sufficiently narrowly to prevent them being commercially exploited at the expense of the originators of content. This was particularly the case in the context of any extension of a private copying exception to internet cloud services.¹²¹

Copyright exceptions

63. In December 2012, the Government published the final part of its response to its copyright consultation, launched a year earlier in the wake of the Hargreaves report, *Digital Opportunity*. Hargreaves proposed the introduction of exceptions in copyright “to realise all the opportunities within the EU framework”.¹²² These exceptions would allow for what would otherwise be restricted acts under copyright law in a variety of contexts including format shifting, parody, non-commercial research, and library archiving. Of these, the format shifting, or private copying, exception has proved one of the most controversial.

64. The Government’s response,¹²³ published on 20 December 2012, set out changes to the framework for copyright exceptions to be brought in by secondary legislation. The proposed changes are intended to “introduce greater freedoms in copyright law to allow

¹¹⁶ Qq 186-187, 192, 194

¹¹⁷ Ev 328, 335, 347, 349, 352

¹¹⁸ Qq 677-678

¹¹⁹ Q 643

¹²⁰ Q 643

¹²¹ Qq 643-646

¹²² *Digital Opportunity*, May 2011

¹²³ *Modernising Copyright: a modern, robust and flexible framework*, HM Government, December 2012

third parties to use copyright works for a variety of economically and/or socially valuable purposes without the need to seek permission from copyright owners.”¹²⁴ Protections for the interests of copyright owners and creators are—the Government claims—built in to the revised framework.

65. The Enterprise and Regulatory Reform Bill 2012-13 originally included clauses that provided for secondary legislation (by the affirmative procedure) to add or remove copyright exceptions. This was changed by amending what had by then become clause 67 (previously clause 66 and, before that, clause 57) of the Bill during the Lords report stage. Lord Younger explained the amendment in the context of pre-existing powers under section 2(2) of the European Communities Act 1972:

The purpose of the government amendment is to limit the clause so that when the Section 2(2) power is used to amend copyright exceptions, the limitation on criminal penalties does not apply. The new clause no longer operates a separate power. It is now a way of removing the undesirable consequences which flow when Section 2(2) is used.¹²⁵

66. The Enterprise and Regulatory Reform Act 2013 accordingly ensures limits on penalties will not apply when future exceptions are brought in using the European Communities Act 1972. What little remains of the explicit copyright exceptions provisions is now section 75 of the 2013 Act.

67. In oral evidence to us, Adam Minns, executive director of COBA¹²⁶ said: “What I would say on the exceptions is that, in principle, we would prefer them to be unbundled so that we can look at them individually and have individual impact assessments wherever possible.”¹²⁷ On 7 June 2013, the Intellectual Property Office published, as separate documents for technical review, draft legislation on copyright exceptions for private copying, parody, quotation and public administration. More have since followed, including amendments to exceptions for education.¹²⁸ We note that rights holders are already expressing concerns about the lack of clear definitions and the dangers that these may create loopholes which will be exploited by the unscrupulous. Rights holders will doubtless have more to say on these detailed proposals. So should Parliament.

68. We are not persuaded that the introduction of new copyright exceptions will bring the benefits claimed and believe that generally the existing law works well. We recommend that the introduction or amendment of copyright exceptions should be contemplated only following detailed impact assessments and after proper parliamentary scrutiny on an individual basis.

69. Throughout the course of our inquiry we heard a wide variety of views concerning the Government’s proposals for new copyright exceptions in the wake of the Hargreaves review. The Open Rights Group stated that “people will only reap the benefits of the

124 www.ipo.gov.uk/types/hargreaves.htm

125 HL Deb 11 March 2013 c18

126 Commercial Broadcasters Association

127 Q 715

128 <http://www.ipo.gov.uk/types/hargreaves/hargreaves-copyright/hargreaves-copyright-techreview.htm>

Internet as a tool that promotes freedom of expression if there are sufficient exceptions that permit legitimate engagement with cultural works. Such exceptions do not necessarily undermine creators' rights, or unduly take away earning power from them, but they do encourage people to reuse those works in new and useful ways.”¹²⁹ Without the Hargreaves reforms, the Open Rights Group believes that “copyright will lose credibility by continuing to inhibit society” and preventing “legitimate transformative reuses” of copyright works.¹³⁰ “Legitimate transformative reuse” appears to mean parody.¹³¹

70. A copyright exception for parody was supported in oral evidence from Dan Brooke¹³² of Channel 4 and in written evidence from UKTV.¹³³ Written evidence from Equity noted that parody is already widespread “and part of the existing tradition of free speech in the UK.”¹³⁴ Equity went on to suggest that the introduction of a parody exception could have “unintended negative consequences for performers”. Richard Mollett, chair of the Alliance for Intellectual Property said there was a lack of evidential backing for a parody exception.¹³⁵

71. The Design and Artists Copyright Society lamented the sweeping nature of the proposed exceptions, including parody:

DACS also feels that in focussing on the larger sectors of the industry, the Hargreaves team over-looked issues specific the visual arts sector. This is reflected in the “one size fits all approach” taken in the Review's recommendations to extend copyright exceptions, without due consideration of how the impact of widening such exceptions differs between sectors. For example, exceptions for private copying and parody will impact visual art in a very different way to music and films.¹³⁶

72. The proposed private copying exception attracted the most persistent comment and, in many cases, hostility during our inquiry. The precise wording of the Hargreaves report on format shifting does bear closer examination:

The Review favours a limited private copying exception which corresponds to what consumers are already doing. As rights holders are well aware of consumers' behaviour in this respect, our view is that the benefit of being able to do this is already factored into the price that rights holders are charging. A limited private copying exception which corresponds to the expectations of buyers and sellers of copyright content, and is therefore already priced into the purchase, will by definition not entail a loss for right holders.

The Government should introduce an exception to allow individuals to make copies for their own and immediate family's use on different media. Rights holders will be

129 Ev 277

130 Ev 276

131 Q 469

132 Q 644

133 Ev w67

134 Ev w6 (Equity)

135 Q 516

136 Ev w32

free to pursue whatever compensation the market will provide by taking account of consumers' freedom to act in this way and by setting prices accordingly.¹³⁷

73. We are not convinced by Hargreaves' implication that a facility for private copying is factored into the purchase either of music or devices that store, play or copy it. Andy Heath saw no benefit to rights holders from private copying:

If you check the research and you go through the consumer's value of their digital tools—their phones, their computers—the extent to which they attribute the value of that product, sometimes a £400 or £500 product, is 30% or 40% of that value is so that they can have music. At this moment in time, we have no benefit at all—zero—for the transfer of that value. All of that value goes to the manufacturer of the device.¹³⁸

74. We think Hargreaves' 'one size fits all' arguments will hold even less sway among film makers. The Government, in its response, appears to have ruled out private copying for the benefit of an individual's immediate family: *Modernising Copyright* states the Government will "introduce a narrow private copying exception, allowing copying of content lawfully owned by an individual (such as a CD) to another medium or device owned by that individual such as a mobile phone, MP3 player or private online storage, strictly for their own personal use." This left Professor Hargreaves wondering if he might play music to his wife¹³⁹ and the rest of us wondering if the Government's proposals will simply add regulatory confusion—to the cost of the creative industries.

75. Alison Wenham, Chief Executive Officer, The Association of Independent Music, told us that she did not mind about, or at least had learned to live with, "copy and share" and acknowledged that piracy is a feature of a successful industry.¹⁴⁰ Like other witnesses from the music industry she did, however, have concerns over cloud storage.¹⁴¹ Andy Heath provided the following elaboration:

What Alison is saying is that Apple and Google are not creating Cloud storage lockers for fun. They are doing it for immense profit. It is another brick in their moneymaking machine, and it is completely immoral for the transfer of the value to occur without any level of compensation.¹⁴²

76. A genuinely private cloud¹⁴³ might be acceptable (if such a thing were in practice possible) but there is a danger this could mutate into a new mechanism for illegal file-sharing, such as a cyber locker.¹⁴⁴ The Government's draft private copying exception would allow an individual to copy a copyright work to a private cloud – "an electronic storage facility accessed by means of the internet or similar means, where that facility is

137 *Digital Opportunity*, May 2011

138 Q 233

139 Q 407

140 Q 222

141 Qq 222, 225, 816

142 Q 233

143 i.e. a data storage facility on the internet accessible only by an individual.

144 Q 236

provided for his sole private use.”¹⁴⁵ **Legal subscription-based cloud services are already emerging from business-to-business deals in which rights holders are properly rewarded. We consider this to be a welcome development that should be encouraged and we would not want it compromised by a hastily drawn private copying exception that the Government might subsequently regret.**

77. There is naturally recognition within the film industry that the introduction of a formal private copying exception would be attractive to consumers. The industry is responding to these interests by introducing a range of digital products. One such product is UltraViolet, already in half a million UK households; this stimulates digital purchase by allowing consumers to stream content they own to any device as well as to make copies on up to 12 owned devices and to share this with up to five family members.¹⁴⁶ A private copying exception would clearly undermine new technologies and business models being introduced, particularly by the audiovisual sector. This point was put to us, forcefully and convincingly, by Twentieth Century Fox.¹⁴⁷

78. During our visit to California, Fox argued persuasively, on behalf of the industry, that the proposed exception would be highly damaging for new services and business models. Hargreaves had, indeed, been effectively overtaken by technology with the development of cloud services and cyber lockers. The latter are becoming “notorious hotbeds for pirated content”, Fox executives stated,¹⁴⁸ and “allowing the possibility of storage of ‘private’ copies in the cloud gives pirate sites a ready-made defense against anti-piracy enforcement actions.”¹⁴⁹ We have great sympathy with this reasoning; it is a line of argument, for example, already used by Google to defend against blocking pirate websites. The US—with its strong content industry—does not, we note, have a private copy exception for audiovisual works.

79. Audiovisual content and its consumption are qualitatively different compared to music. The file sizes are substantially bigger for a start; this fact alone has given the audiovisual world a little more breathing space to prepare for the challenges that have beset music businesses. The British Video Association also noted the audiovisual sector’s greater tradition of in-built copyright protection and once only viewing. We should not lightly change the law to make it easier for pirates to assault the audio-visual sector, as they have done with music. The Government’s draft private copying exception makes a cursory nod to the former by proscribing the circumvention of effective technological measures.¹⁵⁰

80. Regarding the computer games industry, Dr Jo Twist, chief executive officer of the Association for Interactive Entertainment told us: “We are very supportive of the copyright regime as it is. It supports our industry very well. We are classified as software, and we welcome that, so any exceptions do not apply to us as an industry, which we are keen to

¹⁴⁵ <http://www.ipo.gov.uk/techreview-private-copying.pdf>

¹⁴⁶ Ev w188

¹⁴⁷ Ev w186-197

¹⁴⁸ Ev w195

¹⁴⁹ Ev w195

¹⁵⁰ <http://www.ipo.gov.uk/types/hargreaves/hargreaves-copyright/hargreaves-copyright-techreview.htm>

maintain under the European copyright directive.”¹⁵¹ In evidence from Ian Livingstone, Life President, Eidos, we also learned of ways in which video games can exploit technology to combat piracy, for example by embedding advertising and apps in the games themselves.¹⁵² For these reasons, the computer games industry might be immune to some of the worst consequences emerging from the currently fluid copyright landscape.

81. Any introduction of a private copying exception should be tightly constrained, and subjected to careful scrutiny, and balanced by the putting in place of a robust copyright protection regime designed to tackle abuses. We agree with Amanda Nevill, Chief Executive of the British Film Institute, that any copyright exceptions should move in parallel with implementation of the Digital Economy Act.¹⁵³

82. We believe that there needs to be far more detailed consideration before any private copying exception is introduced. In particular, we recommend that any changes to copyright law should take full account of the material differences between the audiovisual and music sectors and indeed current and likely future technological changes. We do not believe a case has been made for applying a private copying exception to audiovisual content and it should therefore be excluded.

151 Q 590

152 Q 592

153 Q 538

4 Funding and finance

83. According to written evidence from DCMS, the creative sector's ability to access finance is one of the key issues for the Creative Industries Council, a Government-industry forum. An Access to Finance working group presented a report to the Council in June 2012 which was subsequently published in December 2012.¹⁵⁴ The report made six recommendations to be taken forward by both Government and industry. . It identified potential gaps in the understanding of investors of how creative businesses work and recommended that the sector and Government worked together to champion investment opportunities in this sector, improve existing business financing interventions and establish new funding solutions.

84. Substantial sums of public money are invested in the creative arts. The Arts Councils from all four UK nations help fund creative risk-taking in areas that the commercial sector might be reluctant to support.¹⁵⁵ Arts Council England told us of the loans and business support they provide.¹⁵⁶ According to the written evidence from DCMS, the Technology Strategy Board granted over £30m in funding for over 300 creative industries-related projects between 2007 and December 2012.¹⁵⁷ Local authorities have responsibilities, not to mention economic interests,¹⁵⁸ to promote cultural activity in their areas. The BBC, funded by the television licence fee, is of course a major source of public funding for the creative sector. Channel 4's Alpha fund helps support small companies and start ups.¹⁵⁹ Sources of support for the film industry include the BFI, a charity governed by a Royal Charter, which awards Lottery funding to film production, distribution, education, audience development and market intelligence and research.¹⁶⁰

85. Inevitably public funding is under pressure, a point illustrated by cuts in the budget of Arts Council England.¹⁶¹ Given the essential role of public funding in sustaining the wider creative economy, it is crucial that adequate resources are available. Of course, the private sector should be encouraged as much as possible to invest in the creative industries. One good example is provided by advertising, which not only provides a major source of funding but is a creative industry in its own right. Evidence from the Advertising Association points to advertising as "a major creative industry and a critical source of funding for other creative industries". The Advertising Association's evidence goes on to express deep concern about draft EU Data Protection Regulation "which could damage direct marketing, internet advertising, and the UK economy both off and online".¹⁶² **Increasing use is being made of personal data to target online advertising better. While**

154 <http://www.creativeengland.co.uk/wp-content/uploads/2012/12/CE-ReportDec2012e-without-Registration1.pdf>

155 Q 311

156 Q 141

157 Ev 203 (DCMS)

158 Q 126

159 Qq 613-616

160 Q 30

161 Q 126

162 Ev w128 (Advertising Association)

concerns around this have prompted reviews of data protection legislation, we do not think the targeting of appropriate advertising—essential to so many business models — represents the greatest threat to privacy.

86. The investment and advisory firm, Ingenious Media, noted that banks have largely withdrawn from providing debt finance and the availability of venture capital funding has declined sharply. Project finance is frequently a necessity, but can be expensive and is hard to find. Ingenious stated: “Meanwhile financing from within ‘the trade’, meaning the largely US-owned ‘majors’, usually comes at a big price in terms of loss of control.”¹⁶³ They further comment on investors’ lack of understanding of the creative industries but consider there to be no simple or obvious solution. Ian Livingstone pointed out to us the investable nature of the computer games industry¹⁶⁴ and mooted the possibility of establishing a creative industries bank:

So, making sure that we are an investable sector, perhaps have a creative institute or a creative industries bank, in addition to crowd-funding to make sure that people see the real value and it is no more risky than any other traditional industries in the analogue world. The digital creative industry is very investable, because of the global potential of the content it is creating. We are so good at creating content, but we always seem to lose it, having to sell it short-term in return for project finance rather than going the whole hog and scaling it to its ultimate potential.¹⁶⁵

87. We are disappointed by the blinkered and unimaginative approach of lending institutions. Investors need to talk to and engage with the creative industries which represent no higher risk than many accepted by the banks and which may produce considerable rewards.

88. The Enterprise Investment Scheme (EIS) offers tax incentives to investors buying shares in small companies.¹⁶⁶ Tax efficient benefits are also available to investors taking advantage of the Seed Enterprise Investment Scheme (SEIS) introduced by the Chancellor in his 2011 Autumn Statement; this aims to encourage investment in very small (fewer than 25 employees) new companies. Both the Enterprise Investment Scheme and the Seed Enterprise Investment Scheme were described by the DCMS Minister, Edward Vaizey, as the funding “front door” for the creative industries.¹⁶⁷ The Minister did acknowledge the need better to communicate information about these schemes.¹⁶⁸

89. Ian Livingstone raised a concern about the bureaucracy around the application of the SEIS and EIS, arguing that it should not overburden small companies.¹⁶⁹ Ingenious described the EIS as being “gummed up”: “Not for the first time we observe an apparent disconnect between Treasury intentions and the will of Parliament on one hand, and the

¹⁶³ Ev 247 (Ingenious Media)

¹⁶⁴ Q 556

¹⁶⁵ Q 570

¹⁶⁶ <http://www.hmrc.gov.uk/eis/>

¹⁶⁷ Qq 840, 842

¹⁶⁸ Q 842

¹⁶⁹ Q 587

day to day practice of HMRC on the other, apparently aggravated by internal bottlenecks. This is a major concern for the sector.”¹⁷⁰ Patrick Bradley, Director of Ventures, Ingenious, added that modifications could be made to the EIS to allow dividends to be paid in a tax-beneficial way thereby discouraging investors from making an early capital exit.¹⁷¹ Changes such as these might go some way towards solving what Ingenious describes as the most intractable problem facing the UK’s creative business sector: “its inability to grow companies to a scale at which they are capable of competing globally by retaining for re-investment the commercial returns generated by their creative successes.”¹⁷²

90. Notwithstanding the limitations of EIS and SEIS, they offer substantial incentives for investors to engage with the creative sector companies, many of them small and medium enterprises traditionally viewed as being relatively high risk particularly by blinkered financial institutions. Yet we were told that some potential investors are hesitant to engage with these schemes because of recent crack-downs on illegitimate schemes floated for tax evasion purposes. Of course, any tax relief schemes, however genuine, are open to abuse and HM Revenue and Customs are no doubt alert to this. However, these schemes are legitimate and should be promoted.¹⁷³

91. The Government should vigorously promote both the Enterprise Investment Scheme and the Seed Enterprise Investment Scheme. Given their particular importance to creative industries it is essential that their availability, and legitimacy, be communicated to the widest possible range of potential investors.

92. Among the novel alternatives to traditional financing models that are emerging is crowd-funding, which involves collective contributions from a wide range of individuals. Dr Jo Twist of the Association for UK Interactive Entertainment (Ukie) identified to us three models for this:

There are basically three models that crowd-funding platforms operate largely, and Kickstarter falls under the first one, which is a donations model. This is where people will back a project and get a perk or something in return that is not equity-based. As I said, Kickstarter is the classic example of this model. In the US, under the Jobs Act, they are trying to change legislation so that they can allow or operate an equity-based model. The second is the debt model, where a wide pool of investors will loan money on agreed repayment terms and Funding Circle operates that model in the UK. Then we have the equity model, where people will take a stake in the company in return for an investment, and Seedrs is an example of a crowd-funding platform that operates this model.

Crowd-funding has been broadly welcomed by all political parties, and the internet has enabled crowd-funding to happen in a way that is more structured. Unfortunately, FSA regulation hasn't kept up in step and in time with the digital economy and things that the internet allows people to be able to do. I think there is a

170 Ev 249

171 Q 304

172 Ev 246 (Ingenious)

173 Qq 522, 530

bit of misunderstanding and a bit of fear factor, and what needs to happen is more guidance and more acceptance and recognition of crowd-funding as a legitimate way to get investment.¹⁷⁴

93. Ukie acknowledges the Government's enthusiasm about the potential for crowd-funding to support the creative economy but notes that "there has been little coordination between Government departments to understand either the implications of crowd-funding or the regulatory changes needed to ensure UK businesses can make the most of this opportunity."¹⁷⁵ **We believe that crowd-funding has significant potential, not least in that it might allow small creative start-up companies to retain control of their IP. The Government needs to examine whether existing financial regulation is hampering the growth of crowd-funding and whether more guidance can be made available to potential investors.**

94. The DCMS Minister, Edward Vaizey, referred to the "many different business support schemes" for different sectors and acknowledged a need for "an element of coherence about the number of potential funds that are available."¹⁷⁶ Access to information on how to start up a business, gain funding and understanding intellectual property are all of vital importance to creative start-ups. The British Library's Business and IP Centre is one promising initiative in this area and we hope other libraries will follow suit. The Government has also been contributing to the training of business advisers.¹⁷⁷ The concept of virtual boards for SMEs also has promise: these boards will match entrepreneurs with experienced financial directors. John McVay told us that Pact would be investing in this initiative and working with Skillset and the Creative Industries Council to develop the concept.¹⁷⁸

95. **We recommend that the Government open and promote a clear channel of advice to creative individuals interested in setting up business—a creative business 'hub'. We anticipate this will include a key supporting role for public libraries as long-established knowledge centres.**

174 Q 571 [The FSA has now become two separate regulatory authorities]

175 Ev 312

176 Q 840

177 Q 847

178 Q 175

5 Tax reliefs

96. On 10 November 2011, the Prime Minister announced the extension of film tax relief, the Government's targeted tax break for the British film industry, until the end of December 2015. The extension of this film tax credit, introduced by the previous Government, and its recent extension to other audiovisual sectors was described to us by Edward Vaizey as the most successful policy intervention in the creative industries.¹⁷⁹

97. This corporation tax relief is aimed directly at film production companies for the expenses they incur on the production of a film intended for theatrical release in commercial cinemas. For a film to be eligible for relief, it must be certified as British, either by passing a cultural test or under an agreed co-production treaty, and must incur at least 25% of the total production expenditure in the UK.

98. Relief can be claimed only on production expenditure in the UK, up to a maximum of 80% of the total budget, and a higher rate of relief is available for limited-budget films (with total production expenditure of £20m or less). Companies not making a profit may be able to surrender the relief for a payable tax credit worth up to 20% of the total budget for a limited-budget film and up to 16% for other films. A higher value of support may be achieved if the relief is used to reduce company tax liabilities.¹⁸⁰

99. Film studios on both sides of the Atlantic were as one in praising the tax credit without which many films would simply not have been made in the UK. In the USA, individual States have rival incentives in place and countries around the world are following suit. Competition for film production is global and highly lucrative. Even within the USA, film production is moving to cities and States that are offering more attractive tax incentives. The film tax relief has already helped raise more than £1 billion in inward investment. At Paramount Pictures we learned that, without it, Glasgow would not have been chosen ahead of Vancouver and Cape Town as a backdrop for rampaging zombies in 'World War Z', a recent film that alone brought £90 million into the UK. This is a significant fraction of the total cost to the tax payer of making available film tax relief. According to HM Treasury, 2011-12 was a record year for the scheme, with 320 films receiving over £200 million of support.¹⁸¹ We do not doubt that Warner Brothers in Leavesden owe their recent success in attracting 'All You Need is Kill' to the film tax credit. Andrew Smith of Pinewood Shepperton told us: "For every £1 the Treasury spends they get £12 back."¹⁸² This figure is widely quoted.¹⁸³ The British Film Institute told us:

The Film Tax Relief has been an undisputed success story; supporting the UK film industry and the UK economy. Without it, we estimate that UK film production would be reduced by 70% and there would be an associated average loss of around

179 Q 821

180 <https://www.gov.uk/government/news/government-announces-extension-of-film-tax-relief>

181 HM Treasury, *Creative sector tax reliefs: response to consultation*, December 2012

182 Q 26

183 Q 36

£600 million per year of total UK film production of which £500 million would be inward investment.¹⁸⁴

100. **We strongly support the film tax credit. The benefits it has brought in terms of film production have spread across the country, from Glasgow to Chatham, from London to Liverpool.**

101. **Among the initiatives we heard about during our visit to Paramount Pictures is a proposal to include in the opening credits of films some information about the economic benefits and job opportunities a given picture created. This is likely to be an effective way of illustrating the economic value of film productions. We endorse this approach and encourage its wide adoption. Furthermore, we do not doubt that the more people see how many livelihoods depend on receiving a fair reward for intellectual property, the more copyright infringement will become socially unacceptable as well as being illegal.**

102. Several witnesses in our inquiry suggested that consideration be given to extending tax reliefs to other creative industries,¹⁸⁵ though interest in the music industry was more mixed.¹⁸⁶ Vincent Scheurer of the computer games trade association, TIGA, emphasised the importance of promoting the existing tax break to aid research and development.¹⁸⁷

103. The DCMS has worked with HM Treasury, HM Revenue & Customs and industry representatives on the detailed design of analogous corporation tax reliefs for animation, high-end television and video games. The tax reliefs for animation and high-end TV are going ahead, backdated to April 2013, as a result of the Finance Act 2013. Their importance was related to us by Greg Dyke:

The Labour Government—the last Government—was very supportive by introducing the tax break for film. This Government has been equally supportive in continuing that and now expanding it to high-end television, to games and to animation. That is a significant move, which we obviously welcome. It does mean that those industries will expand; particularly, high-end television I think will expand quite far in this country. You will begin to see some of the Americans making big series over here because it is quite a significant tax break...¹⁸⁸

104. The new creative sector reliefs require State aid approval from the European Commission on cultural grounds and so to qualify for one of the new reliefs, a production will need to pass a cultural test. In relation to video games, the European Commission announced in April 2013 that it would investigate whether the tax break was necessary in the absence of an obvious market failure. This has resulted in yet further delays to a tax credit, which was originally planned by the previous Government, but which was postponed after the general election. As a result, and because of the incentives offered elsewhere (notably Canada) the UK video games sector continued to decline, with

184 Ev 302

185 Qq 207, 533, 740, 745

186 Qq 260, 320, 805

187 Q 556

188 Q 521

production retreating by 10% from 2008-2011 according to evidence from the UK games industry's trade association, TIGA.¹⁸⁹ Written evidence from TIGA quantifies a number of negative trends that a well-designed tax relief could reverse: a high studio mortality rate; competitive disadvantages arising from the fact that some overseas competitors already offer fiscal incentives; declining employment in the games sector; falling investment by studios; a UK brain drain, mostly to Canada which offers "massive tax breaks for games production." TIGA told us that 41% of the jobs lost to the UK games development sector between 2009 and 2011 relocated overseas, mostly to Canada.¹⁹⁰ TIGA further points to the French experience where Government receipts from the video games tax credit were €63.4m versus the cost of the tax credit of €38m. On 5 September 2013, the Minister, Edward Vaizey, told the House of Commons that the European Commission had concluded its consultation on video games tax relief and that a decision was expected "in the very near future."¹⁹¹ **We deeply regret the European Commission's decision to investigate the validity of the proposed tax relief for video games. Introduction of the credit is long overdue, following its postponement by the Government after the election in 2010. There is clear evidence that such a tax credit would be of great benefit and delays in introducing it are greatly harmful to the industry. We urge the Government to make this point forcefully in its efforts to ensure the video games tax relief gets the go-ahead from the European Commission.**

105. On high end TV tax relief, the current provision¹⁹² includes a condition that the average core expenditure per hour of slot length in relation to the programme is not less than £1 million—a condition that some high-end dramas but few documentaries will match.¹⁹³ Discovery notes that "the main barrier to documentary productions qualifying for support is the proposed cost per hour threshold of £1m, which does capture the very top end of drama productions but not factual programmes, where average costs per hour are significantly lower."¹⁹⁴ In order to keep pace with competitors, Discovery proposes that the UK incentive scheme should include a cost per hour threshold of £650,000 to a "very narrowly defined genre of 'documentary' productions."¹⁹⁵ A few amendments to the cultural test are also suggested. With these changes the UK might avert threats to its position as a leading documentary centre, a reputation it owes much to the commissioning power of the BBC with which Discovery has had a "strong and successful co-production relationship".¹⁹⁶

106. We recommend that the Government closely monitor the operation of the new tax reliefs for animation, high-end television and video games. Consideration should be given to applying a lower core expenditure cost to documentaries if it becomes evident, as we believe likely, that they will fail to qualify for relief on a significant scale.

189 Q 577

190 Ev 315

191 HC Deb 5 September 2013 c456

192 Schedule 16, Finance Act 2013.

193 Qq 702-703, Ev w172

194 Ev w171

195 Ev w172

196 Ev w170

107. The freelance nature of some creative sector workers can give rise to problems which the traditional income tax system is ill-suited to address. Sandie Shaw referred to this within the context of the typically short life cycle and atypical working hours of artists.¹⁹⁷ Andrew Chowns, chief executive of Directors UK, outlined problems encountered by freelance film directors because of the “nine-month rule”.¹⁹⁸ Written evidence from Directors UK provides further background to this:

This rule, set out in the HMRC Film Industry Tax Guidelines whereby any freelance worker in the film and TV industries whose contract extends beyond 9 months is deemed to have PAYE tax status, causes producers and broadcasters to limit contracts to nine months maximum, even if the project has a natural life of one year.

[...]

This measure was originally introduced, we believe, to prevent the avoidance of PAYE by workers who claimed to be self-employed, but in practice now it is having the effect of an additional and unfair penalty on workers who are clearly freelance and have no claim to employed status.¹⁹⁹

108. We do not doubt that some aspects of the income tax system adversely affect creative individuals. These arise from the intrinsically freelance nature of the vast majority of creators and authors. The personal tax system could better allow for periods when individuals are not being paid, but are nonetheless creatively engaged.

109. The income tax system needs to better recognise the freelance nature of employment in much of the creative sector, and the Government should demonstrate how it will effectively acknowledge and respond to this.

197 Q 725

198 Q 535

199 Ev 308

6 Education, skills and training

110. In January 2012, the Creative Industries Council's Skills group, led by Creative Skillset, produced a report which made 17 recommendations to boost skills and talent in the creative industries.²⁰⁰ Key recommendations, welcomed by both industry and Government, included reform of the ICT syllabus in schools, a promotional campaign to raise the profile of apprenticeships and a call to improve the quality of industry internships.

111. According to DCMS, the work of Sector Skills Councils, Creative Skillset and Creative and Cultural Skills, has been instrumental in identifying skills that would be of value to the creative industries' workforce. While taking evidence and going on fact-finding visits we were struck by the huge diversity of skills needed to secure a vibrant creative sector. During a visit to Warner Brothers in Leavesden, we were impressed by the important roles played by carpenters and electricians, artists and craftsmen. In an evidence session focusing on video games, Ian Livingstone told us: "For me art and music and all the creative skills, that give our competitive edge in this country, should be taught as widely as much as possible." He added that the "ultimate graduate" is someone with a "double" first in maths, physics and art.²⁰¹ For good measure, we would add that knowledge of intellectual property and business skills should also feature in the education of our future creative entrepreneurs. Creative and Cultural Skills commented: "Although universities do provide some entrepreneurial education, they have been slower to provide the support for the creative sector they more readily supply to businesses in technological or scientific sectors."²⁰²

112. Written evidence from the DCMS gives a strong focus to ICT skills; others have been vocal in the case for the arts. Sir Nicholas Serota, Director of the Tate, has called for the arts to be made a fourth 'R' in the curriculum. He adds that "the UK's Creative future will be the poorer—and its part in the global creative economy weaker—if we do not take steps to secure the place of the arts in the curriculum now. By making art a part of the national curriculum, we give the next generation of artists, engineers, creators and cultural leaders—all the bedrock of the Creative Economy—the opportunity to develop the imagination and skills that are vital for our future."²⁰³ Universities UK has urged the Government to resist "the narrow view that science, technology, engineering and mathematics (STEM) subjects represent the exclusive route to economic success."²⁰⁴ As Josie Barnard, author and Senior Lecturer in Creative Writing at Middlesex University, put it to us, giving one example: "Many of today's Creative Writing students are tomorrow's managers/leaders ... Students who are taught Creative Writing are taught creative thinking. Creative thinking is clearly essential in business development and business management and feeds directly into the Government's aims ..."²⁰⁵

200 http://cicskills.creativeskillset.org/data/the_creative_industries_council_skillset_skills_group_report

201 Q 597

202 Ev 258 (Creative and Cultural Skills)

203 Ev w22

204 Ev 253 (Universities UK)

205 Ev w182

113. On 30 January 2013 the Government announced it had accepted the inclusion of computer science in the English Baccalaureate (EBacc). It is important to note that the current EBacc provides a performance measure for schools and is quite separate from the Government's now dropped proposal for English Baccalaureate Certificates which were to replace GCSEs. The Cultural Learning Alliance told us:

The English Baccalaureate (EBacc) is currently a performance measure for secondary schools. It is relevant to young people in key stage 4 (ages 14–16).

Schools are required to publish the number of students that get A-C grades across five subject areas at GCSE level. These are: English, Maths, Science, Modern Foreign Languages and Humanities (History and Geography). These are generally known as the five Pillars of the English Baccalaureate.

This publication of results acts [as] a league table and has led schools to start prioritising these subjects over others and putting their resources and funds towards them.

A recent poll by Ipsos Mori shows that over the last year alone 27% of schools have cut courses as a direct result of the EBacc measure and the year before 45% of schools cut courses. Of the courses cut, Drama, Performing Arts, Art and Design and Design and Technology are the worst hit.²⁰⁶

114. The Cultural Learning Alliance argues for a light touch approach to the school curriculum that would, for example, see dance and drama included within the PE and English curricula respectively. On 8 July 2013, the Secretary of State for Education, Michael Gove, announced the publication of an updated national curriculum framework that provides some space for both dance and drama.²⁰⁷ However, there is clear evidence that student numbers are falling in a wide range of subjects across the arts curriculum.²⁰⁸

The broader arts curriculum has been seriously hit by the Government's approach to performance measurement which we deeply regret. The danger remains that schools will in practice see a continued diminution in the provision of dance, drama and other creative subjects. We therefore recommend that arts are added to the five subject areas currently on which the EBacc assessment is based.

115. An Order under Sections 84 and 85 of the Education Act 2002, will give force to the Government's decision to replace the current national curriculum subject of information and communication technology (ICT) with computing from September 2014. This reflects a greater focus on practical programming skills. **We welcome a greater focus on computing in schools, not least because, in the digital age, a practical ability to program computers amounts to basic literacy. It is vital that enough teachers are trained to impart to their students a solid grounding in IT and programming skills.**²⁰⁹

206 Ev w135 (Cultural Learning Alliance)

207 HC Deb 8 July 2013 cc36-45; Department for Education, *The national curriculum in England: Framework document*, July 2013

208 HC Deb 15 October 2012 c192W

209 Qq 556, 583, 593

116. On 7 February 2013 the Secretary of State for Education announced a two month public consultation on the draft National Curriculum. As noted above, this resulted in a revised framework document published on 8 July.²¹⁰ A new draft design and technology curriculum programme has also now been prepared.²¹¹ In addition, a reformed GCSE subject content consultation was published in June 2013 accompanying an oral statement by the Secretary of State.²¹² The subjects covered in the first tranche are English language, English literature, mathematics, science (biology, chemistry and physics), history, geography, modern languages and ancient language.

117. In England, there is no requirement for students over the age of 14 to study the arts (art and design, music, dance, drama and media arts) and design and technology. Pupils in maintained schools do, however, have a statutory entitlement to be able to study at least some of these subjects. **Our inquiry has found clear evidence that the Government's focus on subjects like science, technology, engineering and mathematics (STEM) is already having a pronounced impact on the arts and other creative subjects.**²¹³ We believe that the crucial role of arts subjects in a modern education should be recognised and that art subjects should be added to the STEM subjects, changing STEM to STEAM.

118. **As it continues to introduce further changes to the national curriculum, the Government must ensure that students up to key stage 3 receive a solid grounding in the arts and design. We believe that students aged 14-16 (key stage 4) must be able to access the widest possible programme of creative subjects to prepare them to play a full part in the knowledge economy.**

119. There appears to be a limited recognition in Government about the importance of teaching creative subjects in schools. The relevance of music,²¹⁴ for example, has been acknowledged in the Government's first national music plan.²¹⁵ Edward Vaizey told us that the Government would also implement a national cultural education plan.²¹⁶ A *Cultural education* policy paper, published by the Department for Education and DCMS on 5 July 2013, seeks, among other things, to encourage more schools to offer a wider spread of creative subjects with a new accountability framework for secondary schools. Professor Bartholomew summed up the need for this well: "We are not naturally creative; we need to nurture that creativity and once we have done it others seek it if we don't seek it for ourselves."²¹⁷

120. Alison Wenham, chief executive officer of the Association of Independent Music, suggested that copyright deserves a place in the curriculum, not least because it underpins

210 Department for Education, *The national curriculum in England: Framework document*, July 2013

211 Ibid.

212 HC Deb 11 June 2013 c172

213 Qq 94, 113, 441-444

214 Qq 722, 747

215 Q 902

216 Ibid.

217 Q 452

many of the careers to which young people aspire.²¹⁸ Jo Dipple, chief executive officer of UK Music, considered there to be “a big opportunity for the curriculum to educate young people on the kind of world they are living in when it comes to the creative industries that they love.”²¹⁹

121. We recommend that school children be introduced to the ideas of intellectual property and the nature of business to gain a better understanding of the importance of creativity both to the learning process and to wider society and the economy.

122. Beyond the world of school, Alan Davey of Arts Council England told us that “the real shortage at the moment is of training places, internships and apprenticeships, whether it is on the technical level or the artistic.”²²⁰ Arts Council England is responding to this with initiatives of its own, albeit on a relatively small scale.²²¹ Pact members contribute to a training charity called the Independent Training Fund and John McVay referred to work on a report that will “quantify all the different training initiatives, graduate schemes and various other things”²²² that Pact members are engaged in. He also emphasised the importance of clamping down on illegal unpaid work experience: “If someone can afford to come and work in London, paid for by their parents, then you are absolutely discounting a whole range of people who are probably talented and could come and do that. That is bad for our business.”²²³

123. DCMS cites²²⁴ a Creative Industries Council report as having identified ways to boost skills and talent, including reform of the ICT syllabus in schools, a “promotional campaign” to raise the profile of apprenticeships and a “call” to improve the quality of industry internships. Matthew Griffiths of PLASA alluded to “tons of regulation”²²⁵ as creating barriers to vocational education. He also suggested that companies would welcome tax relief to encourage the employment of apprentices and a younger workforce.²²⁶

124. When it comes to strengthening and nurturing apprenticeships, the Government needs to do much more than exhort and encourage industry to participate. Government has to communicate clearly and widely about the opportunities that exist, giving examples of good practice. The case for tax reliefs for companies—particularly in the creative sector—should be examined more closely.

125. We also heard evidence from the university sector. One question which cannot yet be answered with any great certainty is what impact increased tuition fees may have on post-graduate education. This needs to be watched carefully as it could impact on areas like

218 Q 271

219 Q 270

220 Q 160

221 Q 161

222 Q 200

223 Q 201

224 Ev 201

225 Q 772

226 Q 745

visual effects, where postgraduate level skills are in great demand.²²⁷ We heard that 53% of those working in visual effects have had to be brought in from outside the UK.²²⁸ This links to wider concerns—what Dame Liz Forgan referred to as “visa entanglements”—about barriers to artists wishing to come to the UK.²²⁹ Arts Council England have expressed concerns about the “visa situation” in the context of conservatoires and art schools.²³⁰ Claire Enders also commented on the need to avoid impeding the flow of talent.²³¹ Professor Geoffrey Crossick put the point:

If you are studying computing or mathematics or physics, diversity of students from different parts of the world, different ethnic and cultural backgrounds is good for your experience but it does not change the way you learn. In the creative subjects it is that diversity and difference that is one of the great drivers of excitement and energy and change and ideas.²³²

126. There does appear to be some recognition that creative workers and students from overseas have different qualifications and occupations that do not always fit into conventional categories—at least judging by a recent report by the Migration Advisory Committee.²³³ Clearly, foreign students and workers in the creative industries play important roles, both cultural and economic. A more considered approach to high talent migration policy is needed.²³⁴ **Overseas students make a vital contribution to the growth of the UK’s creative economy and there are signs that visa and employment restrictions sometimes fail in practice to recognise this. We urge the Government to take more account of the special situation of the creative individuals, many of them uniquely talented, who wish to study and work in the United Kingdom.**

227 Q 450

228 Qq 45, 51

229 Q 145

230 Q 149

231 Q 148

232 Q 446

233 Migration Advisory Committee, *Skilled Shortage Sensible*, February 2013

234 Q 447

7 Creative hubs

127. The role of regional creative industry clusters and local hubs is also a feature of our inquiry. A 2010 analysis by Nesta (an independent charity fostering innovation) examined co-location between creative sectors. The study found that there were two groups of creative sectors that tended to be co-located. One group comprised software, games and electronic publishing; the other group music, film, radio and TV. These interactions delivered a number of beneficial spillovers, such as knowledge transfer, and product development. The Government's focus is on supporting existing clusters rather than trying to instigate them.

128. The DCMS, in written evidence, refers to academic studies as suggesting that geographical proximity is a necessary but not sufficient prerequisite for the existence of the hub or cluster. Some sort of network or ecosystem is also required to ensure communication and collaboration between companies and sectors within the cluster. That said, the development of broadband will make networking less dependent on geographical co-location. The risk is neglect for creative and employment opportunities in other parts of the UK.

129. Pinewood Shepperton are strong advocates of the cluster/hub model.²³⁵ Their contribution to the UK film industry is enormous. However, a lack of studio space is already resulting in the loss of international inward investment.²³⁶ Like other studios they need to build capacity if they are to respond to growing demand. We expect demand for studio space to grow significantly with the introduction of tax credits for high end television. Andrew Smith, Pinewood Shepperton's Director of Strategy and Communications, argued: "I think the infrastructure around the creative industries is just as important as airports, roads and rail, particularly as it is a clear growth sector of the economy."²³⁷ We agree. It was disheartening to learn of the rejection of a planning application by Pinewood Shepperton that would have allowed for growth and the establishment of a training academy for the film industry.²³⁸ We were disappointed by the local authority's decision to reject a subsequent planning application that did much to address local concerns.²³⁹

130. While allowing for local concerns, the planning system should adequately recognise the significance of creative industry infrastructure. A useful initial step would be to revisit the advice to local authorities given in the National Planning Policy Framework.

235 Qq 57, 59

236 Ev 204 (Pinewood Shepperton)

237 Q 25

238 Qq 18-25

239 <http://www.guardian.co.uk/film/2013/may/15/pinewood-studios-expansion-blocked-council>

8 Creative Industries Council

131. The Creative Industries Council (CIC) held its first meeting just over two years ago, on 13 July 2011. Its remit is given in its published terms of reference:

The purpose of the Creative Industries Council will provide a forum for the Creative Industries and Government to engage in a joined up way. Members will instigate industry led approaches to boosting the growth and competitiveness of the creative industries with Government facilitating and removing barriers where appropriate.

As the policy areas under consideration are largely devolved, the Council confines its remit to England only, working closely with the Devolved Administrations where appropriate.²⁴⁰

132. Membership is widely drawn from Government, trade associations and others from the creative sectors as well as technology companies. One of its members, John McVay, Chief Executive, Pact, thought that the Council's effectiveness could be improved were it to focus exclusively on access to finance, copyright and international growth. He also acknowledged the useful working group on skills.²⁴¹ Reports have already been published covering finance and skills; there is now a need to act on the recommendations that have emerged.²⁴²

133. Several witnesses expressed concerns over the make-up of the Council both in terms of the creative credentials of some members and the exclusion of others.²⁴³ The voices of individual artists and technicians are notably absent.²⁴⁴ Publishing the CIC's agenda in advance might help non-members make representations. We were told of a need to have a more focused agenda for individual meetings.²⁴⁵

134. Edward Vaizey assured us that the next meeting of the Council would be attended by the Parliamentary Under-Secretary of State for Intellectual Property; he subsequently confirmed that Viscount Younger had indeed attended the CIC to discuss IP. We very much welcome the inclusion of IP on the agenda and the attendance of the Minister responsible. Some witnesses suggested HM Treasury should be represented on the CIC.²⁴⁶ Edward Vaizey said: "I certainly think regular attendance from Treasury and Skills Ministers would be useful."²⁴⁷

135. Adam Kinsley of BSkyB suggested that the right people might not be on the Council to discuss some "quite technical and esoteric policy developments".²⁴⁸ BSkyB's written

240 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79131/CIC_terms-of-reference.pdf

241 Qq 174-175, 179

242 Qq 83-84, 313

243 Qq 83, 547, 549

244 Q 729

245 Qq 609, 690, 695

246 Qq 85, 176

247 Q 895

248 Q 690

evidence²⁴⁹ included two policy proposals in connection with the Creative Industries Council:

the support and protection of intellectual property should be a standing item on the CIC's agenda.

a CIC "sherpa" group formed of senior policy representatives from the creative industries should be established given that not all members of the CIC may wish to be involved in detailed policy discussions.

We think both proposals are sensible.

136. We recommend that meetings of the Creative Industries Council should always be attended by a Minister with direct policy responsibility for intellectual property, given the central importance of this to the creative industries. In practice this will mean either the Minister for Intellectual Property or the Secretary of State for Business, Innovation and Skills.

137. We recommend that a Treasury Minister and a Minister from the Department for Education attend at least one meeting of the Creative Industries Council annually. Ministers and officials from other Departments should attend as determined by agenda items.

138. The Creative Industries Council should publish an annual report which includes an update on the implementation of recommendations made by itself and its sub-groups. Such an annual report should be laid before Parliament.

139. The establishment of the Creative Industries Council has been a welcome step towards ensuring that a great national success story can be celebrated and enabled to endure. Complacency and a failure to embrace the opportunities afforded by global communications platforms like the internet are only two of the dangers to continued cultural and economic growth. Still, the creative industries in the United Kingdom remain innovative, successful and strong. That is all the more reason why they must command our strongest encouragement and support.

Formal Minutes

Wednesday 11 September 2013

Members present:

Mr John Whittingdale, in the Chair

Ben Bradshaw
Tracey Crouch
Paul Farrelly

Mr John Leech
Jim Sheridan

* * *

Draft Report (*Supporting the creative economy*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 139 read and agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

* * *

[Adjourned till Tuesday 8 October at 10.00 am]

Witnesses

Tuesday 13 November 2012

Page

Ivan Dunleavy, Chief Executive, and **Andrew Smith**, Director of Strategy and Communications, Pinewood Shepperton plc

Ev 1

John Mathers, Chief Executive, and **Mat Hunter**, Chief Design Officer, Design Council

Ev 9

Tuesday 20 November 2012

Alan Davey, Chief Executive, and **Dame Liz Forgan**, Chair, Arts Council England, and **Claire Enders**, Enders Analysis

Ev 19

John McVay, Chief Executive, Pact (formerly the Producers Alliance for Cinema and Television)

Ev 29

Tuesday 4 December 2012

Geoff Taylor, Chief Executive, BPI, **Jo Dipple**, Chief Executive Officer, **Andy Heath**, Chairman, UK Music, and **Alison Wenham**, Chief Executive Officer, The Association of Independent Music

Ev 38

Fran Healy, singer songwriter, **Steven Levine**, record producer, and **Stephen Budd**, music industry executive

Ev 51

Tuesday 18 December 2012

Patrick Bradley, Director of Ventures, Ingenious, **Dr Martin Smith**, Special Advisor, Ingenious, and **Martin Mills**, Chairman, Beggars Group

Ev 58

Simon Milner, UK and Ireland Policy Director, Facebook, and **Sarah Hunter**, Head of UK Public Policy, Google

Ev 68

Tuesday 8 January 2013

Professor Ian Hargreaves, Professor of Digital Economy, Cardiff University, **Richard Hooper**, Managing Partner, Hooper Communications, and **Peter Jenner**, Visiting Professor, University of Hertfordshire and Consultant to the World Intellectual Property Organisation

Ev 78

Professor Stuart Bartholomew, Principal and Vice Chancellor, The Arts University Bournemouth, **Professor Geoffrey Crossick**, Universities UK, **Catherine Large**, Chief Executive Officer, Creative and Cultural Skills, and **Dinah Caine**, Chief Executive Officer, Creative Skillset

Ev 88

Tuesday 22 January 2013

Jeremy Silver, Chairman of Semetric Limited and Lead Specialist on Creative Industries, Technology Strategy Board, **Jim Killock**, Executive Director, and **Peter Bradwell**, Policy Director, Open Rights Group Ev 98

Owen Atkinson, Chief Executive Officer, Authors' Licensing & Collecting Society Limited (ALCS), **Richard Mollet**, Chief Executive, Publishers Association and Chair, Alliance for Intellectual Property, and **Lavinia Carey**, Director General, British Video Association Ev 109

Tuesday 26 February 2013

Greg Dyke, Chair, and **Amanda Nevill**, Chief Executive, British Film Institute, **Adam Singer**, Chairman, British Screen Advisory Council, and **Andrew Chowns**, Chief Executive, Directors UK Ev 118

Dr Jo Twist, Chief Executive Officer, Association for UK Interactive Entertainment, **Ian Livingstone CBE**, Life President, Eidos, **Dr Richard Wilson**, Chief Executive Officer, and **Vincent Scheurer**, TIGA Ev 128

Tuesday 12 March 2013

John Tate, Group Director, Strategic Operations, BBC, **Magnus Brooke**, Director of Policy and Regulatory Affairs, ITV, and **Dan Brooke**, Chief Marketing and Communications Officer, Channel 4 Ev 142

Adam Minns, Executive Director, Commercial Broadcasters Association, and **Adam Kinsley**, Director of Policy, BSkyB Ev 154

Tuesday 26 March 2013

David Arnold, film composer, **Sandie Shaw**, Chair, Featured Artists Coalition, and **Matthew Griffiths**, Chief Executive Officer, PLASA Ev 161

Adam Barker, Director of Business Affairs, Universal Music UK, and **Peter Leatham**, Chief Executive Officer, PPL Ev 173

Tuesday 14 May 2013

Mr Edward Vaizey MP, UK Minister for Culture, Communications and Creative Industries, Department for Culture, Media and Sport and **Viscount Younger of Leckie**, Parliamentary Under Secretary of State, Department for Business Innovation and Skills Ev 183

List of printed written evidence

1	Department for Culture, Media and Sport	Ev 199; Ev 202
2	Pinewood Shepperton plc	Ev 203
3	Design Council	Ev 207; Ev 213
4	Arts Council England	Ev 215
5	Enders Analysis	Ev 220
6	PACT	Ev 224; Ev 230
7	BPI (British Recorded Music Industry) Ltd	Ev 232
8	UK Music	Ev 236; Ev 241
9	Fran Healy	Ev 244
10	Ingenius Media	Ev 245; Ev 250
11	Professor Stuart Bartholomew, Arts University College Bournemouth	Ev 252
12	Universities UK	Ev 252; Ev 253
13	Creative & Cultural Skills	Ev 254; Ev 259
14	Creative Skillset	Ev 262
15	Open Rights Group	Ev 274; Ev 279
16	Authors' Licensing & Collecting Society Ltd	Ev 280
17	The Publishers Association	Ev 283; Ev 287
18	Alliance for Intellectual Property	Ev 289; Ev 294; Ev 294
19	British Video Association	Ev 294
20	British Film Institute	Ev 299
21	British Screen Advisory Council	Ev 304
22	Directors UK	Ev 306
23	The Association for UK Interactive Entertainment (UKIE)	Ev 309
24	TIGA	Ev 314
25	BBC	Ev 318; Ev 327; Ev 328
26	Channel 4	Ev 328; Ev 333; Ev 335
27	ITV/BBC/Channel 4	Ev 338
28	ITV/BBC/Channel Five	Ev 339
29	Commercial Broadcasters' Association (COBA)	Ev 341; Ev 347; Ev 349
30	BSkyB	Ev 350; Ev 352
31	Sandie Shaw	Ev 353
32	PLASA	Ev 355; Ev 363
33	PPL	Ev 357
34	Department for Business, Innovation and Skills	Ev 362

List of additional written evidence

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1	Imperial War Museums	Ev w 1
2	Paul Kaynes – London 2012	Ev w 3

3	Equity	Ev w 4
4	Musicians' Union	Ev w 7
5	Association of Authors' Agents	Ev w 11
6	Ivor Hall	Ev w 12
7	International Broadcasting Trust	Ev w 14
8	Onedigital	Ev w 17
9	Tate	Ev w 22
10	The Newspaper Society	Ev w 23
11	Voice of the Listener and Viewer	Ev w 25
12	Professional Publishers Association	Ev w 28
13	The Royal Borough of Kensington and Chelsea	Ev w 30
14	Design and Artists' Copyright Society (DACs)	Ev w 31
15	Creative Scotland	Ev w 33
16	Victoria and Albert Museum	Ev w 41
17	Crafts Council	Ev w 44
18	The Society of Authors	Ev w 50
19	Independent Film and Television Alliance (IFTA)	Ev w 52
20	Workspace Group	Ev w 57
21	LOCOG	Ev w 60
22	The Brighton Fuse	Ev w 62
23	UKTV	Ev w 66
24	The Film Distributors' Association	Ev w 69
25	Make Me Laugh Research Project	Ev w 73
26	Creators' Rights Alliance	Ev w 76
27	Radio Independents Group (RIG)	Ev w 81
28	Teledwyr Annibynnol Cymru (Welsh Independent Producers) TAC	Ev w 84
29	Motion Picture Association	Ev w 86
30	Creative Coalition Campaign	Ev w 89
31	Incorporated Society of Musicians (ISM)	Ev w 93
32	Children's Media Foundation	Ev w 96
33	National Museum Directors' Council	Ev w 100
34	Demos	Ev w 103
35	Centre for Fashion Enterprise (CFE) and Designer-Manufacturer Innovation Support Centre (DISC)	Ev w 108
36	Associate Parliamentary Design and Innovation Group (APDIG)	Ev w 111
37	Penkat Studio	Ev w 114
38	Consumer Focus	Ev w 115
39	Buckinghamshire Thames Valley LEP	Ev w 119
40	Creative Access	Ev w 122
41	Creative England	Ev w 125
42	Advertising Association	Ev w 128; Ev w 132
43	Cultural Learning Alliance	Ev w 134
44	Birmingham City University	Ev w 136
45	Entertainment Retailers Association	Ev w 138
46	Radio centre	Ev w 140

47	Local Government Association	Ev w 145
48	Next Gen Skills	Ev w 147
49	Stop43	Ev w 148
50	CBI	Ev w 152
51	BT	Ev w 154
52	National Writers Union	Ev w 157
53	Edge Investment Management	Ev w 158
54	British Library	Ev w 161
55	Activision Blizzard UK Ltd	Ev w 165
56	The Chartered Society of Designers	Ev w 167
57	City of London Corporation	Ev w 169
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60	Greater London Authority	Ev w 177
61	Josie Barnard	Ev w 181
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66	Letter from Chair to the British Olympic Association	Ev w 198
67	Letter from the British Olympic Association to the Chair	Ev w 198

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2012–13

First Report	The Gambling Act 2005: A bet worth taking?	HC 421
Second Report	Racism in football	HC 89
Third Report	Library Closures	HC 587
Fourth Report	Football Governance Follow-Up	HC 509
Fifth Report	Scrutiny of the Draft Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013	HC 1104
Sixth Report	Pre-legislative scrutiny of the draft Gambling (Licensing and Advertising) Bill	HC 905

Session 2013–14

First Special Report	Football Governance Follow-Up: Government Response to the Committee's Fourth Report of Session 2012–13	HC 156
First Report	Scrutiny of the draft Public Bodies (Abolition of the Registrar of Public Lending Right) Order 2013	HC 506
Second Report	Scrutiny of the draft Public Bodies (Merger of the Gambling Commission and National Lottery Commission) Order 2013	HC 256
Second Special Report	Scrutiny of the draft Public Bodies (Merger of the Gambling Commission and National Lottery Commission) Order 2013: Government Response to the Committee's Second Report of Session 2013-14	HC 646

Oral evidence

Taken before the Culture, Media and Sport Committee on Tuesday 13 November 2012

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Angie Bray
Tracey Crouch
Philip Davies
Paul Farrelly

Steve Rotheram
Mr Adrian Sanders
Jim Sheridan
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **Ivan Dunleavy**, Chief Executive, Pinewood Shepperton plc, and **Andrew Smith**, Director of Strategy and Communications, Pinewood Shepperton plc, gave evidence.

Chair: Good morning. This is the first session of the Committee's examination of support for the creative economy and I should like to welcome, as our first witnesses, Ivan Dunleavy, the Chief Executive of Pinewood Shepperton, and Andrew Smith, the Director of Strategy and Communications.

Q1 Mr Sanders: Can you give the Committee a brief overview of your businesses, the services you provide and the clients you attract?

Ivan Dunleavy: Pinewood Studios is most well known for its fantastic heritage of film-making, but in reality our business is providing the infrastructure that producers of content use. We are a support services activity and increasingly we are participating more in broader services provided to the creative industries. Our vision for the future is effectively to create a one-stop shop of those services for content producers and to leverage our investment across the range of activities that would be uneconomic for them to create for each individual production. We now have an international focus and the Pinewood brand is currently in four territories around the world. We would like to continue to expand that focus. As an example of the wider range of services that we provide, we are investing our own financing in qualifying film production here in the UK and have recently raised third party funds to invest in those kinds of productions alongside Pinewood's own investments.

Q2 Mr Sanders: What proportion of your clients are based in the UK?

Ivan Dunleavy: In the UK, 100% of our clients are UK production entities. Much of our film activity will, of course, be associated with and financed potentially by some of the Hollywood studios.

Q3 Mr Sanders: Has there been any significant change to your business in recent years, for example the mix between games, TV, advertisements and film?

Ivan Dunleavy: Having started off with that wonderful heritage of films that I referred to, our focus is more increasingly on the screen-based sector. We are now seeing more videogames participants at

our studios at Pinewood or Shepperton. We are undertaking a lot of television, particularly some of the larger television productions, the format driven television programmes like *Got to Dance* and *X Factor* and that kind of television show. I think what is interesting is the reason for that, and it goes back to that point about leveraging infrastructure across what is becoming increasingly the same kind of production activity. I am sure the Committee will be familiar with the phrase "high-end television". That is effectively shot and produced in an almost identical way to a feature film and so our ability to use our assets flexibly is a key component to the increasing level of activity that we have seen in recent years.

Q4 Mr Sanders: In relation to the high-tech side of the operation, games for example, who at the beginning invested in the infrastructure that was needed for that? There is a great deal of computer kit required. Was that driven by Pinewood looking to the future or did it come in as a result of people bringing it with them in order to use the facility?

Ivan Dunleavy: The digital world is with us, and we have been investing incrementally over the last decade in improving our digital capability. Historically, we have been using that principally for film and television, but increasingly we are using our data services, our large storage capacity and our fibre optic network to service videogames producers. It is around the theme of: it is very expensive for an individual producer to create and we can get better and more efficient use out of it by providing it to them when they need it rather than having it sitting idle when they do not need it.

Q5 Chair: Can you tell us a little more about the competitive position of Pinewood? Are you finding it harder to persuade very mobile film investment to come to the UK, and who are the major competitors? Is it Eastern Europe, North America, Asia?

Ivan Dunleavy: We are competing globally. It is really against the world. The kind of large budget productions that we are very associated with have the financing and the budgets to choose where they go. Inevitably, their first decision is to run a slide rule

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over the costs in any territory of the world, and we compete on quality and efficiency. The UK is a high-cost territory and we recognise that, so we have to compete on efficiency and skills, and drive that efficiency. But it would be perfectly possible to rent a disused car factory in Michigan to use as a facility in which to film a single project so in that sense we are competing with anybody and everybody. We are the largest studio facility in Europe. We are directly comparable with anything that is available in the US in terms of scale and we would argue that the skills in the UK are as good as anywhere else that you will find in the world.

Q6 Chair: As good as?

Ivan Dunleavy: As good as.

Q7 Chair: Let's say I am going to make *Mission Impossible V*, what is your pitch to me to make it at Pinewood? I know one was made in Australia and others have been made around the world.

Ivan Dunleavy: Increasingly, such productions are sensitive on cost and typically it would cost in excess of \$100,000 a day to keep that style of production running. If you lose a day's production value, it is a real cost to your bottom line. The UK, and Pinewood in particular as a centre of film making activity here in London and the south-east, has the ability and flexibility to call on services from any discipline that is needed in your production of *Mission Impossible V*. That is a key attribute to the offer in the UK and Pinewood's offer. But security, for instance, is of paramount concern. If you are investing those kind of sums of money in your production, you do not want bits of footage leaking out into the internet. When you refer to fibre optic cables, they are private networks. That is not material going over the internet, because people need to protect it from leaking out and disrupting the economy of their release into the future.

Q8 Chair: That is very interesting. Is the security of the studio and production a serious consideration of a film-maker?

Ivan Dunleavy: Physical security and intellectual security is a vital component, and we are blessed with a good regime in this country.

Q9 Angie Bray: You talk about the importance of being competitive and that we are as good as anywhere. Is there anything that you would say we are actual world leaders on?

Ivan Dunleavy: It is my nature to be slightly modest on these things. I think we have a world-leading advantage in terms of our skills and our creativity in this country. If I was being too modest, forgive me.

Q10 Angie Bray: But is there anything that you would single out where we are really leading the world, for instance animation? Is there something where we have a head start?

Ivan Dunleavy: Our post-production houses here in the UK are world leaders. They are top of the class. For film production, if you look at the end credits of a feature film you will see a huge range of skills and

I think it is the ability to have best in class in all of those skills that is the uniqueness of the UK's offer.

Q11 Chair: For post-production in London you do not need to use Pinewood, presumably? You could make the film in Hungary and then still do post-production work over here?

Ivan Dunleavy: That is true.

Q12 Jim Sheridan: It is perhaps a rather naïve question, but from a British perspective, the legacy from the Olympics when we saw Daniel Craig and the Queen and that magnificent event that was shown all over the world, has that helped your industry? Is there any tangible evidence that it has helped your industry?

Ivan Dunleavy: It has been a huge profile raiser and a magnificent advertisement for the UK. We were particularly privileged to have a lot of film themes through that opening ceremony. I think the excerpt you referred to with Daniel Craig was just simply wonderful and caught everybody's imagination. Hopefully, I will not need him in the Committee room, if you have seen *Skyfall*.

Q13 Tracey Crouch: I want to turn briefly to the issues around policy and barriers to growth. In what ways do you look to the Government to co-ordinate better its policy response to the creative industries?

Ivan Dunleavy: There has been a growing knowledge of, firstly, the value of the creative industries in terms of its economic power in the UK economy, and more recognition of that would be welcome. It is a diverse sector, but at its core it is the creative spark. The initiative on film tax relief, in terms of policy, has been a tremendous success, and we hope that the Government's consideration of high-end television, animation and videogames will bring equal success. Particularly in film—and it perhaps goes back to the point about being overly modest—sometimes we do not set ourselves enough of a goal within the sector. In terms of the agencies that apply to film, for instance, sometimes we are guilty of thinking that last year it was a success—I would rather say, “How good could it have been?” and look to raise the bar in that way.

Q14 Tracey Crouch: How good could it have been?

Ivan Dunleavy: It would certainly be better than just simply targeting a positive trend.

Andrew Smith: I think the other trend that we have seen probably goes back to a document called *Creative Britain* that really pulled the creative industries together. That was several years ago. Since then you have seen much more engagement. For example, the Treasury's Growth Team has been down with us recently looking at barriers to growth. You have the CBI, and John Cridland particularly, championing the creative industries, and it is a fundamental part of their *Playing Our Strongest Hand* document, in which it is one of the sectors for growth. The creation of the Creative Industries Council, bringing Government together, has been a big help.

Q15 Tracey Crouch: Do you think that Government Departments should be represented on the Creative

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Industries Council or just given a role in policy development?

Andrew Smith: You have DCMS and BIS and the council is chaired by the Joint Secretaries of State. I think it would be helpful, particularly as it is a key growth area of the Treasury and the Government, if there was some Treasury representation because growth is clearly incredibly important for this sector.

Q16 Tracey Crouch: Would you like a seat on the Creative Industries Council?

Andrew Smith: I think there are enough people around the table at the moment.

Q17 Tracey Crouch: What major films have been lost to the UK as a result of the studio capacity constraints that you mention in your written submission?

Ivan Dunleavy: By way of example, there is a production called *47 Ronin* that has not yet hit the cinema screens. We were unable to provide all of the services for that film. It was shot in Hungary. There are lots of other examples, and that includes television and I am particularly conscious of the impending demand that may come from high-end television. For something like 18 months now, our studios have been saying to customers, "We can't fit you in". That is becoming known among the community and that is not good news for the UK. It is not that everything has to come to Pinewood, but we are treated as a bit of a bellwether of what the sector is doing.

Q18 Tracey Crouch: You referenced planning as one of the issues there. How do you think the planning system could be changed to prevent this happening in the future?

Ivan Dunleavy: We would argue that growth and jobs are of paramount importance at the moment, and we have had a planning application rejected. We are not simply going to do nothing about that. We will seek more planning consent. We recognise that we have to make a special circumstances case in our particular instance. The only land that is available to grow is greenbelt land, and we understand the sensitivity of that, but let me give you a specific example. In our application we had a training academy as part of what we wanted to build, and the view was taken that that was not a special circumstance. It was a training academy for the film industry. I think there is no better place to put training than actually on the shop floor, but we will not be able to do that in our next application.

Q19 Tracey Crouch: That is very interesting. What more do you think the Government can do to help the industry?

Ivan Dunleavy: Like other businesses, we would talk about working progressively on things like planning, on regulation, those kind of activities, but it would be helpful if we could foster a more goal-orientated objective within the sector.

Q20 Tracey Crouch: Do you think that other national governments across the world are better at

helping their creative industries than the UK Government has perhaps been?

Ivan Dunleavy: I think what the UK Government has done in terms of film tax relief has been incredibly successful, but one looks at governments such as in Canada where they have taken a whole view across the creative sector and are very aggressive in the way they commercially target growth for the creative economy.

Q21 Mr Bradshaw: On the specific planning problem you are having at the moment, how effective do you think those Government departments that one would think would be your cheerleaders—DCMS, BIS, even No. 10 and the Treasury—have been in your support when battling with the CLG and the local authority?

Ivan Dunleavy: We have had representations from the officials to come back and not be disheartened by the initial failure, and that has been helpful. I think the joined-up approach, which my colleague Andrew referred to, between BIS and DCMS is to be welcomed and we are pleased with that.

Q22 Mr Bradshaw: Do you think they have been battling as hard as they can on your behalf?

Ivan Dunleavy: Within what is permissible, yes.

Andrew Smith: The last time in the application we had all-party support and Jeremy Hunt as DCMS was battling. I think you made representations yourself. We had Don Foster. We had a lot of national political support. Where it fell down was the planning inspector. I don't think she understood the concept and so it was fundamentally flawed when it went up to CLG.

Q23 Paul Farrelly: I want to explore this a little further, because I remember seeing the maps when we visited some time ago. Your planning application was not simply turned down at a local level; it was referred to the Secretary of State, who used his or her discretion and then it went to a planning inquiry. Is that correct?

Ivan Dunleavy: Yes, it went through a planning inquiry, but I think the report from the Planning Inspectorate was such that the Secretary of State had little option other than to adhere to the negative recommendation.

Q24 Paul Farrelly: Was it stated in that report that a training academy was not an exception?

Ivan Dunleavy: Regretfully, yes.

Andrew Smith: As I think you probably know, the greenbelt is not written around the Pinewood site. It is around the buildings. The only area we can expand and need to expand is on the greenbelt, but it is incumbent on us to make these very special circumstances.

Q25 Angie Bray: There has been a change in emphasis with national planning guidelines and driving through important infrastructure. Are you saying you think there is a real case for the creative industries to be seen as something that is an important

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part of infrastructure driving growth and that, therefore, you should be treated in that way?

Andrew Smith: I think the infrastructure around the creative industries is just as important as airports, roads and rail, particularly as it is a clear growth sector of the economy. Yes, I do think so, and that is something that we are going to talk to the Treasury about.

Ivan Dunleavy: Having referred earlier to the fact that we leverage our infrastructure to provide a cost-effective solution to our clients, the core of our argument is that the most sensible place to add to the infrastructure is where it already exists, because that is where you get the cost benefit.

Q26 Mr Sutcliffe: Can we move to tax incentives and funding issues? You say in your written evidence how important the introduction of the tax relief in 2006 was. Can you quantify that in terms of what that has meant in terms of UK films in cinemas?

Andrew Smith: If you look at the private sector investment and expenditure that has gone into the film industry as a result of that policy, there is a £100 million development at Warners at Leavesden, Pinewood has invested around £70 million over that period, and we are looking at our new development that would contribute another £200 million. If you round it up and look at other studios as well, you are probably talking about approximately £1 billion of private sector investment as a result of stability of policy. Then if you look at the contribution that the film industry makes—and we commission a report with the various agencies every other year—it is about £4.6 billion to UK GDP. So it has worked very well. For every £1 the Treasury spends they get £12 back.

Q27 Mr Sutcliffe: Building on that success, you are looking now for that to go further. Ivan, you talked about high-end television. Do you think that definition of high-end television is robust enough? Does it catch everything that you want to catch? Also in your submission you said you would be happy for tax reliefs and tax incentives to go to other sectors such as games and other things. How would that work?

Ivan Dunleavy: There are two parts to that question. I think the model that has been employed in film tax relief has worked incredibly well, as we have just discussed, and applying that model, with rigorous checks, in the other sectors is to be welcomed. We particularly think it is beneficial because increasingly the production methods for that kind of screen-based material are very similar to the way film is produced. If you are watching a computer game, you want to see it on your 50-inch television screen and see the same kind of quality that you see from a feature film. It is important that there are benchmarks. I understand that the current proposal is to be set at around £1 million of expenditure per television episode, for instance, on high-end television. I think that is a sensible level. What we do not want to do is fall into the trap that has existed in previous structures, where it was open to abuse. In that sense, it is well envisaged.

Q28 Mr Sutcliffe: So you think it is well defined?

Ivan Dunleavy: We have yet to see the detail of course.

Q29 Mr Sutcliffe: Yes. You talked earlier about the capacity issues. If you are successful, will there be capacity issues to stop the growth because the incentives will be there? How will you deal with that?

Ivan Dunleavy: I hope we can double Pinewood and we will still have a capacity problem.

Andrew Smith: It was refreshing that the Treasury acknowledged, in their consultation document on the creative tax reliefs, that there was a need to create the necessary mass of infrastructure and skills in order to cope with the increased demand, and that is very important.

Q30 Mr Sutcliffe: Good. Moving on to other sources of direct funding, what would you single out to be particularly important? Who benefits from the BFI's new Film Fund and when and why isn't tax relief enough? There could be opportunities when it might not be enough.

Ivan Dunleavy: The increased funding that is now becoming available through the Lottery to smaller independent productions is to be welcomed. In part, some of the issues are not necessarily just about funding the production, they are also about funding the distribution of the film or the project and making sure they can get to market and find the audience that the BFI aspire to. That is a work-in-progress issue. But I think the actual mechanisms that now exist between the public funding, which comes from the BFI, Lottery-led, or BBC Film or Channel 4 Film, is really supporting that UK independent sector.

Q31 Mr Sutcliffe: Do you think there is a development in terms of the public's understanding of the value of the creative industries? I know in my own region in Yorkshire, Film Yorkshire and all the bodies that are around there. Are you confident that the man and woman in the street gets the impact of the creative industries?

Ivan Dunleavy: I do not think they understand how much it is worth to the economy. I think they value the cultural inputs, and they certainly recognise that James Bond and Harry Potter play internationally, but when I say to friends and people I meet that the creative economy is worth 7% of the UK economy, they are staggered. It is a very broad church, but it is a sector that we are very good at and we can use it to rebalance part of the economy.

Mr Sutcliffe: We need to develop further.

Q32 Steve Rotheram: Mr Dunleavy, you said that film tax relief has been extremely successful. You have also mentioned some of the statistics—the industry being worth £4.6 million in GDP and the £12 return for each £1 invested. But just following on from Gerry's questioning, to encourage a reduction in tax relief or direct funding—you might argue, conversely, that that should not happen—could more be done to promote private investment or should there be an increase in central Government funding? Could you perhaps highlight in your response how you have attracted overseas investment?

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Ivan Dunleavy: This may be a slightly long answer and let me try to illustrate a path to get to where you want to get. Exports of UK film was worth about £2.1 billion in 2010. That is the last statistic that is out there. The global film economy is worth about \$86 billion. Sorry to mix currencies. The bulk of UK film export goes into the USA. We have about a 10% market share of the US market. For the rest of the world, that market share is less than a third of 1%. If we could create more exports of UK films, that would clearly create more funding and financing opportunities, and that may be the route to a more successful UK film industry.

Andrew Smith: China's box office is predicted to grow by 23% between now and 2016. They have 9,100 screens. They are putting up eight new screens a day. There are some challenges in China because they have a foreign film quota, but if we could get a small proportion of that box office, then you can see real potential in increasing film exports.

Q33 Steve Rotheram: But you have not explained how you are doing that. Both of you used the phrase, "If we could create". How do we create?

Ivan Dunleavy: It is certainly something that we, as a business, are wrestling with to try to create those opportunities, but we are starting from a very low base. At the moment, we can't even measure how much UK film goes into China. That seems like a flaw in the industry's thinking and if we can do more about that, that would be welcome.

Q34 Steve Rotheram: To go back to the original question, is it something that central Government could help the industry with, or do you think that you need to stand on your own two feet and get some private sector investment that would enable you to do exactly what you have highlighted?

Ivan Dunleavy: I think it is a combination of both. China is a particular territory with its own set of rules. In other territories around the world perhaps private sector should take the lead rather than Government.

Q35 Steve Rotheram: Could you briefly outline what overseas investment you have been able to attract into your business?

Ivan Dunleavy: The Film Fund I referred to earlier is the Isle of Man, so it is slightly overseas.

Steve Rotheram: It is from Liverpool.

Ivan Dunleavy: Our partners in our international studios are all either provincial governments or, in the case of Malaysia, the Sovereign Wealth Fund of Malaysia is partnering with Pinewood to build a brand new studio adjacent to Singapore. That speaks, perhaps, to the power of our brand and the heritage that has been built up over the 75 years that Pinewood has been in existence.

Q36 Paul Farrelly: I have a couple of questions to do with tax relief. The Oxford Economics study concludes that for every £1 invested from the Treasury in terms of tax relief given, £12 in GDP is generated. Are those figures accepted by the Treasury as reliable in terms of additionality from the scheme?

Ivan Dunleavy: I think they are. It is widely quoted by Ministers both in Treasury and DCMS. This is the fourth report that we have done over five or six years, and it is regularly quoted.

Q37 Paul Farrelly: You have talked about high-end television and targeting that next, but in your submission you also said that you strongly support the extension of tax relief to other creative sectors, including animation and videogames, with the aim of building up the concentration and the skills in the UK to continue to be world class. There was a measure, a proposal by the last Government to help the videogame industry, but it was dropped. Are you aware of what was so unattractive about it?

Chair: It has been reinstated.

Paul Farrelly: It has been reinstated?

Chair: Yes, it is coming, it is coming.

Paul Farrelly: It is a shame we dropped it in the first place. I was not aware of that. I am now interviewing the Chair. It has been reintroduced in the same form?

Chair: As far as I know. I think it is pretty similar.

Ivan Dunleavy: I think the two industry bodies are quite happy with it.

Paul Farrelly: Chair, thank you very much.

Q38 Mr Bradshaw: What has been the impact of the abolition of the UK Film Council?

Ivan Dunleavy: I think the reduction in funding that has been available to the British Film Commission, which is the particular aspect that promotes the UK overseas, has caused people to scratch their heads and try to work a little bit better. That was a short-term concern, but it is working well now. The transfer of the Lottery funding aspects into the BFI has worked seamlessly, and we are very pleased about that. Some of the other issues are understandably not getting as much focus and regrettably we have to work within the confines of the economy as it is.

Q39 Mr Bradshaw: Such as?

Ivan Dunleavy: Some of the training aspects, the skills development, perhaps some of the more social aspects in terms of the promotion of diversity have suffered as a result.

Q40 Mr Bradshaw: Would you like to elaborate a little bit more on that? Can you give us some specific examples?

Ivan Dunleavy: We would be delighted to, but perhaps I could write in to the Committee with that one.

Chair: Yes, that is fine.

Q41 Jim Sheridan: Can I go back to the funding? Are you totally reliant or dependent on public funding, whether it be in the UK or internationally, and particularly the EU Culture Programme funding? Do you receive anything from that?

Ivan Dunleavy: We receive no direct funding benefit from anyone. We work with our shareholders' resources.

Q42 Angie Bray: Can I go back to the issue of exporting our films? You say we have about 10% of

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the American market. Does that tend to come and go depending on whether British films are in fashion? It does seem to be that sometimes a British film really takes off and then everybody is very interested in all things British. It may not even be a film. *Downton Abbey* is an example of where suddenly everybody in America is very interested in all things British.

Ivan Dunleavy: There will be peaks around a success such as *The King's Speech*, but the longer-term trend is fairly consistent with that level. One of our advantages is that our stories are universally well received, so period film or television in particular goes down incredibly well in places like Japan. I think there is an empathy between the storytelling nature of our film industry and many of the other cultures around the world.

Q43 Angie Bray: Why is it that we seem to be doing better with our exports to the US and we do not seem to be able to get our exports going to the rest of the world? You look at India; Bollywood has made it a huge thing. Why can't we do that?

Ivan Dunleavy: There is a focus on the US. Perhaps the Oscars have an influence and people chase that kind of recognition.

Q44 Angie Bray: Do we need to do more to build our brand UK?

Ivan Dunleavy: We need to do more on the economic side, yes. It is a business. It is slightly unique in that it deals with a cultural product.

Q45 Jim Sheridan: Could we go back briefly to the skills agenda? Is there anything you can suggest that the Government could do to encourage industries to take on more apprenticeships, invest in more training? Secondly, what are you doing yourselves?

Andrew Smith: We identified at Pinewood a skills deficit particularly on the crafts side—the plastering, carpeting, wig-making and so on—so about three years ago we set up the Pinewood Group Apprenticeship Scheme. Roughly 10% of our work force are on various forms of apprenticeships that range from sound maintenance through to drapes. One of the drapes apprentices is doing a 23-month course in Nottingham. We partner local colleges—Amersham and Wycombe. We have a whole variety of apprenticeships that we are working on at the moment. We have just introduced, working with Skillset, the Pinewood Studio Management Diploma. We have done that because there is going to be a shortage of skills in the management of facilities. The course has been oversubscribed already. We are piloting at Pinewood.

We take it very seriously. With Skillset and the Film Skills Council we are targeting two areas. One is the craft and technical skills, which I mentioned, and also the high-end, the visual effects side. We had a meeting of the Film Skills Council a couple of weeks ago and it is appalling to find out that 53% of those employed had to be brought in from outside the UK because we did not have enough skills in that area. It is an area where the UK is probably the best in the world in Soho, in the visual effects side. That is an area that we have to do a lot more on.

Q46 Jim Sheridan: You said 53% from outside the UK?

Andrew Smith: I will double check that figure, but I am fairly sure it was 53%.

Q47 Jim Sheridan: I think that is incredible.

Ivan Dunleavy: What is interesting is that the skills that apply in film post-production and CGI, special effects, are almost identical to the skills you need in the videogames industry.

Q48 Jim Sheridan: Are the apprenticeships for three, four, five, six years?

Andrew Smith: It depends. I think our drapes apprenticeship is a 22-month one. They are very hands-on apprenticeships. I think there was a *Panorama* programme recently about *The Great Apprentice Scandal*, and Pinewood was used to show that it is not just classroom-based, it is actually in the work force. That is the emphasis we are placing on that.

Q49 Mr Bradshaw: You said earlier that Britain was a world leader in creativity, and I think that is right. How important do you think the creative arts are in our school curriculum?

Andrew Smith: There is a new initiative about Studio Schools, which is something we have come to quite recently. I think the first ones come on stream in the autumn of next year. We are involved. Shepperton is sponsoring one in Hastings and Rye. There is another proposal for one at Pinewood. But the Studio Schools initiative around the UK is quite an interesting development.

Q50 Mr Bradshaw: Young people discover their creativity at school usually, through art and craft and feeling inspired, don't they? Other people such as Nick Serota have taken a view on the Government's proposed changes to the curriculum. Do you have a view on those?

Ivan Dunleavy: My personal view is there should be an element of arts and appreciation of film and television media within the school curriculum, but I do not think I am best placed to say at what level and how that should be delivered.

Q51 Mr Bradshaw: You see people coming through who have acquired skills because they have had their natural creativity tapped into, if you like, in one way or another by their secondary or even primary education. Is that not something that, as someone who uses those skills, you value?

Ivan Dunleavy: I am not sure that skills may have been created there. I think if there was a creative spark that was fostered there, that would be good. I am sure you have heard the criticism of what are generically called media studies classes; I have said before that we do not need people who can give us lectures on 20th century Russian film. That is of no use to us at all. We need people with practical skills.

Andrew Smith: There is a thing called the *Livingstone-Hope Review* that identified the shortage of skills in Soho on the visual effects side, and it needs to take that back to the classroom. Obviously the

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visual effects side is better qualified to say this, but they would explain to you that children are coming out of schools very competent on Excel and PowerPoint, but we have lost the computer programming that we used to have in the 1980s and that is what we need to go back to if we are going to address this skills deficit.

Q52 Paul Farrelly: Some parts of what we call the creative industries have been very vocal against the proposed EBac and its narrowness. In fact somebody, whose name escapes me, said that narrow focus could wipe out the UK's creative skills base in 10 years. You probably do not want to go that far. Could I ask you hopefully not too leading a question. When it comes to looking at what you were talking about, programming or vocational subjects, do you think that the chalk and mortar boards type proposals for the content of the EBac are perhaps too narrow and not keeping up with modern times?

Ivan Dunleavy: I do not think I am best placed to answer that question. I would need to go away and research it a little bit better. Not directly answering your question, but perhaps by way of illustration and returning to the previous question, there are centres of excellence like Bournemouth in the videogames sector, like Nottingham who have a wonderful course for set designers. I think if schools can be the feeder into those kind of applications then we would certainly value that.

Andrew Smith: The other thing that we should not forget is an initiative the UK Film Council launched that was helping those in the creative industry, particularly film, to understand business as well. That is critically important. The National Film and Television School has just introduced a course for those in the wider creative industries to ensure that they are able to run a business, because they are very creative. We have 300 tenant companies based across Pinewood and Shepperton and we see young people who have these fantastic ideas. When it comes to looking at balance sheets and margins and running a business, that goes on the pile to look at another day, but ask them to design something and it will be done tomorrow. So I think that is important as well.

Q53 Mr Sutcliffe: It is a similar theme really. If you look at the demographics of the UK work force and projected demographics in terms of an older work force, I wonder if people are in the right places for you to be able to tap into that. Have you had a look at that? In Bradford, we have a high birth rate and a young working population forecast, but have you had a look around the country at where the sort of centres are going to be where the younger workforce are going to come forward?

Ivan Dunleavy: I think there is a tremendous amount of talent out there, and we should foster that talent. Whether it continues to work in its region of origin is a slightly different question, but there is no monopoly on creativity anywhere and wherever it is we should be backing it.

Q54 Mr Sutcliffe: What I am trying to get to is that there are specific hotspots where there will be a

younger work force and you might be able to tap into that. Can we do some work around that?

Ivan Dunleavy: Yes.

Q55 Angie Bray: Can I move you on a bit to issues around clusters and hubs? It is pretty clear from the submission that you put in that you do not see any merit in this talk about too much focus on hubs. You think the hubs are the way forward and you are not so keen on this idea of geographical spread. Do you want to talk us through that and why you think that the hub is the way forward and not a greater geographical spread?

Ivan Dunleavy: From an economic point of view, it goes back in part to the earlier discussion about leveraging the infrastructure that already exists. There are good hubs around the UK. It is not all in London and the south-east. There is Manchester, Cardiff, Bournemouth; we talked about videogames earlier. I think it is backing the potentially strongest hands, and that for me would be key.

Q56 Angie Bray: But it is pretty London-centric, isn't it, and in your own submission you make the point that London and the south-east is the centre of it all?

Ivan Dunleavy: I think London and the south-east is not just a cluster or a hub, it is an international hub. If you look at the screen-based industries, on the film side you have Leavesden, Pinewood, Shepperton, Ealing, Elstree, on the television side you have Sky News facilities, you have Chiswick Park, you have ITV, Channel 4. It is huge, and they have all the post-production houses. But there are regional centres of excellence; you have Pacific Quay, Glasgow, the BBC's facilities in Bristol and Cardiff, Salford Media City. But I think we should not just see London as a UK hub. It is a global hub for creativity.

Q57 Angie Bray: But do you think building on the strength that already exists in London is going to increasingly focus on London, because everybody will want to be there, and that some of these regional centres are going to be driven down as a result of this increasing focus on London?

Ivan Dunleavy: Whether that is a direct motivation or whether it is an accidental by-product—

Angie Bray: A consequence of it.

Ivan Dunleavy:—a consequence of it, I would not get overly concerned about it. If one looks to the US, there is Silicon Valley. They have not tried to create Silicon Valley II somewhere else. They have backed their strongest hand, and I think we should do that in the UK.

Q58 Angie Bray: You also use communications technologies to collaborate on a global scale?

Ivan Dunleavy: Yes. There is no reason why someone could not design a product in Rotherham and it be used productively somewhere else in the UK.

Q59 Angie Bray: Do you think that there would be benefits in helping to develop creative clusters in other parts of the United Kingdom? Do you think it would be a good thing?

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Ivan Dunleavy: I would back the ones that currently exist rather than trying to create new ones.

Andrew Smith: I think there are examples of facilities that have been built and have been lying empty. In Wales, for example, the Dragon Studios is a fantastic facility, but I do not think it has had a single film since the day it opened. So, it is focusing where our strengths are.

Q60 Angie Bray: Whose mistake was it to invest that money?

Ivan Dunleavy: It was partially funded by the Welsh Government.

Q61 Steve Rotherham: I am interested in the last set of responses. I can understand the need for a physical hub for filmmaking and stuff like that, but for lots of the digital industries there is not really that need because obviously anything can be sent down line now. I know Salford is a hub in the north-west, but places like Liverpool, which was not mentioned, have a huge independent creative sector. If what you are doing is creating a hub, what you need is spokes and you need to have that linking back in. That is the idea of that model, and it did not seem that you had even started to consider areas other than regional hubs.

Ivan Dunleavy: There is a question of balance in all these things. The idea that digital connections could, in my example, take a designer from Rotherham and feed his product into a central hub is quite important. Even though we talk about material that is created digitally, there is still a tremendous amount of focus on the collaborative effort. If one examines the sort of computer-generated animation that is produced by companies like Pixar, they have a very clear campus mentality where 100, 200, 300 people are brought together to create an animation show. In terms of physical process, that could be done in the four corners of the planet, but it is the collaborative effort that creates the product that everybody wants to see.

Andrew Smith: The other good thing is that Creative England has been established and that is to help create the creative industries outside London. It is something we are very active with, so that is certainly targeting. One thing Creative England has done is to bring the various sectors of creative industries together regionally, which should be applauded.

Q62 Steve Rotherham: It would be interesting if there was any sort of statistical evidence of that happening, because I have not seen it myself. This sector is benefiting from UK film tax relief and therefore the opportunities should be across the UK to link into this. Hopefully those jobs and those opportunities are not going abroad, like you said before, with the 50%-odd in some of the trade areas. If we are going to create a creative industry, then it needs to be the indigenous people here who get the opportunities, otherwise what you are doing is giving our competitors an advantage over us.

Andrew Smith: Absolutely, I agree. I think Creative England has just commissioned some evidence—I am not sure it has been published yet—about the importance of regional clusters and hubs. That piece of research has been commissioned.

Q63 Jim Sheridan: It would be unfair for you to leave without talking about intellectual property law and, indeed, its importance. How big a problem is the piracy threat to television and films? Do you think the current law is effective?

Ivan Dunleavy: Piracy is clearly a global problem. As I am sure the Committee is aware, there are two streams to the issue. One is what is characterised as the downloading at home by teenagers who regard the product effectively as free for their consumption. The other is the more criminal-backed element of doing it for commercial gain. Both are challenges to the revenues of all creative economies, and they need to be dealt with. We do have a good regime of IP protection here in the UK, but it does need updating. There have been various proposals through the reports written by Gowers and Hargreaves, which I am sure you are familiar with, which are yet to be implemented, and we hope that they can be.

Q64 Jim Sheridan: Just on the global aspect, France has made some move towards improving its enforcement law but this is a HADOPI law

Ivan Dunleavy: That one is not something I am familiar with.

Q65 Jim Sheridan: This is a three strikes and you are out area. Do you think that would be helpful?

Ivan Dunleavy: In that particular case it is going to depend on enforcement, so again probably we will have to wait and see. But I think the point that you make is that this can't just be a UK-driven initiative, it has to be based on co-operation internationally.

Q66 Jim Sheridan: HADOPI published a report saying there has been a 29% decrease in visits to pirates, equivalent to a 66% drop in illegal file-sharing traffic, but there were not any increased revenues for the creative industries as a result. So I assume that, no matter what laws we bring in, it is not going to bring in more revenue for the industry.

Ivan Dunleavy: On a commonsense basis, that seems surprising, but I think there are some basic things that we could do, and I am sure the Committee has heard this from others. For example, why is camcording in a cinema still permissible? Why would someone bring a camcorder into a cinema if not for some kind of commercial gain?

Chair: The Committee did recommend making it illegal, I think about five years ago. Sadly it does not seem to have been taken up.

Q67 Jim Sheridan: But there was an Open Rights campaign about three strikes and you're out and how that would impact on internet users. Is that the case?

Ivan Dunleavy: I am not sure I can answer that question.

Q68 Paul Farrelly: I was struck earlier on when Andrew, I think, said that the *Creative Britain* document of six or seven years ago was what pulled stuff together in terms of having a focus from different Departments and the Treasury. Is there now perhaps, as part of a growth strategy—John talked of *Mission Impossible V*—a compelling case for a *Creative*

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Britain II document, or have there been enough initiatives, reports written and worthy work done to make it satisfactory just to adopt a piecemeal approach to bringing various initiatives forward to help the various creative industries?

Ivan Dunleavy: I would suggest it is something that we constantly need to look at and, as the Committee is doing, we should keep it at the forefront of our minds in terms of how we create growth and opportunity for the creative economies. Whether that is best in the form of a report or through any other kind of policy mechanism, I think is for debate.

Q69 Paul Farrelly: Do you see evidence at the moment of an overarching strategy that demonstrates that the industry has been given sufficient priority? That is really the nub of the question.

Ivan Dunleavy: There is certainly evidence in the screen-based industries that that policy is starting to produce benefits. Other colleagues from other parts of the creative industries could answer from their own experience.

Q70 Mr Bradshaw: I was in the Cabinet when we were trying to respond to the financial crash and we published a document called *Building Britain's Future* in which the creative industries were central. They were one of three or five strategic sectors of our economy that the whole Cabinet agreed needed pushing. Are they still there? Do you sense that they

are still essential to this Government's economic and growth policies?

Ivan Dunleavy: Yes, I do.

Mr Bradshaw: You do?

Ivan Dunleavy: Yes.

Q71 Mr Bradshaw: I have a couple of questions about intellectual property. We have heard from other people in the creative industries that they are worried that the Government is going slow on the implementation of the provisions of the Digital Economy Act and they feel that the Government have been bamboozled by Google, to paraphrase. Do you share that general concern?

Ivan Dunleavy: It is puzzling why some things that seem to have broad agreement are not getting through the system.

Mr Bradshaw: Such as?

Ivan Dunleavy: There has been a lot of comment about orphan works and those kind of issues and there seems to be a broad consensus on what should be done, but it does not yet seem to have got through the system.

Q72 Mr Bradshaw: And the Google?

Ivan Dunleavy: Again, I probably pass. That question is beyond my sphere of expertise.

Chair: I think that is all we have. Thank you both very much.

Ivan Dunleavy: Thank you for your consideration.

Examination of Witnesses

Witnesses: **John Mathers**, Chief Executive, Design Council and **Mat Hunter**, Chief Design Officer, Design Council, gave evidence.

Q73 Chair: I welcome for the second part of this session John Mathers, the Chief Executive of the Design Council. Mr Hunter, what is your role?

Mat Hunter: Chief Design Officer at the Design Council.

Chair: Thank you. Just before we begin, my colleague Mr Farrelly wishes to make a statement.

Paul Farrelly: This is just for completeness. I thought I should declare an interest, as we have the Design Council in front of us. I am the founding patron of Urban Vision North Staffordshire, which was one of the CABA-sponsored architectural and design centres about the country, and CABA, of course, is now part of the Design Council.

Q74 Chair: Can you begin by giving us a brief overview of the work of the Design Council in supporting the creative industries?

John Mathers: Can I apologise in advance? It is a very new role for me. I have been in post since 1 November, so please treat me carefully, although I suspect there is some roasting going on somewhere in the vicinity.

Chair: The Director General of the BBC had only been in post a few weeks. We will be nicer to you than him.

John Mathers: It probably is important to give a bit of context so that people understand that the Design

Council is no longer a non-governmental department body. It is now an enterprising charity and that happened after the comprehensive spending review a couple of years ago. At about the same time we merged with an organisation called Cabe, which was the Commission for Architecture and the Built Environment. So the two bodies have now come together in a much reduced state.

The Design Council is about championing good design. I think we might well have a debate today about what good design is all about, what design is all about and the role of design in the creative through to innovation spectrum. We use design to enable people to design for innovation, tackling big social issues. It is about driving growth as well and it is about improving the built environment. Essentially we have a number of ways of working. We partner with local and central Government. We run what are called open innovation challenges. These are the things that tackle the really big challenges that society faces. We provide design-led coaching programmes for business, universities and service providers. We also offer design support for developers and infrastructure providers in the built environment. So it is a fairly broad remit.

Mat Hunter: We see ourselves as connecting supply and demand, to bring the supply of design and the use of design to areas where it has not been used before,

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but also to drive up the quality of design where people even have started to use it. It is about design in places where it does not exist and even better design where it does.

John Mathers: It is important to say we do not represent the design industry per se. There are other bodies that represent the design industry and designers, but what we do is champion good design and that is really what it is all about.

Q75 Chair: Is it possible to quantify the economic contribution of design? We can ask the film industry how much that contributes to the economy, but design is rather harder to pin down, I should imagine.

John Mathers: It is. I think where we can quantify it—and that is amply documented in the written evidence that we provided—is where we intervene with design; we can see the tangible improvements that can come in turnover, in increased net profit, in exports and so on. One of the statistics I am aware we did not put into the written evidence is that particularly where we intervene with small businesses, SMEs, we know that we can make a tangible improvement, particularly in jobs. For every intervention that we make, we reckon that we create about six jobs¹. So there is that tangibility about what we do. We know that there are some statistics on the size of the design industry as well and the growth of the design industry.

Mat Hunter: Those are essentially that Imperial College in 2011 estimated that the value design brings to the economy is 2.2% of GDP, which is £33.5 billion².

Q76 Chair: You say you can particularly help small businesses. Does a small business approach you or do you go out and say, “Your products could be much better designed”?

John Mathers: In our Design Leadership Programme we approach small businesses, universities and public sector organisations. It is understanding the role that design can play. I think there is a great deal talked about creativity, but creativity is quite a difficult thing to pin down. It is a question of how we harness creativity to produce innovation, which ultimately produces growth. It is the design element that introduces the standards, the procedures, the processes, the ways of thinking that can turn creativity into reality. It is often that element that small businesses don’t really get. They sort of know it is there, but what they don’t know is how they can use it to best effect. The programme that we have means that we approach small businesses and introduce the design element to them. We are quite a small organisation—centrally we have about 75 people—but we have about 300 Design Associates and Built Environment Experts who are the interface with organisations. That is the way it works really well.

¹ Available at: www.designcouncil.org.uk/Documents/Documents/OurWork/Designing%20Demand/Designing%20Demand_Executive_Summary_Final.pdf

² Haskel, J. Peslola A, *Design services, design rights and design life lengths in the UK*, IPO 2011 www.ipo.gov.uk/ipresearch-designsreport1-201109.pdf

Q77 Chair: Our principal concern is what Government can do to help the creative industries. Are there any particular areas where you think Government could be more active?

Mat Hunter: There are two areas that we always think of: how does design support industry better to use design and how does the Government itself use design? Certainly one of the things we understand is that Government itself needs to be a leader in using design effectively to create better policy, better products and better services, and by exemplifying design leadership, as we have seen for instance in the Olympics, which maybe we will come on to later. At the same time, I think it is necessary for the Government to continue to support these outreach activities to help the industry to understand design. So there is a sense again of this ethereal quality of design and the challenge of taking the creativity and really drawing a line of sight with economic value. Therefore, both for Government and for industry we need more engagement so that people experience it and get the benefits of it and ultimately build more confidently on that. We find that whenever we work with civil servants in using design for policy or whenever we engage small and medium enterprises with design, all they need is one experience to get the hang of it and then to move forward, so our interventions typically are very few in order to get them on the right path.

Q78 Paul Farrelly: I am familiar with the consequences of the CSR for Cabe and the Design Review process for the built environment that we started to get going around the country. Design Review is like submitting scientists to peer review in scientific magazines so you get a reliable and good product in the end, and the same goes with architects and major schemes for our local environment. I have seen the consequences there. You described the Design Council, since the CSR, as being in a much reduced state, but also the benefits of your interventions. Could you give us a brief overview, from the Design Council’s side of things, of how much reduced your state is and what, in your opinion, have been the consequences?

John Mathers: In terms of reduction, I think our challenge is that we still get some funding from both BIS and CLG, but there is no long-term guarantee to that funding. So we are having to investigate ways of ensuring our long-term future by self-sufficiency, and that has necessitated a degree of introspection and changed priorities. We are still meeting the reduced funding liabilities that we have, but that means that we are intervening with fewer SMEs, fewer universities and fewer other bodies. Our interventions are less and therefore our impact is less. I would say that is probably by about a third compared to where we were a couple of years ago.

Q79 Paul Farrelly: Has anyone noticed?

John Mathers: Yes, I think people have noticed. We work very closely with BIS, which is constantly looking at how we can up our ante and get better productivity.

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Q80 Angie Bray: Can you help me understand exactly what it is you do? You said earlier that perhaps one intervention with an SME could deliver six extra jobs. Could you tell us what that intervention might be and how it actually works and how the impact works? Give us an example.

John Mathers: I will give a broad study and Mat can talk about a specific example. We would work with a company that, for instance, was manufacturing in a particular marketplace. That marketplace has become stagnant. They need to look for some way of innovating to look for new opportunities, but the processes that they have internally, the people they have internally aren't really capable of understanding how to go about that. We will liaise with them, understand what their needs are, to find the problem in many respects, and then introduce a design element. Our job as well is to grow the design industry, so we don't do design intervention ourselves. We do that work through our Design Associates and through the broader design industry. We will introduce the right Design Associate, the right design firm to help that particular organisation look afresh at the challenges they have. I can think of several examples, for instance, where through that innovation process we have identified completely new ways or new marketplaces for them to look at, using the existing technologies and the existing strengths and skills that they have internally. So, I think the pipe story.

Mat Hunter: I think there are two cases in point. As John was saying, we are advisors to the leaders of the organisation, helping them in some cases to create new businesses and in the other cases to refine existing businesses. You get a clay pipe manufacturer making a very high-quality product, but we can all imagine what is happening in terms of pricing pressure with exports. What do they do? How do they move into a new market? Rather than creating drainage products, perhaps they should move into garden wares, so they make high-quality, frost-proof ceramics—"Let's make Yorkshire Flowerpots". So now more than a third of their revenue comes from that new business³.

A very different example, however, might be a haulage firm, a logistics firm in the middle of England that is doing quite well but essentially doesn't understand how brand and service design will help them to better win customers and to exhibit their strengths. We would connect them in this case with, rather than the product designers earlier on, brand and service designers. We helped them procure an award-winning rebrand that now lets them project much more confidently and they begin to win millions of pounds more of orders.

So we are talking sometimes product design, sometimes service design, sometimes branding design, many different disciplines. Our Design Associates go in to help you understand which discipline might help you and how to write the most effective brief and then how to procure the right talent so that you can effectively spend the right amount of money to get the right benefit.

Q81 Angie Bray: Where does the figure come from that therefore an intervention can lead to six extra jobs? That sounds quite specific.

John Mathers: It is across the board on average. We have done quite a lot of research, and a recent study evaluating what our impact across 200 firms that we have intervened with has produced, and on average the figures that we quoted in our written evidence support that⁴.

Q82 Angie Bray: The second of your examples I can see would be very specifically a design issue around branding, but I am quite interested in the first example with clay pipes. In many ways, I would think that might just be a kind of managerial decision, that a good management would be thinking about how they can expand into different markets.

Mat Hunter: A key area that is not understood in design is how design helps us to move forward to create new strategy. We also work with Technology Transfer Offices in UK universities, because essentially one has to understand that design is making great things for people. In other words, it is a very interesting and powerful form of speculative marketing. What is it that people need and how should we satisfy that need? This is exactly the point that design, when working at the most strategic level, helps to create new businesses because it has a very good grip on what people want. When John spoke earlier about the great sort of societal challenges that we take on, we work, for instance, with the Department of Health around issues of long-term social care or dementia care and begin to create fundamentally new products and services that will reduce the burden on the state and improve people's lives. So we are in the business at times of creating new businesses just as much as we are in the business of evolving and improving existing business.

Angie Bray: It is business solutions, yes.

Q83 Tracey Crouch: You are represented on the Creative Industries Council. What do you see as being the fundamental role of the CIC?

John Mathers: It is the conduit between Government and the creative industries. It is working well in its early stages. A couple of reports have been produced. I think we could do more with those reports.

Tracey Crouch: Such as?

John Mathers: I think the first report was produced some six months ago and I am not sure that much tangible action has been taken since then. It meets only every six months and I think it could meet more. The sub-groups could work more cohesively, we could have more Government representation on it, and we could also have greater representation across the design industry. The Design Council is perhaps the only body on it that represents design per se, and I think there may be opportunities to have greater representation.

Q84 Tracey Crouch: From your response, do you fear that it could just become a talking shop?

³ Case Study available at: www.designcouncil.org.uk/our-work/leadership/case-studies/naylors/

⁴ Available at: www.designcouncil.org.uk/Documents/Documents/OurWork/Designing%20Demand/Designing%20Demand_Executive_Summary_Final.pdf

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Mat Hunter: We believe it has created two important reports around skills and around finance, and we believe those to be high quality. Ultimately if, as John implied, those recommendations and insights are not acted upon then of course, by definition, it is a talking shop, but I think it has attempted to put forward ideas and if those ideas can be acted on, then it has impact.

John Mathers: I don't think we feel it is a talking shop yet, but I think we need to keep the momentum up to make sure it doesn't become one.

Q85 Tracey Crouch: I noticed that, like Pinewood, you think that the Treasury should be represented on the Council.

John Mathers: Yes. We had some very interesting conversations with the Treasury just recently, talking about large infrastructure projects. This relates to a topic we will maybe come on to, which is the Olympic legacy. I believe we have a huge amount of skills that can help those big infrastructure projects. There are a lot of other large infrastructure projects around at the moment where I think the design review process as well could really help. I think the Treasury struggles a little bit to understand what that role could be and how there could be more effective intervention, but we have had some very useful conversations, and it may well be that the Treasury is getting more on board with that.

Q86 Tracey Crouch: Do you think there are other ways of improving collaboration between the creative industries? The Creative Industries Council is designed to co-ordinate policy and activity. Do you think that perhaps encouraging or facilitating the hubs and the clusters that we were talking about earlier is one way of better co-ordinating activity?

John Mathers: It is quite interesting, because I come from the design sector and coming into the Design Council is quite an interesting perspective, because when you are on the outside you do feel very much that the design industry in particular is a very disparate body. I think there is a huge opportunity to become much more cohesive and unified in terms of what we do. One of the challenges that the Design Council has over the next few years is to see whether we can bring that disparate sector together to be more cohesive and more consistent.

Q87 Tracey Crouch: Do you think clusters and hubs could be the answer?

Mat Hunter: I think one of the perspectives we have is that again design—perhaps slightly unusually within the creative industries—is as much about spreading creativity outside of the creative industries as it is about creating great films and architecture and fashion. So the point is that when we talk about hubs and connections, we are as interested in the connection between design and biosciences and life sciences and material sciences as we might be between design and film and everything else. So, yes, we have to think about creative industries collaborating with one another, but just as importantly, if not more so, given the push around science and technology and the Government-enabled support around science and technology, we need to ensure that

this creativity can be quite strategic, really identifying new opportunities and new markets, and that this is an integral part. Wherever we find technology hubs and clusters, we need to make sure that at the very least there are design components at a very senior and powerful level.

Chair: You referred to the Olympics. That brings us on to Gerry Sutcliffe.

Q88 Mr Sutcliffe: The Olympics and Paralympics and the tremendous success of those Games in so many different ways. Quite rightly, in your written evidence you talk about the role of design in there and you point to the example of the Olympic Torch. How much of the success of Games could we put down to success through design; what were the design impacts on that?

John Mathers: It is quite interesting, because we were talking about this yesterday and, in a funny sort of way, great design is the stuff that you don't necessarily see. If any of you attended any of the Olympic events, a huge part of it was the ease with which you accessed the venue, the way you found your way around the stadium or whatever event it was, the way that everything worked effectively. To my mind, that is what great design is all about. What you would notice more is bad design, when things don't work, when you have problems or issues with the way that you interface with something or someone or whatever else. I certainly feel that the role we played, particularly with the design review process that we undertook, made a massive difference to the way the infrastructure worked.

I believe that we can play a huge role in terms of intervening at an early stage in many of the major infrastructure projects that are going on with the Government at the moment. I believe there may be an announcement this afternoon about High Speed 2, where our intervention may well be part of that process. I would welcome that, because I think intervention to make things better at an early stage and advise on the challenges and the issues is much better than bringing us in at a later stage when it is often too late to make changes or, if changes are made, they are much more expensive and complicated logistically.

Q89 Mr Sutcliffe: I know we could have a good two-hour discussion on designing the Olympics and Paralympics, but how best can we take this forward in terms of what lessons can Government learn from the success of design in the Olympics and the Paralympics to help the GB brand when we go to other countries, like Rio for 2016 and other major sporting events? We clearly showed that we could put on a fantastic show, so how can design help and how can Government help design to get into those other markets?

Mat Hunter: John mentioned it earlier in terms of having design leadership there at the core of the team right from the beginning. LOCOG had strong design capability within it, but at the same time that helped them to understand what they really understood at a world-class level and what they didn't, so they also used a large number of advisory boards and agencies.

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We helped LOCOG to procure the Olympic Torch design and engineering. Essentially, it is to have design there right at the beginning, understanding the strategic competence, but also to understand how to collaborate with world-class experts and to have it all the way through, but to be looking for quality as much as anything else. We have discussed a little bit about good and bad design, difficult as it is about a qualitative judgment—is it good?—and that requires great skill.

John Mathers: Can I add to that? One thing that we haven't yet done as a country is showcase the great design that went into the Olympics, and part of that is the issue of individual publicity around the role that individuals—

Q90 Mr Sutcliffe: That is what I wanted to come on to. I have a constituency company which is suffering because it can't advertise the fact that it was successful in design. I think it was something to do with the Velodrome. But it is now becoming a bigger issue for lots more companies. How do we deal with that and how do we get Government to deal with that, LOCOG to deal with that or the IOC to deal with that?

John Mathers: We have an idea that we have been discussing with Ed Vaizey, who is a strong supporter of this—what we need to do is to have some sort of showcasing great design event that gets around any of the complications about the individual publicity of individual company roles. The Design Council can be the curators of that exhibition or that showcase of the great design that went into the success of the Olympics and Paralympics. So we are in general discussion about that. It is early stages yet, but that is something—

Q91 Mr Sutcliffe: I think it is a great idea and I would support that, but I still think there is a difficulty for companies to be able to go to bidding nations to say, "This is what we did in London". It is because of the protective branding of the Olympic brands, and we need to find a way through that.

John Mathers: Yes. I am not an expert on this. The difficulty is that what companies are not allowed to do is publicise it. I think when they have individual conversations with organisations they are allowed to talk about the role they played. It is how do you get that company or that organisation on the radar in the first place, and so I think there is a role that Government can play in doing that.

Q92 Mr Sutcliffe: I also think there is probably a role for the sporting organisations, whether it is the BOA, UK Sport or whoever, to help you in terms of branding the success of those companies in that, and I think that might be another way around it as well.

John Mathers: I think you are right.

Q93 Steve Rotheram: We were looking next at barriers to growth and we heard earlier about the need for improvements in the business skills of the industry. What do you think needs to happen to allow an improvement to business skills, and will developing those individual skills for companies be enough to secure adequate finance for the design sector? It was

interesting, in one of the earlier responses in the last session, that one of the witnesses said that while people within the industry might be very good at what they do, when they get stuff that is of business interest it is put to the bottom of the pile. I think that could be said right the way across the board in this sector.

John Mathers: We would wholeheartedly agree with you. We need to introduce business skills into the curriculum at an earlier stage, particularly in the design industry, where there tends to be a proliferation of often quite small firms that start. Some of them grow to be bigger, but many of them stay small and they stay small because they like being small and because they don't have the abilities and the wherewithal to grow. The more we can introduce those skills at an earlier stage in the process, the better. I am sure we will get on to education in a moment, but I think you will find that we have a very different and more vociferous view about the need for education at a much earlier stage and the continued role of design in the curriculum. I can give you an example. There is a school in Esher called Reed's School that had to build a new design and technology building. Rather than just build the old-fashioned design and technology building, they had some outside help and they decided they were going to blend the whole thing together, design, technology, art, entrepreneurship. They created this amazing building that they have called FutureTech, which apart from anything else, has the kids totally excited about the whole thing. They are building a curriculum around everything that I just talked about. It is not just design and technology, not just art; it is about business finance, it is about entrepreneurship, it is about IP and so on, so that the children at a very early stage are starting to think on a much bigger scale. It is that sort of thinking that we need to be inculcating across the whole of our education spectrum.

I will just keep going, if I may. The really worrying thing is that British design, much vaunted, great reputation globally—but 300,000 designers are coming out of China every year. We saw a 16% drop last year in applications to design-related university applications in 2012 or 2011. I know there was a drop overall, but that was bigger than the overall drop. China has made a much-publicised commitment that they are going to be moving from "Made in China" to "Designed in China" and I think there is a huge challenge about whether in the future Britain can still keep its much-vaunted reputation as the best in design.

Q94 Steve Rotheram: Would you join in what was said earlier about the EBacc? Do you think that that will have a negative impact on your sector?

John Mathers: Absolutely.

Mat Hunter: We have been working very hard with the Design and Technology Association and others, and I know that a large part of the design industry is very eager to have a much stronger representation of design and design technology.

John Mathers: I think we need a sixth pillar in EBacc, which is design technology and art. We would actively fight any move to remove design and technology or design and art from the national

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curriculum. We think it is shooting ourselves in the foot.

Chair: We are coming on to that shortly. You are jumping the gun.

Q95 Steve Rotheram: Sorry, Chair, yes, slightly jumping the gun. Do you believe that the financial sector is sufficiently attuned to the needs of your particular industry?

Mat Hunter: You mean in terms of financing for design-centred enterprises?

Steve Rotheram: The opportunities that your industry can provide to attract investment, but also to give that investment a decent return on its money.

John Mathers: Yes and no. I think the financial services industry uses design quite effectively in one respect, in that it uses it to promote itself quite effectively, but I don't think it necessarily understands the opportunities of design. Particularly the conduit between creativity and innovation. Mat said it, it is a very difficult thing to communicate, but it is only through building awareness that we are going to do that more effectively.

Q96 Steve Rotheram: What can Government do to assist you in your roles and the industry per se to promote design?

Mat Hunter: I think we have said already that it is ultimately for the Government to understand design itself, for all policymakers to understand how design creates better policy, creates better communications with citizens and engagement in public services. This is something where we are seeing some great traction so far, some work at the No. 10 Design Summit with the Cabinet Office a couple of weeks ago, but it is very early days. We are beginning to see that the Government Digital Service, for example, again coming from the Cabinet Office, has shown very clearly that a design-led approach to digital services can make things far more effective and less expensive. We are seeing from that point of view the Government being a leader and champion of design within the public realm. This is very early days, but we see in other countries, notably Denmark with MindLab, that they understand much more deeply how design can make a big impact in terms of the way in which effective policy is created and delivered to and with citizens. That is one of the ways, certainly.

Q97 Steve Rotheram: It seems you are indicating that Government to date have not understood the role that they could play, but that there are some green shoots?

Mat Hunter: Yes and no. If we take the Government departments that we have collaborated with in order to show effective design, clearly, as you know from our funders, we have worked with the Department for Communities and Local Government and BIS, but equally, over the past five years and more, we have worked with the Department of Health around infection control in hospitals and reducing violence and aggression in hospitals against staff. We have looked with the Home Office at design against crime. We are looking with the Department of Energy and Climate Change about how consumer behaviour

affects the way in which they consume energy and therefore emit carbon. But I would say at the moment the volume of those discussions and engagements has diminished in the past couple of years rather than increased, so we have two things going on. One is a general sense of awareness and capability building of policymakers to understand the role of design. The other is sometimes some of the bigger showcase initiatives that begin to demonstrate that creative ways of thinking can help us with, as I have mentioned before, dementia, long-term care demand and all the rest of it. I think at the moment it is very mixed. We are seeing some green shoots, but we had a little bit more engagement before the past few years, I think.

John Mathers: There is one other thing that is slightly more tangible as well, which is procurement. The Government procurement system—I have experienced this on both sides of the fence now—is one of the most unwieldy procurement systems I have ever encountered in my entire life. It is a risk-averse system. It takes any chance of innovation or new opportunities out of the system, rather than building them in. It totally discourages smaller design firms from ever even getting involved in the process, because the amount of manpower and resource and time and money required to compete makes it untenable. There is clearly work going on in the Cabinet Office, which is a good example, but there is a huge amount more that can be done, and Government should be leading by example. If Government makes the procurement process easier, that should percolate down through all the other industries. We should make it easier for smaller companies to bid. We should make it perhaps not doing the whole thing in the round. Look at bidding for smaller chunks of the bigger pies so that more people can get involved. I think there is an awful lot that can be done in that particular respect.

Q98 Steve Rotheram: This is your great opportunity now, so magic wand time. If there is something tangible that you would like the Government to do and if there was any regulation specific to your industry that you would like to see done away with, according to room 101, what would those two things be?

John Mathers: I have been told I must take the opportunity to write in with further thoughts, so we will probably do that on this particular one, but I think there are probably two things. One is there are clearly some parts of Government that are leading on this one, so how can we use those parts of Government to show best example, best practice? So let's think about how we can take that and show best practice. The second thing that we need to do is introduce a completely new way of looking at procurement so that we can eliminate the red tape, and have one consistent way of doing it so that if you have to go through the procurement hoop once then that is it, you don't ever have to go through it again. So you don't have to produce reams of paperwork that are of a completely different nature the next time around for another Department. Let's make it consistent.

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Q99 Mr Bradshaw: When Britain has the best architects in the world, why are they all much more celebrated abroad than they are here?

Mat Hunter: That is a good question. We feel that the vast majority of the work the Design Council has done has been in driving up demand for design. We clearly have the talent and yet, be it Zaha Hadid or anyone else who started their architectural career here, they are abroad. We don't really know. I think the simple truth is that at times when we are talking about innovation and the drive to create new things, in this country perhaps there can be a sense of being slightly more risk averse and therefore not willing to see an opportunity as an opportunity to innovate but merely an opportunity to get something wrong. So there is something to do with risk aversion and to do with the drive for innovation. It is not quite as strong in this country as we see in the tiger economies of Asia or, of course, in the USA.

Q100 Mr Bradshaw: Do you think the heir to the throne plays a helpful role in this regard?

John Mathers: If I can go back to your first question, I think that within the industry British architecture is widely regarded and widely recognised. I don't think that we publicise it as much as we should do and we can do more about that. Some of the things that we were discussing earlier about LOCOG could be an excellent opportunity to do just that. I wouldn't be able to answer your second question.

Q101 Mr Bradshaw: But you have a new governance status now, don't you, a bit more independent from Government, so you are freer to speak out about these things and champion our great modern architects?

Mat Hunter: Yes, and we will be, absolutely.

John Mathers: What we will be doing is championing great modern architecture rather than architects.

Mr Bradshaw: Excellent. I will look forward to that.

Q102 Jim Sheridan: You would have heard from the previous session the questions and answers about intellectual property, and it will be good to hear a perspective from the Design Council. You say that when companies try to protect their design products it is fraught with complexities. What do we mean by "fraught with complexities"?

Mat Hunter: They are big processes and the costs associated with them are quite onerous, and I think James Dyson was speaking recently about the cost of renewing protection. In general, they are large, complicated and often expensive processes that are much more suited to the resources of a large organisation than a small one.

John Mathers: I think it is the scale issue particularly. If we can make it easier and more affordable for smaller companies—

Q103 Jim Sheridan: How do we do that?

John Mathers: We have been working quite a lot, not particularly on my watch but previously, with the IPO, and we support all of the work they are doing in terms of simplifying the process and making it more accessible. I think they are doing a really good job

and they just need to get the support to allow that to be progressed further down the track.

Q104 Jim Sheridan: Do you think the current law is effective?

John Mathers: No. We know that—

Jim Sheridan: All of this three strikes and you're out stuff doesn't necessarily affect you, but—

John Mathers: It doesn't affect us, but it is a good idea.

Mat Hunter: But in general we know that the take-up of intellectual property protection by the design industry is very low, and so that continues to be one of the areas to resolve.

Q105 Chair: I have had complaints from designers that it is very difficult to establish a sort of copyright on a design. Is that a problem that you encounter?

John Mathers: Yes. The trouble is that the high-publicity cases are usually between the L'Oréals and the Sainsbury's of this world, who have the legal and financial back-up to be able to take that to court. Smaller organisations fall at the first hurdle, and I think that is part of it.

Q106 Chair: The British Brand Association has been campaigning on copycat packaging for a long time. Would you see that as an example of failure to enforce design copyright?

John Mathers: Yes, absolutely.

Q107 Jim Sheridan: You are probably aware that the Government is out just now to consultation on plain packaging and that there is some controversy about that. Do you have a view on that in terms of cigarette packaging?

John Mathers: In case anyone doesn't understand, this is about introducing completely plain packaging on cigarettes in particular and who knows where else it could go in the future? I personally think this is more of a brand issue than a packaging and design issue. It is about the power of the brand and the ability of the brand to communicate effectively over and above just something that appears on an individual pack. I think you will find that those big brand owners are more than up to dealing with the challenges that will arise from not being able to put their brand on a pack. They will use many other methods to make sure that their brand is communicated strongly.

Q108 Mr Sutcliffe: But it is interesting that the Government are going to regulate to make sure that it is unified and that, in my view, goes in the face of the ability of the companies to have their intellectual property. I know there is a health issue and we all understand the health issue around tobacco, but I think the principle is one that will have to be watched because it means it could happen, as you said, in other sectors.

John Mathers: I think ultimately it is an understanding of what the role of the state is. If the role of the state is to dictate what you can and cannot do, then there is not much the design industry can do about that.

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Chair: I think that is slightly separate from the area we are looking at.

Mr Sutcliffe: It is an interesting issue.

Q109 Paul Farrelly: There are a couple of aspects of intellectual property, but before I do that, lest anybody thinks that the Design Council, by virtue of its name, is a fluffy quango that is an expensive luxury in times of austerity—I think you have dispelled that today—what would be really good is if you sent us some endorsements from the different types of companies that you have worked with so that we can look at those in black and white and potentially reproduce them, along the lines of the questions that Angie was putting to you earlier.

John Mathers: We would be very happy to do that. We have a lot of evidence, both the large tangible evidence but also the stories of the interventions that we can make. For us it is really important to tell those stories and we have many good examples.

Q110 Paul Farrelly: I have seen the drawing in *Design Review*, which in terms of appreciating the built environment goes to Ben's question of appreciating the architects and designers that we have in this country, and it is a great shame. Anyway, that is one hobbyhorse I have mentioned.

My other hobbyhorse is the ceramics industry, which is very big in the Stoke-on-Trent area where I come from. For a number of years the ceramics industry has lobbied to be counted as a creative industry. You have to stop somewhere otherwise you will have every manufacturer in the definition, but it was really a plea for recognition because long gone are the days when you could turn out earthenware mugs of bad design and survive. Now design is at the forefront of everything. Just in the year that we have knighted Jonathan Ive, the Apple Brit, you mentioned that 300,000 designers are coming out of China every year. We see the effect of this day in, day out in the industry in my area, because as soon as a company produces a design on an industrial and professional scale, within weeks that design is copied and offered and sold around to major buyers at a third or quarter of the price, probably not of the same quality.

One of the problems that we have is getting the Government to recognise that product marking and origin marking can not only have brand value but also help in the enforcement against counterfeit goods. For example, in the ceramics industry if you open a container-load of something purporting to be from Wedgwood at Felixstowe, you know it is fake because there is no parallel trade in it around the world. We don't import the stuff. That is an issue we have found it very difficult to get BIS to look at. They take the view that initiatives like this are protectionist in nature and do not see it as an attempt to promote our products. Have you given any thought to the issue of the role of origin marking in promoting brands and helping the enforcement of copyright by addressing the counterfeiting issue?

John Mathers: I will be perfectly honest, I don't think we have, but it is a very good topic to raise.

Paul Farrelly: I want to get it on the record.

John Mathers: It is on the record now.

Paul Farrelly: The danger is if we just talk about copyright and film and books in this inquiry, so—

John Mathers: Interestingly, on a strategy away day recently we were talking about the future role of the Design Council and, if our role is to promote great design, how we can tangibly do that more effectively. So it may be that there are things that we can be looking at around that.

Somebody talked about tangible things that we could do more effectively. I think even in the short time I have been in this role, I have been in that BIS building several times, and as a building that is meant to be showcasing the best of creativity and innovation within Britain, it is one of the most disappointing and dull lobbies I have encountered in my entire life. If you go to places like Denmark, they use their government buildings in the most fantastic way to promote what their industry is all about, so that is what I think we should be doing.

Chair: We may have a BIS Minister come before us at some point so we will bear that in mind.

John Mathers: If you could ask him that, that would be great.

Q111 Angie Bray: Skills base. I know this is something you have been itching to get on to all morning, so we are finally there. This is obviously an issue of huge importance to you. What representations have you made to Government to include art and design teaching in schools?

John Mathers: I know that we have made our relevant submissions to the appropriate bodies whenever we have been asked and even when we have not been asked.

Q112 Angie Bray: What has been the reaction? What is the feedback?

John Mathers: It disappears into a void, I think is the answer.

Mat Hunter: We have been working to look at both primary education and secondary education. We did manage, I think, to get design and technology into primary, and then the question is around secondary. I think the question is always to what extent this is a really strong, powerful subject, which isn't sort of airy-fairy and lost in the abstract. I almost want to throw in something that came up a little bit in the previous submission around what we really mean. This is a lot to do with making and this is not always abstract expression. Design, as one of the creative industries, is fundamentally about making, so the arc of the submission has often been about, as Sir Christopher Frayling, the former Chairman of the Design Council and Director of the Royal College of Arts, said, "There are three Rs, reading, writing and wroughting", and so the sense has been very much that making things is incredibly important.

Chair: Reading, writing and what?

Mat Hunter: Wroughting, as in wrought iron. As much as design is a strongly intellectual exercise in imagining things and reshaping things, it is also about a practical act of making. The question was to what extent we try to suggest that it has a long lineage, it is an absolute basic and we need to bring it back in; it is not just some rather complicated, synthesised

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neologism of education. We are still in discussions, but it is very hard to make progress.

Q113 Angie Bray: I include myself as being a little bit—"confused" is too strong a word. We talk about including art and yet then I hear you talking about advising the National Health Service on protecting staff against violence. I wonder that has to do with teaching art in schools and how teaching art in schools is going to get somebody from good painting or whatever to advising the National Health Service on violence against staff?

John Mathers: There is a spectrum and that spectrum is art perhaps at one end, design in the middle, technology at the other end, and it is the blend of those skills that is the important blend. I know there was a lot of stuff in the press this weekend, with Mr Dyson talking about not encouraging art in school and rather encouraging science and technology. I think even he misses the argument to a certain extent in that it is the breadth of the thing in totality that is going to make a difference. It is the way you think about things and the way art, design, science and technology encourage a young mind to think about a problem and approach it from a different way that is the really important thing. It is that bit that we are really worried about missing from the curriculum.

Q114 Angie Bray: But you appreciate that time in a week is short to be teaching all the things you need to teach, and I can see that an awful lot of people do art who are not necessarily heads up on some of the issues you were talking about, which seem to carry a completely different skillset with them. Are you optimistic that the Government will at least see the point that somewhere in there, there is a very important mindset and skills that you are wanting to—

John Mathers: For me, it is the bit about the Government needing to be joined up. At one end we have Vince Cable and BIS pushing innovation and science as the essential future for Britain, and at the other end we are potentially taking away the feeder that will feed into making that a reality. I can't understand how it doesn't connect up.

Mat Hunter: We very much speak from the position of design, and one of the tricky things when we talk about design in education is that it is delivered in two components, art and design and design and technology. Design and technology is very much more a compound activity, where design and technology work together to make useful products and services for people. In art and design, often design is not connected to art and art is the act of self-expression and therefore there is a less clear link to industry.

Angie Bray: Yes, so maybe the design and technology is the—

Mat Hunter: That has been very much what we have been pushing, while recognising the role of art and design in terms of self-expression being very powerful. But yes, we speak from the role of design as an engine of innovation to make useful things for people that improve quality of life and drive economic growth.

John Mathers: But recognising it is all on a spectrum as well.

Q115 Angie Bray: Yes, but then you have the time issue, haven't you? How wide is the spectrum and how much time do you have?

What I thought was interesting too, hearing from the witnesses from Pinewood, was that in many ways it is less about fluffiness. They are looking for the business skills and they are very keen on people being taught the business of creativity. Are you trying to persuade colleges and universities to embed business skills in their teaching of art and design? Is that something that you think is important?

John Mathers: Yes, it is very much so, and the National Skills Academy, for instance, is something that we strongly promote and are actively involved in, and wherever we can, we promote bringing business skills into the curriculum at an early stage.

Q116 Angie Bray: How widely is that already the case, or do you think it hasn't been done enough?

John Mathers: Not particularly. It is not as wide as it should be.

Q117 Angie Bray: Why isn't it?

John Mathers: I think it is because you don't have the right lecturers in place in the first place, and then it is not transferred to the student body. I think it is as simple as that.

Q118 Angie Bray: But could that be part of the confusion I was talking about earlier; that too many are drawn to it because they think it is going to be an artistic kind of event?

John Mathers: Yes.

Q119 Angie Bray: They haven't prepared themselves for the fact there is a business requirement as well?

John Mathers: Yes. In that case, if you go back, there probably aren't enough advisors in schools who articulate effectively the story that we have been talking about here today.

Mat Hunter: It may also be a slight product of history, where design was taught at art school and everything else was taught at university. Again, there is a sort of historic bifurcation where collaboration wasn't possible between the business department and the design department.

Angie Bray: That is a good point.

John Mathers: It goes back to that example I talked about—Reed's school. If you call something FutureTech and put it in the most amazing building, it suddenly becomes real for kids in a way that going into the old DT building just didn't.

Q120 Paul Farrelly: I am a school governor. From recent conversations at my school's governing body, I can sympathise with your fears about design and technology, because I think the reality is that where schools are influenced by what the Government wants to measure, they will choose that subject because otherwise they will drop down the league tables. Subjects such as yours, which are not part of that, will wither and die. Would you agree that we need to be very careful about the unintended consequences of what we do, in the same way that we, as a Labour Government, should have thought through the

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consequences of not making modern languages compulsory, because it has been disastrous, quite frankly?

John Mathers: The simple answer is yes, but it is how you do that. I would like to think that there might be a way that we can make the inclusion of those subjects more tangible than we do at the moment, because if you can link it to the future then somehow you can make it more important.

Q121 Paul Farrelly: Years ago, what you might call design and technology now—I am 50—would have been called technical drawing and different types of people took technical drawing, but it was on offer and the system wasn't designed with an incentive to squeeze technical drawing out, so there is a—

John Mathers: It was woodwork in the Inverness Royal Academy.

Q122 Tracey Crouch: I have a specialist technology school in one of the less well-off areas of my constituency and it has seen its results in core subjects

improve quite dramatically because it is engaging youngsters in the design and technology offering that it provides, so I have some sympathy with your concerns about the design skills base being threatened by potential changes in school education. What I don't understand is why you view university technical colleges as a potential threat, and I wondered if you could perhaps elaborate on that, particularly given your earlier points about how hubs should perhaps be centred around other areas to do with life sciences and so forth? These university technical colleges are effectively supposed to try to do that, so I wondered if you could explain a bit further your concern about university technical colleges.

Mat Hunter: I think it might be something that we should come back with a written response to.

John Mathers: Apologies. Can we come back to you on that?

Tracey Crouch: Yes.

Chair: In that case, thank you very much for giving evidence.

Tuesday 20 November 2012

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Tracey Crouch
Paul Farrelly

Mr Adrian Sanders
Jim Sheridan
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **Alan Davey**, Chief Executive, Arts Council England, **Dame Liz Forgan**, Chair, Arts Council England, and **Claire Enders**, Enders Analysis, gave evidence.

Chair: Good morning. This is the second session of the Committee's inquiry into support for the creative economy and I would like to welcome our first panel: Dame Liz Forgan, Chairman of the Arts Council, Alan Davey, the Chief Executive, and Claire Enders of Enders Analysis.

Q123 Mr Bradshaw: I would like to start with a general question for all three of you. What is your assessment of the major challenges facing our creative economy?

Dame Liz Forgan: I will start. Access to capital, training and I would add secure funding for the cultural sector that underpins it.

Claire Enders: Yes, in my own submission I pointed to the relatively poor state of the economy here in the UK, which has diminished spending on creative products, particularly among younger demographics who are facing historic levels of unemployment. I have also pointed to the continuing effects of piracy, which do diminish at some level legitimate sales, although that is a vexed point. Nevertheless, for the UK—which is more reliant than any other large nation on the creative industries for exports and for employment and also for the creation of franchises of global significance—the enduring level of piracy is a continuing concern.

Q124 Mr Bradshaw: We will come on to piracy in a little bit more detail in a moment. Dame Liz, we see different figures bandied about as to the importance of the creative sector for the UK economy as a whole. Is there a reliable figure that you can give us? Can you quantify the value of this industry?

Dame Liz Forgan: The central important fact that one should never lose sight of is that the strength of the British cultural sector lies in the fact that the private sector and the public sector are absolutely closely and intimately entwined and always have been. That is an enormous strength in every possible way. We do have a figure. It is very difficult to disentangle what I call the cultural arts from the cultural industry and it is in some way a false distinction but we do have a number, and Alan is better at numbers than me. So just to be safe, I think he had better tell it to you.

Alan Davey: The number that we are sticking to is around the cultural sectors of the cultural economy that is a subsector of the larger creative economy. A report by Creative and Cultural Skills estimated that the cultural sector was worth about £28 billion each year to the UK economy. That is about 67,000

businesses with a contribution to GVA per head of £34,110, compared to £31,800 in the wider economy, but even that is difficult to describe, and other people have described different conglomerations of various bits of the sectors in different ways.

Just to return briefly to your previous question about the challenges, I would agree wholeheartedly with what has been said and my major worry is the health of the cultural economy that underpins the creative economy that acts as a foundation. That is particularly because of the uncertainty at the moment on local government finance, access into the industry, training and skills. There are some quite worrying signs from the education system, with the EBacc missing out arts and design as part of that core, sending a very poor signal. If we do not get it right by whatever means—by having either a sixth pillar of the EBacc or something for the other 20% that injects rigour into study and training, and then subsequent higher education routes—then I think we are building up trouble for ourselves in the future.

Mr Bradshaw: I think we will come onto skills and education again a little bit later, but Claire Enders, you wanted to come in there.

Claire Enders: Yes, I had the privilege of presenting an overall view of the cultural industries in Europe in Brussels earlier this year. We did an enormous amount of work on the data involved and I would be very happy to send you the report that we did. That showed that the UK audiovisual economy on its own was £21 billion, which was the largest in Europe. This fuels exports, which we expect to exceed £10 billion a year. We are going to see a 25% to 30% growth in audiovisual exports since 2009. One third of that was newspapers and books. The UK is exporting content all over the world and, in fact, to put it into context, as I said, as a sector this is 11% of the UK's export of services in 2009. We expect it to be maybe 15% or 16% in 2012 or 2013 whenever it is next measured in this way, and there are 1.5 million people employed in it.¹

It is undoubtedly seeing significant growth and I say that only because I have also just made a comment

¹ The witness later clarified: According to DCMS data, the UK creative industries (audiovisual, publishing, design, etc) economy on its own was £36.3 billion, the second largest in Europe. This fuels exports, which exceeded £10 billion a year in 2009. When the data comes through for 2012, we could be looking at a 25% to 30% growth in audiovisual exports since 2009. The UK is exporting content all over the world and, in fact, to put it into context, as I said, as a sector this is 11% of the UK's export of services in 2009, and there are 1.5 million people employed in it.

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about piracy. These creative industries have continued to grow and they indeed have continued to grow very significantly despite the absence of some of the measures advocated in relation to elimination and reduction of copyright. I should just say that my gig in Brussels was really in defence of copyright because it is my view that the UK has an extraordinary position, not only because of the educational establishment, but because of the milieu, the way that there is a seamlessness between theatre, television and film and the franchises are worked on across an extraordinarily well-established craft base of costume makers and so on. I hesitate to say this is because I am an immigrant to this wonderful country, although of British origin, but the three² most successful film franchises of all time came out of the genius of this country and indeed the collective genius because it was a genius that spanned many aspects.

Q125 Mr Bradshaw: If we cannot come to settle on a percentage figure, I know this is very difficult. I seem to remember when I was Culture Secretary a figure of 7% or 8% being bandied around as a proportion of our overall economy. It is true to say, is it not, that we have the biggest cultural economy as a proportion of our overall economy, and it has grown at twice the rate of the economy as a whole and will continue to in future?

Claire Enders: We have the highest per capita expenditure on television, on books, on newspapers, on magazines. We are in fact the most literate nation, the most densely cultured, the one that listens to the most speech radio and so on. I have to say I think that this is all part of an extraordinary ecosystem. I have lectured on this ecosystem to Chinese people who cannot understand how it is that we are so creative. It must be something in the water.

Q126 Mr Bradshaw: Thank you. That is a very nice way of putting it. Mr Davey, can I just ask you about the impact of your funding constraints—let me put it as diplomatically as that. What impact has that had? I am particularly interested in what you said about the parallel cuts in local government spending. Most commentators have said you did a very good job in the circumstances in managing this funding situation, but are you worried that you did not take into account enough the parallel cuts that are taking place in local government and that therefore the impact of the overall cuts on the culture in the regions has been much more significant than you thought it would be?

Alan Davey: When we made our dispositions two years ago, we had been subject to a 30% cut in grants and aid. We passed on a 15% cut to the budget of the organisations that we regularly fund who were the backbone of the culture in this country, and we did so in a way that we were not spreading it evenly. We wanted to put it in the right places so that the organisations that we funded were able to thrive and there would be fewer of them. We were confident we could keep the essential backbone of what made

culture great in this country and that is what we tried to do.

We did try, to some extent, to take into account likely cuts in local government, or likely places where we would have to go with our money on the table and negotiate hard. We managed to do so in a number of instances. A particular example was Derby, which at one point was proposing to remove all culture funding. We and local industry went in and said, “We have this money on the table and we want to put it into where you are”, and industry were saying, “Well, a city that does not value culture is not somewhere our employees are going to want to be”. We have tried with the situation as it currently is and we have helped local authorities find solutions all around the country. What is coming up now are much greater levels of cuts being proposed or talked about. They have not happened yet but, for example, Newcastle yesterday talked about a situation where in three years’ time they virtually eliminate all the funded culture. With Newcastle being a city that regards culture as important, that is very worrying. It is more than worrying; it is a very serious signal. When talking to Government about future funding, I would want them to take that whole picture into account. It is not just what goes through the Arts Council, and what we can do with our money, and what we can do using other people’s money on the table, but the fact that it is looking like one source of that funding from local government is under severe pressure because of all the priorities that they have to follow on adult social care, children’s services and all that. The graph the LGA have painted, they call the graph of doom, which is discretionary spending by 2017. There is not much room for it.

Things differ from authority to authority and different authorities will fight harder to keep cultural spending. I have had some very good talks, for example, with Liverpool recently who, on the back of City of Culture, really do want to back culture in any way that they can. They have made cuts, but culture is central to their economic plan going forward, the sense of Liverpool as a city to invest in but also for the citizens of Liverpool. It is a very disparate picture, and it is a worrying one. While we have some power, with the money that we have to persuade people to come along with us, we are not going to win every battle.

Q127 Chair: To what extent does the Arts Council take account of prospects, the growth and economic activity, or do you see your role as supporting art for art’s sake and leaving the market to support the potential economic successes?

Alan Davey: Liz might want to come in on this, but we do not begin with the premise that all our investment is about growth. Our investment is about allowing culture to happen. When we have made that investment, we know that, applied in certain ways, or applied in partnership with others, it can make a real contribution to growth in local economies and in the national economy. Take the case of Gateshead and Newcastle where there is a well-documented case of economic regeneration through cultural investment. If we had simply gone into that and said, “We want to

² The witness later added that three of the five most successful film franchises of all time came out of the genius of this country.

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do culture and it will lead to growth”, that would not have worked.

What needed to happen was that the culture and the cultural offer needed to be ingrained into the local environment, to be accepted by local politicians and become part of life for local people. The Sage Gateshead, which is a big concert hall, but it is not just a big concert hall; it is an organisation that has done music education across the north-east. It has embedded itself into that community. It has embedded itself into the local economy and things have grown up round it, together with the new Baltic 39 workshops across the river in Newcastle.

We begin by saying, “How will our investment help culture to happen?” At the same time we are also conscious that growth will result as a consequence of that investment if we get that investment right in an artistic way.

Dame Liz Forgan: I agree with all of that. We would never use the phrase “Art for art’s sake”. We do art for people’s sake and that covers a very broad spectrum of interest. This particular point that you make, absolutely homes in on the importance of the relationship with local government. For them, growth and economic activity is an absolute priority and when we sit with them as strategic partners, our perspective and theirs come together in something very good. If that partnership starts to wobble, there will be difficulties.

Alan Davey: I was speaking to the Treasurer of Liverpool recently. He understood that the fact that the Liverpool Philharmonic were now on top artistic form was helping the economic growth mission in Liverpool. He was grateful for what we had been doing to develop that artistic performance and saw that that is where we need to start from and that good things happen from the culture being worthwhile and what people want to engage with.

Q128 Chair: You pointed to this in your evidence, and I am sure you could give examples of where while you did not necessarily put in a grant or funding with a view that this was in due course going to lead to significant economic return, nevertheless there are lots of very successful people or projects that started off with your basic help which have now gone on to produce a return.

Alan Davey: Yes, and we can show that through places like Margate, for example, but also through individuals. We might invest in an individual artist and they will go on and earn a great deal of money in other fields or fields related to culture. We all lived through the summer and the marvellous Olympics and the Cultural Olympiad, the opening ceremony and all that, and lots of the artists involved with that began in the culture sector.

Q129 Mr Bradshaw: In the subsidised cultural sector.

Alan Davey: In the subsidised cultural sector, so Danny Boyle, Stephen Daldry and others. If you look at the Bond film, it has grossed \$570 odd million. There are dozens of the subsidised cultural sector who make that happen, whether it is Sam Mendes the

director who cut his teeth at the Donmar and the RSC Chichester or others, down to the stars themselves.

Dame Liz Forgan: It is an absolutely symbiotic relationship between us, between the private commercial sector and the subsidised sector. You can look right across Britain and see that it in all ways, small and large. But I think if we sat down as an Arts Council and said, “Now we are going to invest in this artist because we have identified an economic potential in what they have done”, that would be foolish. It is not our principal expertise and what we believe in is that if you get art right and you talk sensibly with people with a strategic economic responsibility for the place then you get a good outcome.

Q130 Mr Sutcliffe: Looking at the Olympics and the Paralympics and the wonderful success that we had as a country over the summer, lots of thought and planning went into that over many years. How do we build on our success and maintain that success? From your perspective, what are the issues that we need to face and we need to look at to have an effective legacy for the future?

Dame Liz Forgan: Alan knows more about this than me because he was heavily involved in actually getting it to happen. We did learn some very important lessons. One is that when artistic organisations work together, amazing things can happen. Secondly, when there is a vision and funding, you can involve the whole country. Vision and funding, the two things are absolutely critical to each other, and a really ambitious vision is that you can elicit from people all over the country extraordinary feats of creativity, and an extraordinary sense of common purpose and common joy in the culture of the country. The challenge of hanging onto that requires us to remain ambitious in our vision and to make sure there is just enough money. You cannot do it without some basic funding structure that is reliable.

Q131 Mr Sutcliffe: That is what I am trying to get at. In sports, it tends to dive away after the Olympics are over, and it takes a while to rebuild that. How can we maintain the momentum? I would be interested in what the Arts Council’s contribution was to the Cultural Olympiad and how you felt that achieved both financially and culturally. What I am worried about is that we drop off the end of the cliff. We need to keep the momentum going.

Alan Davey: We invested £39 million in about 650 projects up and down the country, and various other people invested other amounts—maybe a few millions at a time—to make the whole Cultural Olympiad and the 2012 Festival. We are evaluating it now and that evaluation is coming in the New Year.

Q132 Mr Sutcliffe: Is this from Liverpool University?

Alan Davey: Yes, that is right. We are talking to Government about emerging lessons from that evaluation and the Cultural Olympiad board, which I am on and which the Arts Council is part of, and the Arts Council is leading on the evaluation. We really want to catch the wave of what happened in the

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summer. What we were able to do was have collaborations up and down the country on a scale that had not happened before. The international collaborations really opened up our cultural practitioners to be able to get into partnerships that they had not been able to do before because we had that extra money there to allow it to happen. But the most extraordinary thing that happened was that there were lots of events up and down the country, many of which were free or pretty easy to access, that people participated in. The amount of time I spent on windswept, wet hillsides with thousands of people seeing something extraordinary in that summer, it is a wonder I did not die of pneumonia but we will leave that aside.

It was breathtaking and we are talking about how we capture that and that could be through working out how we can enable those extraordinary commissions to happen, the opening up of our cultural minds to international influences, and bringing them home and getting people to be able to experience them. As I say, we are talking to Government now and it is not quite clear where we might end up, but I agree with you that it is an important thing for us to catch. There are things happening next year, the Manchester International Festival for example. They will have even more ambition than ever on the back of last year, and there are great things happening in Derry, which are really significant. We are putting some money into that because we want English organisations to be a part of that and to really add something to it.

Q133 Mr Sutcliffe: We also have the Commonwealth Games in Glasgow in 2014, the Rugby Union World Cup 2015, and a whole decade of sport.

Alan Davey: We have many things to hang things on.

Q134 Mr Sutcliffe: It is important we keep those linkages together. What else do you think can be done? You talked earlier about local government finances and issues around that but I agree with you, there were some fantastic creative things that went on that were supposedly part of the Olympics and the Paralympics success, but they weren't really, they were just events that had taken place. This report that comes out in spring, it will be an evaluation of what went on?

Alan Davey: It will be an evaluation of what went on, what its significance was in financial terms, for example. What I hope it is principally going to talk about is how people became engaged. There were really powerful economic spin offs from that. We have done a very quick study in the West Midlands that shows that there was an extra £80 million brought in to the local economy there, and £11 million Gross Value Added and so on, and we can replicate that in other areas of the country. One of the key things that happened in the summer was participation, people getting involved, and that is what we really have to look at and capture. It is not just that they were getting involved in any old thing, they were getting involved in really good things and we upped our game in a number of areas—in particular, I have to say, in the area of disabled arts, with our unlimited commissions,

the biggest commission programme ever done for disabled artists in the world, which was hugely significant. Some of the work that came out of that has taken disability arts to another level and given people with disabilities the ambition to do even more. As well as that, one of the things I am really proud of is our training of the Paralympic aerial artists for the opening ceremony. At the beginning of last year, we did not have people able to do that and LOCOG came to us and said, "Can you help get a bunch of people trained up?" We thought that was the right thing to do.

Dame Liz Forgan: The other lesson is that in order for the extraordinary wealth of creativity around this country to be released, it is necessary to have a network of animators. It just does not happen spontaneously. It coalesces around people or centres who start it happening. It can be in the schools, which is why a culture of education and people in schools that really take this seriously is so important, but also in the community art centres or somebody that just makes it happen, has the idea and people coalesce around them.

Q135 Mr Sutcliffe: I think that is important. Finally, and I do not know if it is a problem, but some of the companies that built things for the Olympics and Paralympics are not able to say that they have done that because of branding issues. Is that something that you have come across in your sector; is it a problem for your sector?

Alan Davey: Not as part of the Cultural Olympiad. We solved a lot of branding problems very early on. The sad thing is that I think they are having to be resold for the Rio Olympics. Every Olympics, one starts again, but with the kind of red ribbon branding and also the "Inspired by" mark, we did get somewhere and people can talk about their involvement in the Cultural Olympiad.

Q136 Mr Bradshaw: I intend to buy lots of copies of the BBC's double DVD on the opening ceremony—Olympic-sized Christmas presents. Who will get the money from those? Will you get any of it back?

Alan Davey: Not us, no.

Q137 Mr Bradshaw: Who gets the royalties then? Does it all go to the BBC?

Alan Davey: I do not know how the broadcasting contracts work.

Q138 Mr Bradshaw: For the individual artists, who does it go back to?

Dame Liz Forgan: It might go back to LOCOG.

Alan Davey: Yes, I do not know the answer to that.

Dame Liz Forgan: International Olympic Committee.

Q139 Mr Sutcliffe: It would be quite nice to get some of our money back, would it not?

Claire Enders: I think it is worth saying that in the context that the legacy of the Olympics in the global space is enormous. It was the two years before that saw the systematic lead up of focusing on London, focusing on 2012. It is marvellous to get Olympics for 2012, it is such a beautiful number. We have seen the global audience of British brands go up and go up

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really in significant numbers. As I said, we are expecting some very significant changes in terms of audio visual exports, a 30% increase, and the BBC has gone up to around 250 million people as a global weekly audience. You have to think about it as a continuum again. People associate Burberry, the BBC, or BSkyB, and so on—there is basically this standard of excellence. Particularly in the context of the Beijing Olympic ceremony, which was so completely different, so choreographed, so expensive, the way that British people got around all of those constraints, and as a small and feisty nation of 62 million people up against a nation of 1.4 billion with enormous economic might and a willingness to show it, I think that everybody understood that. This has renewed forever the audiences for British brands. I am not just talking about *Downton Abbey*, I am talking about the British values as expressed in news, as expressed in products, design, fashion, education. We all know that the world wants to come to be educated here because this is an extraordinary milieu to live in. This is the most culturally dense, mediated place on the earth. This is really hip.

I think that the Olympics really coated the world with a very pleasant, happy aura around anything with Great British values of originality and thinking and inclusion. Many people remarked on the way that British treated people with disabilities. You would never have seen a disabled person anywhere near a Chinese event. I have to say that I think the legacy of the Olympics will really pay back very quickly the investment that the nation made, it will be paid back in a matter of a very small number of years because of this extraordinary global audience, which is really embedded now. You have broadcasting markets that are developing from nothing and that are buying British formats, buying British programmes that are made, like *Downton Abbey* and so many others. Also you have many companies using British PR firms because their websites are now translated into our English not American English, and you can tell the difference in my accent. I was born American but I am entirely British.

We have a really very significant long term GDP positive from this and, as I said, I would love to be able to give some effort to calculate the payback, but it is a matter of years. It is not many.

Alan Davey: Can I just say that the opening ceremony was paid for by LOCOG? We did not put money into that explicitly, but the argument I would make is that lots of people who were part of that grew up in the subsidised sector.

Q140 Chair: Liz, in your first answer to Ben on challenges, you mentioned access to capital. Claire, you said in your submission that you did not think there was a market failure requiring public sector intervention and that it was pretty healthy to have businesses having to compete to obtain start-up capital. Is this a problem or is it not a problem?

Claire Enders: We are talking about different things. I believe in a subsidy for the BBC which is mandatory not voluntary, as much as I believe in the same thing in relation to the Arts Council or the NHS and the educational services. We are talking about public

goods and commercial goods.³ I think that we all understand that all of these float in the same universe, the BBC has commercial ventures, public service purposes and so on. It is very true that much of the skill base is learned in the subsidised sector, I would say that certainly for programme making, I am talking about the BBC, because the locus is not ITV or Channel 4. Those are organisations that use distributed talent, which is trained somewhere else or comes out of the sector. Also, I think that the UK does have a real need for a cutting edge creativity culture and that cannot always be satisfied by the commercial sector. Sometimes it is satisfied by the commercial sector, but all of this lives in a continuum. For those who say, “Well, there should be more monetisation”, it is a very difficult thing to get right and there are a lot of the arts that have a liveness and an experiential quality that do not make monetisation easy. I would say that the commercial creative industries, the exports and all this would not work without a source of extraordinarily well-educated, deep-thinking people who come out of your educational establishments and who are trained in so many ways and who percolate across.

Much of the creative sector is freelance, people working across such a range of different businesses and taking their genius with them. Our actors go across the planet to do adverts here, films there and so on. Everybody knows somehow that they are British. It is incredible. People refer to it, so there is a brand out there. You have to see it all as a continuum, and try not to hurt any part of this extraordinary thing because it works in a magical way. I just do not see the commercial sector as able to sustain the kinds of activities—particularly outside of London—that the Arts Council sustains and local councils sustain. The commercial sector is very London centric and that is true of advertising, movie making, book publishing. I am very glad that we are the global HQ for many of these enterprises, but nonetheless they are London centric.

Q141 Chair: Accepting all of that contribution in terms of skills and training and basic abilities that come from the subsidised sector, if you are a small start-up firm seeking seedcorn capital, do you think that the market will supply that?

Claire Enders: In London, it will in the digital sector, it will not necessarily in the arts sector at all. But you have to distinguish various things. Much of what the Arts Council does is arts experiences in different places, which are very distinct. If you look at the audience for those, it is across the whole population. We have recently done a piece of work that looks at the audiences for drama, opera, classical music, arts events, and so on. You are looking at phenomena that embraced substantially all of the population at some point in their year or are available. That is quite a different thing than sustaining 1.5 million people in creative industries and exporting a lot. These are not absolutely equivalent phenomena. They are really

³ The witness later added: And I believe that there is significant interest in and investor appetite for funding new creative industry business ventures, including digital music services, Netflix-type services or mobile apps.

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about the space that we live in and the inspiration that people are going to get.

You do see some cities do very well. Dundee is a very well-known example of partnerships between local councils, businesses, like DC Thomson, and the universities, and that has created an extraordinary urban regeneration. That is a very long term partnership. You do need these milieus to attract foreign students, to attract the best academics, to attract Nobel Prize winners, to attract everybody who is going to pay £15,000 to £20,000 a year for a degree in one of those universities, and all the people who support them around them.

Our fabric of the future is a creative knowledge fabric. People have said it for 20 years and they are so right, but I would argue that that has been the British genius for hundreds of years. David Hume beats manufacturers in the Midlands every day of the week for me, because the impact of David Hume, or any of the ideas that we are talking about, is global. It constantly reinforces the value of our assets.

What the Arts Council is doing is sustaining our fabric in a way that the creative industries sustain our Zeitgeist and our space and address the world with new stories and new ideas, but these are contiguous and holistic and symbiotic activities. The Arts Council is not fighting for every last shekel at MIPCOM, and it cannot do.

Dame Liz Forgan: I was making a rather more specific point. You asked me a specific question and I was talking about the small businesses which constitute many of the creative industries. Although Claire is right, there is a concentration in London, it is not exclusive. We see small creative businesses that have plans and ambition to expand, and it is difficult for them to do so because of lack of access to working capital, investment in things like their own IP and all sorts of other things such that we are ourselves about to start—in fact we may have begun it already—a small programme to try to address this issue.

Obviously, money is tight and every small business in the land in every industry is screaming for access to capital, but the creative industries are no different. That is the only point I was making.

Alan Davey: What a lot of start-ups have said to us is, “We do not want grants. What we are looking for is support in loans. When we go to the mainstream biz schemes, they say either we are too small or we do not understand what your business is”, which is why we started these—on a very small scale—loan and business support schemes in East London and Yorkshire for small scale creative enterprise. They are tiny loans, a few thousand pounds, plus business support. It is a pilot and we will evaluate it and we will see if it is meeting the need in the right way and the lessons, and then try to expand it possibly with the help of other partners on the Creative Industries Council.

Q142 Chair: Why is the market not supplying them?

Alan Davey: Because of the range of uncertainties that these cultural projects and cultural products are presenting to potential funders. Just looking at a large scale example, who would have thought a play about a horse done by puppets would actually be worthy of

investment, let alone four years’ worth of development to get the puppets right. There are lots of uncertainties in the world, but I think in the creative sector the extremities of the uncertainty are quite large, and it is about taste and it could be about knowledge and expertise.

Q143 Mr Bradshaw: Could it be that within the finances services sector they do not have imagination, but also if you look at it objectively this is a sector that has grown much better and faster than anything else they are likely to invest in? Do they just not have the right people to advise them on what to do and where to put their money?

Alan Davey: Getting sympathetic and understanding hearing is hard.

Claire Enders: But they are not well equipped. People who are putting project finance into independent production are looking at project financing of multi million pound projects. They are really not interested in £1,000 loans. At the very granular level, there are a number of ways people can develop their artistry and we have seen this on YouTube. There are many entrepreneurs on YouTube that are creative, whether they are musicians or makeup artists or any number of people. That is something that helps very young people start to get some kind of skill and some kind of ability to monetise.

Alan Davey: Start to make a living.

Claire Enders: Start to make a living. It really should be seen much more in that light than as a business challenge. Most businesses are not equipped to deal with that kind of training, and it is a very important part of enabling people to have a freelance existence. We all know that the creative sector is full of freelancers, not on the business side but obviously on the creative side because that is the right way to incentivise people, so giving people a better skill base. I am hoping that most universities that teach journalism will enable people who would learn journalism how to be freelancers, because I think they are not going to find it easy to survive and it seems a waste. It should be seen in that light. Small things cannot be done by businesses. Certainly, the creative sectors, as we know, are dealing with these massive global franchises and so on, but the fact that the UK is where many of the world’s authors are managed and packaged is a real help for people in different industries, not theatre, but in writing and directing and so on. The fact that there are these interlocking points here in the UK with global networks is very important. The barriers to entry are not significant. There is an unlimited number of writers and creators in this country, but they do need help to monetise.

Alan Davey: I think that these micro businesses are at the basis of our healthy creative economy in this country. The very small scale single person enterprises are practised in their craft or their art, and often might cluster together and that creates something bigger. We have seen that all round the country and that concretes the economy as a whole.

Claire Enders: Sometimes networks evolve, like Etsy, which is a business that brings together lots of different kinds of craftspeople, many of them British. These are not crafts that the Arts Council has to deal

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with, but they are real crafts like jewellery creation and clothes creation. YouTube itself is a network that brings together lots of people with this sort of phenomenon in mind. There are many ways that people can get into the right network, but it is true, it is an over-characterisation of the British, but it is nonetheless true—as a sympathetic observer—that there are many lone geniuses in this country. The great thing about the modern age is that it is helping to get that talent into the global marketplace better, but they do need business skills. The people who are creatives here, and who want to knit the most beautiful jumpers or design the most beautiful clothes and the most beautiful jewellery, they do not tend to be born with the business thingy going.

Q144 Mr Bradshaw: Wrong side of the brain.

Claire Enders: Yes.

Q145 Tracey Crouch: One area of policy that the Committee did not explicitly put in its terms of reference but that the Arts Council did mention in its written submission, and that you have alluded to this morning, is that around migration and visas. I just wondered if you could perhaps expand on why you think the immigration system is adversely affecting the creative industries at the moment.

Dame Liz Forgan: It has been a long argument, and we haven't made much progress with it, but there is no doubt that the visa barriers to artists coming to perform in this country—possibly coming here and then going to do a gig in Europe and then coming back again—the visa entanglements are a serious barrier to all artists, sometimes really great artists. Not only do those problems deprive audiences of their work, but it makes a very bad feeling about the country when serious artists are treated as if they were suspect arrivals at the border.

Q146 Tracey Crouch: Can you give any examples? Perhaps without naming names.

Alan Davey: We had a couple of examples in the summer of companies from particular countries who had real problems getting entry for the Cultural Olympiad. I have to say we are acting as an agent for the immigration authority for exceptional talent—that is a particular category—and that has been working well over the last year as a whole. It is the other tiers where companies may need to be coming over to appear in festivals, for example, or whether there might need to be last minute substitutions where problems arise. Currently, with the immigration authorities we have a dedicated desk to go to when there are problems and they have helped us solve lots of problems. I think there is a danger we might lose that dedicated help, but also that recognising that artists are going to be travelling around a lot has not yet been addressed at the fundamentals of the system.

Q147 Tracey Crouch: Would you say that is one of the key areas for change or improvement, maintaining this dedicated desk?

Alan Davey: Yes, it could be.

Q148 Tracey Crouch: What about around higher education? Obviously you are referencing students.

Claire Enders: Yes, and also business people. The fact is that I am involved with London Business School, which has experienced a drop in applicants since it became known that it is extremely difficult and time-consuming to get a visa to go to London Business School. It has become significantly more time-consuming. That is a difficulty. There are many American entertainment companies, which, as you know, are based here, and they find it much easier to move people around, and they would like to continue to find it easy. I am someone who came to this country and ended up going to London Business School, as it turns out, and staying here. There is a particular quality of life and appropriateness to living in the Greater London area for people in our industries, and sustaining that and attracting the best talent. I don't think people are here in passing. Obviously that is not dealing with the issue of tax. I myself am devoted to paying the maximum tax I can both as an individual and as a company. I am also a philanthropist because I believe very deeply in the values that operate here, and I know why it is that so many people in this country give money to the arts despite paying an extraordinarily higher tax rate than in America. British people are very generous. I think that getting more people to become that sort of British person is just ace, and I certainly would not get in the way of it.

You have world renowned educational establishments that need to continue to attract the best and the brightest from around the world. There is no doubt that a drop in the funding of PhDs and other things has generally affected even the best universities; even Oxford and others are reporting a significant drop in people doing post-grad work there. I am always concerned about that. I believe that it has been 20 years since there was a Nobel Prize in the biomedical sciences and I do not understand why that is. Britain has always punched above its weight in every part of the creative sphere across science and everything else. Of course, if you believe, as I do, that the greatness of this nation has been laid down over 1,000 years of the knowledge economy then anything that stops and impedes or restricts the flow of talent, howsoever you define talent—and we have defined it very broadly and correctly in that way—would be something that would be of great concern. That talent is manifested, for example, at the grad school level where you are looking at a worldwide group of mathematicians, scientists, creatives, geniuses, designers and so on, and I think a lot of those people are so unique and have unique skills and therefore they are not taking a job from someone who might otherwise get it. Everybody has to work in a world where they have unique talents.

Q149 Tracey Crouch: But what is the biggest barrier therefore to those who wish to stay here for the long term, pay their tax and be philanthropists, or those who are here on a very short-term basis who just wish to contribute to the creative industries on a one-off visit, for example like the travelling artists?

Alan Davey: I think they are two separate problems, and they are both potentially worrying. On the higher

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education side, our worry is the viability of conservatoires and art schools—which on their current business model depend on numbers of foreign students paying full fees, and they have all reported increasing difficulty caused by the visa situation in attracting those students whom they depend on for their income—those institutes to be able to offer training to people in this country. I think it is something we have to watch because our conservatoires are wonderful; our art schools are producing brilliant artists and brilliant creative people who go out into work in other fields. We just have to watch ourselves here.

Q150 Tracey Crouch: Do you think it is possible to quantify the economic impact of those barriers?

Alan Davey: I don't have those figures. I am not sure if the universities or UCAS, or someone like that, might. If I can find those figures I will let the Committee have them.

Q151 Mr Bradshaw: This is a live issue, as we understand it, around the Cabinet table, so are you confident that your sponsoring Department is representing your concerns in those discussions?

Alan Davey: Certainly, I have been talking at official level about our concerns on a number of issues around higher education, humanities and its place in the world and the fact that there is no underlying Government support for humanities teaching, and what that says and what that might say.

Q152 Mr Bradshaw: But on the specific immigration issue, do you have discussions with Maria Miller on it?

Alan Davey: I haven't personally had discussion, but we have had discussions with officials, yes.

Q153 Mr Sanders: Turning to intellectual property, what is your view of the current intellectual property protections in the digital age?

Dame Liz Forgan: That is a short question. I think both of my colleagues here are more expert in this than I am. All I will say is that there is a real trade-off between the desire of artists to have their work seen and used in the widest possible way, i.e. not to have any barriers at all to the ability of people around the world to steal, mash, change and enjoy their work, and the desire of artists to be paid for what they do, and also the interest that the public has in a proper economic basis for art, otherwise it is unsustainable. I sense that my two colleagues will take different views of that but I thought I would just start with it.

Alan Davey: The Arts Council's view is that artists should get proper recognition and pay for their work. We recognise that technology has been changing at a rapid pace and that in a number of sectors, the sectors themselves have not kept up with that technological change, and indeed have not kept up with consumer habits and desires. We recognise that our sector was quite far behind in knowing what the potential for exploiting their intellectual property was in terms of what they produced and their ability to do it, which was one of the reasons why we set up a training academy—using the BBC's training academy—to

train people in what is possible technologically and the ins and outs of how you might be able to exploit that. So when we established The Space, which is a digital platform for arts organisations' output, over the summer—partly to reflect some of the things that were happening in 2012—a key part of that was to get the money from us they had to do the digital rights negotiations themselves. They got some help from the BBC and us, but we would not do it for them. They had to learn how to do it themselves, from very little knowledge I have to say. What has been reported back as an experience is they now know what the ins and outs are and what they have to look out for and what the possibilities for monetisation might be. Also the talent unions are saying, "Thank you for raising awareness among our people about what needs to be done in the right way". It is a difficult balance and I think the proposals in Hargreaves look promising to me overall. Claire might have another view.

Claire Enders: Yes, I do. I am only interested in facts, so I am really interested in any evidence of market failure and what the causal factors are or whatever. What I look at is the UK's extraordinary situation and I look at it even in the context of a European regime that has always paid these fees for the famous blank tape levy that has been levied all over the world, except in the UK and the US, and seen that certainly in terms of keeping artists alive. That has not really worked. It does not change the dynamics of having to create art in French to have a subsidy. So to my mind, if you buy my view of the UK as being blessed with 1,000 years of a knowledge economy, it is based on copyright protection. I say that as someone who produces IP. I don't see the problems at all. Despite Hargreaves' conclusion about an absence of a fit for purpose copyright regime, or indeed a Google long war to establish fairer use in Europe, which I myself have fought against at the European level and will fight against to my last breath because the only company benefiting from fair use in America is Google—therefore unless this organisation, as I argued in Brussels, is prepared to contribute to the skills base, to the education base, to the fabric of our society from which these creative works are developed, then I just don't buy their argument at all because they are the prime beneficiaries of America fair use provisions. Therefore I mistrust their motives. I should say that the issue around technology is something I am very familiar with. I was the expert witness in the UK proceedings that set the tariff for digital music services and I defended the creatives, and also in a US proceeding. In the last year that I was American I was able to do this in the US Congress, so I defended songwriters and composers against the predations of Google and Apple and so on. All I can tell you is the offer from Apple, which was 2% of the retail price of an iTunes, which meant that iTunes would be able to price in any way that it liked, would have destroyed the business of thousands upon thousands of British and American songwriters and composers. There are no prizes for guessing that those two nations dominate global sales.

I am really familiar with their arguments; I am very familiar with arguments from organisations that say if we do this we are going to get that. I completely

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dispute Hargreaves' estimate for the benefit of this copyright hub. If people want to keep busy doing something like the Hargreaves thing that is fine, as long as they don't tamper with any of the ownership issues that sit at the heart of a creative. A creative has to have ownership and has to have the right to license. I can say this nation not only does everything more than any other nation—including, as you know, watch TV, although the Americans beat them—but it also has the biggest internet economy. In contrast to, say, Germany, which has 4% of sales going through e-commerce, we have 15% of retail sales.⁴ We have the most up to date nation—we have 80% broadband penetration and so on. Show me where the market failure exists. The UK has the biggest internet economy on a per capita basis and the biggest media economy on a per capita basis—it must be something in the water again. The copyright regime that we have seems to help our industries and our institutions to monetise here and to monetise around the world.

I think of the situation of European—I am talking about non-British European—newspapers that want to find some different way around their predicament and protect their languages—the protection of language in Europe is a very important political issue. We do not have that issue. Our copyright industries have developed, certainly in the music space when there is real money put on the table; the companies will take it and that is true of any use. We just heard recently that Netflix will be spending \$2 billion on content rights. This is a company that spent a few hundred million on content rights five years ago. There are new uses all the time. If something is worthwhile people will be able to monetise. I see these problems as being transitory and also I see them as thematic. The tech companies have always valued their algorithms above the stuff that I make, which is words. That is just the way it is. A lot more British people can manage this type of creation than can manage those algorithms. There are only a few geniuses that will do those algorithms but there are many British people, and indeed people around the world, who need copyright protection for their creative works. I do not think there is anything wrong that a little tinkering won't fix. Certainly, at the European level we are in statis now because Google cannot advance with the destruction of territorial copyright, which it had hoped for.

Q154 Mr Sanders: Do you see any merit at all, in the Hargreaves idea of an intellectual property office?

Claire Enders: No, none whatsoever. Obviously it will keep people busy, but the idea that this should be funded by the creative industries—I don't understand this country. You want people to fund this office for no reason, and they certainly don't see a purpose to it.⁵ They are really busy, I can tell you, I used to work for EMI. They scour their minds and the globe to find ways of making a living. They are not letting

anything lie fallow. So I dispute the notion that companies are not maximising their revenues. Also, separately, I wonder why it has taken so long to get any respect for copyright in terms of online. There are wider issues around the anti-piracy regime online but they have to do with child protection as well, and so there is a wider complex around the protection of copyright and piracy that really goes into issues that many mothers, like me, and people in this country feel very deeply about.

I don't believe there is any merit. You have to see this as a continuum. These tech companies will never rest until they destroy the value of creativity in their favour and they shove it in their direction. You can see that in every industry—music, newspapers, video, you name it. All I can tell you is that this country and America require these foundational paid-for creative industries. BSkyB is just as important as the BBC. In this whole nexus of funding for creativity there is this idea that there are cascades of funds coming from new tech sources that will be mysteriously arising out of the internet economy. After 15 to 20 years of the internet economy we would have seen them by now, so I dispute the market failure. I am sorry to feel so strongly about it.

Q155 Mr Sanders: Can I ask whether either Alan or Liz would like to defend the idea of an intellectual property office or whether they share Claire's view?

Dame Liz Forgan: It is not my expertise.

Alan Davey: I am agnostic about how it is done, to be honest.

Q156 Mr Bradshaw: From what you just said, though, Claire Enders, you implied that you think politicians are beginning to wake up to the Google threat?

Claire Enders: Yes.

Q157 Mr Bradshaw: Do you think Hargreaves was a complete waste of space?

Claire Enders: It came out at a different time. Yes, it was a moment in time. When Gordon Brown went to No. 10 there was a Google moment, they were very quick—

Q158 Mr Bradshaw: Not Gordon Brown, David Cameron?

Claire Enders: No, this is some time ago. These Google initiatives have been going for a very great deal of time. I can tell you that Apple started on its plan to destroy copyright 15 years ago. So believe you me, they are at it in America, and elsewhere, they fund think-tanks, there are various enterprises and institutions that have come to be, this is a constant theme of the Google's iBash, which I attend. They go on and on about these amazing nebulous—and they are real. Google has contributed greatly to the world's economy, there is no doubt about it, but it does not pay an adequate share of tax in the UK, and neither does Amazon or eBay. So it is all very well talking about these trickle down effects, but what matters to me is the livelihood of British creatives and trickle down effects just don't count. If you look at YouTube the trickle down effects are £1,000 a month. I have

⁴ The witness later clarified: Retail sales (excluding fuels and food).

⁵ The witness later added: In my submission, I mentioned access to orphan works as being a benefit of the Copyright Hubs, although I do not see those works as giving rise to a cornucopia of business opportunities. You want the content owners to fund this office for no reason, and they certainly don't see a purpose to it.

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said to the people at Google, “You know, you should not be encouraging young people to do this with their lives unless there is absolutely no alternative”. They used to say people don’t have to go to university, they can just go on YouTube and start their own businesses in their garages communicating with people. That is just not realistic.

You can say things for a parcel of time. I myself managed to live through the US Congressional proceeding, which lasted six years, and in that time Apple still claimed at the last, when it was the world’s biggest music company, the biggest seller of devices, that iTunes was an experimental product that could be unseated by any new technology marvel and that it deserved to have a break. Apple needed a break from the creatives. You can’t invent this stuff. I just can’t believe it.

But they are very powerful organisations and, after all, these organisations are there to keep politicians amused for long periods of time if at all possible and to try to convince them to change the law.

Q159 Mr Bradshaw: Would you therefore urge the Government to get on and complete implementation of the Digital Economy Act?

Claire Enders: That would be a good idea. I think it would show that the Government not only legislates but applies legislation. That would be a good thing. I say this as someone who had the first conversation about piracy with BT in 2001 and they said to the music industry, to the BPI, if you give us £2 million we will fix this for you. They could have done it. You remember this, John. We have been involved in this forever and ever. I cannot tell you how many conversations we have had. At one time you could put the software in the network traps and we could have solved the problem. I still believe it is something that has come under control slowly but is still very important for this nation to have standards. I say this because I do think that the unrestricted access of children to pornography, which was a problem 10 years ago—which is one of the reasons why we were very concerned about it 10 years ago—is still a real issue. I do think this was the will of Parliament. We must defend our copyright and industries. You cannot put the billions of pounds we put into the Olympics without understanding what it is we are protecting in the world space. It is also really about not robbing the brains of the young, if I may be so old-fashioned.

Q160 Jim Sheridan: Can I now move on to the skills and training, some of which has already been covered? Some of the education requirements in the arts are very specialised in terms of post-graduate degrees, Master’s, et cetera, which in itself is a barrier for poorer students. So the question is, how does someone progress their career in either management or indeed the arts profession without these degrees or post-graduates and so on?

Alan Davey: It has become increasingly a problem in recent years as Master’s courses, for example in directing, almost Hoover up the market in training places. The training place comes with the Master’s degree and now there is no funding available for Master’s degrees and the cost of doing those courses

is £12,000 to £16,000. So the fees are expensive. It is becoming worryingly prohibitive

We have to look at the various entries to profession. They don’t all have to be graduate entry routes. There are still ways into the profession that don’t require those further degrees. But the real shortage at the moment is of training places, internships and apprenticeships, whether it is on the technical level or the artistic.

Q161 Jim Sheridan: What are the other avenues?

Alan Davey: Getting training places with particular institutions, trainee directorships and all that. But, as I said, a lot of them have been cornered by the post-graduate markets, so what we have announced recently is a creative jobs initiative specifically to address this entry route problem for graduates and non-graduates. Let us look at the non-graduate skills, the technical level skills that people obtain in, say, the theatre and they spill over into the film industry and the more commercial ends of the creative industries. That is again rather important, not just to the theatre industry itself but it is the spillover effect as well. It is a problem. I do not think we have all the answers yet. We are talking to the industry all the time about bringing down the barriers to entry, for example, unpaid internships. We put out our guidance earlier in the year about that and people are largely sticking to it. I have to say the people that we fund are largely sticking to it.

I think the creative jobs fund will create 6,500 opportunities in the next two years. That is a dip in the water that will help improve things, but we have some wider problems to address about the high degree level requirements in some places and how we ensure there is proper access to those qualifications, because knowing young people who are trying to get into the profession at the moment, and I know several, it is very hard. A lot of it is down to chance and opportunity, and being in the right place at the right time.

Q162 Jim Sheridan: There is a perception out there among some of the public that your industry is very much elitist and class driven. Do you accept that?

Alan Davey: I don’t think it is that in outlook, but I think some of the facts of life mean that you might have to have parents behind you to allow you the space to have those opportunities. That is not a new thing. I think back to when I was growing up. To be quite frank I wanted to be a recording engineer. I had no idea how you would get into that at all, there was no career support, no one had a clue at school. So I ended up in Whitehall. But it was as unclear then as it is now. I have been doing a lot of research into this because it is something I am passionate about, and we have a lot to do there.

Q163 Jim Sheridan: We are not coming up with many solutions, that is the problem. We know what the problems are.

Alan Davey: Yes. We have put our money on the table with the creative jobs programme, 6,000 new entry points, and that is going to make a difference. That

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will make a difference. We are talking to other people in Government as well.

Dame Liz Forgan: It starts before that. It starts in school. If you think that the creative industries are a serious and important part of the British economy there is a large investment in the Arts Council and other aspects of it but it is not coherently seen from start to finish—children in schools right up to higher education. There are disjunctions at various points in that value chain, which don't make any sense to me. We are now looking at the shrinking of cultural education in schools that I think is really sad and regrettable. I have just become Chair of the National Youth Orchestra that has worked like anything to widen access to it, but it has to do that through the schools that teach children to reach those levels and it gets harder and harder.

Q164 Jim Sheridan: Do you believe the arts is funded enough to allow decent pay throughout the industry, particularly apprenticeships?

Alan Davey: That is one of the things that we are trying to address with this jobs fund because organisations were saying they could not afford the training places, and that because budgets are tight what they do is they stop funding the people coming in at the beginning and try to do without them for as long as they can. They don't want to do that but things are tight at the moment, definitely.

Q165 Jim Sheridan: Are they tight at the top as well?

Alan Davey: They are tight everywhere.

Q166 Mr Bradshaw: Sorry, can I just ask you the same question I asked you about immigration, the concerns that you have about the impact of the proposed changes to the national curriculum and EBacc? Have you communicated those to Maria Miller and is she fighting your corner in Cabinet?

Dame Liz Forgan: Yes, I wrote a letter to the Secretary for Education myself making the point. As you know, the arts sector as a whole has made the point. I just think it is fantastically important and I can't understand why it is taking so long, even if we can't manage the sixth leg of the baccalaureate, that we cannot have in place some absolutely explicit commitment by the Government to serious rigorous cultural education as part of what it wants from its schools.

Let me say, when you see it working it not only produces inspiring children doing art, it produces people who focus better on mathematics and French, who behave more calmly. I can give you a list of schools to go and see this working in practice if you want to. I do think it is a noble cause.

Q167 Mr Bradshaw: Is your letter to Michael Gove in the public domain?

Dame Liz Forgan: I doubt it, I don't tend to publish my correspondence.

Chair: Nevertheless its existence is now in the public domain. I think that is all we have. Thank you to all three of you.

Examination of Witness

Witness: **John McVay**, Chief Executive, Pact (formerly the Producers Alliance for Cinema and Television), gave evidence

Chair: For the second session this morning can I welcome John McVay, the Chief Executive of Pact, who is well known to the Committee.

Q168 Tracey Crouch: Good morning, Mr McVay. Can you just start by giving a brief overview of Pact's role in developing creative industries?

John McVay: Yes. We are a private sector trade association, we represent film, television, animation, children and digital producers. We have about 450 member companies across the UK and we represent the commercial interests of those companies, in terms of labour market relations, we do all the collective licences with the talent unions, we negotiate with commissioning broadcasters, buyers and we are increasingly active internationally to help drive UK growth in international markets. So across the value chain from ideas development to idea exploitation we provide services to our members and engage with Government in the development of policy.

Q169 Tracey Crouch: Can you put an economic or monetary value on that?

John McVay: Absolutely. The independent sector is now worth £2.4 billion. When I started at Pact 11 years ago, when I first met John and he was far better

looking and I was far younger, the sector was worth about £800 million. So we have seen phenomenal growth. That growth is a direct consequence of the 2003 Communications Act. In fact exports grew in four years to last year by nearly 50%. Creating an IP owning, entrepreneurial production sector has been to the benefit domestically and internationally and I would say to the Exchequer as well.

Q170 Tracey Crouch: What would you say are your main priorities at the moment within Pact?

John McVay: Our main priorities are—we have so many sometimes, but I would say copyright. I was very interested in Claire Enders' comments in answer to Adrian's earlier question.

Q171 Tracey Crouch: I saw you shaking your head.

John McVay: Clearly as an international sector growing into new markets and as there are markets that sometimes don't respect copyright as much as we do in the UK, that is a key issue for us. We are very focused on helping small companies, SMEs, become international from day one not from day five years later. So we are doing an awful lot with the help of UKTI to get more SMEs to more markets to meet more buyers and to have more opportunities to sell.

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We are working very hard with the Government on the proposed new tax credits for animation and high end TV drama. They would be my immediate short-term priorities.

Q172 Tracey Crouch: You have a seat on the Creative Industries Council?

John McVay: I do, yes.

Q173 Tracey Crouch: Do you think it is a mere talking shop or do you think it is bringing any real value to growth and challenges to barriers?

John McVay: With all such large groupings, and it is a very large group, because creative industries are quite a broad church, you do have to have an extent of talking shop. To me there is a bit of a one size fits all, which I can understand from Government and officials is useful, in that we are all called the creative industries but within the creative industries we have many different business models, different markets, different ways of creation. You just heard from my colleagues on the Arts Council, they represent the publicly subsidised sector effectively, I am representing the commercial private sector. We all generate creative content, creative goods, which have commercial and cultural value to the nation, but we are all doing it in very different ways. In the same way people who work at Burberry are part of the creative industries, but what they do is very different as well. Trying to bring us together to focus on what are the key issues for a very important part of the British economy is good. To try to get us all to do the same thing at the same time is more difficult. So, for me, the three key issues for the Creative Industries Council are access to finance, copyright and international growth.

Q174 Tracey Crouch: What do you think can be done to improve the effectiveness of the CIC?

John McVay: Focusing exclusively on those three things.

Q175 Tracey Crouch: Could it be structured differently?

John McVay: I think there have been one or two useful working groups. There was a very good group set up with Skillset looking at skills, and that has come up with some very important and new ideas around how we can improve the SMEs. One area that we will be investing in and helping Skillset and the Creative Industries Council develop is the concept of virtual boards for SMEs, which will basically be a dating system between SME entrepreneurs and experienced financial directors and CEOs from other established businesses, so that the SMEs at an early stage of development can access high-level expertise without necessarily having to pay non-exec fees or try to evolve someone into a corporate structure. That is an idea—particularly looking at the 150 start-up companies I have every year—we are very keen on, and I think it would be very good for SMEs to access high level skills at the early stage of development, not when hurt in a car crash or when they have questions that they are finding difficulty answering.

Q176 Tracey Crouch: In the oral evidence that we have received so far the Treasury seems to be an incredibly important Department in the development and growth of the creative industries. Do you think it is wrong that they are not represented on the CIC?

John McVay: I would welcome the Treasury to be represented. I think you were right to identify the Treasury's role. The two very welcome tax credits that were announced by the Government last April will drive inward investment. We will see more work coming to the UK and we will see work that has gone offshore coming back to the UK. So there will be a direct return to the taxpayer for the investment that has been put in. That will have a multiple effect in the economy overall. For me, having the Treasury sitting alongside some of the more, what is often called, lovey issues on creative industries—to me they are not lovey issues, they are fundamental to the long-term economic well-being of our country.

Q177 Mr Sanders: To what do you attribute the near doubling of independent television sector revenues since 2005?

John McVay: The Communications Act allowed us to own our copyright and our intellectual property. As soon as you give people back the things that they created they tend to want to go and do something with it. We saw a blossoming of entrepreneurial activity. From 2005, we saw a significant growth in exports as the world markets opened up to UK television, and particularly UK independent production, but also we saw from about 2009 a significant decline in investment by broadcasters in the programming in the UK. Because of the recession commercial broadcasters don't have the same money they used to spend, which means, as a producer, they are not giving me as much money as I need to make the product, so what I do is pass that risk on to the markets by getting advances from buyers in other territories and then put that back into the programme. If everything goes swimmingly well and I get a hit we all make money. Of course, we are in a hits business so not everything will make lots of money but the architecture of why we are doing so well is a direct consequence of the 2003 Communications Act because you created an environment for people to be incentivised to do something with what they owned and then the market came along and couldn't provide all the money within the UK to cover the cost of production.

Q178 Mr Sanders: So you would say the Communications Act was what started it off?

John McVay: It was a biblical moment for my industry.

Q179 Mr Sanders: What could the Government do that would have a major positive impact on future growth of the sector?

John McVay: Going back to my three key points for the Creative Industries Council, we need to find ways to access capital at an early stage of development for SMEs. That is at the highest risk point, that is when you have very highly motivated creative entrepreneurs who the banks and the traditional financiers don't understand, they think they are very strange people

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who talk about strange things such as global format hits. We need to tackle that. The overall ecology and ecosystem we have in the UK is fine, it is working very well for everyone, I would always encourage Government to leave things alone if they are working, the temptation is to maybe get involved.

Another one would be to give absolute clarity to the copyright regime in the UK. To remove any uncertainty, to be clear that copyright is the property right and that if you want people to invest in companies you have to give clarity and security to the owners and investors in the copyright and the IP, that is at the heart of the business. We have been through a period of two years where we were lacking clarity, where there was a great deal of doubt, and referencing back to Claire's comments about Google, a push that there is something wrong with our copyright regime. The fact is that most people come to the UK because we have one of the best copyright regimes in the world, that is why people invest here, that is why people like creating intellectual property here.

The third one is take a long-term view on exports. I know that there are changes coming with UKTI where we are looking at hopefully getting a three year plan. The reason why we favour long-term planning on exports for our sector is that if you really want to break a Chinese broadcaster, if you really want to get commissions out of a Chinese broadcaster, you need to go there more than once and it is quite hard for an SME to plan a three-year cycle of investment if at year three they come to me saying, "Is there any support to subsidise the flight costs to Beijing again?" and I say, "I don't know". That is the current situation. The more the Government could get clarity on that—and I know Lord Green has been doing a fair bit of work on this—the easier it will be for me to convince SMEs to plan to go to China three years from now because we will be able to give them a structure, we will be able to give them training, we will be able to give them all the information they need to get into that market.

Q180 Mr Sanders: Of those three, which is top of your wish list for the Communications Act?

John McVay: That is a difficult one. I would say my main one is growth exports. We have to recognise that particularly in the TV economy in the UK it is flat, it is not going back to the level of spend we had in 2006. The way we bring more money into our economy and money back into our own programming for the British public is by selling more into new territories. We have worked very hard to convince and work with the Government to get a co-production treaty with Brazil, but we are not stopping there. We will be producing a document early next year that is mapping all the other new markets. I know everyone knows about BRIC, but when it comes to the audiovisual and entertainment markets there are massive opportunities emerging around the globe. We are looking at Africa, we looking at a number of other territories—North Africa within 10 years. These societies are going to leap frog the legacy technology that we have had and they will go straight to digital, and they are also becoming more affluent, which means they have the

technology and the leisure time. What do people like to do with leisure time? They like to be entertained.

We have a simple choice as a country, either we let the Americans supply all that programming or we supply it. I think we have a fantastic moment because we are seen as being innovative, disruptive culturally—we are not the same as everyone else—but we also have a reputation for producing very high quality product and that is what people value. If you are going to go home and watch telly, you want to watch something that is great quality, that is engaging, exciting, and that is part of our tradition.

Q181 Chair: Some have argued that the terms of trade as established in the Communications Act 2003 were necessary because at that stage the independent production sector was very small and embryonic companies needed that help. It has been fantastically successful and we now have some of the most successful independents in the world. They have gone on to argue, therefore, that in some ways it is now the broadcasters and the commissioners who are needing a bit of help and we should revisit the terms of trade. I know your answer to this is no, but perhaps you would like to say why.

John McVay: The people who say that, to me, betray an unfortunate British attitude—if something is successful, let's do something to stop it. I just don't see the point of that attitude. I think where we are in the world we should be supporting success. Secondly, I can see no direct harm in the legislation to the actual broadcasters, and, thirdly, if it was not for the fact that my members go out and raise £250 million from the international markets, which they put back into British programming, those very same broadcasters—if you were to change the legislation—would have to find £250 million extra to put back into the programmes to make them to the same quality that the British public enjoy. So if they want to make less quality programming, and if that is their business model, then I think that is a bit depressing. What we have arrived at, and this is a great British solution, is if you look at the ecology of our broadcasting sector, the balance between the publicly funded BBC, the commercial sector, pay TV, with Sky investing, all the CABSAT channels now investing, we have arrived at an ecology where there is what I call a Rubik's cube of tension between the different types of channels, the different models, buyers and suppliers and all it has done is move us up. We have one of the most successful ecologies on the planet, sometimes by hook, sometimes by crook, but having got there why would we want to change it? There is no evidence that this is not delivering value and opportunity. Value to the public, value for the licence fee, value to Sky subscribers and opportunity internationally for everyone. Everyone has that opportunity.

Q182 Chair: Can I just explore the financing? You said something I was not aware of, I do not think. Let's say I am Channel 4 and I commission a brand new drama series. Are you saying it is the production company or Pact that then goes out—

John McVay: Production company.

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Q183 Chair: It is the production company that then goes out and gets orders for that series from other countries ahead of it being screened?

John McVay: Yes. What happened with the 2003 Act, the trade-off between giving us our intellectual property rights, which we can then monetise, was that for the first time in 60 years broadcasters could pay the price they thought the programme was worth. Prior to that they had to pay 100% of the cost because they wholly owned it, so there was no way for us to make it unless they fully paid for it. So the trade-off was they got price flexibility. What that has meant, particularly since 2005, which was part of the driver to Adrian's question, was broadcasters do not pay for the full cost of the programmes they commission. So typically something like *Downton*, you might see that Universal pay for half the cost of *Downton* because they think they can make the money back on the international markets. That is the same with a Channel 4 drama—if they only give me 70% of the budget as a producer I will go to a distributor, they will then give me an advance, I might then sell DVD rights or other rights, and I will take that money and put it into making the programme. So Channel 4 for 70% of the costs gets 100% of the benefit and they take all the advertising.

So what has happened is, cleverly—and I don't think this was engineered, but it was certainly part of our thinking—the UK industry has passed risk on to the international markets. We are using other people's money, so they take risk to put back into our economy. That sustains the creative culture and entrepreneurship that we have here. I think that is a good thing. I remember speaking to Stephen Carter when he was doing Digital Britain, when they were looking around for models about how to make other creative industries more entrepreneurial, I said, "There's one sitting in your lap". If you can find a way to get other creative sectors to own intellectual property and become entrepreneurial you unlock value. Okay, it is more challenging, my members don't like having to work harder but that is the world we are in and I think it has been to the benefit of—

Q184 Chair: But the production company presumably has only sold into one or two more territories?

John McVay: Sometimes a lot more than that. We have formats that have gone into over 120 countries.

Q185 Chair: Indeed, I am talking about pre-being transmitted, when you are still in the stage of making the programme. You have sold it to Channel 4 and you have then sold it to a couple of other places.

John McVay: Yes, or sometimes a lot more than that because we run a pavilion at MIPTV and MIPCOM and increasingly at other global market events and it is a UK Indie pavilion, and we have to beat buyers off with a stick. The UK has a fantastic reputation for high quality British television driven initially by the BBC.

Q186 Chair: Surely usually you are saying, "Here is a programme, you can sit down and watch it. Do you like it? Do you want to buy it for your territory?" But

in this instance you are saying you can't show it because it hasn't been made yet. You are pitching an unknown programme.

John McVay: Sometimes you are because you need to get the money to make it but clearly the reputation of the producer, who is cast in it, who the writer is, what your track record is, is a market value. That is why we are deeply resistant to collective licensing in this market because collective licensing would force us to sell our rights at a non-commercial basis, so we would not be able to be confident we could raise the money to put into making the primary work. That is why for us leaving it at market values allows different quality productions to achieve a different value in the market.

Q187 Chair: We were going to come on to that but since we are there can—

John McVay: I am sorry, I have just segued.

Chair: No, it is quite useful because collective licensing in other parts of the creative industry is regarded as rather a good thing and has been very beneficial, but you are saying it undermines your entire model?

John McVay: Yes, we much prefer the market to place a value. If you look at a low cost drama made on YouTube by some kids from school, it is very different from *Sherlock* made for the BBC, which has a multi-million pound investment to achieve that quality. I wouldn't want to see *Sherlock* not being able to achieve the funding because what would happen is that you would not get the same quality production. The costs of audiovisual content are radically different to producing a piece of music or writing a book. They are fundamentally different. You have different underlying costs, you also have more complex underlying rights arrangements with the authors, directors and actors. It is a more complex world and I have sat across from Google and many others who propose collective licensing as a way to make us billions of pounds. I agree with Claire, I don't think the numbers in the Hargreaves report are accurate. We are doing quite well in the market. Exports are going up year on year and a third of our earnings are from international licensing at market rates.

Q188 Paul Farrelly: Just a very quick supplementary to this line of questioning. John, I am very sorry I was late this morning.

It would be very unusual in any market where risk is transferred for reward not to be transferred as well.

John McVay: Yes, yes, it does.

Q189 Paul Farrelly: It sounds very much like buying an apartment off plan. when you haven't seen the final product you expect a discount because you are funding the project up front.

John McVay: Yes.

Q190 Paul Farrelly: Do you think if the industry did not have to transfer more risk offshore and funding from whatever source was better in the UK that we might reap more of the benefits from our own production?

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John McVay: No, because everyone in the value chain shares in the reward. So the broadcaster commissions me, I have revenue splits with the broadcaster, they share in the money I make from exploitation, the distributor who sells to other territories takes a commission and if they sell more their commission gets bigger. No one gives you money for nothing, so all the way down the chain there are revenue splits and because we do not have enough money in the UK and we have to get money from the global markets for big budget productions that is driving us to be even more entrepreneurial and to sell more because we are incentivised to do that. I think that is a good thing. If we went back to a lovely UK, where everything could be financed in the UK and we sat in a UK bubble, I think we would be missing out because the rest of the world is doing what we are doing.

At MIPCOM several years ago the Poles came to the market, Polish commercial television, and they were wanting to pay 20 zlotys or whatever for programming and everyone said, “No, no, no, you can’t buy it for that”. They came back to the market this year in October and they are paying real money, euros, for British programming. Everyone is doing that.

Q191 Paul Farrelly: You are driving a bigger market then?

John McVay: I could probably get a bit lyrical like Claire about this. I think we are in a fantastic opportunity in the UK, we are well placed, particularly in the audiovisual sector, we are the second largest export, we have a fantastic brand, we are known internationally for quality, the Olympics has given us a great opportunity as being quirky, as being innovative. To illustrate that, we had Hulu, which is the US VOD service, in London two weeks ago who are here to commission. They just co-funded *The Thick of It* and they are here commissioning British independent production companies and broadcasters to make programmes for a US video on demand service. I was chatting to one of the buyers and I said, “Why are you here? You could go anywhere in the world, why London? Why the UK?” he said, “You don’t get what you’ve got, do you?” I said, “What do you mean?” He said, “You’re disruptive, you’re quirky, you’re irreverent, you’ve got all these qualities that you don’t see in US television”. It’s heavily scripted, it’s very controlled, they are very sensitive to the makeup of their demographics. We are less respectful. That may not be to your happiness sometimes, but the environment we have is a very exciting environment, particularly for these developing markets that have never had mass media television before. If you go back to what Monty Python would be like if you had never seen telly before—we have that and I think that is a quality that we should be maximising and not be afraid of it.

Chair: I can see why they take that view if they part fund *The Thick of It*.

John McVay: Their promo for Hulu, to sell the Hulu service to their young demographic who are all Santa Monica type tech kids, is a promo of Malcolm Tucker bawling out some poor spad on a phone with all the choice language and at the end of it Malcolm Tucker

says, “Where can I see this programme where the Minister said blah, blah, blah?” and the spad says, “Oh, you’ll have to catch up on Hulu”. It was the promo for an American VOD service. If an American VOD service can see that cultural challenge and use that to sell their services in America then that is good for us overall, I think.

Q192 Chair: Just before we move on from this, staying on copyright, you said why you believe that the investment required into an audiovisual work is so much greater than a recording track and that makes it different. Therefore up until now in debating Hargreaves we have largely heard that while there was a lot of concern about Hargreaves the one thing in Hargreaves that people thought was quite a good idea was the digital copyright exchange. You have some concerns about the digital copyright exchange as well?

John McVay: If the digital copyright exchange is an advertising service for rights that I have available that I would like someone to come and make me an offer for, I am perfectly content. That is our proposal. If it is the thin end of a wedge to collective licensing where there is not stuff on the digital copyright exchange because rights owners have decided not to use it, that then becomes a debate from tech companies saying, “Well, we still can’t get what we want, could the Government please do something about that and make this compulsory?” That does give me concerns.

Q193 Chair: Have you talked to Richard Hooper about that?

John McVay: I have.

Q194 Chair: Is he sympathetic to your argument?

John McVay: I wouldn’t say sympathetic. I think he understands my argument and certainly they are keen to make sure that the interests of British rights owners are properly taken into account, but I do have concerns that a long-term objective is to transfer value from our audiovisual creative industries to tech companies.

Q195 Mr Sutcliffe: You mentioned a couple of times the Olympics and the Paralympics and the success of that, particularly the impact on your sector. What has it been, what is going to lead to and how long can it last?

John McVay: I remember watching the Olympics at home, the opening ceremony, and friends around the globe who were watching it in one way or another were emailing me saying, “This is a fantastic moment” and of course every single buyer, every single other broadcaster around the globe watched it and whether they now want to go and hire Danny Boyle, I think it was a Zeitgeist moment where the overall values of how—it was so different from China, it was so quirky, it was so idiosyncratic and that is exactly the type of products we make for the national markets. That is what people like to buy. The sort of wall to wall low level US sitcom of a couple in some quirky arrangement in Malibu, that has its place but there is a generation of people, particularly younger people, who are not interested in that, who are digital

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natives who do seek out and do want things that are a bit more challenging. That is why, for me, the Olympics was a great moment because we didn't have to go and explain who we were, it did it for us. So when you go, "Hi, I'm British" they don't go, "Are you American or what is your sensibility?" It was a great 21st century exposition of our culture and that can only be to our benefit.

Q196 Mr Sutcliffe: This treaty with Brazil, is that from the Olympics?

John McVay: That was prior to the Olympics. We had been working on it for some time and we organised a trade mission to Rio in February and we signed our tripartite agreement with the Brazilian Government, our Brazilian equivalent in Rio and also the British Council to try to help our Government here sign the co-production treaty, which they duly did. We can now support the implementation of that. But there is another key moment around the treaty since most of the co-production treaties we have around the globe are not fit for purpose in that they only deal with film. We need to revise all our treaties and make them audiovisual treaties and that would be a huge boost to our exports as well.

Q197 Mr Sutcliffe: So you are saying this is the first of many hopefully.

John McVay: This is the first of many we would hope but we have a very good treaty with Israel, which is an audiovisual treaty, and indeed I am hopefully over in Tel Aviv in December to meet with our Israeli counterparts about more co-production work there. We would like to see those treaties around the globe because people do want to work with us and treaties coupled with tax incentives, coupled with our high levels of investment makes us a very attractive country to work with.

Q198 Mr Sutcliffe: You said all the broadcasters were here for the Olympics and the Paralympics, and they were. I went to a thing in Bradford at the Media Museum for JHK and saw their technology developments for the next 20-odd years. Are we into that sort of discussion with the technologies of the future for audiovisual? What level are we at in terms of trying to keep up with the pace of things?

John McVay: From my sector we look at technology as a means to get to our audience, whether that is on your phone, your laptop, whatever the platform is—Hulu, YouTube, we work with everyone, Netflix, LoveFilm, whoever is a new shop window or opportunity; I welcome every one of them provided they pay us, which is always the challenge. Some of the models that come to my door from tech companies say, "We really love your stuff, it would be really good, it would help us, could you give us it for nothing?" That is a bit hard when you are trying to make a living and then you also have to pay writers, directors and actors. All these opportunities should be welcomed provided that you can strike proper commercial rates. Sometimes as a copyright owner I may choose to give things away because I think that is a good thing to do, but if I want price for my product I should be able to negotiate that.

Q199 Mr Sutcliffe: I am thinking more of changing a format because what they were showing on there was what TV sets are going to look like in 25 years' time.

John McVay: Yes, Smart TVs. We are currently looking at a project that we will be discussing with Samsung, the leading Smart TV seller both in the US and the UK. We are very interested in that for a number of reasons. It is clear that audiences like to become communities. I don't know if anyone has the guilty secret of liking *Strictly Come Dancing*, but you can see the community that is built up around those great moments. Smart telly allows you to do more with that community, to engage with them, to have more interaction and people want that. You have so much choice, when you find something you are passionate about there is nothing wrong with wanting to do more with that. I am a keen fly fisherman, and if they could make a *Strictly Come Fly Fishing* I would be quite happy because I have the same passion, I have the same commitment. Again, the technology allows you to do more, to engage more and to get more value from your entertainment or education experience for that matter.

Q200 Jim Sheridan: You would have heard in the previous session the question and answers about training and skills and so on. We are now joined by a significant number of young people behind you and perhaps, through the Chair, you could tell us what your sector is doing in terms of training and education for young people.

John McVay: We have a number of initiatives, one we are heavily involved in, Skillset, which is a sector of Skills Council and we support their work and feed into all the development of apprenticeships that they do. Our members contribute directly to a training charity called the Independent Training Fund, but we also are about to produce a report next year that will quantify all the different training initiatives, graduate schemes and various other things that our members do across the sector. That has come from work we have been doing for three years to promote diversity in the industry. What came out from that is it discovered that many of our members do a lot of activity, say, with a black writer's group in Hackney or with a drama group in Glasgow, and they are doing that because it is a way to find talent, to find new voices but no one ever issues a press release about it. It is actually quite a lot about making the industry accessible, finding talent and then trying to get that talent into the industry. So we are going to quantify that next year because some of it is in kind on the job, some of it is external, but no one captures that information. So we will do a report on that and that will be produced next year.

Q201 Jim Sheridan: I am reliably informed that a number of young people work in the industry for nothing in order to network and make contacts and so on. Is that the case? Young people working for nothing.

John McVay: Unfortunately, I think that does happen. We are not supporters of that. Four years ago we issued joint guidance with Skillset and HMRC about

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unpaid work experience, which is illegal; it should only be undertaken under specific circumstances. We advised all our member companies not to do that. We have seen a significant decline in unpaid work experience since then. If you turn up at an employer's place of work and you are instructed to do anything, you have entered into a contract, and as such you should be paid the minimum wage. We are not supporters of unpaid internships, we would rather people were paid because it affects diversity and opportunity. If someone can afford to come and work in London, paid for by their parents, then you are absolutely discounting a whole range of people who are probably talented and could come and do that. That is bad for our business.

The reason why we set up a diversity project is diversity is not a feel good issue, it is a business issue. We live in one of the most diverse countries in Europe, it is a core business issue for us and we want to see as many people from across the country from different communities in our industry because that is good for our industry.

Q202 Jim Sheridan: Of your member companies have any of them been punished for taking on unpaid staff?

John McVay: That would be a matter for HMRC.

Q203 Jim Sheridan: You do not take any action against them?

John McVay: We are a private trade association, we are not a police force and we are not the Government so we are quite happy to make clear the law of the land and exactly how people should or should not do things, but it would be a matter for the authorities to take any action on unpaid national insurance or anything like that.

Q204 Jim Sheridan: Have you any idea how many apprenticeships there are in the industry?

John McVay: No, but I am sure I can get that number for you. Skillset would have that number because they administer that on behalf of the sector.

Q205 Chair: You are not talking about two weeks for somebody studying it for 'A' levels coming in?

John McVay: No, if they are in education it is fine. It is people who are not in education or formal recognised training. If they turn up and work on a work experience effectively they should be paid the minimum wage.

Q206 Chair: I saw one or two alarmed looks behind you.

John McVay: No, if it is a formal course you are fine, that is the law, that is how it is described. But we think this is a critical issue and it is something that other parts of the creative industries have suffered from as well. It is partly because we are seen as a very attractive industry. It is an industry that can be exciting, you can be creative, and we have an oversupply of people trying to get into the industry and unfortunately that often leads to things happening that I don't think is right.

Q207 Mr Bradshaw: I notice in your evidence you suggest that tax relief should be extended to children's programming; does that imply that you think the current public service obligations are failing?

John McVay: Yes, for about seven years we have been saying that the current obligations fail. The reason is because Ofcom does not have the powers to require the amount of children programming. ITV and Channel 5 spend considerably less on UK-originated children's programming that they did in the past. So the only buyer left in the market is the BBC. The BBC is under extreme pressure on its last licence fee settlement, they are manning the guns, they are still holding to the amount they spend on children's but that is going to come under pressure and we are concerned. We think if the tax credit system were extended to children's it would have the same effect as for animation. It would allow more work, more investment and it would also encourage other channels to invest in children's programming, otherwise we leave the BBC as a monopoly buyer, and having a monopoly buyer for suppliers is never good. The BBC has a particular editorial position—that is fine, that is its position—but clearly for children we should have as broad range of views in children's programming as we do for young adults and adults.

Q208 Mr Bradshaw: But children's programming is part of licence obligations, isn't it? So why can't Ofcom enforce those obligations?

John McVay: It can't enforce the amount that is spent, it can only enforce the fact that you do it. That is why ITV were able to exit and, indeed, Channel 4 don't do children's either.

Q209 Mr Bradshaw: Do you think the Government would have been better top slicing the licence fee to fund children's programming rather than local TV?

John McVay: That is a very interesting question. It opens up a whole range of debate about why you would top slice licence fees and issues around broadband, and so on, so I wouldn't want to answer that in that one specific because I think it is a broader question. Our plea would be for the Government to consider children's programming because children's programming generally is funded internationally. That is a core engagement for our future citizens. We are effectively left with a monopoly buyer. Therefore adding the word "children's" to the animation tax credit would not be that difficult.

Q210 Paul Farrelly: This is a different angle on tax and I am not sure whether Pact have a view or whether your members are particularly affected by it, but you will have seen the growing number of reports about the tax avoidance activities of the likes of Amazon and Google.

John McVay: Certain multinational companies, yes.

Paul Farrelly: The reality at the moment is that quite a number of the content providers to whom you would feed content, the likes of NBC Universal, for example, Vivendi and Bertelsmann are arguing that they are not operating on a level playing field and they have opened a second front on tax to supplement the one

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that they have opened on copyright issues. You understand?

John McVay: I understand, yes.

Paul Farrelly: Do you have a view on this and does it affect your members at all?

John McVay: Yes, clearly I can see the linkage that they are creating because if our members are working very hard to go and raise money internationally, bring the money back to the UK, then exploit all that and pay revenue to the Exchequer and to the public that is reinvested in our society, the double whammy there is that we are then faced with organisations who want to take our content for free or at low rates who don't pay tax here, so that is a bit egregious. Also, we are in international markets. My price to sell something is affected by the taxation I will pay on that so I want to maximise as much as possible. If I am in a market where other people are not paying the same tax or can undercut me then that is an issue. As far as I know all our members are very happy and do pay their taxes in the UK. We welcome that. We should—it is because of the benefit of UK legislation that they have profitable businesses.

But I understand the argument. I think it is a broader question about international franchising, about how you are able to sell franchises from one territory to another territory at what some might see as a huge margin in order to make a franchise in territory two loss making. That seems to me to be quite an accountant's view of it. I am not sure that is what you would do in business.

Q211 Paul Farrelly: It is clearly a higher level concern from a tax and societal point of view, but of course the higher the revenues from certain creative non-tax payers, particularly the said companies, the more scope there might be for tax relief.

John McVay: Yes, if you look particularly at something like Google that sells advertising, which takes money out of our economy through advertising, they are taking business away from ITV, Channel 4 and our commercial broadcasters who invest in British content, so that means they are investing less, and then Google doesn't pay tax on it while ITV, Channel 4, Channel 5 or whoever else are still paying tax. I have a bit of sympathy with the commercial broadcasters as well because they are trying to work in a harder market. I don't know what the rates are, but the business, because it is not paying tax, may not factor the cost of tax into the advertising rates it applies to broadcasters. So that means there is more money going out of our economy that previously was being invested in our economy.

Q212 Tracey Crouch: Can I just ask one last question on the children's programming? Is it a case that it has just become more expensive to produce children's programmes with all the fancy animation and everything else? I am of a *Roobarb and Custard* and *Mr Ben* era so what you have described today is obviously a lot more expensive in terms of production. When you referenced in your written submission the continuing decline of investment, is it a case that it has just become more expensive to produce good-quality children's programmes?

John McVay: No, I would say digital technology has made it cost effective to produce. I would never argue to drive to the bottom on production and things like that but I would say the market is driving very real efficiencies. The BBC as the main buyer for children's programming from 2007 until this year has had a 5% reduction of its programming spend, including children's year on year. But the volume and quality has remained the same. So that must mean there is an efficiency going on in the production, and our members are always looking at ways to make things more productively. I don't think it is about we have just stayed still or become more expensive. Yes, some things are very expensive. You do an Aardman animation, that is all cel-animation, that is people moving little models, that is really expensive but the new technology allows you to do things as well. You can do *Roobarb and Custard*—in fact my kids do stuff like *Roobarb and Custard* on their PCs at home for their mates on YouTube. So technology has allowed it to be cheaper, the question is the technology doesn't create fantastic work. You still need someone who needs to be paid who is a scriptwriter, who is a great creative director, you still need someone to get that to market. So there are some fixed costs but they are more human costs, I think.

Q213 Tracey Crouch: When was the heyday in children's programming spend?

John McVay: I would say we have probably seen a decline since 2006. There has been a 17% change.

Q214 Tracey Crouch: What is its current spend?

John McVay: Current spend is about £88 million.

Q215 Chair: How much do you put down to the HFSS advertising ban?

John McVay: That has been very hard to quantify. I think some people have used that as a reason not to do it. Children's programming has always been challenging commercially, particularly for the commercial mixed schedule channels, and when they moved to a more return on investment approach, like ITV do, per slot if you look at a ROI on a half hour of children's programming it is probably not making the advertising revenue. Taken together I think it is important that you don't do that with children's programming because what children's programming does is build an audience for you in the future. *Roobarb and Custard*, *Mr Ben*, you remember that, that is something that gives you a resonance with that channel and with that brand and with that engagement that you remember for the rest of your life because it was an important moment as a child. I think it is a short-term commercial approach not to invest in kid's programming because that is your audience of the future. We have had that argument with commercial broadcasters unsuccessfully. We are delighted the BBC is still there but we worry that we only really have the BBC left.

Q216 Chair: Your argument is that you get used to pressing button three from a very young age and therefore go on doing so essentially?

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John McVay: Yes. This is the thing, when people look at television they think every TV station is the same, but of course we know when we go to watch something that they are not, there are certainly values that are implicit in the type of programming. You would get Noel Edmonds' *Swap Shop* on the BBC, ITV would do it different.

Mr Sanders: That is enough to put you off.

John McVay: Oh well.

Q217 Chair: Just one very last quick question. Last week we had Pinewood who were very keen on clusters and hubs and having skills close by and felt this was a real benefit. You do not seem very keen on that, or at least you do not seem to think it is as important?

John McVay: It is very important for production for high end drama and feature film production; it is a lot better to have set builders and painters and decorators around the corner than two hours away. So on that physical part of it, increasingly the ability to connect with buyers—in fact we will be producing an app shortly for producers that will have all UK buyers on an app, which will be a live updated what the buyers want app. That means someone in the Hebrides can find out what someone in Discovery is wanting next year and can get that in real time. That cuts costs, it

creates connectivity. In that respect we think the ability for people to get high speed broadband and information, and particularly if they can then stream content back and we are looking at more applications for that, that is a good thing.

We launched the first ever app supported by UKTI MIPCOM in October. That is an app for buyers internationally where they load it onto their phone and then it is a complete catalogue of thousands of hours of British programmes, and it is free. Our members can put their programming up there, clips of the programmes, and then if they buyer likes something they can scrapbook it. If they then click on the programme it takes them right through to the contact details of the company that owns it—sort of a model for a digital copyright exchange maybe. That is not compulsory, it is entirely voluntary and we think because of the utility of that that will be a big success, so that is where we come in on that. If you want to go and meet key people who work in the feature film industry globally, go and live in Hollywood because that is where it is. If you want to connect with financiers from Hollywood there are other ways to do that without necessarily having to live in Hollywood.

Chair: John, that is very helpful, thank you.

John McVay: Thank you very much for the opportunity.

Tuesday 4 December 2012

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Angie Bray
Conor Burns
Tracey Crouch
Philip Davies

Paul Farrelly
Steve Rotheram
Mr Adrian Sanders
Jim Sheridan
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **Geoff Taylor**, Chief Executive, BPI, **Jo Dipple**, Chief Executive Officer, UK Music, **Andy Heath**, Chairman, UK Music, and **Alison Wenham**, Chief Executive Officer, The Association of Independent Music, gave evidence.

Chair: Good morning. This is a further session of the Committee's examination of support for the creative economy. I would like to welcome Andy Heath, Chairman of UK Music, and Jo Dipple, the Chief Executive; Geoff Taylor, the Chief Executive of the BPI, and Alison Wenham, the Chief Executive of The Association of Independent Music. First, I should make reference to my entry in the Register of Members' Financial Interests that I am a non-executive director of Audio Network plc.

Q218 Steve Rotheram: For the last three months I have been involved with the music industry to try to see whether we can get a single out for Christmas, *He Ain't Heavy, He's My Brother* by the Justice Collective—shameless plug—which is hopefully going to challenge for number one single this Christmas. I genuinely had no real understanding of the complexity of the industry before that—I did not know what pluggers were and so on—but I have gained a greater appreciation for what the industry is about and what it does in the last three months, working with an organisation called Porcupine Management, who have literally dragged me, kicking and screaming, into all these different aspects. Given the complexities of the industry, can you outline the roles of each of your organisations in supporting the industry?

Geoff Taylor: Shall I start? I am Chief Executive of the BPI. We represent about 350 independent labels and the three major record label groups. We represent them in the media and in Parliament, we collect statistics, we organise the BRIT Awards, and we do a lot of work in practical terms in trying to deal with piracy on their behalf. So we both represent them and take action on their behalf.

Jo Dipple: UK Music is the public policy body of both British musicians and the British music industry. We represent the record labels, large and small, the music publishers, large and small, songwriters and composers, music producers, music managers, the two music licensing societies and the live music sector. We aim to develop with them a strong framework of copyright and intellectual property, so that we can license and sell our music assets.

The UK is very good at music. It defines us on a global platform and is worth £4 billion. There are various things that make it so good in this country and

I would say those things are raw talent fierce entrepreneurial drive and, on top of that, great management and business leadership. This all depends on the legislative framework that you give us, and I would like to take this opportunity to thank you for the Live Music Act. I always thought that you could not legislate for a new Rolling Stones but you may well have just done that. It should pave the way for a new generation of new musical talent and I am very grateful to Parliament for that.

Andy Heath: I am Chairman of UK Music. I am non-exec, whereas everyone else here is an executive. I help run a music company, which is probably the biggest independent record company, certainly in Europe and maybe in the world now, and I also run the publishing side of that. I was instrumental in the formation of UK Music because I felt that the industry could come together and offer you guys a unified and coherent voice that you could understand and follow. The point of the organisation is simply to protect and exploit the commercial music industry, which I believe represents a fundamentally important national asset: the cultural IP that resides in this country. It is extremely valuable, it makes this country a huge amount of money, it has been the dominant contribution of this country culturally throughout the planet for the last 100 years, and I am very determined that we should protect it and make it grow and make it more important.

Alison Wenham: I am Alison Wenham, Chief Executive of an organisation called AIM. AIM was begun in 1999 in response to what was clearly a big change coming for all the creative industries. My organisation represents the British independent music industry from the very largest independent companies who have been operating in the market for 30 to 40 years through to bedroom start-ups, artists who are going it alone and all manner of different diversified business models generating revenues around music in its broadest sense.

Q219 Steve Rotheram: Thanks. I have just noted that on the BPI statement it says that you represent the voice of the recorded music industry and it mentions Universal—Universal are the distributors—so I need to declare an interest in that.

4 December 2012 Geoff Taylor, Jo Dipple, Andy Heath and Alison Wenham

In regard to the main challenges facing the UK music industry, could you go in turn and highlight quickly what you think are those challenges?

Geoff Taylor: I think what we need is for Government to implement policies that allow creative businesses like ours to flourish in the digital environment, and in particular help consumers access their entertainment safely and legally on the internet. This is the number one challenge that faces all those companies, small and large, who invest in creating music.

Specifically, I suppose there are three things. First, we need Government to provide a strong IP framework and advocate a strong IP framework in export markets for us abroad. Secondly, we need them to take some real action to deal with IP theft because the biggest problem that our small and large member companies face is that they invest hundreds of millions of pounds into creating new creative work, which is very popular with consumers, but very often they do not get paid for doing so. Thirdly, we would like Government to encourage investment in the UK in new creative content. One of the reasons we have been so successful is that we have, traditionally, a very high level of investment in A&R, and we believe that if Government could take some measures to encourage higher than average, so higher than historical, levels of investments in artists and repertoire—that is the music industry's R&D, effectively—it would help us to grow our businesses and export more. I could go into the details on the IP theft point later, but there are quite a few subheadings under that.

Jo Dipple: I would say: support for the three rungs of the music ladder. In terms of raw talent, like I said, I think the Live Music Act is a great piece of legislation that will help. I back the CBI when they say that music and the creative industries should be part of the E-baccalaureate and I think that will help a lot. Skills and training are very important because they will nurture the creative talent that comes up the route into industry.

On the entrepreneurial bit, it is crucial to create the right investment framework for small businesses and music businesses: 92% of our music businesses are SMEs and employ fewer than 10 people, so getting the tax and business and access to finance environment right is critical, particularly now in this part of the economic flat growth period. Last is business certainty: we need to know what we are operating on; we need legal and licensed markets. We need consumer certainty and we need business certainty so we know what we are investing in and how to grow our businesses.

Andy Heath: I am sure you do not want me to repeat any of that stuff, but I endorse all of it. From my perspective, I think one of the biggest problems for the music industry and the cultural industries generally is the bewildering attitude that we seem to be getting from the Government about its ambivalence towards the benefit of copyright. It seems to me that Governments for some time, but especially this Government, have bought the line that intellectual property is a barrier to growth, and that simply is a lie. It is not true. That line has been bought by some very important and influential politicians in this country and I do not understand it. We have an asset

that is very valid, that has been built up over 100 years—the theatre, the music, the films, the TV. It would be madness to create an atmosphere where that is at risk—absolute craziness.

I work with various businesses, I am involved with fundraising to license various forms of entertainment generally and I am also involved with start-ups from my own business and help them. The business community and the finance community always say to me, “Yes, but Government hates copyright. They are going to bring in all sorts of laws that are going to make it easier for Google to steal your music that they already steal, so why should we invest?” and that is a story I get every month of every year. It is this bewildering ambivalence, if not outright hostility, towards copyright that comes from the powers that be in this country and it is very, very damaging.

Alison Wenham: In conclusion, I would say: access to finance. We survey our members every year and ask them what their concerns are and what would enable their businesses to grow more quickly, more sustainably, more profitably, and it is access to—and I think the words are quite important—appropriate forms of finance. There is a lot of finance available, but appropriate forms of finance are much more difficult to come by, particularly when you look at the caricature of the independent entrepreneurial nature of music businesses being somewhat countercultural to traditional finance mechanisms, institutions and language. It is a cultural barrier. So although the Government has gone some way with the seed fund to try to address this, the scheme is very Treasury, it is very labour intensive, it is a lot of paperwork, and I do not think it is going to meet the need. We would be happy to work more closely on something that I think would meet the need and we are talking about really quite small sums. It does not cost a lot these days to start a music company.

Secondly: the effects of piracy. It is most important to understand this. I have heard a lot about the effects of piracy being damaging to only major companies, but that is simply not true. In fact, it is disproportionately damaging to small companies because they have invested in one, two or three artists. They are small, light-footed, agile companies. They go to market—market: it should be a commercial, economically viable market—and 12 o'clock lunchtime, their first legal link is on page 54 of a Google search. I have actually found that. It has improved, but it is by no means sufficient to address the enormous gap between entrepreneurial endeavour, investment of time, of risk, of money and return.

Skills and internationalisation—I think this country could do a great deal more to leverage international sales. If you look at other countries like Sweden, Canada and Korea, they are beacons of investment and they certainly see the reward in terms of their domestic sales abroad being much higher than the expected level.

The other thing that scares me rigid is the copyright exception proposal, but I guess we might move on to that?

Chair: I believe it might crop up.

Alison Wenham: I thought I might lead you into it.

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Q220 Steve Rotheram: A number of the issues that you have picked out will be covered in the next section, certainly IP, which I know is very important. That is going to be in the next section.

Nobody mentioned the advances in technology. For instance, just to give an example off the top of my head, if you were to text 80010 and put in the text box Justice, you could download *He Ain't Heavy, He's My Brother* by the Justice Collective and that will come to your phone directly on 17 December without your doing anything. It automatically comes there. That was an omission.

It was quite a wish list that you just highlighted. How is the industry itself helping with those sorts of challenges? What is it that you can do, rather than just relying on the Government to put everything right that you identify as being wrong?

Geoff Taylor: Firstly, I think you have missed your career as a plugger in the music industry, and you obviously know how to use technology to plug, which is one of the key skills these days.

We have done an enormous amount in the UK to embrace technology, to adapt to the new environment and to offer consumers different ways to get music in the way that is most convenient for them. There are more licensed music services, digital music services in the UK than any country in the world. That is one of the reasons why we found it a little hard to understand the view from some parts of Government that there is a big problem with copyright holding back technological innovation. We are majority digital businesses now. The labels I represent were 53% digital businesses in the first three quarters of this year and we consider ourselves largely digital technology businesses, because most of our income now comes from partnerships with innovative services like Spotify, Deezer, Amazon, iTunes and so on. We have worked very hard to answer the criticism that it has to be incredibly easy to get the music on any device, anywhere you want, really simply, and it has to be affordable and it has to be a really good consumer experience. There are now more than 20 million tracks on most of the licensed services, so there is unbelievable choice. It is even available for free on some of them, like Spotify.

We have worked very hard to create an environment where it is easy to get the music legally. We still feel that those businesses are growing well—for example, subscription is growing about 60% year on year, and overall digital is growing 20% to 30% year on year. There is very encouraging growth, but that growth is not as large as it should be because so much of the potential revenue for those digital services is being siphoned off by illegal websites, many of them outside the jurisdiction that pay nothing back into this country. That is why we feel there is a strong relationship between growing the digital market and dealing with illegal downloading.

The only other thing I would mention, since you asked about technology, is just how well we are doing embracing things like social media to market our artists abroad. If you look at the success of One Direction, for example—number one in 32 countries—or at the fact that Mumford & Sons and Muse were numbers one and two in the US Billboard

charts a few weeks ago, we have had extraordinary success with British artists overseas over the last year or two and that is not a coincidence. It is down to the fact that British labels now are using the internet and, in particular, are using social media to market to fan bases all around the world. The fact that so much of the internet population speaks English is a great competitive advantage for us. The combination of being able to use that technology, our heritage of music and the fact that we have so much credibility as a music nation, and the ability to reach fan bases all around the world means that we are extremely well poised to increase our exports. We already have four times as high a share of trade in recorded music as the UK has for goods generally. So we are already very good at this and we firmly believe the internet is a great opportunity for us to grow our share.

Chair: We will move on to Ben Bradshaw who, as far as I know, does not have a Christmas single out.

Andy Heath: Excuse me, Mr Chairman, could I just—

Chair: Yes, of course.

Andy Heath: You said what would we like the Government to do. I do not want the Government—

Steve Rotheram: No, what can the industry do rather than just relying on the Government?

Andy Heath: Okay, but the imputation was that we are relying on the Government. We are not relying on the Government. If you were asking me what I would like ideally from the Government, I would like it to close the book on copyright reviews, of which we have had 20 in the last four years and another 15 in Europe. I would like it to close the book, put it back in the drawer and push off, because we are doing fine, thank you very much. What we are having to devote tonnes of unnecessary resource to is the unnecessary and wilful attacks that come from the new technology industries that have done such a good lobbying job. We would quite like it all left alone. Leave us alone. We are getting on fine, thank you very much.

Q221 Mr Bradshaw: I am going to focus on this IP issue and ask you to elaborate your concerns in the specific context of two things: the implementation of the Digital Economy Act and the Hargreaves Review.

Alison Wenham: I referred to the copyright exception that comes under one of the proposals from Hargreaves, and I will speak to that. The copyright exception with no compensation for creators would be tantamount to giving away the music industry to the technology industries, wholesale. It involves the transfer of value from the music industry to the technology industry without any means of remedy.

Q222 Chair: Which particular exception are you talking about? Is it the format shift?

Alison Wenham: Well, we are not quite sure what the IPO is proposing, but any copyright exception to copy—including the Cloud. It is the Cloud that we are most concerned about. We do not mind, we do not care, we have evidenced that we do not mind or care, about copy and share. We have lived with it for 10 years—20 years. Piracy is a feature of a successful industry. But what we do care about is when new technologies come along like the Cloud, which is very valuable to the consumer—it is a storage locker; it is

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a large library. How music gets into that library is not in scrutiny, so a lot of the music that goes into the library may not have been purchased in the first place. How it comes down to the consumer at the moment is licensed by some companies. If the exception includes the Cloud, it will divorce the relationship between the music industry and its ability to monetise what it does. It is as fundamental as that.

Q223 Chair: Can I explore that a bit further? The Cloud is the latest technological development of where a consumer may wish to store their music, but the consumer has bought the music. If they originally buy it as a download or as a physical product in a CD, they might choose to put it on a Cloud storage system in order that they can access it remotely, but they have paid for it.

Alison Wenham: Well, I think that is arguable. Have they paid for it? How do you know?

Q224 Chair: They might not have done, but that is a different problem.

Alison Wenham: They might not have done. They very well might not have done.

Q225 Chair: But that is not the problem of the Cloud.

Alison Wenham: The Cloud offers a type of music laundering on a wholesale level, but it is a service, Mr Whittingdale; it is a service that is being offered around content that has been created over 115 years and it involves access on an open basis whenever you like, wherever you like. It is a service that involves our content. If it is a service that has a monetisable value, which the Cloud services clearly believe that it does, it is only there to store content. So why shouldn't the content industries enjoy the value that is created from the existence of the Cloud services in the first place?

Geoff Taylor: They already do.

Alison Wenham: And they already do.

Geoff Taylor: If I might just add to that, I think the concern is that a new licensing market is emerging for Cloud services. We have already licensed Google, we have already licensed Apple to offer these services, which is great and that creates value within the UK. What we do not want Government to do is introduce an exception into copyright law that means they can run those services without having to get a licence, in which case they capture all of the value, which largely is exported outside of the UK, and none comes back to the UK creators whose music is at the heart of the service they offer. We believe it would be better to leave this to the market rather than Government intervening.

Q226 Chair: Putting it on the Cloud is now an opportunity because that is the latest technological development. Previously I could transfer my CD on to my iPod. Arguably, putting it on the Cloud or putting it on the iPod is not vastly different. It is just a question of what is most convenient for me in terms of being able to listen to my music. I know there are some in your industry who want to have a charge on

the iPod as well. Why do you see the Cloud as any different?

Geoff Taylor: I see it as different because it is a commercial service operated on an ongoing basis for revenue around music rather than simply the sale of a device of which a company no longer has any involvement in its use. That is why I think they are different. Jo may want to elaborate.

Jo Dipple: On the consumer certainty, we do want the consumer to be absolutely certain about what is legal and what is not legal. Since 2001 there has been a European directive that would have offered the British Government the ability to introduce an exception for private copying, and we support that. We want the consumer to be absolutely sure about what they can do and we want the businesses that we run to be absolutely sure about what they can do. The detail of how that exception is introduced may take a while to be negotiated with Government when we see their proposals, but I think we are all absolutely clear that there should be absolute consumer certainty in this digital market.

Andy Heath: It is not the music industry that has made the act of putting your CD on to your iPod illegitimate. The music industry did not make that happen. This Government made that happen. Both Governments made that happen by ignoring that directive. We are the only country in Europe where it is an illegitimate action because elsewhere they have found forms of compensating for that. You say, "If I can put my CD on to my iPod, what is the difference in putting my CD on to the Cloud?" Well, actually you can't put your CD on to the iPod. What Alison has said is that we have tolerated that. We have managed to tolerate that. We have managed to stay in business by tolerating that illegitimate action which, by the way, is not tolerated anywhere else in Europe, but we have tolerated it and we have had to because the Government has let us down on that. So you want to replace one illegitimate action, which we maybe have been able to afford to tolerate, with another illegitimate action, which we will not be able to afford to tolerate.

We have it thrown at us that, of course, the copyright system in America is so much more comfortable than it is in the UK. It is not true. It is absolutely not true. If the copyright system in America was any more comfortable, why has my company licensed Apple and Google for Cloud usage in America? Joanna Shields who runs Facebook over here also launched RealNetworks in America—a very unusual experience. She said quite recently, within the last year, that in her experience the complexities of the American copyright system were probably worse than the complexities of the UK and European system. So we have not created this problem. This problem has been created by the Government completely ignoring it.

Alison Wenham: If I can say one more thing in respect of the word "levy". Every time this issue is raised with Government officials or the IPO, they go, "Oh, but you want to levy. You want to put a levy on. You want to put a tax on the consumer". It is completely untrue. The word is unhelpful. A brave man would defend the way in which the copyright

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directive was implemented around Europe. I am not here to defend that. What I am here to advocate is that we are a sophisticated licensing business; we are a copyright-based industry; we have existed for hundreds of years licensing. This is no different to us. This is no different to any new business that emerges, like commercial radio or the printing press. This is an opportunity to license so that the value that is created between industries can be shared and there is a balance of interests. At the moment what we are seeing is a race to the technology industries taking the value from the content industries, which would be a disaster for this country's creativity at its root.

Andy Heath: Wherever that compensation culture exists, it is at no cost—no cost at the point of consumption to the consumer. This is entirely a business-to-business licensing arrangement that has no impact on consumer expenditure.

Q227 Mr Sanders: You have more or less answered my question, but I do have difficulty in understanding the difference between the Cloud and an MP3 player or an iPod. If I go and buy Steve's excellent record before Christmas and put it on to my iPod, you are saying that that is an illegal act.

Jo Dipple: Current law exists in Europe to make that legal, but it has never been introduced at domestic UK level.

Q228 Mr Sanders: Therefore, if I were to put Steve's excellent piece of music onto my iPod, I would be breaking the law?

Jo Dipple: We think the consumer should have much more certainty, so we support this harmonisation.

Q229 Mr Sanders: But am I breaking the law or not? I do not want to be a lawbreaker.

Andy Heath: Well, you are, yes. However, as Alison has said, we have tolerated the breaking of that law because we have realised that it is a no-win situation.

Q230 Mr Sanders: It is not for you to determine whether a law is broken. That is actually for a court to decide. Either I am breaking the law or I am not and it is not for you to determine whether I am breaking the law.

Jo Dipple: We would like this to be sorted out. For our industry, for consumers, we would like this to be clarified as soon as possible.

Q231 Chair: But the answer is that you bring in the private copying exception and then it is no longer illegal.

Andy Heath: No, but then you get the cataclysm that—

Alison Wenham: But you are intending to include the Cloud, which is a very different proposition.

Q232 Chair: I am not intending anything, but your understanding is that the private copying exception will extend towards Cloud-based storage?

Alison Wenham: That is what we are led to understand by the IPO.

Q233 Chair: Just to clarify, if I store a piece of music that I have purchased on the Cloud, you are not losing any sales?

Andy Heath: No. What you are not understanding is that the whole engine room of any IP industry is its licensing structure. We license the use, we license value transference. That is exactly how an IP industry operates and it is exactly how an IP industry has operated for the last 100 years or so. You have a licensing architecture that covers the transfer of value. What Alison is saying is that Apple and Google are not creating Cloud storage lockers for fun. They are doing it for immense profit. It is another brick in their moneymaking machine, and it is completely immoral for the transfer of the value to occur without any level of compensation.

If you check the research and you go through the consumer's value of their digital tools—their phones, their computers—the extent to which they attribute the value of that product, sometimes a £400 or £500 product, is 30% or 40% of that value is so that they can have music. At this moment in time, we have no benefit at all—zero—for the transfer of that value. All of that value goes to the manufacturer of the device. The evidence in Europe is that none of those devices are more expensive in Europe. In Spain, where they did away with that levy—I have used the word, sorry—and replaced that compensation from central taxation, the manufacturers dropped the price of those devices by 0%. All that happened was that they increased their margin by the extent of what was originally going to creators. By the way, it does not just go to music; it goes to film and TV and all sorts.

Q234 Chair: You want to apply that to the iPod?

Andy Heath: No, we have already said we are likely to tolerate the physical transference. The Cloud storage is something that we simply can't contemplate. It would be a disaster.

Jo Dipple: I think it fits into the whole growth agenda. The UKTI said that the Cloud market would be worth £6 billion by 2014. We are looking for growth policies and the Cloud is one area where there really is growth potential, particularly for IP and copyright owning industries. We just want to be part of that growth story for the UK.

Q235 Angie Bray: I am not a techie person and I think I am probably being quite thick here but I still don't quite understand the principle. I have chosen to store some of my stuff from my computer on the Cloud, which I guess will include my music but it is all music that I have legally downloaded or, indeed, have been lucky enough that you have tolerated the fact that I have bought a CD that I have then downloaded on to my iTunes library or whatever it might be. But what I do not understand is when I put my stuff for storage on the Cloud, it is only me that will still access it, so it is no different to my relationship with the music when I was listening to it from any other source—so I do not quite understand why it damages you because nothing has changed. I am listening to the music that I have legally downloaded.

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Geoff Taylor: There are two points. The first is that we want to continue to be able to do business with the companies that offer that service to the consumer so that we can share in that value chain and generate some value in the UK. The second point is that in terms of the sharing being—

Q236 Angie Bray: I have chosen to go on Cloud. They have asked me whether I want it and I said yes.

Geoff Taylor: Yes, but companies like Google and Apple will make money from offering you that convenience around the music and we would like to be part of that value chain. The second point is that we have not seen exactly how a private copying exception will be drafted, but we fear it may be drafted in such a way that it will also help all of the illegal cyber lockers. There are many illegal locker services against whom we already have many difficulties in taking action.

Angie Bray: That can be extended.

Geoff Taylor: If they can argue that all they are doing is storing people's individual files on their behalf, which is copying by a private copying exception, and therefore they should have no liability for that, that would make it even more difficult for us to deal with what is already an incredibly difficult environment where these lockers are making enormous amounts of money from advertising and from subscriptions from people who go to them to download music for free. None of the creators of the music benefit in any way from that. It is illegal but is very difficult to enforce against. Introducing a private copying exception that applies in the Cloud will only make it more difficult to take enforcement action in those sorts of cases.

Q237 Angie Bray: Can I ask one other question about downloading? It would appear that if you download from Apple iTunes it limits your usage of that music to five separate PCs, whereas if you download from someone like Amazon—not a great name at the moment, I know—they place no such limits on that? Can you talk me briefly—

Jo Dipple: Can I make one point about the downloading? I went on to Google, an internet search company, yesterday and I looked for Adele, *Rolling in the Deep* to find out where the downloading market was and where the legal source of downloading an Adele song was. The first legal site that comes up is number 15 and iTunes is number 16. So even if you wanted to download an iTunes version of Adele, *Rolling in the Deep*, you would have to try 16 times before you get to a legal iTunes site.

Geoff Taylor: This is something we would very much like to come on to because the BPI currently sends I think about 1.5 million takedown notices to Google a month and still we find—

Angie Bray: But why does Apple—

Chair: I need to get back to poor Ben who has slightly been hijacked.

Angie Bray: Yes, sorry.

Q238 Mr Bradshaw: We have spent a lot of time talking about the Cloud. It is important but it is just one element. There was a bit of Hargreaves. I wanted you to sum up your view of Hargreaves and the state

of the implementation of the Digital Economy Act in more general terms. If you want to go back into some of the detail, fine, but we have not really done that.

Geoff Taylor: Yes, we have not spoken about the DEA really at all. We are very concerned that it will have taken more than four years to get from the passage of the Digital Economy Act to it having any impact on the ground. That is obviously slower than other territories like France, where they have moved ahead. We are very concerned about the level of the costs that are associated with that and that all of those costs are being passed on to the originators of the content. For the music industry alone, we expect that the first year of the Digital Economy Act will cost more than £12 million. It is a very large sum of money. In France, where HADOPI was put into place, those costs were borne by the Government. In the United States, a system is being put into place that will be much more cost effective again. We are concerned that UK creators of copyright content will be at a significant disadvantage. With every year that goes by and no action is taken, we are losing more sales and more revenues, and when we finally do get some action taken, we hope, it is going to be much more expensive than in other territories. It is a concern.

Q239 Mr Bradshaw: In your written evidence you say that the BPI strongly welcomes the Government's efforts to press ahead quickly with implementation of the Digital Economy Act, but we have heard from other witnesses in their evidence that they do not think it has been very quick or is happening very quickly.

Geoff Taylor: Perhaps we were being too diplomatic. We are concerned about how long it has taken. Obviously part of the reason for the delay was the fact that there was a judicial review case brought by some ISPs that held things up, but equally it has taken a very long time for the codes of practice to be issued. We think four years between the passage of a piece of primary legislation and managing to get it up and running is very difficult to explain.

Q240 Mr Bradshaw: Mr Heath, you used refreshingly plain language a moment ago when you accused Google of stealing your music.

Andy Heath: I would put it that they enable the theft of my music.

Mr Bradshaw: Okay. Well, we will check the record.

Andy Heath: I definitely said stealing but I would like to—

Q241 Mr Bradshaw: It was refreshingly not beating about the bush. You also said you were bewildered by politicians or governments on this issue. You may be bewildered by it but you must have also wondered why the direction of policy is one that you are so unhappy about. What is your explanation for it?

Andy Heath: What, the direction of policy?

Mr Bradshaw: Yes.

Andy Heath: I think it is very effective lobbying from the technological industries. So far as those companies are concerned, we are an obstruction to their rapacious business practices. Yes, I can understand that, but the fact of the matter is that if the only thing you create in this world is advertising revenue, it is going to be

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a very poor world. We are going to end up with a content-free life if we are not careful. They have no respect for cultural content at all and it is a very important part, not only economic part but social part, of the life of this country and others. We have been very successful at it. I am at a loss; I don't really understand why. I think it is pure commercial greed.

Q242 Mr Bradshaw: What form does this lobbying take? When we had Google before us in another Committee in a slightly different context, we were very withering about their evidence, their arguments. What nature is this lobbying taking?

Alison Wenham: Can I just say that when David Cameron announced the Hargreaves Review, he stood at the new site where the technology hub was going to be built—

Andy Heath: Where I have had a company for two years.

Alison Wenham:—and he said that Google would not have launched in this country under current copyright law. If that isn't evidence of predetermination of outcome, I am not quite sure what is, if you think about the impact of those words. We know full well that there has been a lobby for some time to gently move aside this rather troublesome, repetitive, pestering content industry, so that we can have seamless highways where the consumer enjoys everything in his own place in his own time in his own way. We do not have an issue with that, believe me.

Q243 Mr Bradshaw: The question I am asking is what form does this lobbying take?

Alison Wenham: I do have a map, if you would like me to send it to you, of the extent to which lobbyists across the world are purveying a copyleft agenda to governments right across the world. Would you like to have it?

Jo Dipple: One thing about Google is they have changed the way we work. They are our shop front into the digital market. All we are asking is that when you get into that digital market, you have access to legal content that we can license and make a living from.

Q244 Mr Bradshaw: But you say it is over the world, so it is no worse in Britain than it is in other countries?

Alison Wenham: What, the lobbying?

Mr Bradshaw: Yes.

Andy Heath: No.

Alison Wenham: No.

Geoff Taylor: I do not know if the lobbying is worse. I think they clearly have had a lot of influence at very senior levels of Government over the last few years. There have been policy advisors in No.10 who have been known to have a very close relationship. I have personally experienced talking to a very senior member of the Government about the implementation of the DEA and other matters that we were hoping to progress and being told—and I won't say any more than this—"Geoff, you don't understand how much pressure we're under from Google." This was following up on the developments around the SOPA and PIPA legislation in the United States. This goes

back a year or so, and there is no doubt there was a climate at that time that they clearly exerted a lot of influence at the very top levels of Government. So even if we were able to get a good hearing from sponsoring departments, it was not easy to get policy progressed because there was a lot of influence at the most senior levels.

Q245 Mr Bradshaw: Just to be clear: it is your view that lobbying from Google has led to the Government dragging its feet on implementation of the Digital Economy Act.

Geoff Taylor: No, I do not want to make the link specifically to the DEA. I think we are talking more generally here about the view, which I think Alison was referring to—

Alison Wenham: I think that I can happily, comfortably say that Google's lobbying most certainly led to the Hargreaves Review—not the DEA.

Q246 Paul Farrelly: Later on we will have a few questions on tax and tax reliefs and what the Government might do, but this is probably a good point, when Angie says that Amazon is not flavour of the month at the moment and you are talking about rapacious business practices, to get an opinion from each of you about tax and tax avoidance, whether legal or not.

I attended quite an interesting seminar in Brussels back in May where the likes of NBCUniversal, Vivendi and Bertelsmann were represented and it was all about the tax evasion by the likes of Google, Apple and Amazon. The point was made very clearly that not only are we fighting to exist in terms of copyright licensing, but we are not operating on a level playing field on tax either because these people don't pay any. Of course, that affects—end of my statement here—how much money is left in the Government and Treasury kitty to extend tax reliefs to help other parts of the industry. I wondered, without this being too leading a question, what each of you think about the tax avoidance and how is that of concern to you?

Jo Dipple: I think the American tech companies should pay a fair rate of tax in the UK. That is the very least we can ask of the companies that operate in our constituencies, in our local communities, and I think they should pay a fair rate of tax. I also think they should seek a fair price for the IP assets they use to sell their businesses.

Alison Wenham: I am happy to sit here next to one of the directors who represents one of the British companies who looks after Adele's recorded music interests and is to make a statement in January to say that his company has paid more tax in the UK this last year than combined Apple, iTunes, Amazon and Google. I may not have the line-up right but the message is very clear.

British independent companies are not smart enough, frankly, and they are not that motivated to avoid tax. What they want from the taxation system is support for growth and we would love to see the introduction of an enabling tax break for music companies because we are a very high investment heavy industry. There is plenty of evidence that enabling growth through tax breaks would be very advantageous.

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I am probably not on the subject you wish to speak about. I am not entirely sure that the issue about taxation is going to solve the problems of creativity and growth from creativity in this country, but one of the big problems that we suffer from is double taxation treaties and the enormously burdensome administration around double taxation treaties. That would be a light-touch approach. An HMRC that actually got a response back to the companies within less than four months would be quite helpful, a modernised—

Q247 Paul Farrelly: We are going to come on to some tax reliefs, but I was addressing the broader picture, interest in which is growing day by day. Andy, I am sure you might be outspoken on this.

Andy Heath: I do not know whether I am pleased or not, but we paid just under £12 million in corporation tax this year, which is a big chunk of change, frankly, and it is actually double what the tech companies paid between them. It does not feel like a level playing field when you have companies with market caps in the hundreds, if not thousands, of billions and we are paying twice as much tax as they all are collectively. So that does not feel right, although to a degree I am not sure taxation is an issue for a review of the creative industries.

What I think it signifies is the company philosophy and the company ethic that is demonstrated by these types of companies—on whom, by the way, we are dependent: Apple is our biggest customer by a country mile. But the fact of the matter is that these companies are run for themselves: they believe themselves to be above society, above Government, above any sense of social or moral responsibility. This is what they are like, and it is demonstrated by the way they approach their chip back into society, i.e. nothing. We have the chief executive of one of these companies telling the President of the United States, “I’m not coming. Push off.” This demonstrates the way these companies regard their own interest. They regard their own interest as absolutely paramount and above the interest of any other players.

We have within the cultural industries—not just the music industry, I keep emphasising this—a very developed value chain that is relatively respectful of each other’s contribution to the value chain. There is the creator at one end and there is the consumer at the other. There are obviously commercial arguments in that chain of money but nevertheless the respect for each other’s position in that value chain is there and it is real, whereas the large technological companies see themselves as, and are, very different animals.

Q248 Paul Farrelly: Geoff, is there anything that Jo, Alison and Andy have left out?

Geoff Taylor: Not really. I would like to concentrate on what the Government can do to help us, in particular the smaller labels, to invest. As I said earlier on, we are very proud of the fact that we invest more in A&R than biotech or pharma do in their R&D. That is one of the reasons why we have been so successful. I believe that if we can do anything to encourage growth in that level of investment, despite the fact that revenues have been falling for labels, if we can

encourage a greater percentage—it is already about 20% of turnover goes into A&R—and if we could have some form of tax relief that would encourage investment above those historical levels, that would be a really good thing for UK plc.

Paul Farrelly: We will come on to that subject in a few moments.

Geoff Taylor: Okay.

Q249 Mr Sanders: Are there any examples around the world where you think governments have got it right in relation to these issues; and, if so, which?

Geoff Taylor: Perhaps I could give the example of South Korea. I do not know if any of you have been enjoying *Gangnam Style* by Psy, a massive YouTube hit, number one in many countries, but South Korea was a market that was in extraordinary trouble. They had superfast broadband very early and the content industries were virtually wiped out by it. In fact, most of the major labels pulled most of their investment out of South Korea and it was a very dire situation around 2005, 2006. What we saw is that the Government there did a number of things. First, it enacted legislation that meant that letters were sent to people who were using cyber lockers illegally. It cracked down on illegal websites. They also did a very big education campaign funded by the Government, and that saw an extraordinary revival in South Korea. So there is this phenomenon called K-pop, of which Psy is one example, where they are now exporting Korean pop all across Asia, and it is now coming to Europe, and they are doing phenomenally well. There is a connection there.

Similarly, in the United States, the Government appointed Victoria Espinel as the IP Enforcement Coordinator, reporting directly into President Obama, to take responsibility for making sure that the copyright industries in the United States were protected and action was taken against illegal sites overseas.

We have seen some good examples and we are looking for similar leadership from the UK Government.

Q250 Mr Sanders: What are the chances of the UK becoming a global centre for copyright?

Geoff Taylor: First, we have a great opportunity, as I said before, because of the internet, and we are already showing that. Secondly, the work that Richard Hooper is doing, to which perhaps others could speak, on the Digital Copyright Exchange is a real opportunity for the UK to become a licensing hub internationally. That might be something the Committee would like to explore.

Andy Heath: The work is going ahead to create global hubs for copyright clearance. It is a big job—an enormous job. The job is probably being led—well, it is not probably being led, it is definitely being led—by the British music industry. PPL have done a fantastic job in creating an international recordings database and the global repertoire database—sorry to get a bit technical—is in the process of being created; I suppose the person mostly in the driving seat is PRS. However, whether that global repertoire database is going to reside in the UK is very doubtful right now,

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and I go right back to the ambivalence being shown by the Government in its attitude towards copyright. It would be completely barking to centre it in the UK if the UK is not a country that is sympathetic to copyright.

Jo Dipple: The one thing we do in this country better than anyone else is we have the raw creative talent. We are the country that gave Iron Maiden to the people and the Sex Pistols and the Clash and David Bowie and The Beatles. It goes on and on.

Alison Wenham: It is worth mentioning that in four of the last five years the world's biggest selling album has come from a British artist. There is an enormous appetite for British artists and music around the world.

Q251 Mr Sanders: Shouldn't you be making the case for Britain to be that global centre for copyright and expounding what the likely benefits would be to the UK?

Alison Wenham: Yes.

Andy Heath: Yes, but we are not only making the case, we are carrying out the work. It is in process. It is being done.

Q252 Mr Sanders: What are the benefits? Tell us what the benefits are.

Alison Wenham: We were working with PPL and PRS. They were working on the building of global repertoire databases before, in fact, Hargreaves and Hooper recommended that there should be such a thing. I think Hooper's vision is slightly broader. We were looking after our own interests with music. If it is broadened to include film and other copyright industries—as Andy says, don't underestimate the challenge—in theory it would be of great value.

What it is there to then enable is a question we both need to focus on. If it is an identification platform, if it is to remove the uncertainty of who owns what—a signposting platform—that will be of some value. If it enables certain types of licensing collectively, that will be of more value. If it provides a statutory environment where infringement of copyrights held on the exchange would attract much more serious remedies in this country, I personally would welcome that. If you go and build a copyright hub and you put your copyrights up there, and those copyrights are infringed, at the moment we still have, frankly, bits of paper—takedown notices is our only remedy. It is very recidivist really when you think about where we are technologically.

Andy Heath: The benefit of having a global copyright exchange in the UK is, in the same way that the City of London became pretty much the world centre for trading capital, we can become the world centre for trading intellectual property licences. That has immense commercial potential. Apart from anything else, it would take quite a lot of people to organise it, but also it would mean that the revenue flows would probably centre quite close to where the hub is. It would just make sense for that to be. If we were able to create that, and I believe we are able to create that and we are in the process of doing so, it would be absolutely tragic if it was not centred in the UK. The potential for having that global exchange of licences based in the UK is absolutely enormous.

Geoff Taylor: To try to put some scale on it, Government figures are that the contribution of the music industry, in terms of greater value added, from investment in new copyrighted works is already £1.3 billion, so there is a very strong base to start from. We are growing all our licensing businesses very strongly year on year. We believe there is an extraordinary opportunity and the internet only makes that more powerful.

Q253 Mr Sutcliffe: Just for the record, I want to mention that I asked the Prime Minister in Prime Minister's Questions a couple of months ago how many times Google had met at No.10 and I was told 22 times. I think that is good information for the Committee to have.

On funding and where we are heading in terms of finance, Alison, you talked about appropriate finance for the small sector. What do you mean by that? What would you want to see happen in terms of support from the Government or from elsewhere?

Alison Wenham: Appropriate means small. Most small businesses need small sums of money. They are not playing at the VC level where the level of interest kicks in at too high an entry fee and the exit strategy, in and of itself—the language is countercultural—to what an independent company would seek to derive from a financial partner. We need small sums of money—it might be in the way of a loan, or matched funding, or even a grant—to enable growth in a way that is reasonably easy to access and easy to report on. It is as simple as that really. I could spend a great deal more time talking about it but it is not really complex.

Andy Heath: Can I add to that? I think this Chancellor has intended very well in terms of trying to create schemes to help small businesses. I don't in any way fault the intention. Actually, the Enterprise Finance Guarantee—was that the last Government or was that this Government? I can't remember. Anyway—

Alison Wenham: Well, what this Government has added is the S, which is the seed, which is the interesting thing.

Andy Heath: Yes. Well, that is EIS. That is a different thing. A lot of these schemes that are brought have very, very, very good intentions and they are simply, but when you get to it—the Enterprise Finance Guarantee apparently seemed god given for our industry—one of my members conducted a survey and they found one person in a four or five-year period who had managed to get a loan from their bank under the Enterprise Finance Guarantee Scheme, which just means that it was not functioning. It just was not working. There can't possibly have been one out of thousands of applications that qualified.

What I think should happen is that the Treasury, the banks, the financial whoever they are need to sit down more closely with the people at the coalface and say, "We are quite happy to enable this lending. We are quite happy to encourage this lending. We are enthusiastic about the principle. We want to create new enterprise and so on, applaud all of that. How do we come up with a system for her members and for our members and the small publishers?" I am sure they are there.

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Q254 Mr Sutcliffe: Lending to risk is the issue, isn't it?

Andy Heath: Yes, lending to risk is the issue.

Alison Wenham: When we formed in 1999 and we came to see Government, they were very pleased to hear from an association that did not have piracy and copyright front of house. I am not saying those issues are not fundamental, but small businesses don't spend all night sweating about copyright piracy. They are looking at how to grow their businesses.

I did a bit of maths last night and I will give you some statistics. Despite a very turbulent decade, in gross profit my sector has grown from £77 million to £130 million in the last five years. If you look at the figures from 2000 to 2010, what you have is a decline to 2005, so lots of red numbers—this is the top 100 independent companies—and then from 2005 it starts to sort itself out because people are beginning to diversify. They are beginning to live with the environment. They are beginning to enjoy the disruption and actually take advantage of it. As I mentioned earlier, we have a lot of diversified companies now who are into lots of different income streams.

So we are up to some very decent figures, but when you take a copyright business that writes down its asset value on its balance sheet to zero, because that is the SAP 9 requirement, the Standard Accounting Practice, you are already slightly compromised because you are showing nothing against which to lend. In the traditional lending environment it is bricks and mortar, stocks and debtors, and, of course, in a knowledge economy there are no bricks and mortar and no stocks and debtors, so you remove the four cornerstones of lending protocol. You have to think in a more modernistic way. We would be very happy to help to enable that to happen, but I think that there still is a disconnect between old land-based lending and knowledge economy lending.

Q255 Mr Sutcliffe: I think we are finding that the whole way through, but the purpose of this inquiry is to look at how we can develop and grow the creative sector. You look at the Olympics and the Paralympics and see the success that that has been to the country and the opportunity for creative development or creative talent right across the range, from music all the way through. Reflecting on that and hearing the problems, which I am afraid some other sectors are facing as well in terms of the lending to risk issue, what practically can Government at central level or local level do to support the sector? While we are on to the Olympics—I am looking at Jo—as a Minister, I had a problem with the secondary ticketing market and the issues around all of that, so you might want to talk about that and why people have to pay £25,000 to see the Rolling Stones.

Jo Dipple: I would like to answer both. The Olympics, as the Prime Minister said, made this country open for business. If we are open for business, we need the capital and investment to grow those businesses and that is a problem at this stage in the economic reality. The Chancellor said the road we are travelling is much longer than maybe we thought. It will affect all the SMEs in this country and it does

affect the music industry. The one particular thing about a music loan or music access to finance is that, if you are a young musician with a guitar over your back, your bank manager is probably less likely to lend you the money than they would do if you were an accountant opening a pizza franchise. There is a problem with that, but that can be addressed and we are going to help do that. We would like to signpost the finance available.

On the secondary ticketing issue, I am very pleased you raised this. It goes back to our desire that consumers have certainty in the market and there is a legal and licensed market in which they can operate. The Olympic ticket market was heavily protected by the laws that were introduced to host the Olympic Games. As a result, the resale of Olympic tickets was not affected by huge price hikes. Football in the Premier League is another area where there is legislation that protects the resale of tickets to the club or the hosting organisation. The secondary ticket market is something that we would rather did not exist. We think it is bad for consumers, it is bad for the industry, and we would work with Government, if Government chose to, to look at ways to reduce the secondary ticketing market in music sales.

Q256 Jim Sheridan: Could you expand on what you are saying about this young performer with a guitar on his or her back and how you are going to help them? The other question, particularly for small companies who have to go on tour and so on, which all costs money, is what is the relationship with the banks? I know your industry is regarded as somewhat risky, but how do people starting out perform when it comes to banks and what are you doing for this young chap with a guitar?

Jo Dipple: I am going to pass over to Alison on the detail. UK Music is talking to many people now, but what we would like to set up within the UK Music host site is details of the finance that is available. We would like to be a signpost to young musicians and SMEs in the music industry and give them information on what finance is available, but Alison will know best about the—

Alison Wenham: On the detail, unfortunately traditional lending comes very low among our members, and I think our members are a good demographic of a national music industry at work. I can send you the percentages later, but a reasonable percentage is family and friends, so organic funding. 7% of our members remortgage their houses, so they take considerable risk to finance their businesses. Very little comes from any form of Government or Arts Council grant funding or loan funding or matched funding. I think we need to do a great deal more work to take down the barriers that exist, that may be self-inflicted. The cultural industry does not help itself that well in this area.

Q257 Jim Sheridan: Could you identify maybe a current star who has got through the difficult times in terms of banks, lending, assistance—somebody who has made it?

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Alison Wenham: I think all of us have. We have all made businesses out of it. I have run a business over many, many years and—

Q258 Jim Sheridan: Is Adele a classic example of someone starting at the bottom and working through all these difficult times?

Alison Wenham: Not really, but I can take you to any number of businesses who have been on lean times and have not particularly minded. You don't expect to be otherwise—you are building a business around music. The point at which you can employ two or three or four is a little bit in the distance but, funnily enough, those businesses eventually do find themselves with four or five employers. Several of our companies were struggling in the mid-2000s and now have 10 employees and over £2 million turnover, so they have turned the corner and they have done it mainly through friends and family finance. We have worked very hard to access—there was, for example, a London fund of £10 million that none of my members were able to access. It was supposed to be for the creative industries, but none of my members were able to access it.

Geoff Taylor: That is the role of the record label. The record labels are culture banks. That is what they do. If you are a performer and you are trying to make a career in music, who lends you the money to go on tour, who pays for you to make the recording, who pays to make your video, who allows you to live and work fulltime as a musician? It is a record label. That is our job. Small labels and big labels do the same thing. They really have the key role. What I hear from them, the small labels in particular, is they would like better access to finance. When they have a hit, that has to pay for all the next artists that they sign, but the problem they face now is they have a hit but it only sells 20,000 copies, whereas it used to sell 200,000 copies, because an awful lot of it is taken for free and they do not get any revenues back in. The big concern is how do we maintain levels of investment in British talent and in British artists if, ultimately, they can't monetise those investments and get a return? That is the biggest concern for many of them.

Andy Heath: It goes beyond just straight talent. Geoff is right, the record industry and the publishing industry have been the investors in this business. Over the last 15 years our margins have been shot to pieces by the internet. I think we have survived very well and we are now beginning to grow again but, frankly, our margins have been absolutely shot to hell. Ten or 12 years ago you would happily take licences, you would take newer companies. They would come to you with products. They want a licence from your company. Okay, we will go with you. We will help you grow. We will go along with you. That was a very successful business model for 25, 35 years. Smaller companies could go to bigger companies and do a licensing deal. The bigger company would take a risk, which it could afford to do out of its margins. The smaller company would grow and become a big company themselves. Lovely, it went very, very well. But as the margins have been shot to hell, that business model has pretty much vanished.

Q259 Jim Sheridan: I am reliably informed that Adele is already complaining about paying too much tax, so if you have any influence with her, please ask her to concentrate on making music not avoiding tax.

Andy Heath: Adele has been very good for our company and we are very nice to each other.

Q260 Angie Bray: Getting on to the subject of tax, I know that Mr Heath said that he did not think tax is necessarily the key to what we need to do to promote the creative industries, but the film industry has made a great thing about what reliefs might be available to help draw investment into this country. Do you think the music industry does merit tax relief of the kind enjoyed by the film industry? I don't know who wants to start with that.

Alison Wenham: It was just to recognise that the cost of production of a film is exponentially greater than the cost of production of music. That is why I think tax breaks were there, quite properly, to enable the British film industry to survive and to compete in the world markets. That said, what I think we would see from a tax break in the music industry is a much lower risk profile, a basket of risk that you see in record companies because you have more than one artist. It is not just one film; it is 10 artists or it is 20 artists. You have probably heard of the strike rate. Not all artists are Adele. We are a high risk business. We invest in maybe one in five or one in 10 or one in three, depending on how good you are, basically, at spotting the hits. It gives you a greater than breakeven. All you are looking at is that your strike rate is greater than breakeven. I think that it would be mutually exciting to enable growth in a copyright industry where you have a portfolio risk profile rather than one film with one return prospect.

Q261 Angie Bray: Do you think we need to look at equal treatment?

Andy Heath: I get a bit grumpy about the whole subject, to be honest. I can completely understand the requirement that the film industry had for tax. It made me a bit grumpy when they seemed to be getting all sorts of help that we were not being offered, but we were much more successful than them anyway and made miles more money so it did not matter. What I find most frustrating is I think the money is there. I said it earlier, I think the schemes are already there. People want to do this from the Treasury and other parts of Government and local government, but there is insufficient effort going into talk to us at length and, with respect, we are not going to be able to get into that length in a conversation like this. But we all have lots of ideas about how this can be done and it needs a period of consultation with the Treasury. If we could count the money that is sitting in pots in different places all around the country in different departments, it would probably be plenty of money. All we need to do is to get it to flow through to the people who need it on terms that they can be helped by it. I don't have a huge faith in taxation solving the music industry's problems. I really don't think that because we have been very successful by being entrepreneurial without much taxation help.

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Q262 Angie Bray: You don't want to raise a tax incentive on the artist and repertoire investment?

Andy Heath: Yes, we have.

Q263 Angie Bray: Do you want to quickly talk to us about that?

Andy Heath: I sit on two tech company boards who distribute through the digital medium and both of those companies survived their early years on R&D tax rebates. I would sit there and be jolly pleased that this cheque has just arrived from HMRC for £125,000, or whatever the rebate was, and think, "Blimey, it would be really nice if this happened in the music business one way or another," because our investment in talent is just the same as their investment in people who are writing code. It is the same, but on one side of the fence you get an R&D tax rebate, and on the other side of the fence you get absolutely nothing. If the risk was ameliorated in some way or another that would be a good thing, It would encourage raw talent and I think would lead to growth.

Q264 Angie Bray: Are you talking about an incentive on investment above a threshold of 20%?

Andy Heath: If you are talking to me individually, I think the details of the A&R tax rebate need to be teased out. I would be more enthusiastic about spending more time on finding ways of helping small companies.

Alison Wenham: Can I speak to that? If you go across the Channel to France, there is a tax break scheme in operation. It is successful and it covers more than A&R. The cost of making music relative to previous decades has plummeted. It is really quite cheap. You can, in theory, sit in your bedroom—Steve, you might know quite a bit about this, I don't know—and you can create a CD-quality piece of music, whereas 20 years ago you would have needed to have a lot of people and musicians and rooms and engineers and such like. What we really need to see is enabling taking the artist to market, internationalising their career. In France, they have allowed marketing promotion, sales costs and even people costs to be included so that they are enabling the whole company to go to a new level and that, I think, would be very exciting.

Andy Heath: The Canadian Government, for some 10 to 12 years, have subsidised overseas touring by their artists and, candidly, I thought they were mad. However, the impact internationally of Canadian talent 10, 12, 15 years later is enormous. It is absolutely disproportionate to their size and output, and that policy has absolutely worked. The nice thing about that policy is that ultimately it brings touring revenue back to the country. It is self-supporting.

Alison Wenham: I mentioned Canada earlier. They invest \$67 million a year in a number of different ways into a number of different schemes. I think that the current UKTI budget for helping music to travel abroad is £120,000 or somewhere around there.

Q265 Angie Bray: Is touring one of the big things going forward, because that is now, all over again, where quite a lot of the money is?

Alison Wenham: Absolutely, and also building a fan base, building popularity. Another really enticing thing about the market possibilities is that you can sit in your bedroom and in theory your fan base is the world if you can get out there, find where they are, meet with them, build them—and our members are assiduous about this. If they didn't know who their fans were down to their URLs, where they live, what they do, what they have for breakfast and when their birthdays are, they would not be in business. It is an intricate approach. Touring is one of the great flagships to bring that fan base to a monetisable community.

Q266 Tracey Crouch: Turning very briefly to the issue of talent, I think UK Music say that the heart of our industry is the creative genius of the British people and that we should continue to nurture and invest in talent. With that in mind, could you give me an outline of perhaps how you think we can improve skills and training, what you think should be in the school curriculum, both for music and copyright?

Jo Dipple: Absolutely. As I said earlier, the CBI and UK Music support the creative industries and music as being a central plank of the new E-baccalaureate. Since the English baccalaureate was introduced about two years ago, GCSEs in music have dropped by nearly 4%. We think that the new Ebacc should really keep a central plank of its education on creative industries and music.

There are other bits of skills and training that I think are very important. We have 800 apprenticeships in the music industry and there are 2,000 in the creative sector. We want to build on that and UK Music wants to set up an apprenticeship scheme. We are already starting a mentorship scheme so that the expertise and talent around the board at UK Music can go back into the communities and talk to the young talent coming up in the industry. We have 14 rehearsal room schemes around the country. They were set up in areas of multiple deprivation. So far we have had 33,000 kids coming through the schemes and they are all going to be nurtured more as a result of that. There is a huge importance to seeing that route of diverse and talented new workforce coming up through the industry, which we will support at any level.

Geoff Taylor: Perhaps I could add to what Jo said. In the record labels there are very active internship schemes, certainly at all the majors, and I think there are about 150 interns currently working on those schemes. They have a very good track record of taking people on after the internships. For example, I think Universal have about 30-something at the moment, they pay all of them London living wage and they have a very good track record. I think they have taken on nearly 40 interns into fulltime employment from their scheme over the last few years. All of those labels understand that reaching out into the community and finding talent and bringing it into their businesses is really important to their development, as well as just being the right thing to do.

On top of that the BPI, through our charity, the BRIT Trust, is funding five independent labels to take on interns, because it is very often more difficult for indies to afford to do it. We think it is important that

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some of the money we raise from the BRITs we use to help indie labels take on interns and hopefully they will find jobs in the industry as a result. You can sometimes get more rounded experience working in an indie label than you might do working in a big company. We think that is really important.

The final thing I want to mention is the BRIT school. Through our charity, the BRIT Trust, we helped to found the BRIT school and have funded it ever since. We give them somewhere between £500,000 and £1 million a year every year. We are very proud of its achievements because not only has it done brilliantly academically but also in the last few years there have been a lot of stars you will know who have come out of the BRIT school—Adele, Amy Winehouse, Katy Melua, Katy B, Kate Nash, Athlete, Kooks and so on. That is down to the fact that they instil in the young people there a great deal of confidence to experiment and just be who they want to be creatively. It is a very supportive atmosphere and I hope that we can develop more schools like that. In fact, we are talking to one very well known artist at the moment who is trying to develop a free school in east London, and we hope to support that. So there is a lot going on in the music industry on skills.

Jo Dipple: I would like to add one thing. There was a guy called Dylan Mills who was kicked out of every class that he was in at school apart from music, and it was being kept on in the music classes at school that led him to be mentored by his music teacher. He then went on to be mentored by his music mentor, Wiley, and he is now Dizzee Rascal. He is selling millions of records. But it was the music classes that kept him on in that education and it is that nurturing that is so important that we need to maintain in this country.

Q267 Tracey Crouch: I am going to come to the music classes in a second, but picking up on what you said about apprenticeships and internships—and I am pleased to hear that you are paying London living wage—can I ask about work experience schemes? I am hearing stories in the wider communications industry where organisations are finding it very difficult to take youngsters on in work experience schemes because of the huge bureaucracy that is involved. That is really inhibiting their opportunity at a very formative age to discover whether or not they are interested in doing this for the long term. Are you finding very similar problems in the creative industries?

Andy Heath: We have a work experience scheme for youngsters. Well, we had an intern scheme that is now in the process of turning into an apprentice scheme. But we equally run a work experience scheme for, on the whole I would say, 16 to 18-year-olds; certainly they are at school. We have one most weeks, I think. We have them one at a time—we are not big enough to have more than one at a time. I am not aware of red tape that stops us having them. Maybe we are breaking all sorts of regulations, I don't know. I hope not. We are for work experience. We are inundated with requests. It is impossible to give everyone a place and it is equally impossible to devote resource to selection processes. So bluntly, it is a bit random but

we do have work experience schemes, and I know lots of companies that do.

Alison Wenham: My experience is the same as Andy's. We are part of the local work experience scheme. We take kids in from school on a two-week work experience programme. I think what you may be referring to is insurance in the workplace because they are under a certain age. I think it is a problem of insurance.

Q268 Tracey Crouch: It is often just the surrounding related bureaucracy. If you take somewhere like local BBC radio, for example, it is the number of forms that they have to fill out to have somebody do work experience, particularly if they are of a certain age—they are not allowed to be left in the studio by themselves with a presenter or what have you. So it is things like that and whether or not—

Alison Wenham: You may well be right.

Andy Heath: Compared to the BBC, music companies are this big and we do not have those regulations.

Alison Wenham: That is probably a clash of bureaucracies.

Q269 Tracey Crouch: Going back to the core education, it is a very long time since I did music at school. Presumably it has evolved to include lots of other aspects of music, so it is not just about bashing a triangle. Can you see improvements required within the actual course of music so that it expands to more than just being tuneful on an instrument, or not in my case?

Jo Dipple: We were talking to our Minister, Ed Vaizey, about maybe getting the issue of IP and copyright written into the core curriculum, because it is—

Q270 Tracey Crouch: Just for music?

Jo Dipple: No, across the creative sector. It is often a misunderstood area and I think if we could try to explain more to that age group of kids who are the ones who are looking to download music, probably from sites that they don't know whether they are legal or not, I think there is a big opportunity for the curriculum to educate young people on the kind of world they are living in when it comes to the creative industries that they love.

Q271 Tracey Crouch: Where would you put that in the curriculum? The curriculum is incredibly crowded.

Alison Wenham: Personally, I would put it in citizenship, what used to be PSHE. It is the absolute right place for young citizens to understand the importance and value of copyright since, if you ask them what they want to be when they grow up, 80% of them will tell you that they want to be a footballer or a film star or a music star. It is what you would expect but it is really quite strange that copyright, which is the foundation of any of those careers, has a very low place in the curriculum.

There is now a music technology programme that was added on to the more pure music programme of some years ago, but the need to be ever alert to change in technology is a challenge for the music education fraternity, and maybe we can help them there.

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Andy Heath: I don't pretend to be an expert on music in schools but I sit on boards with people who are. I am also a trustee of a charity that is training young musicians, the Mayor's Fund for Young Musicians, which was formed to fill a gap that had appeared for eight to 12-year-olds who were learning instruments. The people who are expert on music education in school are all very, very depressed at the moment. I can't say that I know enough about it to go into the reasons why but they are very unhappy people.

Q272 Steve Rotheram: Geoff mysteriously missed off LIPA, which is the Paul McCartney fame school in Liverpool and—

Jo Dipple: Can I just make one point? I would like UK Music to back Steve Rotheram and his charity single for the fans and families of Hillsborough to become number one for Christmas.

Chair: You have missed your calling.

Steve Rotheram: Thank you.

Examination of Witnesses

Witnesses: **Fran Healy**, singer songwriter, **Steven Levine**, record producer, and **Stephen Budd**, music industry executive, gave evidence.

Chair: Good morning. I am sorry to have kept you waiting. I welcome to our second session Stephen Budd, an executive of the music industry, Fran Healy, the lead singer and songwriter of Travis, and Steve Levine, a record producer. I am going to invite Gerry Sutcliffe to begin.

Q273 Mr Sutcliffe: To start the ball rolling, could you give us a potted history of how you three got involved with the music industry and what barriers you encountered to your progression? In that context—perhaps you, Fran—how do we help the next generation? It is really a bit about yourselves and about how you got involved.

Fran Healy: I picked up a guitar when I was 13 after seeing Roy Orbison playing on *The Last Resort* with Jonathan Ross and I asked my mum to get me a guitar instead of something else for Christmas. At that point we didn't have a record player or anything and as soon as I got a guitar, I started writing my own songs. I joined my first band when I was 15, played in my first show in front of the school, slagging off the headmaster. Bit by bit you take your baby steps and you start playing gigs when you are old enough to get into bars. Then the record companies start sniffing about, and they sniffed about us and they did so for six years. It took us a very long time and when you are 17, 18, 19, six years is a really long time. Six years now feels like two years but six years back then—and you have just got to stick on it.

Everyone comes up and you get the lectures saying, "Oh, you should get a proper job." I was signing on for the dole and getting a housing benefit and stuff and every week or two weeks you go and you do the interview, "What you are doing to get work?" You sort of go, "Well, I'm in a band and we're really..." and they just glaze over and they are like, "Yeah, but what are you doing to get work?" and you have to give them the stock answer to get your £50.

I just kept writing and writing and writing and got, I guess, better at that. The record companies had always a little problem with us, I don't know why. The door we entered the business through was publishing. We got a publishing deal. Publishers are, I would say, the

unsung heroes of our business and if it had not been for a guy who liked my songs, I wouldn't have a manager, I wouldn't have a record deal. For me publishing was the doorway in. Our story is quite straggly. We went for four years and eventually we got very successful. We were very lucky. I think it is luck, a lot of it.

Q274 Mr Sutcliffe: Did you see a lot of people give up, other people that were in it in a similar—

Fran Healy: Yes, totally. But I think it is the same with anything that is hard. Someone mentioned it is easier to start a pizza business, but pizzas are really easy to make. It is really hard to write a song. I still don't know how to do it and songs are the currency of our business. You can talk all you like about this and that and the next thing, all the figures, but for me all the artists you have mentioned today all have one thing in common: they have had hits. Hits are these elusive things. Like I say, I still don't know how to do it.

Stephen Budd: I do three or four different things. I manage artists, several of them, and have done for over 30 years, going right back to the early 1980s. I have managed people like Heaven 17 and Tanita Tikaram and Gang of Four and Magic Numbers, all sorts of people. I manage a lot of record producers and songwriters, like Steve here, and I own festivals both in the UK and abroad, in India—I own three festivals in India. Taking British music to India is one of the key things that I do.

I started when I was 15 years old. My first ever paid job was as a roadie for Motörhead at their first ever gig, which was at the Winning Post in Twickenham, and I have been deaf ever since. I went on from that to work on the road for three or four years and then started managing bands and ran a little indie label out of my bedroom when I was 20. I then got into managing artists off the back of putting out singles just of artists that I was passionate about. Throughout the 1980s and 1990s I have managed many of the bigger record producers in this country and abroad. I have been back in the artist management game for the

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last 10 years or so and I am running festivals. That is what I do.

Steve Levine: I am a record producer currently and I am also chairman of the Music Producers Guild, which represents producers, engineers and remixers, and we have a place on the UK Music board. That is my current job and in that role I actively produce brand new artists. I also do several production master classes. I am proud to say I am a LIPA Companion and I go there regularly—I was up there last week—and teach the next generation production techniques. It is an additional skill that you can impart to the next generation.

I started very much like Fran. In fact, there is a parallel there. I was 13 but I absolutely didn't want to be in a band when I was at school. I wanted to record, initially as an engineer. I started as what then was called a tea-boy but I guess it is the same as an internship/apprenticeship/whatever.

Record companies in the mid-1970s, when I started, very often had recording studios—sadly they don't have those any more—and CBS Records had a recording studio, so I was a tea-boy for about six or seven months and then progressed to tape-op, to assistant engineer, then engineer and then ultimately a record producer.

Interestingly, like Fran, my first money came also from a publisher. I wanted to produce and no one wanted to work with me. I produced my own records with a few artists that I had found and we managed to produce something that had some validity and I signed a publishing deal. That money not only allowed me to go fully freelance but also enabled me to invest in technology, and the 1980s was a very important time for technology changes. So I invested in some new technology, which enabled me to have the leading edge on some of my competitors.

One of the first bands that I started developing and working with was Culture Club, which became an enormous worldwide hit. So you could argue that my route as tea-boy to record producer brought a substantial amount of income into the UK economy because Culture Club were not only a huge success all around the world but very particularly a very large success in America, and at a time when records were selling substantial amounts. We were saying about a hit being 20,000 sales; at its peak *Karma Chameleon* was selling 60,000 a day, just to put it in perspective. My time is spent now developing new artists, so all the things that were debated earlier this morning have an impact on my career, an impact on my artists and I would argue that I am very much at the coalface. I think that phrase was used. I am at the coalface working with artists and some new artists. In fact, the artist I am working with currently, Natalie McCool, came through LIPA. She is from Widnes. We have struggled immensely with piracy and it has had a devastating effect on where we are. We will go into that, I am sure, in greater detail. So there is my role as a record producer and looking after my artists.

Q275 Mr Sutcliffe: Thank you for that. What interests me is you have come through long careers in terms of background and perhaps have seen it all, so what are the barriers to new people entering? What

are the things that you would like to see happen to nurture and develop talent? Given your point, Fran, about the benefits system and things like that, it is even harder for people now in terms of the fortnightly meeting or they won't get the benefit. What are the barriers? What would you like to see happen to help things move forward?

Fran Healy: I think that at the core of our business there are two important things. One is this really special relationship between a fan and the artist. This is the core for businesses that orbit around that one very special relationship. The other is you also have very cool, creative people at the core of our business when it is really successful—people like Brian Epstein, Martin Mills and Geldof. All these kinds of guys are maverick, very creative thinkers. For me, this idea of creativity, creative thinking, I found that coming up through school. I think it would be wrong to sort of pigeonhole creativity as just in the paint-box or with a guitar. I have a little six-year-old and all he does is make stuff and draw and paint and is creative, and he gets confidence from this. Then you go to school and it is, "That goes over there, this goes over here."

It's the same with funding. When I was at school our art class, our music class struggled to get the funds just to get basic stuff, and it is even worse now, I hear. I think the reason is that when you are thinking about funding, schools are different departments. It is very much like, "Science is this thing here and it is really important to do that because it is industry and business." They look at art as sort of like a little bit of fluff or decorative or whatever, but I see art and creativity in everything, in all industry. I don't think anyone else sees it like that. I think if I could change anything, it would be to sort of nudge that definition and look at it as people who go through art and music classes at school and get immense confidence. You learn to think in a slightly different way and it is always a nice thing to do. If the funds are not put into secondary schools and this kind of thing, then I think it affects not just the music business but it affects all business.

Steve Levine: I had a situation recently in a traditional school—Jo mentioned earlier about the rehearsal spaces—and we did a little forum. I recently went up to Nottingham and they have a situation there where they have a rehearsal space under threat of closing down from the council. It needs something like £5,000 for the year. But what was really interesting there was that the range of students using it—it was a bit like an old-fashioned scout hall-youth club—were from about 10 up to about 45; there was a huge range of demographics.

Fran said technology definitely is one thing, but what I find is also a difficulty is the type of music. Within this group, there was a 10-year-old. I said, "What do you want to do?" This was a black, inner-city kid. He said, "I want to play a cello." Now how the hell is he ever going to get a cello?

Some of the older people had been excluded from school and were clearly really poorly educated. They had managed to cobble together really ropey old bits of equipment and I sat with one guy and he said, "Can I play you my song? I'd like to show you what I'm

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not happy about, and could you help me?" So I started working with him and they all crowded round and you absolutely had them in the palm of your hand.

If you looked at those kids, a lot of them, if you saw them walking down the street, you would cross to the other side of the road, and yet when they were talking the language of music they were there. So I started programming a bit and I said to the guy, Trevor, "Look, why don't you do it because I don't want you to—" and he said, "Can I just watch you again?" He got his phone out and filmed what I was doing. It then occurred to me at that point—this is a guy that was probably 30—he couldn't read or write and yet he had learned through music to have a communication power. So he filmed me doing the keystrokes because he couldn't use an alphanumeric keyboard to write the words, because I was changing the filenames.

That really brought home to me how that is a sector of society who really have a contribution to make. Jo mentioned Dizzee Rascal. There are hundreds of those that really have a skill. They communicate through culture and art and yet they are excluded from the mainstream of society. They are in some cases probably a whisker away from being in prison because they are ducking and diving because they don't have access to money and they are forced to tread a very strange line, but if we could encompass their skill set they would make a very valid contribution financially but also a huge cultural contribution. They are not tied down by music lessons or the way it was done before. They come up with things that are completely new and breathtaking.

Stephen Budd: I think the whole landscape of the business and the economics of the business has changed so dramatically in the time period that I have been in it. We should be thinking now more about how we can empower artists to take control of their own business structures and start to think from the artist, where all the music comes from, downwards. I think we should be aiming to build artist-centric businesses where artists retain their own copyrights and license outside entities to perform functions for them. This includes record and publishing companies. We spent a lot of this morning talking about the recorded music business, which is extremely important to this country, and the value of it and the history of it, as well as the publishing business—as Fran said, if that didn't exist, he would not have been here, but that represents 25% of an artist's income these days. It has changed. The economics have completely changed from when I entered into management, and now the live side of the business is so much more important. From my point of view it is how we can seed people to get on the ladder where they can create careers that largely involve performing live. I have made a couple of notes that I would like to quickly, with your permission, read you. It will take about a minute.

From my point of view, the end game is to have global music stars that generate significant revenue for the UK—music revenue, taxes, tourism. The starting point is the kid who becomes interested in music. The kid learns to play an instrument and sing or write music and after this is when the help is needed. This is the beginning of commercialisation. Whether it is

a record company, a management firm or the artist themselves via their mum and dad, there are hurdles that need to be overcome such as recording, creating videos, marketing and touring and so on. These things cost money but not necessarily a lot.

When these activities are funded, a few of these artists can make it to the next step where they can stand on their own without assistance. However, if they don't make it to that point there is no future: no next Beatles, Coldplay, Adele, nothing. Other countries are supporting music because they recognise what it means to the economy and if the UK doesn't it just means that somebody else will. We don't have some special right or skill that grants us some guaranteed global music status. Instead there will be more hits coming from other countries.

I have been inspired by looking at the technology industry and what has gone on there and how simple it is for young companies to get grants to get going and I am starting to think that artist-centric businesses need to get that kind of simple access to finance to allow themselves to get on the track. A board of experts from the music industry could manage distribution of such funds and small grants of £5,000 or £10,000 can help an artist in a very significant way at the early stages of their careers. I think that is what we should be looking at. We want to be building entrepreneurs; we want to link the artists to their entrepreneurial spirit early on in the game because really those artists need to have an understanding of how business works and how they can interface with it. I am very much enthused by the idea of creating a fund that could make bursaries and effectively start off many small, independent businesses that are centred around the artist. I really want to start focusing on that.

We have seen what kind of investment has gone into athletes over the last 20 years. When you look back at Atlanta and they won one medal and we look at what has happened in these last Olympics, I think it has shown that it works.

Steve Levine: I think investment in an artist's career is very similar to the training and dedication. It is very hard for artists when they are not funded because they do have to take second and third jobs and it all becomes a piling on. For example, most rehearsal spaces are cheaper during the day and more expensive in the evening so consequently, if they are taking a second job, they then have to pay a premium rate for the evening and it means that the professionals can have the cheaper time.

These funds are very important. I have to fund everything myself by going to the bank. I have to pay ludicrous rates of interest, I have to put my house on the line every time, and I still have to have auditions.

Stephen Budd: And musicians can't go to the banks.

Steve Levine: We are not taken seriously. It is even just things like the infrastructure. My car insurance is more expensive than your car insurance because I am in the music business; my life insurance is more expensive because I am in the music business, and so on. The interest rates I pay on my credit cards are going to be greater than yours because I am considered a risk.

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You mentioned tax. Two things that I think other countries do, and certainly other areas—we did mention technology and Stephen talked about countries having a leading edge. In the 1990s Sweden offered a tax break for record producers who invested in studios and equipment and there was an explosion of Swedish producers who are now taking on the world. All the programmes like *Glee* and everything were made by the Scandinavian team.

Stephen Budd: All those songs that you hear on *X Factor*, all written by Swedish writers.

Steve Levine: That is because they gave 100% tax relief on what then was cutting edge equipment, so their producers had the leading edge on us, whereas I remember back to the 1980s Government—which I think was the Thatcher Government—still brought it in where we could lease equipment and you could get all of the leasing back in the first year, which again enabled you.

Here is where it is really important with equipment technology. This country also punches above its weight in technology. Two of the leading manufacturers of recording consoles around the world are SSL and Neve—both British companies, and they are manufacturing here. One of the ramifications of that is if songwriters are not having success, they are then not buying gear and the guy that is sitting there soldering circuits, who technically is not necessarily in the music business, does not have a job. There are some companies that are still manufacturing, despite China, in the UK and those are a real by-product of the success of songwriting. Songwriting is absolutely the core, but so is the innovation that helps us in the production and creation, and we are a world leader in that. So I think that investment has ramifications through it.

Just briefly with the tax thing, if an artist is lucky enough to sign to a record company, they get an advance and they get taxed on that advance because it sits in a bank account—except that that is two years worth of money. In my own case, Culture Club were very, very successful and I had a massive cheque one year. Oddly enough, when I was the most successful—as Stephen probably knows with some of his clients—everyone thinks you are really busy and really expensive, so you then don't have any work for the next six to nine months in which you earn no money. Having just paid a load of tax on a big cheque, I then don't have anything. That is obviously an extreme case but that happens a lot where an artist may get some initial funding from a label or an investor and has to pay regular tax and then, if they are lucky enough to have a successful hit, the cycle of payments means that they will have a huge blip and then nothing for a period of time. The tax review for the personal tax could be better if it is at a longer period.

We also have a horrible thing coming up, which is the National Insurance issue, but this is probably not the forum here, where everyone is now suddenly considered to be on National Insurance. If I was to employ a musician, for example, I would effectively have to pay National Insurance and he would have to declare it. It is an unworkable situation. I think there is a case going through in another day or so. That is

for another event, but those kinds of things make it really difficult to trade, really difficult.

Fran Healy: Can I add something to what Stephen said about the funding and the investment side of stuff? We bumped into each other yesterday from Heathrow to London and we had a blather about it, and you were saying about the investors only want to invest in royalty format things. That is because I think the way our industry is viewed is that people go, "It is the record business," because they are the most vociferous and very loud, but they only make up a quarter of our industry and that is the reason why it is a royalty thing, so you can't really—could you just—

Stephen Budd: Yes. The Seed EIS rules that have been brought in are great and I am really appreciative that finally there is a tax break allowing people to benefit from investing in music, but it is invested in the recorded music side and therefore it is just related to royalties. I think what needs to happen is a greater seeding of those businesses that are in the live music side—and that could be everything from live music venues to small promoters—to create that vibrancy keeping going.

Also the record companies these days are operating in extremely difficult circumstances. I am not a record company basher and there is an absolute place for working with record companies in a collaborative way. The way that we do business with them these days is completely different from the way it was 20 or 30 years ago. It is a much more level playing field in terms of the relationship between the artist and the record company. However, there are very few artists getting that investment from record companies and the record companies need an immediate return. If they sign an artist, they want a return within 18 months. They are not looking to develop artists over three or four albums, so that an artist can really develop their craft and get to a point, rather like Coldplay did or Radiohead did or any of those great British bands who have been built up over 10 or 15 years. That doesn't happen any more. Those days have gone. You are in and out on your first record. If you don't have a hit with your first record, you're toast.

You cannot rely on the record company route any more, therefore how do you develop artists? How are we going to have those long-term international artists in 10 or 15 years' time that will allow the prominence of the British music industry to continue? So we have to look at the funding coming from other places. The small initial development funds that people need to access are so important for younger artists; how they make their first video, how they make their first recording, how they can scrape £500 together to go and find a producer to help them make a record properly that they can then start putting out to their fans and all the rest of it. Friends and family are very important and that is the way it is being done at the moment, but a lot of artists don't have access to that. So I think if you want to help British music develop for the future and really make a difference, finding mechanisms to put in small seed funding directly to artists so that they can start their own businesses, artist-centric businesses, is the way forward and how we can make a real, meaningful difference for the artistic community.

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Steve Levine: We are very fortunate in this country that we have the BBC, but at the moment when I tune into various programmes on the BBC, I see it being a gigantic advert for American repertoire and American artists. I think that has to stop, because we are in a position where we are promoting home-grown British talent and at the moment, with the way the visas are, it is very easy for Americans to come over here and appear doing a little promotional tour, separate from a proper tour. I absolutely and fully endorse successful American artists but what I am saying is that we need to help the grassroots UK talent. Often the slots on television and radio are so few and far between that those Americans are getting biased. As Andy said earlier, Canadians are getting their travel paid so it is easy for them. We just have to have a more holistic view of what we are doing. If we are making this talent they need to then have their stuff heard. We do have the BBC and they need to be more flexible.

Stephen Budd: A lot of European countries and Canada and France have quotas, as you are probably aware, for what radio plays. We have not discussed this but I am personally in favour of wanting to support as much new British music as possible.

Steve Levine: They had *BBC Introducing* and the cutbacks there with local radio. That pulls the carpet from underneath the local areas where you have local hosts that are able to promote local talent. I think it is important that if we are making these recordings the artists themselves, the songwriters, need a voice because they are not necessarily going to sell any recordings at all. Whatever is out there is going to be pirated so the broadcast is equally as important or more so than ever before.

Chair: I think we have spent about 20 minutes on the first question so we are going to have to move on but you have covered an awful lot of ground, a lot of which we were going to come to anyway.

Q276 Steve Rotheram: I think you have already possibly touched on the next question. I watched the process of making a piece of music with Guy Chambers for this tribute single and it was absolutely fascinating, but I didn't realise quite how complex and lengthy the whole process was and therefore how expensive it would have been if people had charged for their time, which obviously nobody did—it was all done for absolutely nothing. Guy Chambers is a fellow of LIPA as well, just to let you know. The earlier panel gave an overview of the industry and you have mentioned a few bits in this about investment and about other things that you would like to see. How can individual artists be better supported by the industry and by Government?

Steve Levine: I think we have touched on that. If an artist wants to develop their own career and they go to their bank manager, they should not be laughed out of the room. The perception, that is just an overall perception, that it is higher risk as maybe some other industries—I think there are other industries that manufacture widgets that are probably just as high risk.

Q277 Steve Rotheram: It is great to say that banks should do this. How specifically should—

Steve Levine: I thought there was going to be a lot of funds that were going to be available but I don't know anybody who has had access to any of that. I saw in the paper that X pounds were going to be put into a fund it and it was going to be at special rates if they gave it to small businesses, which we are. I haven't got one and none of my friends or none of my board members have got any, so where is it?

Q278 Angie Bray: Have you tried?

Steve Levine: Yes, I get laughed at. I can privately give you everything. I could give you a four-hour demonstration of how ludicrous it all is. I have tried. Banks just do not look at the industry seriously.

Stephen Budd: Which is why there is the concept of creating a fund, whether money would come from the lottery or from a much higher tax rate on secondary ticketing, which is creating a substantial damage to the industry because it is sucking money out. Fans are being charged five or six times what they would—they have to be there, they are going to spend that money but it is stopping them going to another five or six gigs so it is effectively ruining it for everybody else.

Q279 Steve Rotheram: Are you talking about ring-fencing that for the industry?

Stephen Budd: Yes, that is one of the things we would like to see.

Steve Levine: The record companies traditionally used to be like glorified high risk banks. They put the money upfront and they took a very high percentage of your royalties in return for that. It was a model that worked when the recorded market was substantial. It is not there any more so you have to go to other sources.

The role of the record producer has, in fact, changed. Most record producers that I know are acting, as Stephen said, as a kind of development hub, developing the act for maybe a couple of years then moving it up to taking it to a publisher or taking it to a record company. They then may get on board when you have already kind of set the wheels in motion. But we have made this early investment and in my personal case I have had to use my own money. Those are the areas that just need to take our industry more seriously.

Q280 Steve Rotheram: I was going to say in regard to being serious, do you think Governments do take you seriously? For instance, the music industry has an amazing power to change worldwide perceptions. We saw what Band Aid and Live Aid did and other things that music have supported. Do you think that that is identified by Governments and given enough support?

Stephen Budd: I think the fact that we are sitting here and talking about it is a very positive step. The fact that you are willing to listen to what we have to say, and we are trying to identify areas in which you can constructively move forward with ideas that would help the industry, is a positive move. I welcome that.

Steve Levine: Ben talked earlier about the DEA and Hargreaves. I think the benefit that has come out of those is more people in Government are talking about the music industry. That is a huge benefit because it

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has focused their minds on not only how much value, both financially and culturally, we can bring to the United Kingdom but also, as you said, the cost in making these. Yes, you can sit in the bedroom and make a track for virtually nothing, but the IP of the X years of experience in developing that into a hit record is a whole different thing. So there are many, many things that can be done, as we have said. Maybe something like when the charter review comes, there is definitely something in that charter that says a percentage of UK music has to be broadcast across all the networks otherwise that is a default of the terms. Little subtle tweaks here, there and everywhere can make a huge difference.

Q281 Jim Sheridan: Building on your own experience, Fran, is it essential for new performers in particular to sign up to a record company, or would you advise them to sign up to a record company or follow your route? You are probably somewhat unique in the route that you took.

Fran Healy: Say that again, sorry, Jim?

Jim Sheridan: Would a new performer coming into the industry need to sign up with a record company, or would you advise them not to, or follow your route?

Fran Healy: It is totally different now than it was back then. I think there are many doors into that house. You can go in through many entrances and I think it is important that all the entrances are open to everyone. You talked about it, Stephen. I think it was Geoff Taylor who was talking about the BRIT school. I know the BRIT school. They are great, it is a great idea, but Dizzee Rascal would never have got into the BRIT school. It is all middle class kids that have access to a wee bit more funding from their parents or whatever. They can get an electric guitar and an amp and a drum kit. Drum kits cost like £600. Where are you going to get that? So I think there are loads of roads in as long as they are not blocked off for certain people and missed.

Q282 Jim Sheridan: So you are saying it is dependent on your income or your background.?

Fran Healy: It should not be, is what I am saying, but what I will say is that it is. I am an exception. I am a working-class successful musician. All my contemporaries had two parents, they had disposable income, and their parents supported them really well. My mum supported me. She took a loan of £600 out so we could make our den we got as our publishing room.

Stephen Budd: Mumford & Sons' parents paid for their album recording.

Fran Healy: As a musician you choose the path of least resistance and that is how you get into it and you don't give up, and that is how it usually happens. Does that answer your question?

Jim Sheridan: Yes, that is fine.

Steve Levine: I think it is worth adding also that, as Fran said, it is probably also a genre-based thing as well, that certain genres are not suited to the major record companies. These may be as extreme as, say, folk or certain very niche markets, and they absolutely require small, independent record companies because the infrastructure of a major record company just is

not geared up for them. So there is a financial element but there is also a genre-specific element that certain companies are not suited for dealing with those areas.

Q283 Angie Bray: Can I slightly take you back? I am going to have to take a little bit of exception to your suggestion that our radio stations should have to play a percentage of British music. I think that that is slightly authoritarian, if I may say. I am not aware that the film industry suggests that we should ask cinemas—

Steve Levine: Whether it is legislative or whether it is just a general empowerment, I think if a radio producer is presented with three emerging acts—one is American, one is Canadian and one is British—if they are all of equal merit I think they should be played. I think it is unfair because a British artist cannot turn up at JFK and expect the same from the American radio stations or the American television.

Q284 Angie Bray: But equally I think that our radio stations are duty bound to entertain their audiences so they may well—

Steve Levine: Absolutely. I am not talking about mainstream, I am talking about emerging talent and there is a big, big difference. Absolutely, entertaining the audience with major American artists, I don't have a problem with that at all because they also would tour here and bring in money to the economy. I am talking about the under-the-radar, *BBC Introducing*-style artists where they desperately need UK help and I don't think they are getting it currently.

Q285 Chair: But there are Radio 1 shows that are devoted to new artists, not those who are—

Steve Levine: At 3.00 a.m.

Chair: Yes, but it filters through and they do concentrate on British artists.

Steve Levine: A bit. I have done the analysis. Yes, the headline is that but when you drill beneath it and you look at the statistics it is not enough.

Fran Healy: I disagree. I think that music is an international language and saying, "This is American, this is British, they are not giving this to this and this to this," is kind of a weird musical racism. I don't like it. I think it is not in the spirit of music. America and Britain have always had that lovely relationship between us and them and they came over here, we went over there and they thought, "Oh, that's good, I'm going to nick that and make it American," and we thought, "We'll nick that and make it British." The Beatles went, "Oooh—that Little Richard thing," they nicked that and you got your thing. I think we have a really brilliant music industry on the radio level. I think it is great, one of the best. When I go to France I pull my thinning hair out because they do this thing that you are talking about and it is just ludicrous. Sorry, I am not saying you are ludicrous.

Steve Levine: No. I am maybe using a bad example. I am just saying—and I re-emphasise it because I record many American artists, I am a huge fan of American music—the current climate is very different to what it was 15 or 20 years ago. In the current climate, available slots on terrestrial radio where everyone can hear it are very few and far between,

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and where there are specialist stations those specialist stations should nurture British talent. I don't even care if they are Americans living and working here. It is British-based talent where that revenue source is coming back into the UK. That is what I want. That is what I am saying.

Q286 Mr Sanders: In terms of bringing new artists to the fore, how significant are artist advances in bringing music to consumers?

Stephen Budd: How significant are artist advances, the money that they are being paid by record companies?

Mr Sanders: Or by whoever is backing them, whether it is the agents or record companies.

Stephen Budd: Artists have to survive for a considerable amount of time before they get to profitability. I spent the last two years working with a young band called Dry the River who are signed to RCA Sony. They got an advance that allowed them to live while they were building their touring business around Europe. In two and a half years they have done 380, 390 shows—that is a show every other day—but it has taken to that point to get them to profitability, where they now don't require any support from the record company to go out and play live; they are drawing enough of an audience.

So money is either coming from an advance from a record company or from a publisher or from another

source because, as we were talking about earlier on this panel, those deals are becoming less and less available for artists. They are having to look elsewhere to create enough of a bed to allow them to get to profitability.

Q287 Mr Sanders: What can realistically be done to provide a better financial climate for new artists trying to break through, given how tight resources are and how the model seems to have changed a little bit between record companies putting the money in and now it is other sources?

Steve Levine: It goes back to the earlier panel. If somebody goes to LIPA, studies for three years, graduates from LIPA, starts their recording career, they have now had all of the learning that they know, both business and musical, because LIPA does the business side as well. They then produce their record and they can't sell it because there is not anywhere where they can monetise what they have just spent six or seven years on. That is the problem and so the backward investment is not there because they can't sell the thing that they make. They can't sell the thing that they nurture—*[Interruption.]*

Chair: That, unfortunately, is the division bell, which means we have to vote. I think we will probably have to draw a halt at this stage. I am sorry we are not able to cover everything but our duties elsewhere call. Thank you very much.

Tuesday 18 December 2012

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Angie Bray
Conor Burns
Paul Farrelly

Steve Rotheram
Mr Adrian Sanders
Jim Sheridan
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **Patrick Bradley**, Director of Ventures, Ingenious, **Dr Martin Smith**, Special Advisor, Ingenious, and **Martin Mills**, Chairman, Beggars Group, gave evidence.

Q288 Chair: Good morning. This is a further session of the Committee's inquiry into support for the creative economy. For our first session, I would like to welcome Patrick Bradley, the Director of Ventures at Ingenious, Dr Smith, the special advisor, Ingenious, and Martin Mills of Beggars Group. Could I ask you to begin by setting out a little bit about your involvement with the development of creative industries, the contribution you make and what you think are the motivations behind that?

Dr Smith: Good morning, Chairman. Good morning, Committee. Can I ask Patrick to kick us off on that question, please?

Patrick Bradley: I head the venture capital division of Ingenious. What we do, each and every day, is look at investment in the creative industries, right across the broadest definition of that sector. We include fashion, design, media, entertainment, television and theatre. We look at businesses on a multi-stage basis, from very early seed through to later-stage investment. We are a very active investor, in the sense that we sit on the boards of those companies and are very active in terms of executing their business plan. We are a long-term investor, in the sense that we are there until the right time arises to sell the business when we realise our capital and, hopefully, provide good returns to our investors. I would say that the two main streams of activity are: one, trying to raise sustainable sources of investment for all of those stages of company development; and, on the other side, finding the companies to invest in.

As a general opening comment, I would say that there have been some very good moves from the Government, in terms of increasing the availability of finance to early-stage investment, particularly the seed investment scheme (SEIS) and EIS. The changes made there are excellent, and I think they are making change in terms of increasing the flow of investment into that sector. There are some uncertainties around that because of various consultations going on, in terms of who you can market EIS to and so on, but the general statement here is that what has been done in those sectors is extremely helpful, in terms of getting more cash investment into those businesses. For later-stage investment there is still an issue with institutional investors, in terms of how many of them are really knowledgeable about the media sector in the UK. One of the points that we make is that it is worth around £58 billion, of equivalent size to financial

services in this country. It is dynamic, it is growing and it has the potential to grow further.

Certainly what we are hearing back from many of the companies we are looking at investing in, particularly in fashion, is they are thinking about bringing manufacturing back to the UK. So there are lots of benefits in the creative sector, not just at the creative end but also design and skills. Time and time again, we find the institutional market's view of the creative industries—which is not a phrase that I particularly like, I prefer to talk about media business—is they think of it as being people with pigtailed in garden sheds beating out bits of jewellery, not as a grown-up business in the way that they would look at the media business in the United States.

So as an opening comment, I would say, some very good moves at the lower end. We are seeing some better businesses coming through. More people seeking an entrepreneurial path are coming out of universities, in the sense that they do not want to be lawyers and accountants anymore; they want to be the new Facebook. We welcome that. Over the last 13 years we have seen a real change there. There is still a shortage of skills and business knowledge, but it is improving. SEIS and EIS are definitely a very positive move but, at the later stage, awareness of institutions, in terms of this sector, is still lacking.

Martin Mills: I am Martin Mills. I run the Beggars Group of record labels, which I started back in 1976. With the sale of EMI to Universal I think we are now the largest English record company, although we are much smaller than the majors. We have had extraordinary success over the last year or two with Adele. We are an unusual success story these days.

Q289 Chair: Thank you. Mr Bradley, would you say that there are more projects that you would like to invest in than you have money available to invest, or would you say that you are constantly looking round, that you have more funds than you have viable projects?

Patrick Bradley: I would say at the moment there are probably more projects we could invest in than we see. If we could raise more finance we could fund more projects. The projects are out there, but I do not think there is a sufficient flow of capital at this point in time.

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Q290 Chair: The challenge is persuading investors that the creative industries are a viable, good investment to back.

Patrick Bradley: Yes. Particularly with SEIS, at that very early seed stage, what you start to see is that journey through all of the different stages of investment. We need to see how that scheme works, in effect. It is very early days. But at the moment we could do more if we had more capital. There is no doubt about it.

Dr Smith: Can I add to that? This is really where we came in. How do we connect with financial audiences, building bridges between them and creative audiences in order to bring in more investors? We came into this in 2007 when we put an event together with the DCMS and the DTI, as it then was. The Minister was the Right Honourable Gentleman for St Helens South. We put together this seminar, which was then published by us with the DCMS and the DTI, and the headline was *Sustainable Investment for the Creative Industries*? If you look at this, it was the first systematic effort to try to bring creative people into a room with business people, entrepreneurs, producers and financiers. We had bankers there. We had UK Music there. This is what we now need to do much more of. In public policy terms, one of the things—we might talk about this a bit more later—is that we feel that there have been some missed opportunities here. There have been initiatives taken and not carried on with.

For example, the Right Honourable Gentleman for Exeter will remember C&binet, which he was a keynote speaker at, which we were also very much involved with. A lot of initiatives have been taken in Government but not followed through systematically. That is one of the themes that we would want to stress.

Q291 Chair: Thank you. Mr Mills, you represent one of the most successful home-grown music groups. How difficult was it for you to raise the money you needed to expand the business? Did you have to persuade investors that you were a serious operation?

Martin Mills: We have never had investors.

Q292 Chair: You have never had investors?

Martin Mills: We have never had investors. We started 35 years ago, and we banked with Lloyds Bank on a corner in Earls Court Road. The bank manager would not give us an overdraft at the time, for which I am very grateful because it has meant that I have never borrowed money. As the company has grown it has had financing within the record industry. For example, we have done licence deals with larger companies over the years, for different markets in the world, and we have been able to grow slowly. The challenge for a company like us is—and I think (to Dr Smith) you referred to it in some of your notes—how do you find the finance to grow, without parting company with your rights to the extent that it dilutes what you are. That is the fundamental difficulty. We managed to find our way through that. We managed to get a bit of funding here, a bit of funding there, from bigger record labels releasing our records in, for example, America, without ceding control of the business. That is probably almost impossible to do

now. What I did over the last 35 years is probably not doable now, because the market was healthier when I started. It was easier to make money and to reinvest the money, which is what I have done all along. I do not think it could be done today. The investment gap is really crucial today, in a way that perhaps it was not in my early days.

Q293 Chair: The fact that you did not have external investors, and you did not have an overdraft, did not prevent you from doing what you wanted to do?

Martin Mills: No, it did not, because we simply spent the money we made and we always have done.

Q294 Mr Bradshaw: One of my bugbears is policymakers constantly reinventing the wheel. It would be very helpful if you could provide us with—not now—a note, based on that document, as to what has been followed through, what has been implemented and what has not and still needs to be. But are there any good examples of big financial institutions that get it that are doing this, are forward-looking and engaging and, if so, what are they?

Patrick Bradley: In terms of investing into the creative industries?

Mr Bradshaw: Yes.

Patrick Bradley: I am not aware of any.

Mr Bradshaw: That is very depressing.

Patrick Bradley: We have been talking to placement agents and other financial intermediaries in the institutional market recently, and the feedback has been, “That is a bit risky”, or “That is a bit unusual, isn’t it?” and that is the end of the conversation. You have to spend a lot of time finding the investor who gets it. If you talk about tech, that is different, and I think there is some confusion in the market as to what is tech and what is creative industry. If you talk about tech, you have lots of investors in the institutions. If you talk about creative industries, they think we are all rather odd.

Dr Smith: As far as the banks are concerned, we have gone backwards since 2008. I do not think there is any question about that. For example, there were banks that were seriously in the business of film financing but are not any more. There is a more fundamental point that, since the end of the dotcom boom in 2001, there has been an enormous chasm between the financial markets on the one hand and the media and creative sectors on the other. That is a serious problem. In our view, it should not be beyond the wit of policymakers to at least bring these communities to a point of mutual understanding. It is not an easy thing to do, but it is a process that we must kick-start. Otherwise, the shortage of investment at certain points in the cycle, which Patrick refers to, will continue to be an issue.

Q295 Mr Sanders: How can dialogue between policymakers, creative industries and investors be improved?

Dr Smith: That is an interesting question. It is something that we at Ingenious have been committed to making a contribution to, hence the 2007 roundtable and document that I referred to. What we see at the moment is the establishment of the Creative

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Industries Council, which is an effort by the Government to enable such a dialogue to take place.

Q296 Mr Sanders: You are members of that?

Dr Smith: Yes, we are, and I have attended two meetings of the Council. I would say two things on that. There is a huge challenge for the Creative Industries Council to identify a common ground; issues of sufficient commonality of interest to enable minds to come together, analysis to be agreed and remedies to be prescribed in a collective way. Why is that? If you look at who is around the table, you have a lot of organisations with conflicting interests. The tent has been made very large indeed. You have Google in there with Amazon, the BBC, the Arts Council, the CBI, Creative England, and Uncle Tom Cobley. What they have in common is an interest in creativity at a very high level of abstraction, and that is the basis for bringing them round the table. They are not homogeneous in their objective interests in a way that would be true, for example, of the Automotive Council or the Aerospace and Defence Industries Council on which they are modelled.

Q297 Mr Sanders: How would you slice it up into the different interest groups? It is fairly easy to do with manufacturing, but how would you do it within the creative environment?

Dr Smith: What we have tried to do in our submission—this is fundamental to our view of the world—is to make a distinction between different kinds of creative enterprise. We call them “demand-led” and “non-demand-led”. What we mean is that there is a core of content industries that are non-demand-led in the classic sense that nobody can predict the success or failure of the song or the book or the game that is being produced. It is that classic remark by the screenwriter William Goldman, “Nobody knows anything”. What he means is not literally that nobody knows anything, but that nobody can predict whether a given film or record is going to be a success or not. They have a different risk profile from the advertising industry, the design industry and PR industries. Those are services businesses that have a different risk model. They are demand-led in the sense that they do not spend money unless they have a client to pay for the service.

To come directly to your question, our view of the world would be that the greatest commonality of interest is shared by these content businesses—in film, music, publishing and games. Far be it from me to advise Secretaries of State on how the Council should be constructed, but, for the purpose of moving public policy forward, what we need to do is focus on content businesses and industries. That is what we are especially good at in this country, and that is what drives our creative sectors.

Q298 Mr Sanders: Has this been raised within the Council? Has there been a proposal to split off a subgroup and enter dialogue independently of the Council as a whole?

Dr Smith: No, not to my knowledge.

Q299 Mr Bradshaw: Do you think Google and Amazon should not be on it?

Dr Smith: I think they have a different interest, if I may put it that way. Certainly you could not accuse either company of being content creators.

Q300 Steve Rotheram: There are obviously issues within the structures of the Council, Mr Smith, but you have described a commonality of interest on a number of occasions. Therefore, how relevant and effective do you think the CIC is specifically in supporting the creative economy? Apart from Ingenious, of course, who else do you believe should have a seat around the table or within a revamped or restructured CIC?

Dr Smith: That is a very difficult question to answer. As I have suggested, I would like to see sharper focus on content creators. For example, you might say an organisation like Animation UK, representing creative businesses that are very important to our creative ecology, whose voice has not been heard very strongly in policymaking in the past. I would look to people like that to come together so that there can be, as I have described it, a common content-based, content-development, focused approach to inputting into policy.

Q301 Steve Rotheram: Therefore would you look at it as a sort of Sports Council model, so you will have a football element, a rugby element, a cricket element, but then the umbrella organisation would be the CIC?

Dr Smith: That is a possible model. Mr Rotheram, to be honest, I have not given it as much thought as your question deserves. I think it is probably fair to say that the Council is in an early stage of development. It has only met two or three times. It has done some very good work on skills, which is one area where there is more commonality of interest between services companies and content businesses. I think that was a very good piece of work. You would expect that with Creative Skillset sitting around the table. The challenge beyond the skills agenda is to identify issues where all these companies can come together, and that is a very big challenge for the Council as it is currently constructed.

Q302 Chair: Mr Mills, you have served on the BPI Council and you helped set up the Association of Independent Music, both of which have given evidence to us. Do you feel that there is sufficient input from your industry to Government policymakers? Have you ever had any contact with the Creative Industries Council?

Martin Mills: Not personally, but part of the purpose of AIM is that I do not have to and that they do it for me. The connection between those bodies and Government is very strong these days. The communication is probably better than it has ever been. From our point of view, the concern is that we always seem to be fighting the lobbying of technology companies like Google. We are hampered in that through a previous preference for those companies over what we do.

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Chair: We are seeing Google in the next session, so if you have any thoughts during the course of this one, which you would like us to raise, please feel free.

Q303 Angie Bray: Looking at what I suppose is really desirable, which is to get more long-term finance into business, you talk in your written evidence about the biggest challenge being ways of helping significant numbers of very small businesses in the creative sector to scale up. But you talk about a second challenge, which is to discourage entrepreneurs from selling up at an early opportunity. What more do you think can be done to encourage more long-term financial support?

Patrick Bradley: It falls into a number of categories, because our businesses generally tend to sell out at sub-scale. We tend to be very good at generating independent creative businesses. The main buyers for those businesses tend to be the American conglomerates that come in and make a strategic acquisition. Some of the best known labels out there belong to American studios, like Working Title, for example, which is part of Universal. There are some ways that entrepreneurs can sell part of their business, but I think it is finding a way to encourage entrepreneurs to stay longer term in the business to grow it to scale.

There is one important point to be made about scale for UK businesses, which is that we are a small market. Certainly when we look at our investment criteria, every business that we look at has to have an international aspect. It has to have the potential to grow internationally, because the domestic market generally is not sufficient to grow our businesses to scale. If you look at the US businesses, which have massive capitalisation, they are in a very large market, where the foreign market is a nice-to-have but not a must-have. We are not in the same situation. That is something to think about as well, in terms of how we can fix that market failure for the UK, in the sense that we are a very small domestic market. Scaling to a size has its limitations unless you can grow internationally. The Americans have a very large market. They are very well capitalised, which gives them a lot of market power, in terms of what they do with rights and so on. So there is a disparity of market power.

Q304 Angie Bray: Do you think more can be done with the tax structure that might encourage a longer-term approach to investment?

Patrick Bradley: It is a mix of the tax structure and the way in which investors perceive when returns will come. Under the EIS structure you have to hold those shares for three years, which is a good thing. Certainly what we work hard at is educating investors not to expect a return after three years, because that is not always rational. You have to wait much longer. It is part of the educational process for both investors and entrepreneurs to be long-term investors in the business. For example, VCT allows dividends to be paid in a tax-beneficial way. EIS does not. Perhaps one thing we could do with EIS is look at dividends that could be paid in a tax-beneficial way, so that

people stay longer. They can take returns in terms of dividends as opposed to just looking for a capital exit.

Q305 Angie Bray: Do you think the creative sector is good at talking to investors?

Patrick Bradley: Talking to investors?

Angie Bray: Do you think they are good at talking to investors and explaining what needs to be done, and why, and why it might be advantageous to stay with them a little longer? Is it a good conversation, or do you think more could be done by the creative sector to up their game, in terms of how they communicate their needs and how it might be quite beneficial to investors?

Patrick Bradley: Absolutely, we need to do that. We certainly do a lot of that. We have knowledge-based seminars. We go out to speak to investors. I think there is a growing awareness of the sector, but not an awareness that allows them to engage in it. I was talking to an institutional investor the other day. He was of the view that creative industries were a type cottage industry that they were not interested in. I asked him to circle the number of articles in the *FT* that morning that related to media and entertainment, and I think he was surprised at the number he found. We have to keep driving that message that these are real businesses that generate employment and value for this country.

Angie Bray: And returns.

Patrick Bradley: And returns, which are dynamic, because it is a continually changing market, new things coming along, so it is something they should look at.

Dr Smith: Can I just add something here? It comes back to the point I was making earlier about initiatives not carried through. The Right Honourable Gentleman for Exeter will recall that, when Lord Carter was Minister of State, there was an exercise called *Digital Britain*. Chapter 4 of *Digital Britain* was about the digital and creative industries. It is a piece of work that has almost been forgotten, strangely enough. There was piece of analysis done for the Government during that exercise, which is published in *Digital Britain*. It is a flow-of-funds analysis of the creative economy in 2008. That is where the figure of £55.6 billion comes from. What I am staggered by is, having gone so far down the road of identifying the size of the thing, and also through this analysis of being able to track funds—how much of it comes through customer payments, how much of it comes through procurement—that work was not continued with and developed by anybody. Coming specifically to the point of your question, if that kind of analysis was done in a more consistent way it would help people in the financial sector to understand that this is a serious business.

Q306 Angie Bray: Yes, exactly, I understand that. On another point, you say in your written evidence that the Enterprise Investment Scheme is—to use your words—“gummed up”. Do you want to explain that a little further?

Patrick Bradley: It comes back to my opening remarks, in terms of there are a lot of consultations going round, in terms of how EIS could be marketed,

in terms of HMRC and in terms of looking at how clearances will be provided. I do think it is improving but there is still some uncertainty in the market there, which has not been helpful.

Q307 Angie Bray: You talk about a disconnect between Treasury intentions, the will of Parliament on the one hand and the day-to-day practice of HMRC on the other. You are saying it is getting better but are there still problems there?

Patrick Bradley: Yes. I think there are still problems there.

Q308 Jim Sheridan: Could I rewind slightly, Patrick? If I caught you right, you are contemplating bringing manufacturing back. Back from where?

Patrick Bradley: Back from the Far East, mainly, for a number of reasons. One is because the cost differential of manufacturing in China has now swung the other way. When you take into account labour and transportation costs, it is now looking more attractive to manufacture closer to home. There is also a creative issue there, which is being close to your product in terms of quality control. Certainly what we have heard from a number of fashion designers in the UK is that the “Made in Britain” label is something that definitely sells internationally. We are certainly seeing a number of them setting up that labelling in England and in Scotland because it has a perceived value in international markets. It is not a flood of manufacturing coming back, but we are certainly hearing that comment made more often in meetings.

Q309 Jim Sheridan: I do not know if any of you have any interest in Creative Scotland or indeed have any clients up there, but there is a potential rebellion going on with some senior leading artists and writers, including the Queen’s composer, Sir Peter Maxwell Davies, and other well recognised people—such as Sir Peter and Ian Rankin—about the running of Creative Scotland and their spending. One of the spending commitments is causing some problems. There was anger when it emerged that Creative Scotland had given grants for ludicrous schemes, including kite flying and a song for Edinburgh’s pandas. That calls into question the whole running of Creative Scotland. It poses the question: should the people running the business up there, or indeed throughout the UK, have a better understanding of the creative industries in order to lead the industry?

Patrick Bradley: It depends on the specific agencies. I am not going to name the ones that I do not think are doing very well, but I think the British Fashion Council in particular is very good. I think they are commercial. Others are not as good. It comes down to the knowledge and experience of the people running those agencies, in terms of: do they have a background in the creative industries? Do they have a background in business? It is uneven across the country.

Q310 Jim Sheridan: Those examples I cited about panda bears: is there an equivalent in the rest of the UK, in England?

Patrick Bradley: In terms of panda bears?

Jim Sheridan: In terms of the ludicrous spending of the money. Is there an equivalent anywhere? Can you identify any?

Patrick Bradley: I cannot identify anything that extreme. Certainly we have come across money being put into businesses on a regional basis where we thought, “There is no way we are going to invest in that”, where we think it was put there just to support employment, full stop, not to create sustainable businesses. That is certainly true.

Dr Smith: There is an important point here about public agencies being invited to take on responsibilities for which they are not equipped, in terms of their resources and expertise. In the great saga of public policy initiatives from, say, 2007–2012, in my experience, the most disappointing unfortunately was the Creative England document that came out in 2008. It was fantastically good on the supply side, skills, training and what Government could do. It said nothing at all about markets. It said nothing at all about competitive strengths and weaknesses, but here is the point: it contained in it the suggestion that Arts Council England might become a source of venture capital for the creative sector. That is the most extraordinary suggestion. I am sure, if he were here, Alan Davey would tell you that nobody was more surprised than he was to read the suggestion. I do think that it is unfair on some of these agencies to ask them to take on things that they are not equipped to do. Of course politicians are perfectly entitled to do that, but if you will the end—and this is my point—you must will the means. That is, you must give them the resources that they may reasonably request to carry out the duties imposed upon them. So I have some sympathy in some instances.

Q311 Jim Sheridan: I am tempted to ask do you think there should be more public money invested in creative industry, but I guess I would know the answer. How would you justify any public money being invested in creative industries? What would your argument be for money going back into the creative industries?

Dr Smith: Public money is involved in all kinds of shapes and forms in the wider creative sector. For example, take the film industry. In the course of any one year, if you add money from lottery funding to the Film Tax Credit, to money spent by BBC Films and Film 4. If you add the totality of public funds going into the film sector, in a good year that would be around £300 million. That was last year. It might be as low £120 or £130 million. In my view that is money very well spent. It pump primes. It helps to seed projects where major commercial organisations can come in and make “hits”.

The question that is prompted by your point—and it is an extremely important one that has not been discussed with sufficient rigour by anybody—is this: what is the relationship between the role of public money and private money in growing the sector? We have said this in our submission: I am slightly concerned about what happens now in terms of arts funding. It is not equally true of all the sectors, but certainly in theatre, certainly in film, certainly in classical music and some other sectors, if you cut back

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public investment in the creative arts, you risk damaging the commercial sector down the road. We have so many examples where you can see how this works; *War Horse*, for example. *War Horse* is a great British international success story. It would not have existed without public funding going into the NT Studio. That kind of relationship of public money taking creative risk, which then attracts private money to take something and build it into a big hit, we need to understand much better, within Government and right throughout the sector. If we do not, I think our global competitive presence and strength—which we unquestionably have at the moment—could be undermined by a shortage of investment in those parts of the creative economy where people take real creative risks.

Q312 Chair: If *War Horse* had not worked, then you would have had criticism—rather like Jim’s—about giving money to pandas, saying that this was a completely ridiculous waste of public money, the idea that anybody would ever want to go and watch some people prancing around on the stage pretending to be a horse. As it happened it worked, but you can quite see the danger.

Dr Smith: Of course. That is why the notion of risk in the sector is so important. We are in a “hits” and “misses” business. One cannot overstress that. This man (to Martin Mills) runs one of the best—if not the best—independent record companies in the UK. He has a big maker of hits on his hands with Adele. I can tell you, if you look up and down the music business, up and down the country, there are lots of record companies that are finding it very difficult to stay in business, because the hits are not as big as they used to be, for reasons that we understand. It therefore becomes much more difficult to run a sustainable business. It is all about risk and how you manage risk. My point here is that we should recognise that public investment in creative risk-taking is essential to keep the flow of hits going throughout the sector, which gives us such wonderful export figures, for example. We must not put that at risk.

Chair: Ben, *Creative Britain* was not yours by any chance, was it?

Mr Bradshaw: Not that document; it was before my time.

Chair: Oh, I see.

Q313 Mr Bradshaw: You have expressed frustration—and this is an important point—at the number of good policy initiatives that have not been followed through. What is your explanation for that? Is this a machinery of Government problem, a loss of historical institutional memory, or is it a political priorities problem? Because this is fundamental.

Dr Smith: It is, and I would answer it in this way. First, I would pay tribute to the work of the hon. Gentleman for Wantage. Through his enthusiasm for the sector, he has kept a lot of people in the creative industries, in all those sectors, engaged with Government. He continually encourages the sector.

Chair: Dr Smith, before you go on, you are ahead of a number of Members of the Committee, in terms of your knowledge of constituencies. It would help us,

and certainly the people listening behind, if you referred to them by name.

Dr Smith: Mr Vaizey.

Chair: Oh, I see.

Dr Smith: I do apologise, Chairman. I would summarise the overall position as this: that, in relation to the creative economy, we have a vision of sorts but it is not clearly articulated. We do not have a strategy. We do not have a plan, and we have very little resource in Government for making any plans happen. If you look at the people who are employed in the DCMS in creative industries, there are very few. There is no senior resource. There is a little more in BIS. But to come to your question, it is certainly a shortage of corporate memory. You will find it very hard in DCMS to find anybody who remembers back to *Creative Britain* or the Creative Economy Programme, launched by Mr Purnell in 2005, where extremely good work was done, but somehow disappeared.

For example, I remember, as part of that Programme, there was work done on competition and intellectual property. It was done by Lord Eatwell and Professor John Bates of the London Business School. It disappeared. For some reason, it was not covered in *Creative Britain* at all. So my answer would be that, if we want to be world leaders—as I think we all aspire to be—we should do two things. First, we should be clear about what the policy goals are. I would suggest that, as a policy goal, we would like to increase our share of the global market for cultural goods and services. That would seem to me to be a reasonable policy goal, based on the work done by UNCTAD, which describes the way the global market is growing very quickly. Then we should work back from that to ask: what are our strengths? What are our weaknesses? We know what our strengths are. We have fantastic creative people in this country. We have fantastic technical skills, but we are not so good at building sustainable creative businesses. Why? We need to understand that better.

So we need clearly articulated goals. We need to be clear what we are good at and what we are not so good at, and then we need to address those strengths and weaknesses in Government, address the weaknesses and encourage those things that give us strength. It does not help when we have three Secretaries of State in three years or five Ministers in three years.

Q314 Mr Bradshaw: Plus two Departments; what about the two Departments?

Dr Smith: Absolutely. That is very frustrating for people like us, as you can probably tell. We try to be helpful to Ministers and officials, and it is very dispiriting when you have to start all over again after six or nine months. We need consistency, and we need to take policymaking in this area more seriously throughout the public policy environment. If we think this is an area that, in the future, will give us competitive strengths in the global economy, surely we need to properly resource the way in which we make that happen within Government.

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Q315 Chair: Mr Mills, you have been sitting quietly. Going back to the issues we were talking about, about long-term finance and selling up, presumably you have had lots of people come and look at your company and offer you very large sums of money. You were not tempted?

Martin Mills: No. They gave up a long time ago because they realised I was not about to. They all said, "Call us first, if and when it happens".

Q316 Chair: If you had had investors, then you might not have been able to do that?

Martin Mills: Exactly. If I had had investors I might not have had the choice, but because I own the company myself I had the choice. My choice is to carry on doing it because that is what I want to do.

Q317 Chair: You said that what you have succeeded in doing, you could not do today because the climate is now different. What would your advice be to somebody starting out now?

Martin Mills: It is difficult to start doing what I did for the purposes of making money. You have to do it because you love it, because, as we've been talking about, the risk is on such a different scale from anything else. So I think you have to do it for love, and if you make money, then that is a happy accident. Picking up on something that has been talked about here, one of the problems is, if you are looking for investment in creative industries, you need to believe that there is Government support for the creative industries, and there is reason to believe that that support is not there as much as one would wish. When you look at how long it has taken to implement the Digital Economy Act, when you look at what has been proposed with the copyright exceptions at the moment, when you look at the influence that technology companies have with Government against the creative industries, you have to think that Government is more swayed towards those industries than towards ours, and that militates against investment, which I think is a real problem.

Q318 Paul Farrelly: You took my opening line there, which was to ask Martin how many venture capital companies and merchant banks have queued up at his door over the years.

So to Patrick Bradley, there is a lament in your evidence that picks up on the point you made about scale, that we do not have the likes in the private sector of the Bertelsmanns and Vivendis in this country. That poses the question: if that is seen to be a good thing, how might it be encouraged? Because one thing we saw here, when the position in terms of intellectual property was more favourable to the independent TV production sector, and times were booming, they made more profits and then they sold out; for good sometimes and for ill, if you take the case of Chorion, and similar things have happened in EMI and the music industry. That can only have been encouraged by the baffling reduction to two years from 10 years, of tapers on capital gains tax relief, which encourages short-termism rather than long-termism. So, after a long preamble, my question is what practical changes could we make to the taxation

system that encourages people to hold on longer, even if those suggestions might not be in the interests of your investors?

Patrick Bradley: I do not have any specific recommendations on that, in terms of what you should specifically do with the tax legislation at the moment. But I do agree that if you can incentivise people to hold longer, I think that is a good thing because it will change behaviour. I go back to my earlier point, if people can take out dividends and income streams, in a way that is equally as tax efficient to taking out capital gains, then that may also change that behaviour. To be absolutely honest, I think it is for investors themselves to think about how they can invest on a longer-term basis as well. You are right that, if Martin had had a venture capital fund sitting inside his business, they would have been pushing for an exit.

Q319 Paul Farrelly: Martin, what would encourage more people to adopt a frame of mind more like yours, if not having a personality transplant? What practical measures would help a more long-term view that would not at the same time encourage massive rampant tax avoidance?

Martin Mills: The problem is that independent companies tend to struggle financially, that tends to be the nature of the game, and they tend to sell because they are struggling. We have been fortunate in that we have not been in that position. I am involved with AIM, and you spoke to Alison a couple of weeks ago. There are hundreds, approaching thousands, of labourers there who are all short of money, all short of investment and all full of ideas, and hopefully the ideas we are talking about here will help them.

I am not sure if there is an answer. From my own personal point of view, I built a successful business, and it employs other people. It pays a lot of tax, and I am very proud of that and I am happy to continue doing it. I have no wish to stop and sit in the south of France worrying about what I am going to do with the money I get. I want to carry on doing what I do. I would hope that people in the creative industries are doing it because they are passionate and want to carry on doing it.

Q320 Paul Farrelly: Again starting with Patrick, a final question on tax. Setting aside the overarching framework of dividends and capital gains, and getting incentives right, we have seen the success of the Film Tax Credit, according to independent surveys, and the Government is moving towards high-end TV animation and, again, bringing in video industry tax reliefs. Assuming that those are measurable and well-targeted, are there any other specific measures along those lines that you would like to see that could generate returns for the tax reliefs that are given?

Patrick Bradley: I am of the view that the tax reliefs that are there at the moment, in terms of credit and also SEIS and EIS, are moving in the right direction to encourage investment. I think that is fine. There are some changes to the EIS scheme that I think should be looked at, in terms of the fact that you can only invest through equity, you cannot take any form of preference shares or loan notes. That means that

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investors going into those companies, if they are alongside what I would call a professional venture capital fund, who normally will come in through a structure of equity and loan notes, find themselves probably at a greater risk than the VC, because they are subsumed below that. That is something I think we should look at to try to equalise that. Going back to the point about scale if I may, your point about the television production companies I think is right, because that addressed a market failure, in that it allowed those businesses to have mandatory buyers in the market for their creative content. It has been successful in that sense in terms of the independent quota, and those businesses have been able to grow because they have been given some way of fighting against market power that is coming out of the States. I think that that regulatory intervention did succeed. If you put that alongside the tax credits that you have, you may see more businesses setting up and beginning to get scale in the UK, because they can sell their creative content into their domestic market as opposed to trying to compete with very large US studios that have a huge amount of capitalisation and distribution.

Martin Mills: If I could add to that, I think the tax credit system in France, which I presume you have heard about, which essentially encourages investment in recording, is very effective.

Q321 Paul Farrelly: Is that something we should definitely look at?

Martin Mills: I would think so. Have you not been told about this?

Q322 Paul Farrelly: No. We will collect some evidence on it. UK Music came and said, "Why just look at film? We do similar investment in A&R". That is research and development, so looking for something similar to encourage the music industry is very important.

Martin Mills: Yes. In France you get a staged tax break for investment in recording and also in marketing, which I think does encourage France's very flourishing industry, apart from the piracy problems that obviously France faces.

Q323 Jim Sheridan: I am pleasantly surprised that you have not mentioned the potential for a cut in VAT tax for the music industry. If you look at the recent Autumn Statement, there was a 25% tax break for computer games, animation and television; why not music?

Martin Mills: We have been fighting for that for a long time without getting very far. There have been plenty of people arguing for that, at a European level, but it does not seem as if it is going to get anywhere.

Q324 Jim Sheridan: You have come along here today and no one has mentioned that. Why?

Martin Mills: I think we should have. We will. Please can we have a tax break?

Q325 Jim Sheridan: Martin, I do not want to be intrusive, but have you ever found it necessary to take your production offshore, or to another country, to avoid paying tax?

Martin Mills: When I started my company in 1976, the legal advisers who helped us set up told us of the options that there were at that point. Our view was, "It is too complicated. It is not worth it. If we make money we will pay tax". I am proud to say we pay tax at the full rate. We paid £11 million worth of tax last year, which is more than Apple, more than Amazon, more than Facebook, more than Google, which is pretty outrageous when you think about it. Again, talking about the lobbying that Government faces between technology companies and creative companies, when you are talking about legislation, it creates a value shift from one to the other. I do not see why it is in the public interest for a value shift to move away from taxpaying companies and towards tax avoiding companies.

Jim Sheridan: I wish we had more like you.

Q326 Mr Sutcliffe: I want to move on to intellectual property and the issues around that, but before I do if I could pick up on the "Made in Britain" comment. What impact do you think that the Olympics and the Paralympics had, and is having, on the Made in Britain brand, from the creative sector point of view? Have you noticed any betterment because of what happened?

Patrick Bradley: I think that it reinforced the belief outside this country that this country is uniquely placed in the creative industries. There is no doubt about that. The worst offenders for not recognising it are sitting within this country, in the sense that we do not have the confidence sometimes to state how good we are. What happened in the Olympics proved, to a global audience, that this is the place where innovation happens and this is the place where cool things happen, which people around the world recognise. It was great for us, and I certainly think the appetite in international markets for British-made goods, with that British feel and look, is increasing. I am sure it has been driven in part by the Olympics.

Dr Smith: And we are very happy to be funding Danny Boyle's next film.

Chair: It is probably not the riskiest investment.

Q327 Mr Sutcliffe: Moving on to intellectual property, and to all three of you, but perhaps you first, Martin, the issues out there at the moment in terms of intellectual property, the importance to small creative artists and small companies; where do you think we are at and what worries you about the issues at the moment?

Martin Mills: Intellectual property underlies all creative business. If there is no protection for property, and there is no copyright, then there is no reason to invest because you are never going to make your money back. All our industries depend entirely for their survival upon the intellectual property framework being strong. We have been fighting over the last 10, 15 years against piracy. Piracy obviously has always been a problem and is always going to be a problem when you are selling monopoly goods at a premium price, which is obviously what you have to do to recoup your investment. It is on a very different scale to when we grew up taping *Top of the Pops* off

the radio, to the ease of digital piracy these days. We have really suffered.

From my point of view, I see the number of records we sell compared with the number of concert tickets my artists sell. There used to be a very firm correlation between the two. When an artist was growing, they grew in parallel: their record sales grew and their concert sales grew. It does not happen anymore, and you can see the effect of piracy and the effect of people not buying records but still being fans of artists. That is even more acute in a country like Spain, for example, where we can have an artist who will sell 200 albums and 2,000 concert tickets. So that is a real problem. We have to look to Government to protect that property. We have to look at ultimately the implementation of the DEA. We need to look at the search rankings on Google, which I am sure you have talked about. If I Google “Adele MP3”, it will probably be halfway down the second page before I get to a legal site. One of the other problems with those search rankings is that it is very hard for honest people to tell what is a legal site and what is not a legal site. I think that some kind of traffic light system, which has been talked about in the past, that identifies legal sites and promotes them, and identifies illegal sites and moves them down the listing, would be really important. I think a lot more people want to behave honestly and perhaps do behave honestly but it is simply hard to tell these days.

Patrick Bradley: Copyright is absolutely essential, and it is essential in the sense—certainly for investors—that I could write an article here and say it is copyrighted, but you need someone to pay for the marketing, someone to pay for the distribution, potentially to retail it. That means that investors are putting money into creating their property. Copyright comes alive because of the other things that are done around it, in terms of distributing and marketing it. If you are going to say that investors, whether they are individual entrepreneurs or whether they are funds like ours, can put money into something and then watch it effectively stolen with nothing paid for it, that is a problem for the creative industries. Because when we sit in front of investors they will say, “I would rather put my money into clean energy or something else, not this because you cannot make any money out of it”.

Dr Smith: According to Ofcom, 35% of all films consumed by adults online are consumed illegally. One only has to think that through, in terms of its impact on revenues, to understand how alarming that is. Of course, with ever more super, superfast broadband that illegal activity becomes easier. It is a huge challenge to legitimate business models, because there is a sense in which you cannot compete with free. You only have to look at the number of video on demand—VOD—businesses that have gone down in the last two or three years to understand that point. It is absolutely crucial to our business. No protectable creative assets, creative IP—no business essentially; it is as simple as that.

Q328 Mr Sutcliffe: How optimistic or pessimistic are you about the Government resolving the issue, in terms of Hargreaves and the issues around all of that?

Martin Mills: I am not particularly optimistic, to be honest. I am more optimistic about the public mood. I think the trend within the public is away from stealing and towards paying, so I am more optimistic.

Q329 Mr Sutcliffe: I agree with you, but how do you think that has happened, Martin?

Martin Mills: It is hard to tell. I think it is just one of those sociological shifts that you see going on. The understanding that it is as wrong to steal music as it is to steal petrol from a petrol pump is just edging forward as a concept, but it could certainly use encouragement.

Q330 Mr Sutcliffe: Martin and Patrick, are you optimistic or pessimistic that Government will get it right in terms of outcomes on IP?

Dr Smith: I think it is very frustrating that things move so slowly. That is the first thing to say. The work that Richard Hooper is doing on the proposed Digital Copyright Exchange is very interesting and is potentially very important. There is no question but that, from the perspective of setting up businesses, and creating new projects within businesses, licensing content is often not that straightforward. In a digital age, through tagging of IP, and use of metadata, anything that enables projects to be created more quickly and more cheaply would be good news. The practical difficulties facing Mr Hooper, and those people who are trying to progress this idea, are considerable. We should not underestimate them. There are a lot of very big vested interests in this area. In principle, personally, I think the proposed DCE would be a very good thing if we could deliver it.

Patrick Bradley: If I could add, and I support Martin’s comment, that I think that behaviour is beginning to change, which is good, and we need to keep moving forward on that. We can also see that YouTube and others are now beginning to invest in original content. A few years back we were all talking about user-generated content—that was King Content—but a lot of the big US businesses are now seeing original content is what drives viewers, what drives advertising revenues. That is a move in the right direction, which may enable the issue to be resolved as opposed to just Government intervention.

Q331 Conor Burns: In my constituency, I have Bournemouth University and Bournemouth University Arts College, who produce some of the brightest graduates in digital animation, in fashion and in design, and we lose a large number of those graduates every year to abroad, to foreign companies who recognise their latent talent. This year with the Olympics, and everything that Gerry touched on, we shone a torchlight on to the creative industries in this country and the talent we have, but it just strikes me—and this is not a criticism, more a comment—that we hear a lot complaints, things that could be done. We hear complaints about the lobbying power of Google. What are you guys doing to get together to form a counterweight to that imbalance in the Government’s ear?

Patrick Bradley: I think coming here today. We talk to DCMS and other Government officials on a regular

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basis. We try to talk to institutional investors and others, as much we can, to encourage knowledge of the sector. It is an ongoing dialogue. I have to say that it is frustrating; that it is a solo profile. Certainly, in this particular Government, the feeling—whether it is right or wrong—is that the creative industries are not as important to the overall agenda as it was under the previous Government.

On your point on talent, you are absolutely right; the talent is entirely mobile. If you look at Jonathan Ive who has gone off to Apple to be their designer, our best people will go to where the opportunities and the jobs are. Clearly, if we can bring more investment to bear, if we can build more businesses, we can keep more of our talent. We need to wed that creative talent with business talent. Actually, where the shortage is in this country is not the creative talent. We have bags of creative talent coming out of universities, colleges, council estates, you name it, but we do not have the associated business talent. That is what we need to work hard on, because the best creative businesses are the pairing between the creative person and the person who looks after the money.

Dr Smith: We need to identify and encourage more entrepreneurs in this sector, and we need to produce more producers. Specifically in answer to your question, Mr Burns, we try to do our bit outside the range of our own commercial operations. For example, we have partnered with the National Film and Television School. Next month will start what I think is the world's first course in entrepreneurial producing for the creative industries: the National Film and Television School Diploma in Entrepreneurial Producing. We are paying for that for the first two years. There will be 15 students, all post-graduates. The course will be taught entirely by practitioners in music and games etc.; people like Ian Livingstone in the games industry. So very senior people who are as passionately committed as we are to growing the sector. I think that is a very practical thing for us to have taken on. It is one of the ways in which we try to act as missionaries—supporters of the sector as a whole.

There is no question, you are right: training up talent is a two-edged sword. When we produce talent, which we do—fantastically impressive talent—because talent is mobile, as Patrick says, we will always lose a lot of it. There are 80,000 Brits living within 25 miles of Hollywood; 80,000. That is extraordinary. At the same time, we should not be too self-satisfied about this. I am very interested in your point about Bournemouth and video games and special effects. It is true that, through that university and about 20 other universities around the country, we do produce graduates in games, for example. It is very instructive to look at the experience of a business like Double Negative, which is one of the world's leading special effects companies based here in the UK, growing incredibly fast, run by one of the people who wrote the report, *Next Gen*, which was a skills analysis of the games and special effects industries, where they show that we are not producing the right combination

of skills for some of these industries at the very fast, high technology end. Double Negative will tell you that they cannot recruit enough people in this country with the combination of artistic skills and technology skills, basically writing code, that they need to be able to grow, going forward. They have to recruit abroad. It is a kind of mixed message. We produce lots of talent, some of which goes abroad, some of that will be inevitable, but we should not kid ourselves that there is not still a lot to do. What is disturbing to quite a lot of people is this growing sense that we should focus on STEM, the science, technology, engineering and maths bit of the education system, and leave out the A. What we need is STEAM—in a metaphorical sense—and we need the arts and creative education placed firmly in the middle of the science technology and maths. That is what industries like Double Negative need going forward. I hope that in Bournemouth and elsewhere that this point is taken on board, because there is no point in producing lots of graduates in subjects that sound great, but where industry and businesses are saying, “It is not right for us”.

Conor Burns: Bournemouth has among the highest employment rates for graduates of any university in UK, so they are obviously getting something right.

Dr Smith: Excellent.

Q332 Conor Burns: My final question is this: the point was made that these industries are on the scale of financial services in this country, in terms of their contribution to the economy. I have asked the Chancellor to come and visit Bournemouth to see some of the digital animation stuff, and he is coming down early next year. If you could ask him to do two things what would they be?

Patrick Bradley: To put the creative industries at the top of his agenda. To be a missionary, in terms of going around and talking to the City and institutional investors to make them understand how important this business is to the UK going forward. Secondly, I would say keep on doing what you are doing in terms of encouraging money for growth, in terms of SEIS and EIS. Keep doing that. Those are the two things.

Martin Mills: If I can come back to your previous question, I think there is a difference between the nationality of the talent and the nationality of the business that is exploiting the talent. For example, a singer like Emeli Sandé is British, but she signed with Universal Vivendi, which is a French company. I do not know where Universal pays the majority of their tax, but I would imagine it is probably not in the UK. Whereas in my company, for example, at least half of the artists signed to my company are not English, probably about a third of them are American. An artist like Vampire Weekend, which had a number one record all around the world—all of that revenue accrues in the UK, even though the artists themselves are American.

Chair: Thank you. That is all we have. I thank all three of you very much.

Examination of Witnesses

Witnesses: **Simon Milner**, UK and Ireland Policy Director, Facebook, and **Sarah Hunter**, Head of UK Public Policy, Google, gave evidence.

Q333 Chair: I welcome to our second session this morning Sarah Hunter, the Head of UK Policy for Google, and Simon Milner, Policy Director at Facebook.

Angie Bray: Can I start by asking you both to outline the ways your organisations contribute to the UK creative economy? I do not know which of you would like to go first. Sarah, would you like to?

Sarah Hunter: Hello. Thank you for having us. It is probably worth saying at the outset we think of ourselves as a consumer facing engineering company, rather than a creative company. Putting that to one side, I think we make a very strong contribution to the creative companies and the creative economy in this country. There are a lot of different ways that our products do that. For example, creative people can make more content cheaper than ever before because of things, like camera phones, that have created citizen journalism. That is one way we contribute. Another way is through our platforms, so YouTube and Google Search. Basically, creative people can put their content up on YouTube for free, reach new audiences, make money from the advertising, and similarly using our products like AdSense as well. Then finally things like Google Play. We have recently launched Google Play in the UK, which is like an iTunes store for creative content, so magazines, books and music can be sold. Again, the revenue is going to the creative sector.

Q334 Angie Bray: Effectively, not creative as such, but more of a facilitator?

Sarah Hunter: Exactly. There is quite a long tradition of technology working with creative companies, creative people, to distribute and enable more people to get that content but also to make money. For example, the video has led to a huge growth in the film industry but was actually a technology innovation at the outset. There are lots of examples like that, and I think the products we make are the most recent examples.

Simon Milner: For ourselves, we are also a technology platform. As you may have read recently, we have 1 billion people who are using our service to connect with people they care about, but also things they care about. Much of the content on Facebook is generated from our users, so around 300 million photos are uploaded to Facebook every day and Facebook neither owns nor creates that content. We are used on any internet-connected device and increasingly on mobiles, so around 600 million of our users are using Facebook on mobiles. The openness of our platform means that thousands of organisations and businesses can effectively offer a service via Facebook. That includes many creative organisations and artists who are doing that in the UK and around the world, because once they are on Facebook they can reach 1 billion people. Obviously, some of them are reaching many millions of people through the services they are offering on Facebook. There are lots of examples from across the UK creative industries, from music to the arts, to galleries to television, to the

Olympics, to games, of people using Facebook as a platform. We are not creating that content; they are, and they will continue to own that content on Facebook.

Q335 Angie Bray: You say that social media does have an important role to play in fostering creativity?

Simon Milner: One of the main ways in which artists—whether they are music artists or fine art, whatever type of artist—particularly gain traction is through word of mouth. What our platform offers them is word of mouth at scale. Often we will come across new bands, new artists or a new piece of television, through recommendations from our friends, but typically we may not see those friends for weeks or months at a time. Because of Facebook, we can now know what people are watching, what they are reading, where they have been, what music they are listening to, and that can create word of mouth at scale for artists, and all for free.

Q336 Angie Bray: Presumably the advertisers that you carry generate a lot of money as well?

Simon Milner: Most of our revenues come from advertising, and there is a lot of creativity there as well. That is certainly one of the creative industries we have not spoken about today, but I imagine it will probably feature during the course of your inquiry. That is an industry that is certainly making great use of digital platforms, in terms of coming up with innovative ways of connecting people with brands that they love and also brands that their friends love.

Q337 Angie Bray: It is very niche?

Simon Milner: Actually it is not niche. It is growing as an area for advertisers. They are beginning to recognise the power of platforms that could enable them to very carefully target their advertising messages, so typically there is much less wastage on a digital platform than there would be on standard television or billboard advertising.

Q338 Angie Bray: Ms Hunter, can I ask you what you think the justification is for Google to have a seat on the Creative Industries Council, given that you have just said that, in a sense, you do not see yourselves as being creative yourselves?

Sarah Hunter: I do not know why the Government asked us to do that, although it is very nice that they did. Matt Brittin, who is our Northern European VP, has attended a number of times. I have been involved in creative industries policy for about 15 years now, and every Government, of whatever ilk, has had some sort of place where business people from across the creative industries can meet Ministers. I think this is just the latest iteration of it, to be honest.

Q339 Angie Bray: Given what you said, do you think that social media companies are adequately represented on the council?

Sarah Hunter: Matt has gone along but I have not been to one, so I am not sure who else is on there.

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Going back to my earlier point, I do think there is an almost symbiotic relationship between creative content creators and technology. Increasingly it is very important for innovations and technologies to be understood and utilised by creative content producers, so having those environments for the two different types of innovators and creators to come together is important, and for the good of the British economy as a whole, to be honest.

Q340 Angie Bray: I imagine there are quite a few issues that Google has with some of the other members on the board, in terms of the ongoing issues on creativity.

Sarah Hunter: Sometimes we are doing deals with a lot of the other companies. I mentioned our Google Play store. We sell the records, the books and the magazines of many of the content creators in this country, and we have commercial relationships with them. Sometimes there is an inaccurate characterisation of the different perspectives between technology and content creators. You can grow the pie for everyone; you can grow the economy for technology start-ups, as well as for creative companies. I do not think it is an either/or, to be honest.

Q341 Mr Sanders: Is there anything that the Government could do to enable you to contribute more to the creative economy?

Simon Milner: One of the things that they could help us with is around some laws that are going to matter for all industry in the UK, including the creative industries, around the use of data. I cannot think of any company in any industry, or any artist, who would not benefit from having more data about what people enjoy, about the content they are producing, how they use it and how they share it, and to make use of that data in more imaginative ways. There are things coming down the track, particularly from Europe, around data laws. For platforms like ours, and also many other businesses that are built around platforms like Google and Facebook, it will be difficult to innovate in a too restrictive environment. One of the ways that Government can help—and indeed is helping already—is to say, “Let us not have overly restrictive laws around data, and the way in which companies handle data. Let us get the balance right between privacy and innovation”. So the Government is making that case, and we hope it will continue to make that case next year, which will be an extremely important year for data privacy regulation in Europe.

Q342 Mr Sanders: How would you maintain the trust of your users, who would be deeply sceptical of how that data is used?

Simon Milner: We do not find that. We do not find that users are deeply sceptical at all. What they find and appreciate on Facebook is the fact that, although they get advertising, typically it is highly targeted towards them, so they are not seeing adverts that are irrelevant to them. Indeed, if something does get through the system that is not relevant they can very easily say, “I don’t want to get adverts of this type or from this organisation”. Once they do that, they

should not be seeing any more adverts like that. People appreciate clever use of data to enhance their experience of our platform, whether they are consuming music via our platform or engaging with retail brands, or just engaging with their friends, or indeed engaging with public figures, including politicians.

Q343 Mr Sanders: How do you explain the storm of protest about Instagram today who have taken the decision to use people’s data, to provide it or even monetise it, sell it, to advertisers?

Simon Milner: Most of our services—and certainly all Facebook’s—are provided free to users, but they do not cost us nothing. It costs us something to run a platform that enables 1 billion people to use it every day; on-the-go, a super-speedy service with an instant ability to see what their friends are doing around the world and to upload very high-quality photos. That costs money. We have to pay for it. The way we pay for that is advertising. That involves innovative use of the data that people provide to us, but always complying with data protection laws. We are regulated in the US. We are regulated in Europe by the Irish Data Protection Commissioner, who has recently conducted a major review of our data handling practices. So we are always compliant.

Q344 Mr Sanders: You have just argued for that regulation to be looser?

Simon Milner: No, absolutely not. We think that the European Data Protection Framework works reasonably well at the moment. Certainly our experience of having a thorough review of what we do by our regulator in Ireland, over the last year, has helped us achieve best practice in terms of what we do around handling data. We are not suggesting it should be loosened. What we are saying is, as it is modernised for the new age—and after all this is a law that has not been reviewed for a long time—we need to get the balance right, between enabling people control, absolutely; transparency around how their data is used, clearly very important; and proper accountability of companies that are handling data. We absolutely support all those things. If you apply overly restrictive requirements around, for instance, saying, “Every time you want to use somebody’s data for another thing you must get their explicit consent”, that is a bit like the e-Privacy Directive on cookies. The thing we all see now when we go to a new website, a banner around cookies. What we are finding is instead of that helping customers understand the way cookies are used, most people are just ignoring it. What really helps people is privacy controls and information about privacy that is relevant.

Last week we announced a new approach to privacy. We will provide a privacy shortcut on every page on Facebook, where you can see, “Who can see my stuff?” and the next post you make, “Who will be able to see that?” You can review everything you have ever done on Facebook and the audience for it. That is not because we are regulated to do it, but because we think that is a much better way of helping people understand how we use their data.

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Q345 Mr Sanders: Presumably that has come from feedback from your own Facebook community?

Simon Milner: It is also about us recognising that people want to know, at certain times, “What is happening with this piece of data that I am sharing?” Rather than going back to the terms—which they can always do, they can click through to our data use policy from any page on Facebook—they want to know, “This particular picture, who can see it?” On every single thing they post, there is something they can click on that says, “This is who can see it”, and they can change it. If they say, “I don’t want that to be public. I want only my friends to be able to see it”, they can change it, and then it will be changed.

Q346 Chair: Can I pursue it a little? Both the companies you represent make a huge amount of money out of advertising in the main. Some of the Committee went to visit the Advertising Association about two weeks ago, and they expressed real alarm about the data protection directive coming out of Europe. In particular, they raised the personalisation of currently anonymous data, the requirement not just to opt in to receive targeted advertising once but, potentially, to have to do so repeatedly if a right to forget comes in. If these requirements are imposed from Europe, what effect are they going to have on your businesses?

Sarah Hunter: The ASA are pretty vocal about that. I think the challenges it will provide are for the advertising industry and for the people who advertise, and let us not forget that they are British businesses. British businesses who want to get new audiences will be the ones who suffer. The general mood of data protection is to minimise the amount of data that is held on individuals. There is a very mainstream Continental European view about that. There may be a different agenda that we should be talking about in the UK, which is about the growth of British businesses and the reliance they have on data.

There was quite an interesting piece of research a couple of weeks ago by NESTA, which was about the extent to which companies use the data that they are generating from people visiting their website. You can tell what country they come from and what time of day they came. You can learn quite a lot about your business. The NESTA research showed that: first, very few British companies are using their data. They do not have the skills to analyse data or even know what this data means; but second, those companies that do use the data grow faster and employ more people. They are the success stories of tomorrow. I think that economic benefit of data is something that perhaps the UK should be bringing to the table in this debate.

Simon Milner: I would echo that. We should worry less about companies like ours. We invest heavily in privacy. We have teams of experts who work on any new product that Facebook is producing, and will design in privacy to ensure it complies with both US and European law. But if you are starting a new business, say, you are in a tech or creative industry, and you start a new business, all of which are involved in using data in imaginative ways, you may have to have a particular type of officer who is responsible for data protection, almost before you get going, required

by European law. You have to ensure that all your contracts with any platform that might possibly connect with you—and of course the internet is all about connecting—that you have the ability to ensure that any data that gets shared can be deleted through contracts. All these things will add hurdles for new businesses wanting to start in this area. That is something we should be concerned about. It is not about platforms like ourselves, it is more about the ecosystem of companies around us. Certainly for both our companies, and many other internet companies, there is this incredible ecosystem of small businesses that are using these platforms. It is those guys we should be worried about, and that is the heart of where growth will come from in the tech and creative industries in the UK.

Q347 Chair: Thank you. Can we move on to the knotty subject of intellectual property rights? Both your companies host a huge amount of content. Are you confident that you are doing enough to ensure that the rights owners are getting the remuneration to which they are entitled?

Sarah Hunter: I can talk about YouTube for a moment, if that is helpful. You are right that lots and lots of creative content is hosted on YouTube. I think 72 hours of content are uploaded every single minute onto YouTube. It is just mindboggling. We could not watch it all if we tried. We have invested a lot in that system, such that content creators can feel confident, not only that when their content is there it is being protected but also that they can make money from it. We have spent tens of millions of dollars on a system called Content ID, which enables content owners to give us a copy of the file, say their film. Then every time more content is uploaded onto YouTube we can scan against that original file and see if anyone is trying to illegally upload a copy. When they do we can contact the rights-holder and say, “Hey, someone is trying to upload an illegal copy of your film. Would you like to block it, or would you like to run adverts around that illegal copy and gain the revenue from those adverts?” Interestingly, most content owners choose to run adverts around illegal content.

It is a quite a nice way to show how content creators are getting benefits from technological innovation, actually going back to the original topic we were talking about. They also get the majority of advertising revenues that they earn from their content. It is an advertising funded platform, and I think content creators are happy with what they get, because frankly I do not think they would put their content up there otherwise.

Q348 Chair: You would say that amateur video makers, who may have an ambition to become professional film makers, are managing to get some revenue from their early efforts, which otherwise they would not?

Sarah Hunter: Absolutely. What is interesting about the development of the internet more broadly, and not just YouTube, is that for the first time content creators can get an audience without having to go to a middle man. In the past they had to get a film studio to take an interest and then get the funding. It is very

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complicated and long. Now they can literally make a film from their mobile phone, which is often free, and get an audience straightaway. That is generating a whole new generation of new creators, who could then go on to get a film deal. There are a number of very well known artists. For example, Justin Bieber started off as a YouTube artist and then got a record deal from YouTube. Also existing arts organisations or broadcasters are using YouTube to gain new audiences and earn more money. It seems to work for every content creator.

Q349 Chair: Facebook does not give any proportion of your advertising revenue to the people who own the rights and the material put on the website?

Simon Milner: No. If people use our platform, for instance, to deliver games that include payments, they will get the bulk of the revenues from those payments. We have a different approach. We do not allow unlawful content to exist on our site once we are notified of it. Indeed, we have a five-point programme that deals with issues around IP infringement, because we do not want our platform to be one in which people think that unlawful content can be uploaded or hosted. It is not what our business is.

So we start with our policies, we have very clear policies for our users, in terms of saying, “You cannot upload unlawful content or content you do not have the rights to”. We do extensive education in our help centre, both for people who are using Facebook and also for rights-holders, about what to do if they come across a post that they believe is infringing their copyright and how they can notify that. We have some voluntary measures. For instance, we use industry-standard technology to scan every video that is being uploaded to Facebook, and then we will block anything that is on our files as being a piece of copyrighted content. So obviously not things that are user-generated content in your holiday video but any attempt by anyone to try to upload a video that is copyrighted will be blocked and they will not be able to upload it.

We have a notice and take-down system. If you go on to Facebook and try to report anything, one of the questions you will be asked is, “Does this concern your intellectual property?” Once you tick that, then you will be taken through a process that enables you to verify who you are, explain what the issue is and then we can deal with it very quickly. We have teams around the world, multilingual teams, who will do that. Then we will also take action against offenders. One of the things we will certainly look out for are patterns of behaviour. The 17-year-old who might do something that they had not realised was wrong or thought would be a bit of fun is different from somebody who is trying to do things on a commercial basis. We look out for those kinds of people and we want to get them off our service, and we will co-operate with law enforcement and rights-holders in doing that.

We believe we have a thorough process. Certainly my engagement during this role over the last year with rights-holders: one, it has been much nicer than when I worked for BT; and second, in general, there is a sense that they agree we are doing a good job. Of

course they would always look for us to do more and we are always looking for ways in which we can improve our processes, but I think on this one we are doing a good job.

Q350 Chair: Sarah, you will be aware we heard from Andy Heath at UK Music recently, who talked about the way Google helps people steal his music, and you heard Martin Mills earlier this morning talking about directing people to illegal sites, making available Adele downloads free. Do you think you are doing enough to address those concerns of the music industry?

Sarah Hunter: I do. I think we have done a lot. Goodness me, we are in almost monthly meetings chaired by Ed Vaizey, where the rights-holders and ourselves and other technology companies discuss this issue. We put more money and effort into solving this problem than pretty much any tech company. We have basically built a system that enables rights-holders, when they find an illegal URL, to tell us and we remove it within hours from Google index search. It is still on the web, just so we are clear. Google is not the internet. This content is still hosted, and if they are not able to reach the person hosting it originally then it will remain up there whether it is in the search index or not. When they do tell us about finding illegal content we remove it straightaway. I think last month we removed 9 million URLs from our web index. Just as a matter of scale, a few years ago there was in the tens of thousands in a year, and now it is 9 million in a month. So this system is going a long way to meeting the concerns that they have.

Q351 Chair: I understand that when you are notified of a URL, of a piece of content that has been distributed illegally, you take that down, but within a few minutes, another URL goes back on the same site to deliver the same piece of content.

Sarah Hunter: There are people making money from hosting illegal content, and I am sure they are incentivised to come up with new ways to do it. We did a piece of research with PRS for Music a few months ago, which looked at the problem of pirate sites and looked at the characteristics of these sites. What this research shows is that these sites are making money. They are hosting advertising—not provided by Google, I hasten to add—and if you really want to stop the problem of piracy, you need to go to the source of the problem. We need to stop these companies making money from content.

Q352 Chair: Simon described how, on Facebook, if somebody is shown to be regularly breaching copyright law, they have their account removed. We have a list of sites like filetube.com, which has had 2,221,000 notices relating to it sent to you, or torrenthound, which is nearly 1 million. Why do you not just say, “These are clearly sites that are simply in the business of distributing content illegally, therefore we are not just going to remove the URLs of specific tracks but just block access to that site” or not have it come up in your search tags?

Sarah Hunter: A few months ago we did tweak our algorithm to recognise the number of what they call

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DMCA notices, the number of take-down notices that individual sites have received. That is recognised in the search rankings and I think if you were to search for “Adele”, for example, what you would see nowadays is an almost exclusively legal set of search results.

Q353 Chair: You heard Martin Mills say that it would take to get to page 2 before you came to a legal site, and we were told that on page 1, if you search on “Adele, MP3” nine illegal sites come up.

Sarah Hunter: It is just worth saying that “MP3” is a very specific search term that refers to a download. If you were to search “Adele MP3”, you are excluding Spotify or YouTube, because those are not download sites. It is a very narrow search term.

Q354 Chair: It is not that narrow.

Sarah Hunter: It is, and I think what is suggests is that—

Chair: Most people now get their music through downloads. So, putting up “Adele” and “download” does not seem to me to be that narrow.

Sarah Hunter: If you were to look at the Google Insights for Search page, where it is free to even look at what people are searching for, it shows that most people will search for “Adele” or for a song. If I hear a song on the radio, I will search for the artist and maybe the name of the song. I do not go as far as to say “MP3” or “download”. Again, if you look at Insights for Search, it shows that the number of people who search for this site is very small. The MPA, who are the movie producers’ trade association—their list of sites that they recognise as being infringing sites—I think only 15% got there through search. Most people do not access these sites through search. They access them through sharing links with their friends or through recognition on Facebook. People are not using search, in the main, to access these sites. As I said earlier, if you want to get to these sites and you want to tackle the problem and go to it at source. Get these sites, and stop them getting money.

Q355 Chair: I entirely accept that we should attack the problem through attacking the sites themselves, and also that not everybody will access them through search, but there are some people who are finding illegal content by putting “Adele download” into your search engine and nine illegal sites come up. Surely it would be quite easy for you to say, “Here is a site that plainly is distributing illegal content. It is not going to feature in our rankings any longer”.

Sarah Hunter: It is not that easy. It may sound implausible, having heard the other evidence. For example, if you look at a website it is impossible to say, from looking at it, whether it has a licence. Google does not know whether the rights-holder has sold the licence in Russia or globally. It is just impossible to tell just from looking at the content. We need the rights-holder to tell us, and when they do tell us, yes, we take it out of the index. Nowadays it is within hours that we take it out of the index.

Q356 Mr Bradshaw: Why do you not do what the Chair has suggested and block the worst offenders? That is what we do not understand.

Sarah Hunter: Again, if you look at the *Copyright Transparency Report*, we have a full list of who we take content out of. The number of actual URLs on that domain is less than 1%. A lot of the pages within this domain are hosting legal content. I know a number of filmmakers who choose to use BitTorrent sites to distribute their content because they want to get a wide audience for free. It is not the case that these are necessarily hosting—

Q357 Paul Farrelly: You have here, “filestube.com, 2.2 million take-down notices”. By that analogy, if that was a site that only had 1%, by de-listing them you give them incentive to make sure that they have their act totally cleaned up.

Sarah Hunter: But there is a lot of legal content on that domain.

Paul Farrelly: But tough.

Q358 Angie Bray: If they are breaking the rules even just in 1%, they are breaking the rules. I think Mr Farrelly’s point is that you could make sure they do not break the rules by taking them down, being tough, possibly being a little unfair in the overall sense. But then the fact is they would clean up their act and they would come back with just the legal material minus the illegal material.

Sarah Hunter: I think we do a lot, I have to say. The scale of takedowns that we have made nowadays, the amount of money we invest in the system, we are doing a pretty good job in trying to take down these sites, but fundamentally—

Q359 Conor Burns: The Chairman is giving you examples of sites that are regularly providing illegal content that still show up on your search engine. Why do not you block them?

Sarah Hunter: When there is an illegal page we take it out of the index. That is all we can do. If there is something illegal we will take it out and we do it much quicker than anyone else.

Q360 Chair: It is not all you can do. I hear what you say about the reasons you do not, but it would be possible for Google to say to a site, “We have had so many complaints about the amount of illegal content. Until you can assure us that you have removed that we are going to remove you from our search engine”.

Sarah Hunter: As I said earlier, we have adjusted the algorithm so these sites do come up much lower in the—

Q361 Paul Farrelly: What do you do with child pornography?

Sarah Hunter: We are a founder member of the Internet Watch Foundation.

Paul Farrelly: Do you block those sites or do you just take a view, like you do with music and film, that if one site only has 1% of child pornography, it is 99% legal?

Sarah Hunter: The IWF gives us a list, which they update twice a day, of sites that are hosting child sex

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abuse imagery and, yes, we take them out of our index. That is the only content for which we do that, and there are two reasons: firstly, in the creation of this horrible content there is a crime happening every single time it is viewed and at every stage. It is illegal in almost every country in the world. The second reason—

Paul Farrelly: So, music is only a little bit illegal?

Sarah Hunter: Sorry, shall I carry on about the child sex abuse? The second reason we do it is because it is very easy to tell when you look at it if the stuff is illegal. It is not easy to tell if copyright content is illegal. It is almost impossible to tell where the licences are and if they are up-to-date. We rely upon the rights-holder to tell us.

Q362 Paul Farrelly: But you have indications, as the Chairman has told you, of these sites with 1 million take-down notices.

Sarah Hunter: Often these sites have thousands and thousands of pages on them. It is not the case they are all hosting illegal content. Just to be clear: if they are, we will take it out. I do not quite see what else I can say.

Chair: I am starting to see why you have regular meetings.

Q363 Mr Bradshaw: You are a former No. 10 policy person. You understand the importance of a company's reputation and their image in terms of public policy. Is there any concern among those higher up in Google that you are now public enemy No. 1 as far as the creative industries are concerned?

Sarah Hunter: I do not think that is how we see it. You are right; our reputation is important to us, largely because we are a free platform and it is incredibly competitive out there. If our users do not like our services there is lots of choice for them to go somewhere else, and we do take it seriously. But with most creative companies and creative industries we have commercial relationships. It is not the case that we are the bogeyman. Martin Sorrell described us as a "frenemy". On the one hand we represent disruption; on the other hand, we are making them revenues.

To be honest—and disagree with me if you think I am wrong—Google is often seen as a proxy for the internet, and the internet is incredibly disruptive. It has disrupted sections far wider than the creative industries. For people in positions, where they have a comfortable commercial business model, it can be threatening. I completely understand it is a frightening world to be in, if you see your business being knocked asunder by the internet. I think Google is the proxy for everything the internet is bringing, but we are trying hard to create business models and revenues for those creative industries.

Q364 Mr Bradshaw: Your bosses may not think that is an accurate perception. Every single witness that has come before this Committee as part of this inquiry from the creative industries has said that in as many words. Are you not worried about the consequence of this? If you do not respond to that level of concern and anger, and the importance of the creative industry to this economy, public policy will change and

probably to your disadvantage. It is much better for you to have a constructive relationship and engage with it as a problem and do what you can do, including do a bit more, to block these sites.

Sarah Hunter: I agree with you. We want to have constructive relationships. As I said, our chairman spends half his time trying to do deals with record companies and content producers the world over. I think the only way this is going to be solved is by creative companies starting to see that the internet is an opportunity, rather than a threat, and work with us in a way that many of them already are.

The other suggestion I would make is to have the broadcaster perspective here, because broadcasters are the interesting bit of the creative industries. They are still the largest part of the consumer creative industries and they are looking like they are doing pretty well in terms of the global advertising revenues. They stay steady at about 35%, and they are innovating with technology. The BBC iPlayer is rather impressive, and so is all the Sky investment in technology. That would be an interesting perspective to add here, because their voice would benefit.

Q365 Paul Farrelly: The other area where you have been foxy, but you have been joined by others as public enemy No. 1, is on tax. You are an employee of Google UK Limited. How many employees does Google UK Limited have currently?

Sarah Hunter: About 2,000.

Q366 Paul Farrelly: If I am an ad agency based in the UK and I want to advertise on Google, who do I contract with and pay?

Sarah Hunter: You contract with Google Ireland.

Q367 Paul Farrelly: Google Ireland? Why?

Sarah Hunter: Because that is where the products are sold from.

Q368 Paul Farrelly: But if I am an ad agency and I say, "I would like to contract with Google UK Limited", can I not do that?

Sarah Hunter: No. We provide marketing and engineering R&D services to Google Inc.

Q369 Paul Farrelly: Your position in the market is such, your terms and conditions, that you can turn me away and say, "It is not possible for you to contract"?

Sarah Hunter: We would give you the number of the people in Ireland who do sell product.

Q370 Paul Farrelly: How does Google UK cover its costs?

Sarah Hunter: I have to say I think this was covered in quite a lot of detail in the Public Accounts Committee. I do not want to go into too much additional detail than we did there.

Paul Farrelly: How does Google UK Limited cover its costs?

Sarah Hunter: We charge Google Inc for the services we provide basically.

Q371 Paul Farrelly: So you take a commission?

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Sarah Hunter: I cannot remember if it is commission or it is—

Q372 Paul Farrelly: I do not want to go over all the ground that was given to the Public Accounts Committee or that has been covered in the press. We can look at the press for your latest accounts and what has been paid in tax or not. For the benefit of this Committee, it turns out that Google Ireland Limited does not pay much tax either because, as I understand it, it pays royalties to Google Ireland Holdings but not directly, indirectly through Google Netherlands Holdings. Hence the terms “double Irish”, with two Irish companies and “a Dutch sandwich”. Then there are further amounts that are remitted to Google Bermuda. For the benefit of this Committee, could you say whether that is an accurate reflection, and also tell us the primary purpose of that structure, those transactions and those transfer pricing decisions? What is the primary purpose?

Sarah Hunter: I am not an accountant, and I am not in a position to go through these kinds of questions in detail. What I said—and I will say it again—is that we pay all the taxes that we are asked to pay in this country, and we abide by all the laws in this country and other countries we operate in. I will happily share with you the transcript of the PAC hearing.

Paul Farrelly: We have seen it.

Sarah Hunter: Did you enjoy watching it, then?

Q373 Paul Farrelly: As a non-accountant, what do you gather then is the primary purpose of that structure?

Sarah Hunter: I am not in a position to go into a lot of detail. If you have actual questions that you want me to go back and ask our accountants to answer I will happily do that.

Q374 Paul Farrelly: Do you recognise concerns that have been voiced by people like Vince Cable, for example, that in minimising your tax to such an extent that, to quote Vince a few years ago, “Google is ducking its social responsibility”?

Sarah Hunter: A lot of the session today has been about the contribution we make to the UK economy, and I genuinely think we make a substantive contribution. What we have talked about today is the creative economy, but the wider British economy—there are thousands of British SMEs making businesses on the back of our free platforms. If you are a bag company, you can reach an audience in this country and overseas and sell your bags in a way that it just was not possible even five years ago. The contribution we make through these platforms in enabling British businesses to grow is an important part of this debate. We have talked a little bit about Tech City, but we have opened a seven-storey multi-million pound building in East London for the start-up community, where we mentor British start-ups and we provide free services for them. That aspect of the role technology plays in the British economy should be included in this discussion.

Q375 Paul Farrelly: Last week Eric Schmidt from Google was on the record making some comments

that perhaps you could get a comment on. He was quoted in the press as saying, “I’m very proud on the structure that we set up. It’s called capitalism. We are proudly capitalistic. I am not confused about this”. Then relating to the Starbucks partial penance, he had the following comment in ruling it out, “To go back to shareholders and say, ‘We looked at 200 countries but felt sorry for those British people’, there is probably some law against doing that”. As a former special adviser to a Labour Prime Minister, how does that make you feel? To what extent are you comfortable with Google’s position?

Sarah Hunter: I am very happy with the contribution made to the UK economy. As I said, I do not think I would be sitting here now talking about it if I was not, but it is way above my pay grade to be commenting on my chairman in this setting.

Q376 Paul Farrelly: I have to be fair here, Simon. Facebook has a similar structure. I do not know whether you have a Dutch sandwich, but I understand you have a double Irish and, in your case, it is the Cayman Islands rather than Bermuda that is an intermediate tax haven, the holding company. Is that correct?

Simon Milner: If you want to pursue the detail of our structure, I would be happy to write to you on that. We did not have the pleasure of the PAC hearing. I expect that is because we are a much smaller business. We employ just over 100 people in the UK and, frankly, we have not been here for very long. Yes, you are right. We need to operate in a tax-efficient way because our mission is to deliver a platform for free that billions of people can use and, in order to do that, we need to be a very efficient business. We comply with all applicable tax laws in the UK and around the world, but if you want any more detail than that, I would have to write and give it to you.

Q377 Paul Farrelly: I would be very happy. Again, to cut a longer series of questions short. How do you feel? Do you feel comfortable in having a full-page spread, headlined, “The antisocial network”, in *The Sunday Times* and one commentator, Richard Murphy of Tax Research UK, categorising your contribution to UK taxes as tantamount to the UK being taken for a ride? Are you comfortable in that space?

Simon Milner: I am incredibly proud of the company I work for—and I mean that seriously—in terms of the quality of the people, their commitment to our mission and what we do for the people in the countries where we operate. We have over 30 million in the UK using Facebook for free and also many of them using it to small businesses. A recent estimate suggested that around 18,500 jobs have been created, in terms of small businesses around the Facebook platform in the UK. I spent much of my summer travelling around the UK doing small business roadshows with local Chambers of Commerce, from Birmingham, to Glasgow, to Folkestone, to Manchester, to Sheffield; all over the country. I met people who were eager to use our platform, often for free, or using our highly targeted pretty cheap advertising services to build their businesses. That makes me feel very proud, as a

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British person working for this international global company.

Q378 Paul Farrelly: I have one final question on this track for both of you, Sarah and Simon. It is relevant because the overall tax take affects what the Government can do to help, for example, the creative industries. At the moment, in one particular sector, which is the gambling sector—remote gambling—the Government is moving towards a point-of-consumption-based tax, where the revenue is taxed where it generally arises. Clearly gambling has a licensing aspect, but it not beyond the wit of man to construct a tax code with appropriate international tax treaties that can treat revenue the same. How would each of your companies react to Governments moving towards that point-of-consumption-based tax system, given the structures that you have adopted?

Simon Milner: Facebook does not operate gambling services, but there are—

Paul Farrelly: No, my question is not about gambling.

Simon Milner: There are two companies that do now offer gambling in the UK only via Facebook. I think it is really up to them and the gambling industry itself to comment.

Paul Farrelly: No, you are misinterpreting the question. My question is not about gambling. It is about the model being a point of consumption-based taxation being applied to your companies. How would you react to that?

Simon Milner: We always comply with local and international law. International tax law is something I am not expert in. You need other people here to help you with that, but if Governments around the world decide to change the rules that is something that we, as an international company, would have to ensure we comply with.

Sarah Hunter: I think I would echo the same. If the OECD, or whoever is in charge of this, decides to change the laws we will do the same.

Q379 Conor Burns: Sarah, can I take you up on your offer to go back to your accountants and then write to the Committee and to ask them this question, which I am sure they will know the answer to because they will have made the calculation. What would be Google tax liability in the United Kingdom if the revenue generated in the United Kingdom were paid to Google UK as opposed to Google Ireland?

Sarah Hunter: I will ask someone clever to find out.

Conor Burns: Thank you. We will look forward to the answer.

Q380 Jim Sheridan: I know you are not an accountant and you are not responsible for the detail of the accounts, but just following on from Comrade Farrelly, you are a PR person, and I want a comment from a PR perspective. Would you advise your chair or anybody else in the company to make a comment like that?

Sarah Hunter: I think this is very similar to the comment I gave to Mr Farrelly. It is above my pay grade to advise the chairman about what he says.

Q381 Jim Sheridan: I have to say there is a touch of déjà vu in this Committee today, because there is a parallel I can see between what Google is doing and the activities of News International, and we will get to the end of the road some day. I can see that coming along the road if you do not change your ways.

Sarah Hunter: I have to say News International has been accused of illegal activity.

Chair: I think that is a little unfair. We are inviting them to talk about the creative industry, rather than tax.

Q382 Jim Sheridan: The final question that I ask: by not restricting access to the copyright infringements, you are undermining the very good work of the celebrities and, indeed, the dignified Members of this Committee, and the Hillsborough song that has been released, because people are now downloading it for free thereby denying them money and resources for the victims of Hillsborough.

Sarah Hunter: If you want to send to me the list of sites that are hosting your content, we will make sure it is taken out of the index straightaway. Just for the record, we have no interest in assisting people pursuing pirated content. It is not in our interest to do it. As we have heard through a number of the questions today, it is in our interest and Google's interest to ensure there is great-quality content on the internet, and the only way that happens is by creators being paid for that content. We understand that. It is part of our business model to ensure there is good quality content on the internet, and I think we play our part.

Q383 Jim Sheridan: Do you see that as a problem for the people trying to raise money for the Hillsborough victims?

Sarah Hunter: Absolutely. As I said, if you want to send me the links to who is hosting this content illegally, then I will make sure it is taken down.

Q384 Chair: You heard from Martin Smith earlier about the difficulty that some industries have, in that the universities are producing graduates who do not have the skills that are necessary. You said that Google employs 2,000 people in the UK and Facebook maybe not quite so many, but nonetheless you are a technology company. Are you satisfied with the supply of skills here and what are you doing to try to improve it?

Sarah Hunter: Last year our chairman, who has been reproached already today, made a speech in Edinburgh where he lamented the lack of computer science in British schools. We have done quite a lot of work with the British Computing Society and the various curriculum reviews to try to get this back on the agenda. We are partnering with Teach First, and we are paying for 100 computer science teachers to be trained and go into UK schools. We have been quite vocal about the quality of computer science education, and I am pleased that it looks like the Government is listening.

I think there is another set of skills that have yet to be tackled, which is the issue of data analysis. I was talking about the necessary research earlier. Data

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analysis and understanding what data can give to you. It is not about being a coder. It is not about being an engineer of the type that Google employs. It is about seeing the kind of people using your services, and changing your decision-making and your products as a result of that. That sort of data analysis is something that I think we need to have taught in our schools and in the jobs as well. I am probably of the generation, in that terrible transition, where I was not brought up with computers but now I am expected to use them all the time. My data analysis skills could be a lot better, and I think that is true of much of the British workplace at the moment.

Simon Milner: For ourselves, we are very pleased to see the Government taking the issue of computer science education seriously, and we have been part of a recent Department of Education roundtable with the Minister and the Minister for Skills looking at the new computer science curriculum. We very much hope that as the curriculum for secondary schools is developed over the next year or two that this becomes a central part of it.

In terms of what we are doing as a company ourselves, we have partnered with an organisation called Apps for Good that you may be aware of. They are a charity that develops courses to be used in schools and outside of schools, to help people develop their skills around developing apps. We have run a couple of courses for young people aged 18 to 24, many of whom were struggling to kind of find a role in the world. Not only did they learn new skills around coding but are also learning market research and presentation skills.

I am very pleased to be able to tell the Committee—indeed we have not talked about this much until today—we have also partnered with them to run pilots in schools. In the next couple of terms, six schools from Cumbria to Brighton will be undertaking the first ever Facebook app-building courses in schools, obviously only for children aged 13-plus. We hope that will be a great way of engaging the enthusiasm many of them have for using Facebook, to realise this could be an area where, if they develop the right kind of skills, they could work for not only companies like Facebook, but, frankly, lots of other companies that are developing great businesses off the back of our platform.

Q385 Chair: I should declare and thank Google for the fact that a Google Juice Bar is coming to my constituency of Maldon on Friday to advise companies. I would say to Facebook that if they were looking for another school, I am sure I could come up with some, or indeed all my colleagues around the Committee table, I suspect, but that is encouraging.

Sarah Hunter: For all the Members of the Committee who do not know what a juice bar is, it is quite an interesting experiment. We are basically sending digital experts into places around the country saying, “Look, if you have a business that wants to get online and make the most of their website, we will come and train you for free”. It has been incredibly popular. We are always oversubscribed when we arrive in a town.

Q386 Chair: Why are you doing it; just out of a sense of social responsibility?

Sarah Hunter: No, it started about three years ago. It is called Getting British Business Online. We now run it globally, but it started about three years ago because we realised that if you get a website you are more likely to buy a Google advert; very straightforward. It was from our Marketing Department. It has proved so popular we have spread it out globally.

Q387 Chair: We also referred earlier in passing to clusters, to Silicon Roundabout or Tech City or whatever you want to call it. How important do you think it is to create this grouping and for companies to be able to spark off each other?

Sarah Hunter: Clustering in the technology sector has traditionally been very important. There is a strong history of technology innovators working together and sharing ideas. It is a very open culture, and the Silicon Valley cluster is over 100 years of technology companies growing in the Valley. Now it is over tens of miles wide. It is not a tiny little area any more. Our view is that the East London technology cluster around Old Street is a very exciting opportunity. The campus I mentioned earlier that we have recently opened there is the only one that Google has done globally. Actually, that is not true. Last week we launched one in Tel Aviv as well; another very interesting technology cluster.

The fact we did it in London is quite revealing, because we do see it as a real opportunity globally. It is a quite serious cluster in that respect. I am very excited by the opportunities there and I would encourage all of you to come and visit if you can.

Jim Sheridan: To Tel Aviv?

Sarah Hunter: You can come to Tel Aviv as well. No, East London. It is less glamorous, I am afraid.

Jim Sheridan: But you do not do it in Palestine, do you?

Sarah Hunter: We do it in Tel Aviv. There is a well-known technology cluster there, and we have opened an office there to help train the staff.

Simon Milner: From our perspective, Chairman, we were delighted, but sad, that our MD for Europe, Joanna Shields, was recently appointed as the CEO for Tech City. That is a great testament to her and the contribution she has already made to the UK digital economy. It is sad for us because she was a great leader for us here, but we think it is terrific for the country.

Q388 Chair: I have been doing this job for so long that I can remember Joanna Shields giving evidence to us when she was working for Bebo. Whatever happened to Bebo?

Simon Milner: The less said the better, I think.

Sarah Hunter: It is an indication of how fast the technology sector moves, I think. I would just add on the East London thing, the tech cluster there is as much a creative tech cluster as it is a pure technology one and I do think, in terms of this Committee's inquiries, it would be worth a visit.

Chair: We are intending to.

Sarah Hunter: Good; excellent.

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Chair: We are hoping to go to East London to visit Modern Jago, but we will perhaps drop in on Google at the same time.

Sarah Hunter: I will happily put you in contact with some of the SMEs there, because I think it would be interesting to hear their perspective.

Chair: Perhaps we could discuss that. That would be helpful.

Simon Milner: It would be great if you could go there when Joanna has taken over in the New Year. I am sure she would love to meet you.

Chair: That is all we have. Thank you both very much.

Tuesday 8 January 2013

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Angie Bray
Conor Burns
Tracey Crouch
Philip Davies

Paul Farrelly
Steve Rotheram
Mr Adrian Sanders
Jim Sheridan
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **Professor Ian Hargreaves**, Professor of Digital Economy, Cardiff University, **Richard Hooper**, Managing Partner, Hooper Communications, and **Peter Jenner**, Visiting Professor, University of Hertfordshire and Consultant to the World Intellectual Property Organisation, gave evidence.

Q389 Chair: Good morning. This is a further session of the Committee's inquiry into support for the creative economy. I would like to welcome for our first session Professor Ian Hargreaves, who is the Professor of Digital Economy at Cardiff University and author of the *Hargreaves Report*; Richard Hooper, the Managing Partner of Hooper Communications, who is doing a review into digital copyright exchange; and Peter Jenner, Visiting Professor at the University of Hertfordshire.

Before we begin, I refer people to my entry in the register—I am a non-executive director of Audio Network plc. Adrian Sanders is going to start.

Mr Sanders: If I could ask a fairly general question, is copyright fit for purpose in the digital age?

Professor Hargreaves: Not as it currently stands, no.

Q390 Mr Sanders: Can you explain why?

Professor Hargreaves: It is because in a number of respects it has lost contact with the way that consumers actually behave. It has therefore become confusing and detrimental to the ability to enforce it where it needs to be enforced.

Q391 Mr Sanders: Is that right across the board or is there a particular group of transactions where it is less fit for purpose than others? Is there a case for its remaining somewhere within the system?

Professor Hargreaves: The disruption caused to the copyright system by the internet has affected different parts of the creative industries at different stages in time. The music industry was most grievously disrupted early. My own industry, the news industry, has been pretty seriously disrupted.

The film industry has yet to experience the full scale of disruption that the internet entails. It is working its way through the system, but I wouldn't be able to reason—which I think perhaps lies in the premise of your question—to say, "Here is an aspect of copyright that does not need to be at least re-discussed or re-examined in the light of these changes that are taking place", because the technology that is changing runs not only right across the creative industries. As we know, it runs right across the economy, which is why a few odd souls like myself have the label "digital economy" attached to what they do.

Q392 Mr Sanders: Is it therefore possible to find a mechanism that addresses that technological change ahead of its pace?

Professor Hargreaves: I think to address technological change ahead of its pace would be dreamily ambitious. To catch up with it as best we can is realistic and achievable, and I think the UK has failed to do that for a number of reasons connected with the context of events in the last five years.

Q393 Mr Sanders: Could I ask the other two the question?

Richard Hooper: The question that I looked at is just slightly different from the one you asked. You said, "Is copyright fit for purpose?" which I would understand to be, "Is the law fit for purpose?" To a large extent, I think Professor Hargreaves has been involved with—and, of course, there is a lot of progress with—exceptions and so on. The question that I looked at was, "Is copyright licensing fit for purpose?"—in other words, the processes and the organisations.

My answer to your question, if you asked it that way, would be, yes, in places fine, but there is a lot of work still to be done by the industries in terms of both the way that they license and also the organisational structure.

Peter Jenner: My position essentially is that copyright was developed during the 18th, 19th and 20th centuries in response to technological developments. The attempt to shoehorn copyright into a digital environment has a fundamental problem, because copyright is about trying to control copying and a digital environment is entirely about copying; it is a series of copying. Everything is being copied all the time in the digital environment.

So I think in a sense you have to say controlling the copying of records and controlling the copying of books is a viable possibility because of the huge industrial structures that are involved around mass production. There is a whole economic basis then in terms of pricing and the issue of marginal costing and pricing and all the rest of it. When you put all that together in a digital environment that is giving copying machinery to everyone at a very, very low cost, is very, very economic and has the ability to transfer and communicate those copies to everybody, it is impossible to try to control it.

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My view is that we have to try to look at reality and look at the underlying reason for copyright, which is to try to ensure that the people who create works get paid. It is not the 11th commandment that there should be copyright. It is something that we developed for functional reasons and in a digital world I think we have to radically look at how we approach those issues.

To that point, I will finish by saying that the way we dealt with radio and TV is, I think, a model we should be looking at much more closely than looking at retail. It seems to me the record industry particularly has been concerned with the analogy with retail, and I think we should be looking at the analogy much more with radio and TV. In those contexts, there are blanket licences, there are simple, single payments to people and there is a structure that works and there is remarkably little difficulty with.

Q394 Chair: Professor Hargreaves, in your report you propose a number of changes to copyright law, and you provided an estimate that, taken together, this could provide a boost of nearly £8 billion to the British economy. Can you tell us how that figure was derived?

Professor Hargreaves: Yes. I think the figure was a range of between £5.5 billion and £7.9 billion, if I recall the figures correctly, and I also recall what I said in the review in referring to these figures. I said, “We acknowledge the high degree of uncertainty inherent in projections of this sort.” They require assumptions to be made, not only about the specific parts of the economy that are being discussed; it also requires assumptions to be made about the level of economic growth in the rest of the economy and a number of other factors.

So those were the figures that came out of the small group of economists that was asked to work on this and that presented these numbers. I regarded those numbers as being sufficiently useful to be included in the review, with that health warning set alongside them.

Q395 Chair: You will be aware that there has been some scepticism expressed about some of the figures. To take one example, the private copying exception, which many people think is simply going to recognise what everybody is doing already, nevertheless you think could lead to £2 billion extra of growth. Can you say how you think £2 billion is going to come about from bringing in the private copying exception?

Professor Hargreaves: I imagine that what the economists thought was that if you go from a situation where pretty well most people in the country are operating in a sort of grey zone of unclarity—actually, it is not really all that unclear. It is illegal to do what certainly I do frequently and what many others, I think, do frequently. We all know what the story is—you transfer the file from the CD to the portable player. The ending of that uncertainty might be thought to increase confidence in some way about the markets involved, the straightening out of the consumer’s position in the whole copyright question. We know that consumers are confused. We have it up to and including the most recent data that has been

produced by Ofcom under the heading of its responsibilities for trying to provide a satisfactory evidence base for the implementation of the new DEA powers. I think that is an interesting place to look for evidence, but those are the kinds of issues that arise. But I have to say that I am not an economist; I did not conduct the economic impact assessment personally and in detail. I relied on a team of economists and I stand by my judgment then that I thought that, overall, the estimate that they made was not absurd but it needed to be taken subject to debate and further discussion, which it has been.

The question that I have put back to the many people who have challenged me about these numbers—because I have been challenged on them repeatedly over the month—is, “Would you seriously wish to counter-argue that the number here would be a negative rather than a positive? Are we having a discussion about how big the quantum is?” I think we are having a discussion about how big the quantum is and that is where the legitimate difference of view arises. I do not think it is possible to argue convincingly that you would substitute a negative.

Q396 Chair: I completely understand your point about confusion; there is no question there is massive confusion, but I am not sure it follows to say that just because you would not argue that it is going to be a negative somehow justifies saying—£2 billion is a huge sum, and I don’t quite see what it is that is going to start happening that is not happening now through the introduction of a private copying exception that is going to generate £2 billion.

Professor Hargreaves: It might increase confidence in the market. I don’t know.

Q397 Chair: Which market? Are people going to go out and buy more CDs?

Professor Hargreaves: Well, I don’t know—perhaps there are people who feel a little inhibited in the way that they operate in their own music collection or whatever by the confusion that exists. I think that that is a real issue. If you look at the most recent Ofcom data, over half the people surveyed by Ofcom report that they are sometimes confused about what is an illegal and what is a legal action. We have got ourselves into a situation in copyright where the public is confused.

Q398 Chair: I agree with you about confusion; I don’t see how removing confusion leads to £2 billion. I don’t see how it possibly can.

Professor Hargreaves: Economists put hard numbers on things, Chairman, as you very well know. Is that an incontestable hard number? No. I didn’t think it was when we published it and I don’t think it is now. Do I think that another hard number would be incontestably right either? No, I don’t. I think it is very difficult—in fact, I think it is impossible—to come up with an incontestably robust number when you are making a judgment based on assumptions about what is going to happen in a period, in the case of the initial economic impact review, of up to 2020, which is quite a long period of time.

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We see it in the discussion about the economy day in, day out—judgments between economists vary and contend with each other. It is what you expect. But these were estimates that were produced in good faith by economists who have expertise in this field.

Richard Hooper: One of the things that the work I did on copyright licensing has established clearly over the last year is that the digital age and the analogue age are very different in terms of the number of transactions for licences. In the analogue age, you have a relatively low volume of high monetary value transactions. JK Rowling rocks up at the front door of Time Warner to do a deal on Harry Potter. That is a big deal—there aren't many of them—huge amounts of money, large numbers of lawyers, endless contracts. We are not talking about that in the copyright licensing and in the hub. We are talking about the fact that in the digital age there is a high volume of low monetary cost transactions. Your wishing to put music on your wedding video is a small transaction. At the moment, a lot of that is done with copyright infringement. I think what we established is that the pie will be significantly larger because we will pick up a lot of high volume, low monetary transactions that at the moment are either copyright infringement or a loss, because the copyright licensing systems are too difficult to use for you and I and therefore we don't bother.

Q399 Mr Bradshaw: Professor Hargreaves, can you clarify whether this is a net figure, a net benefit, that you are talking about?

Professor Hargreaves: Which figure are we discussing?

Mr Bradshaw: The economic benefit that you referred to.

Professor Hargreaves: These are figures in that assessment that gauge the total economic benefit arising from whatever the line item is up to 2020. The figures that the Government published just before Christmas, when it announced its specific proposals on copyright exceptions, are total net present value figures over 10 years, which is a substantially different way of presenting the numbers and thinking about them.

Q400 Mr Bradshaw: You said that no one would contest that it could be a negative, but that is what some of the creative industries have been contesting with us—that any assault on copyright is going to lead to losses to the creative industries.

Professor Hargreaves: If the argument from the people that you are talking about is that the destruction of copyright would cause economic loss to the creative industries, I would be the first to agree with them. The point about the reforms that I propose, which the Government has picked up in some measure, is that it will strengthen the copyright regime, it will make it more effective, it will make it more plausible and accepted by consumers, it will make it more actionable and it will enable enforcement to focus on the parts of this that really do do economic damage to the creative industries, and that is what I am in favour of.

That is what I said in my review. I did not in any way suggest that copyright is not a property right. There are many things that the review has been accused of that the review can't be accused of because it is in black and white. I would urge members of the Committee to bear that in mind.

Q401 Paul Farrelly: I should perhaps in this day and age declare, Chairman, that in 1995 Ian Hargreaves accepted my application to join Independent Newspapers when he was the editor. As I recall, I was your final recruit, sir.

Professor Hargreaves: The less said about that, the better, I think, Mr Farrelly.

Paul Farrelly: That said, just continuing this thread, you will be aware that on many occasions your view has been described as the "Google review" or, more strictly, the terms of reference have been described as crafted through lobbying by Google. To what extent would you understand those concerns?

Professor Hargreaves: I think when the Prime Minister chooses to announce an independent review into a subject and refers to Google's views on one particular aspect of the matter, that association was invited from the outset. I would respond, however, to the question addressed to me that I carry no torch for Google or Facebook or any of the players in this. I have spent pretty much all of my working life working in the creative industries in one way or another, if we are allowed to think that journalism is creative—well, let's hope not too creative—in all its forms. So I don't feel at all that I was over-influenced by the Google question.

In fact, the Prime Minister, in the way that he put the terms of the review when he first announced it, referred to Google's belief that the American fair use system in copyright was more obliging to innovation of the kind that Google has been able to do. I think that is a question that can be subject to honest and evidence-based debate, but Google itself has become a bit of a whipping boy in this debate. Google is now a very, very big company and big companies attract critical and other attention, so that is not surprising. But what I was asked to do in the review was to consider IP from the perspective of innovation and growth. The Prime Minister, in making the point about Google, suggested that we should have a look at the fair use system and see what its advantages might be thought to be and to see whether we could secure some of those advantages for the UK, the underlying point being that the United States has both very successful creative industries and a very successful technology sector.

Q402 Paul Farrelly: For which there may be many other reasons.

Professor Hargreaves: For which there are undoubtedly many, many reasons beyond anything to do with copyright.

Q403 Paul Farrelly: Would it be fair to summarise your view as it was unfortunate the Prime Minister made those comments about Google, for whatever reason, at the time and that the concerns of those

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people wishing to cast aspersions on the terms of reference of the report don't have any substance?

Professor Hargreaves: I think I heard Google's own representative say it was beyond her pay grade to comment on the words of the chairman of her company. I think it is beyond my pay grade to say that the Prime Minister isn't allowed to say what he likes in announcing something that the Government wants to happen. But undoubtedly it played into the hands of those who want to see it as a sort of Google and Facebook versus the UK creative industries, which I think is not a very constructive way of thinking about things.

Q404 Paul Farrelly: Do other members of the panel have any thoughts on this, so that we can get them out in the open?

Richard Hooper: Let me tell you that my experience with Google with copyright licensing has been entirely positive. One of the things that the hub is going to do is to encourage people to register their rights, so this is quite a hot topic in the copyright world. The fact of the matter is it is quite difficult, sometimes impossible, to find out who owns what rights to what. If you can't find that out, it is quite difficult to get a licence because one naturally follows from the other.

At a public meeting that myself and my co-author, Dr Ros Lynch—the excellent civil servant from the Department of Business who worked with me—were at, a senior person from Google was there and said, “We very much like the idea of public registries of rights for the simple reason that day in, day out we receive at Google takedown requests for YouTube videos because they breach copyright, and to have an authoritative register where rights are shown, where permissions are shown, where licences are shown would be very helpful to us in our work”. So that was an entirely positive response and we followed it up with meetings and, indeed, at the centre of the hub is the notion of rights registries.

Peter Jenner: Certainly I am very involved with the idea of the importance of registries. If we do assume that intellectual property is in some senses a property, I think we have an obligation to define our properties. If I say, “This is my land”, I either have it registered at the Land Registry or put some stakes around it. If we do not do that, and if that information is not available, then there clearly is a problem for any form of licensing and any form of licensing structure.

I do think that some forms of compulsory statutory licensing or access charging are needed so that we can pick up what is happening. In other words, instead of trying to get people's behaviour to conform with our copyright system, we should be trying to adjust our copyright system to conform with people's behaviour, which reflects the developments in the technology.

I don't think there is any question that Google would be quite happy to pay through money if they knew who or what to pay and if it wasn't such a pain to try to sort that out and with conflicting claims. Under the present system, it is very normal for people to get claims of 140% of the appropriate revenue because no one knows who owns this song, who owns this recording in this particular territory for these

particular rights. Consequently, there is an enormous amount of over-invoicing going on, which is extremely expensive to sort out and is an extreme pain.

I would like to briefly come back to the question of the £2 billion. I am a recovering economist—many years ago I was an economist—and I suspect that in those figures they are including the benefit to the consumer. If they are including the benefit to the consumer of being able to do something, you would get those figures pretty rapidly.

Q405 Chair: It is an entirely notional figure though. It doesn't represent real money if it is a sort of benefit to the consumer.

Peter Jenner: Absolutely, but in the sense that if we are looking at people's happiness with what they are doing, the benefit to the consumer is what you are looking at. The Prime Minister also put this up as something we should be looking at. In a sense, you can value the benefit; it is cost-benefit analysis.

When you look at whether we should build an airport, you look at the cost to the people who are having the planes flown over them and the benefit to the people who are taking off and getting there quicker. I wasn't involved in this research, but it might well be that that might explain where the rather large figures come from. I agree with you; in terms of just trade, I can't see it.

Q406 Paul Farrelly: Ian, in the time since your report, you have seen that the creative industries have raised certain concerns about some of the proposals. In the time that you have had to reflect on those concerns, in which areas do you feel the industries may have a point? If you feel they may have a point, how can concerns be allayed where you feel they are justified?

Professor Hargreaves: I think it is very difficult to give a generalised answer to that generalised question. The concerns are quite rich and varied and they differ from sector to sector and so on. I would say in general that in the period since the review was published, my confidence about what it recommends has increased, not decreased. I spent a lot of time listening to stakeholders during the review, so the views that they have expressed since the review was published have not come as a surprise to me. There is a set of things that some of them say that I think are not based on what the review says at all—that this is proposing the abolition of copyright as a property right, or indeed the end of copyright.

What the Government has done is go through a further very detailed consultation on each item around which I made a recommendation, or at least the ones that the Government is interested in taking forward, and they have sought further detailed responses. The Government has come up with its own judgment, published just before Christmas, under the heading of “Copyright Exceptions” at least, on where it now intends to go ahead.

I think that what the Government is proposing is at the cautious end of the spectrum in response to the changes that I propose. I understand why the Government would be cautious, because this is a

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controversial area and there are proper and legitimate interests engaged on all sides. I would be the first to recognise that. However, I think that the overarching point remains, as I see it, that our copyright system has gone unreformed, apart from further unfounded extensions in its duration, since the creation of the internet, since the arrival of the internet, and I think that this involves a head-in-the-sand approach.

If we do not grapple with the need to adapt in the face of change, I think that the system risks being broken and damaged much further than it will be by anything that I have proposed. The forces out there are very powerful.

Q407 Paul Farrelly: I want to come to the Government's response in a moment, but would it be a right thing to say from your response there that, having listened to various concerns of the creative industries, there is no major point on which you would say, "Actually, on reflection, yes, fair point"?

Professor Hargreaves: If you take the issue of private copying or format shifting that the Chairman raised, what the Government has proposed is the narrowest version of reform, which would make it okay for an individual to shift files that they own among different devices that they own. The next-stage-along possible option would have been to have afforded that freedom to families, immediate tight networks of people, in the way that, say, Apple tries to do in its five uses approach to what you can do with its equipment and software.

It is true that while I greatly welcome the Government's intention to make this change and I think it will be very helpful indeed in alleviating confusion among consumers, there will still be quite a bit of confusion. If I want to take a CD that I own and download tracks from it into the family car, who is the family car owned by? Is it my wife or is it me? Am I not allowed to share these things with my wife? Those are questions that will still feel quite confusing to consumers, so I don't think that what the Government is proposing, or indeed what I propose, offers a clean sweep on the end of confusion.

What I argued was that we needed to change course. I said, "If we change course a little bit it will not be, in my view, genuinely painful for the creative industries", and I don't believe it will be, but it would start the process of giving copyright a chance to be reinvented for the digital age in a way that the public has confidence in, so that markets know better what to do with it and it will result in a bigger pie if we also improve the way that we do licensing.

That was the recommendation of the review. I am not saying it is indivisible; it is not that at all. I left a lot of detail out and I am very happy that it has been the Government that has sorted through all of that detail. That was the job that they took on, and I welcome where the Government has put this, but it won't solve every problem.

Q408 Paul Farrelly: Just before I ask the panel's views on the Government's response, Richard, in response to the opening question from Adrian—is copyright fit for purpose in the digital age—you were rather more finessed in your answer. Ian said no. You

said, "Yes, in places it is fine but with a lot of work to be done".

Richard Hooper: I must make the distinction between changes to the law and changes to processes in organisations.

Paul Farrelly: No, we understand that.

Richard Hooper: Mr Sanders asked the question, "Is copyright fit for purpose?" and in response I talked about copyright licences.

Q409 Paul Farrelly: We understand the distinction. Are there any areas of the proposed reforms in what we properly call the *Hargreaves Report*?

Richard Hooper: On the law side?

Paul Farrelly: Yes, the law, that you would take issue with.

Richard Hooper: First of all, I have rather kept away from this. It is very much Ian's baby and I have not got closely involved in changes to the law. What I would say to this Committee is we have had five years of to-ing and fro-ing on the issue, and if this Committee can get the laws sorted out, get it done, then we can start focusing on the really important issues, otherwise a huge amount of energy and time and lobbying is going to be spent on this for the next five years.

I think that the Government has come up with, by and large, very sensible recommendations on orphan works, extended collective licensing, codes of conduct for collecting societies and exceptions. You might disagree with some bits; some people will. You will notice that the industries, by and large—I wouldn't say they have welcomed the exceptions, but they have not gone up in arms about it, so I think we have a sensible starting point. Let's change those laws and then get to the real point.

Q410 Paul Farrelly: Peter and Ian, this document was only published just before Christmas and has only been made available through the Table Office here today so I have not read it in any depth, but presumably you both may have done. Which parts of the Government response are you satisfied with and which not and, where you are not satisfied, why?

Peter Jenner: First of all, I haven't read it, you are absolutely right. I am an amateur, I am a professional manager and have to get on with my life and enjoy my Christmas. To me there are very basic things I am very concerned with. It seems to me that we should be looking forward to saying, "How do we make sure that artists get paid?" and one issue that has not been raised particularly is transparency.

I do not believe that many of the deals that have been done for the use of content online are done in a transparent way. No one knows what the labels get from people like Google or Spotify, and there is extreme discomfort from the artist community, who don't understand what they should be getting a share of because everything is surrounded by NDAs. I do think that this is a very important issue—that when you are dealing with the rights of other people, to whom you have an obligation to pay, the uses that you are licensing should be in general principle clear to the people whose work you are acting as an agent for or you are exploiting. This is very important for me.

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I don't know whether it is relevant to what we are particularly saying.

The other thing that is really important is that as well as thinking about the artists and the companies that work with the artists and help in their development and their investment and all the rest of it, we should be also looking at the growth of new digital services. There is no question in my mind that at the moment starting a digital music service is a nightmare. There is no question that it is incredibly complicated, requiring huge numbers of lawyers and a lot of front money, and I think that we are damaging ourselves. This perhaps is where monies could come if we can drive new businesses that exploit and develop music in a new way.

My hope for what we should be looking for from looking at copyright is how can we enable new businesses to develop in a way that ensures that the creators get fairly paid—not just paid, but fairly paid. I think that is something we should be looking at very seriously: what should be the role of collection societies as we go forward; what should be the role of the record companies; what should be the role of the artists and the unions and so on. These are really big issues, and I am worried that we are just fussing around with these little details and we should be looking at the major issues that are being raised within these areas.

Q411 Paul Farrelly: Ian, you describe some of this as “at the timid end”, if I am not misquoting you.

Professor Hargreaves: Yes, and I gave you the example. Let me give you a couple of examples where it is not at the timid end of the market. One is the changes proposed on archiving and preservation. To be honest, I regard it as a violation of the most basic common sense that we have libraries and archives around the country that find it against the law to make a copy of something that is going to crumble and turn to dust, because copyright law prevents it. I would like to meet anybody who is capable of arguing that that is sensible.

The Government has proposed a straight reversal of the position about that, which is absolutely the right thing to do. Since the Committee hasn't had the document, what the Government says it is trying to do, in summary, is, “It believes that the reforms here will make the UK a better place for consumers and for firms to innovate in markets which are vital for future growth”. I believe that is true. I think that this package of things will have that effect and I think this package of things is strongly to be commended, even if I don't personally find it perfect in every regard. I don't expect the world to be perfect; it never turns out to be.

Q412 Paul Farrelly: Chair, just one final question, if you would permit me. On transparency and democracy, it is proposed that in the future further changes might be made by secondary legislation rather than primary legislation, and various groups, including the Law Society, have raised that that is contrary to proper democratic and full oversight in this House. How would you react to the concern that

any major changes should be subject to primary legislation?

Professor Hargreaves: Certainly I would react to it with the general observation that parliamentarians are clearly very well placed to make a judgment on what should be subject to different levels of legislative scrutiny. That is not my expertise and I don't believe that there is anything particularly unusual about this in that wide context. I would also, perhaps a little cheekily, make the observation that the full democratic scrutiny of primary legislation brought us a Digital Economy Act focused entirely on enforcement of copyright online, which is one of the reasons why it has proved so difficult to get it into service, to play the part it needs to play in a reformed system. The reform attempt was botched by Parliament at the end of the last Government's term.

Peter Jenner: I would certainly echo that. It was such an important piece of legislation that just went bish bash bosh through, and it is shocking.

Chair: We will come on to that in due course, although I merely observe that I don't think the House of Commons debated the Digital Economy Act at all apart from the Second Reading. It certainly had no Committee stage whatsoever and that was part of the problem. I am sure we will come on to that.

Q413 Angie Bray: One of the ideas that seems to be emerging from all this sort of complexity with some momentum is the creation of a digital copyright exchange. I don't know which of you would be better, either Ian or Richard, to talk about how that would work.

Richard Hooper: That is very much a licensing issue. What we have recommended and what is now happening is the development of what we call a copyright hub and if you look up copyrighthub.co.uk, you will get the first early stirrings of our work. Basically, the copyright hub is a portal to which you go for three things. The first thing you go for is, “I am confused about copyright. I do not find my way easily through the thickets of copyright”, so it has a signposting, navigation and copyright education role. That is just a nice, straightforward starting point.

Q414 Angie Bray: Who would go?

Richard Hooper: Everybody from users to consumers, rights users to consumers, particularly small businesses. Again, coming back to my JK Rowling point, she has the lawyers. We are talking about the long tail of users, the person who is wanting to make small uses of copyright, “I want to put music on my website” for example. So it is the smaller end of the market, those sorts of people who at the moment are not particularly well catered for. Finding one's way through the complexity is number one.

Secondly, the one that I have already mentioned, and I am delighted to say that Peter fully supports—and other people—is the notion of registering your rights. I think the Copyright Act does in fact say that copyright is a form of property and, as Peter mentioned, in land property if you do not do things about your property after a number of years it is no longer yours. Now, because of the way copyright has developed in the world, there is no mandatory

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registration of copyright, but here we see an opportunity for people to voluntarily register their rights so you know who owns what.

That leads, thirdly, to the digital copyright exchanges, of which there are already a number. If you go on to Getty Images, for example, right now you can get images, you can ask for them, you can look at them, you can say what use you are going to make of them, and up on the screen will come a price. You can pay for them, download them and so on. So that is a digital copyright exchange. The whole point of that is making licensing automated, easier to use and quicker.

The interesting thing about automating it is that we had a presentation from a digital copyright exchange, a music one that is starting up. It was a beta test and they said, "This is what you want to use it for"—I think it was music on a website—and up came the figure of £700. We looked at those numbers on the screen and we thought, "Well, they are clearly ridiculous. It can't be £700. It just doesn't look right" and immediately they had taken the prices down, which I think is a very interesting example of transparency, of the prices being open and being up there on the screen.

Those are the three things: finding your way through, finding who owns what rights and, most importantly, easier licensing.

Q415 Angie Bray: So it is going to be very user friendly—obviously, it has to be—and the idea would be that it would simplify everything?

Richard Hooper: The word "streamline" is a word that I have used endlessly in the last year, and it was a word I used with the Royal Mail independent review I did for Peter Mandelson and Vince Cable; streamlining the Royal Mail, modernising the Royal Mail. It is simplifying it, making it easier and making sure people can get at it.

Q416 Angie Bray: But you are talking about it being voluntary and people coming and wanting to participate, including people wanting to register their rights.

Richard Hooper: Yes.

Q417 Angie Bray: What we have also heard from you this morning is that there are a lot of nebulous copyrights out there and nobody quite knows who they belong to. Would it help to sort through that as well?

Richard Hooper: This bumps straight into orphan works, and one of the key supporters of the work is sitting behind me—Ben White from the British Library. Orphan works is a critical issue, and there is already the idea that the hub will be a place you will go to for registers of orphan works. In the EU directive published in March, there is already a mechanism for having the registration of orphan works so that you can find out more easily what an orphan work is and why it is and when it is no longer orphan.

Q418 Angie Bray: Would it be recognised across the world? If somebody chose to register here in the UK, how much recognition could we enforce globally?

Richard Hooper: I think that we must not be too ambitious in our aspirations for the hub. It is definitely based in the UK, it is definitely coming from the UK, but an important issue about the web, the internet, is that it is fundamentally borderless. When we talk about fit for purpose for the digital age, what does that mean? It means, first of all, it tends to be borderless. Nation states and boundaries don't really exist on the internet.

Secondly, and the other one that sometimes is forgotten, is that the internet is intuitively multimedia. You go on to the *Daily Mail* or the *Daily Express* site, which is a newspaper, and lo and behold there are moving pictures on it. So it is a multimedia experience, and in a sense the hub has to respond to both of those.

Q419 Angie Bray: I presume that the complication could arise that there could be more than one hub. There could be hubs set up elsewhere, and you might then have competing—

Richard Hooper: Peter mentioned the point about how difficult it was to get a licence for music services, and clearly at the heart of our work is to make that easier. There is a famous example of the Camden Town music service that spent eight or nine months getting its licence in the UK and then the chief executive looked across the Channel—only 27 licensing organisations to go, or was it 26. So those are big issues, but let's get it right here, let's get it going. It is very important it is industry supported, industry funded, and those are things that the Government can pump-prime possibly. Let's get it going, but it must have that borderless vision as well.

Q420 Angie Bray: Peter, you are nodding your head.

Peter Jenner: I am agreeing with most of it, but I do think that we should be very mindful of not just industry but also of the consumer, the end user. It does seem to me that a lot of the copyright pressure comes from the industry, which tends to be rather conservative. You know, you tend to go on doing what you have always done. I think that one of the jobs perhaps of Government is to nudge people into the future, get them out of their comfort zone, and provide something that is of value to the consumer.

The consumer will support legislation through their actions if they feel it is fair. One of the things that has been clear with the whole issue of piracy is a feeling that somehow or another it wasn't really quite fair that if you were providing your own computer and your own broadband service you should have to pay the same as if you were going to a shop and buying a physical good. It did not feel right. I think this issue of feeling right is absolutely fundamental and the transparency helps that come through, to see what is going on, "How can I get music onto my wedding video? If I can do that easily, I will do it. If I can't do it easily, I won't do it, and I hope I won't get caught and I probably won't".

Q421 Angie Bray: So the key will be that actually it does occur to Mr and Mrs Bloggs, who want to get their music transferred on to their wedding video, to go and visit the site?

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Professor Hargreaves: That is exactly right. Sorry, I didn't mean to chip in. On the point of other international systems, systems in other places, there will be—there already are—systems in other places. The argument that I made in proposing that somebody like Richard is ideally qualified to lead this work—because it is all voluntary, if business doesn't want it it will not happen, but the opportunity is that the UK has the biggest creative sector in this time zone. This should be the place where we are most adventurous and innovative in terms of developing these markets, and that is what all of this is about. But I said strongly in the review, the Government cannot boss business into doing this, and I am delighted that businesses have come around the table with Richard to take this forward. I very much hope that they will succeed, but I think there is still quite a lot of water to go under the bridge.

Q422 Angie Bray: How long would it take to set it up?

Richard Hooper: It is a big project. We will have things live certainly within the next six months, the beginnings of it, but you are talking about probably two to three years. It is complicated, because the portal itself will not be the main place. You will be going from that, travelling through the portal to other databases that are connected, so it will be a very interconnected network. It is rather like the technology called Arrow that is used in orphan works by people like British Library, where you make a request to find out about a particular book, whether it is orphan or not, and you in fact go into the University of Bologna portal, and then you go to libraries all round the world and back it comes and it tells you the answer. It is that sort of vision.

Q423 Angie Bray: Would it be reasonable to suggest that the music industry seems keener on this idea than the audiovisual?

Richard Hooper: I would put it slightly differently. I think the audiovisual industry, in its dealings with me over the last year, probably doesn't think there is much of a problem. I think the music industry and the publishing industry and the images, still pictures industry, whereas they may have started out in early interactions with me and Dr Lynch saying there wasn't a problem, I think have come to the view that there are a number of big issues to do with data and all sorts of things, transparency that Peter mentioned.

I think the audiovisual industry is still a little reluctant to say that there is major problem. One of the major problems that I put to them is the issue called repertoire imbalance. That is about the fact that if you are a digital native—I am not a digital native; I am a struggling digital immigrant—you go on to the internet expecting to see the Harry Potter film, only to be told that it is not available legally because of windows for cinema distribution and DVDs and so on. I think that that is an area where the audiovisual industry is making progress, but it is still a fact of life that in television and the film industry it takes quite a while to get into the digital space. I have just been in Singapore where, for example, the Chinese population, about 85% of the population, gets

incredibly irritated because their favourite Chinese soap opens in Hong Kong and doesn't get to them for three months. They say, "Right, so maybe we will pirate it. We will find a pirate version".

If you think about it logically, in the digital world there is some notion of instantaneous. There are DVDs, windows, there are contracts, but I think the audiovisual industry has to face up to it. If you take LOVEFiLM, for example, I think I am right in saying it has 8,000 titles that are streamed on the internet but via Royal Mail I think it is 75,000. That is repertoire imbalance. Again, I am not saying, and I do not think you are saying, to the industry, "You have to change all the contracts" but think about it.

That brings me to something that I haven't mentioned, which I have certainly talked about with the Chairman on other occasions—the political dimension of the work that I have undertaken. There is a sort of Faustian deal here, which goes like this. If you, the industry, images, audiovisual, publishing and music industry, get your act together and make copyright licensing processes and organisations fit for purpose and really work at it—and, incidentally, it is a never-ending job; like modernisation it never ends because the technology is changing the whole time—then the ball is back at the feet of you, ladies and gentlemen, as politicians, on things to do with piracy and copyright infringement. Politicians around the world are still quite nervous about biting the bullet.

It is not a UK issue; it is very broad. Therefore, I think that there is a notion of you making sure you get your work properly together and then the ball moves to the politicians' feet in terms of making sure that unreasonable amounts of piracy stop.

Q424 Mr Sutcliffe: There seem to be a lot of issues here about the confidence of the creative industries in the proposals and in the future. I think you said, Peter, that people are naturally conservative in this area, except the rate of progress in the digital village is going super fast.

Paul raised the issue of copyright exemptions and I want to explore that a little bit further. He talked about the concern about secondary legislation being used for further copyright exemptions and people being a bit wary of that because the use of secondary legislation in our language means that things just get pushed through without a full debate. So what is your view about how we can deal with copyright exemptions in a sensible way so that people have confidence in the process? Some people have suggested it is a fundamental change to the business model of the creative industry sector. How do you react to those sorts of concerns?

Professor Hargreaves: I think that the problem is fundamentally insoluble. The question was asked earlier, "Could lawmakers get ahead of the technology?" I don't see how. We haven't discussed at all today—and perhaps it is to the side of the Committee's preoccupations—the very serious effects of copyright laws and regulatory burden spilling out into areas that are outside the creative industries, such as scientific and medical research and text and data mining and so on, which is part of what the Government is proposing to change.

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The way that I think about this is that we must do the best that we can, and that involves winning sufficient confidence from the businesses involved—from the consumers involved, from legislators—and we know how hard that is. We have experienced in real time how hard that is. If the UK Government is supported by Parliament and sends the signal that it has indicated that it intends to send on copyright exceptions, I believe you will hear a cracking of ice all the way across Europe. It will change the debate across Europe, even allowing for the controversy over Britain's current level of influence on European questions, which is not a matter certainly for me, nor probably even for this Committee.

This is a well-timed shift. It is also belated. That is a bit of a contradiction, but if we don't do it now I don't think that we will ever do it, and I think that it will not be very long before these changes are found very comfortable indeed by some of the people—quite a lot of whom it is their job to complain about them—and they will learn to live with them pretty easily.

Peter Jenner: There are a couple of things I would like to add in this context. It seems to me that what was hinted at there by Richard was the issue that, implicitly, piracy is often a failure of supply. If you don't supply the goods at the right price then people will find their way around it so, in a sense, the industry has to get to grips with these realities and somehow or other legislation has to be encouraging and nudging people in that direction.

As a member of the industry, someone who has indirectly made money from copyright for over 45 years, I look at mobile phones and I think that this is something that is really important for us to think about in the industry. When mobile phones first came out, it would be £1 a minute and you didn't use them except in extreme emergencies. I now have no idea what a mobile phone call costs; I don't think probably anyone here has. You phone America. What does it cost? No idea. It costs quite a lot? Probably. How much? No idea.

I now use my mobile phone in my home from my top floor where I have my office to my basement with my daughter and my grandchildren. I use a mobile phone, despite the fact that I have an internal phone system within the house that I could use. I use my mobile phone because I have no idea what it costs. It seems to me that that is something we should be looking at especially in the context of music. People have music on. They seem to be less involved with music that they own. They like to have a noise, they like to have something going on and, frankly, they will get it at the price that they can afford. If we make it at a price that they can afford and they don't notice, we will get a lot more money into the music industry.

To this point, I have my magic figure, which I shall leave with you and stop waffling away. If there are 50 million devices that are broadband-enabled in this country, which is probably a conservative estimate, and if they paid £1 a month for the access to all the music that they could find—in other words, all the stuff they could get, pirate, legal, whatever it is, anything you can find—it would generate £600 million a year to the music industry. The current music industry turns over, from that sort of basic resale sale,

somewhere in the region of £800 million a year. I am not saying that that is the solution, but looking at what happens when prices reduce, the more the price of mobile phones went down the more money the mobile phone companies made.

People are aware that the cost of delivering a file to me at home is virtually zero. They know that, and they wonder why on earth you should be trying to get me to pay whatever it is you want me to pay. I think we have to accept that that is a reality. You can send huge files; I can get the whole *Hargreaves Report* just “shoomp” down the line. Then I can go through it, and that is what we can get. I can send all of you a file of a piece of music that I like, and I still have it and you all have it.

It is not like in the old days when I had a record. If I had a record, I had to come around and lend it to you or get you all to come around to my house and listen to it. Now I can press a button and you all get a copy of that file. That is the reality, and that reality is going to become greater in terms of this multimedia thing, which I think is really important, because the kids are going to make multimedia files. They are going to take pictures, they are going to take clips from films, they are going to take clips from video. They are going to add that to music, and they then have a music track consisting of samples. These issues are unlicensable, and if you try to stop them you are going to fail.

Furthermore, I think morally it is inappropriate. It is like telling someone they can't use a camera because it is going to put artists out of work. It is like trying to say you can't go on a plane because it is bad for the shipping companies. I think we have to accept that things change, and we have to find ways in which the consumer, your electors, get what they want and need, and that the artists get their fair share of money from that system, and the people who invest in marketing and A&R and so on get their fair shares.

I think what you are doing is really important, because I don't think you can just sit back and leave it to the market. I think you have to take a position. You have to take a view, and it is not going to be easy. There are no simple solutions.

Q425 Mr Sutcliffe: One of the things that is going to happen is the exemption that is planned for cloud-based services. That will affect the music industry.

Peter Jenner: That is absolutely catastrophic for the music industry, unless they come to grips with it. It depends on exactly what they mean by an exemption for cloud-based services, but what is a cloud-based service going to do? A cloud base is going to have all the music, and they are going to be trying to sell you a selection of music that you want. How is that going to work? How are you going to license that? We have to be thinking radically.

Professor Hargreaves: Also, clearly not everybody has had time to catch up with reading what the Government is proposing. You will find that what the Government is proposing on that I think quite carefully addresses some of the concerns that the Committee has.

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Q426 Mr Sutcliffe: From a licensing perspective, Richard, in terms of these exemptions, would that affect your licensing system?

Richard Hooper: I don't think so. I think the exceptions are going down the track that they are going down. I don't think that there is any evidence that they will impact on this, but I come back to my previous point. Could we get that argument sorted, get the law changed, get on with it, and then get everybody to focus on the real issues, which is easier licensing, smarter licensing and simpler licensing? This distraction—Ian and his predecessor, Gowers, we have had five years of it. Can we not somehow get it on the books and get on with it?

Q427 Mr Bradshaw: I would like very much to explore your idea of a modern licence for the digital age based on the BBC licence fee, but we do not have time. Mr Jenner, I wonder if you could write to us, if you have time in your busy life, or if it is already available, and send us some more detail of this, because it is intriguing. We need to move on. You said earlier that you thought the Digital Economy Act was botched, and Ian Hargreaves also made clear that he did not think it was great. I wonder if you could both elaborate on that.

Professor Hargreaves: The Gowers review, which was a predecessor review to mine, of intellectual property, made, I think, 54 recommendations. In the end, processes that you were close to or in Government at the time—I was not really paying attention, to be honest—resulted in this rather one-legged horse, the Digital Economy Act. Anybody who criticises the Digital Economy Act is at risk of being pilloried as somebody who no longer believes in copyright or enforcement, which is not true of me and I think not true of many people who, nonetheless, do not like one-legged horses.

Peter Jenner: It seemed to me that it was extremely negative, rather than positive, and that all the positive things were removed and the negative things were left, and there was nothing in it that would indicate that the costs involved would be recouped in any way. Nothing that has been done in anti-piracy has led to increased revenues, so if the reason for it is to increase revenues, I don't think it is going to work. I don't think that it has been thought through properly.

Q428 Mr Bradshaw: But isn't the broader political problem, Mr Hargreaves, that you have with your report in that context, when you talked earlier about the need for a change of emphasis or a change of direction, that the creative industries like the Digital Economy Act? It had all-party support in this House. That is the only reason we could get it through in the wash-up. We would not have got it through otherwise. This Government has not implemented it, basically, and the creative industries are not happy about that, and then along comes your report, which they see, as Paul said earlier, as a kind of Google report, so they interpret the bigger political picture as not doing anything about piracy, not implementing the Digital Economy Act, and then going off in a completely opposite direction.

Professor Hargreaves: I think that is a serious misrepresentation of what is going on, but I recognise the misrepresentation. It is important to look at what we are talking about here. What we are talking about in the approach to reform, legal and licensing, that is advocated in the review that the Government has picked up, I think the Government is not—it is not for me to say. I have no idea why the Digital Economy Act is taking so long to become a reality. Well, I have some idea, because some of it is in public.

There appear to be negotiations going on inside Government about that, but in the time that I was conducting the review I had the very clear sense that Ministers seemed to feel that the Digital Economy Act was the enforcement element of a package but the one leg had got disconnected from the three. It will have taken two years from the publication of this review to get to implementation, if we get to implementation. I think at this point it can start to come together. I think that opportunity still exists.

However, it is inevitable that in the two and a half years since the election, our understanding of how online markets work has changed because online markets have changed. If you look at the French experience, with their HADOPI laws, the first thing the new Culture Minister in France said, after François Hollande won the election, is that HADOPI, which is all about online enforcement of copyright, looked like a badly-overpriced solution or approach, so they have a review of what they put in in that period under way. This is an unstable and disruptive climate that we are working in, and my regret is that Parliament dealt with this in such haste. I think it would have been a better piece of legislation if there had been more time. I also regret other things that were lost from the then-Government's approach to these matters, including a rather excellent approach to the stimulation and development of local news, which I had a keen interest in. That got swept away too.

There was a lot that got lost in the wash-up Bill. What is there needs to be there, but it needs to be as intelligent and market savvy as it can be and as well based on evidence as it can be. That is why I recommended in the review that Ofcom immediately be charged to get on with understanding how online infringement is really working, and they have published one piece of work about that. I think there is another piece coming shortly. At least when we have got through the machination, whatever it is about, in Government about the Bill or the Act's implementation itself, one hopes that it will be a well-judged, evidence-based mechanic, because if it is not it will end up like HADOPI, where they have done all of this work and they have had one fine.

Q429 Mr Bradshaw: But wouldn't your report perhaps enjoy more support from the creative industries if they saw the Government implementing the Digital Economy Act?

Professor Hargreaves: I don't know. There are some people who speak about these matters in the creative industry who, if I sprouted wings and flew around Big Ben, would not be in favour of agreeing that there is any need for any kind of change in the copyright

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system. That has been their position for so long they have forgotten how to consider any other possibilities.

Q430 Mr Bradshaw: How would you protect copyright on a national and international basis, and how would you deal with piracy?

Professor Hargreaves: I would have enforcement well focused on the people who were making money out of it, and, as you are seeing in many areas of internet-based, internet-related law enforcement, it involves going after advertising, it involves going after financial payment systems. I doubt that very much of it would involve writing letters to teenagers.

Peter Jenner: I would suggest you look at the example of pirate radio—the combination of measures that led to the BBC bringing in Radio 1, stealing all the DJs from the pirate ships, and at the same time Government making it very hard for the pirate ships to operate in British waters. It was a very positive move. How do you deal with piracy? The key thing is you have to provide what the pirates are providing, and that is the key issue. You need to look at what has happened with Spotify in Sweden, what is happening with Spotify in Holland, and what has happened in Denmark to see that positive moves are much more likely to generate something happening than negative moves, and finding ways of getting money to the industry, which they need—I need, I want my share of it—in a way that runs with the technology and with the spirits of people.

One of the most extraordinary pieces of information that I got from within the industry and that has not been broadcast particularly was that they did some research that showed that the biggest pirates were the people who spent the most on music, because they are music fanatics. This is a piece of research that never really got out because it did not play to the standard “rah rah rah” of the music industry. It is a very complex world.

Q431 Mr Bradshaw: Wouldn't the evidence be stronger for the development of those sorts of models if real action was taken against piracy?

Peter Jenner: If you provide really good, reasonably priced legal services then I think that the objection to going after piracy would be very minor. It is not going to be a big issue if I can get it for not very much and I don't notice I am paying it, it is just stuck on my phone bill or through the BBC. People don't pirate a lot of TV.

Richard Hooper: I think the Digital Economy Act got lost in peer-to-peer. There are four places where infringement happens. One is peer-to-peer. Then you come to the ones that Ian has just mentioned, the paying ones, which are websites. Then you have advertising and then you have payment systems. I would humbly suggest to you that if you want to be serious about this, go for websites, payment systems and advertising. It is a much richer vein. Peer-to-peer is important, but the Digital Economy Act got obsessed with peer-to-peer and I think that is not right. I think Peter is right that you have to have the rich services, but I do not think you politicians can get away with saying, “So we don't have to do anything about copyright infringement”. I think you do have to do something about it, some things about it. I think you have to be vigorous, you have to be important about it, because this is heartland stuff. If the law is sorted out, as it is now being, if the industry is getting its act together on the licensing processes and organisations—just to make a point, the industry right now is funding the Copyright Licensing Office. It has a civil servant in it, Dr Lynch, who is on secondment, and you will be very pleased the deficit reduction has helped, because she has been paid for by industry, as we speak, for a complete year, so there is significant support from the industry going on. Therefore you, as politicians, can't avoid the infringement piracy issues.

Chair: I think we probably should now move to our second session. Thank you all very much for coming.

Examination of Witnesses

Witnesses: Professor Stuart Bartholomew, Principal and Vice Chancellor, The Arts University Bournemouth, Professor Geoffrey Crossick, Universities UK, Catherine Large, Chief Executive Officer, Creative and Cultural Skills, and Dinah Caine, Chief Executive Officer, Creative Skillset, gave evidence.

Q432 Chair: For our second session this morning, we move from copyright reform to education and skills. Welcome to Professor Stuart Bartholomew, the Principal of the University of Bournemouth; Professor Geoffrey Crossick from Universities UK; Catherine Large, the Chief Executive Office of Creative and Cultural Skills; and Dinah Caine, who is Chief Executive Officer of Creative Skillset.

Perhaps you could start by saying to what extent you think that skills and education, or perhaps lack of them, is impeding growth in the creative industries and should Government be doing more about it?

Dinah Caine: Perhaps if I could kick off on that. I think it is well known and well understood that skills

and education are key drivers of productivity and growth, and certainly in these industries our health and wealth depend hugely on the skills and talents of our workforce. The Creative Industries Council, when it first met and identified the three top priority areas that it saw as areas of potential market failure and areas that needed to be addressed, identified skills and education as one of those three. There are many and differing reasons for that, but I think perhaps one of the most important things to note is the structure and make-up of these industries, characterised by very high numbers of small to medium-sized companies. Some 84% of companies in these industries employ fewer than 10 people. Also, there are high levels of

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freelancing and portfolio employment, where people move continually from short-term project to short-term project. That then creates, to a degree, mismatches around Government policies to do with skills and education, which tend to be predicated on assuming traditional methods of employment, and also, to a degree, mismatches around supply and demand, which perhaps we can explore more. The good news is, however, that these issues now are being quite attended to, and I think that these industries are reaching a level of maturity where they see this as a key issue, and where they are starting to be eager to address the challenges, although there are certain barriers that do need to be removed in order to enable us to do that.

Professor Crossick: Apologies for my voice, but I rose from a sickbed to be here this morning.

Chair: We are very grateful to you for doing that.

Professor Crossick: Let us hope I keep going. I agree entirely with what Dinah has said, and what I am about to say should not in any way be taken as a suggestion that skills as defined by the industry are not very, very important. They are enormously important. I was warden of Goldsmiths, and Goldsmiths has a very strong media education department. I always used to cite, in terms of asking employers what skills they want now, the fact that if in the year 2000 you had asked employers what they wanted, no one would have mentioned digital content, nobody would have mentioned interactive media. The graduates who came out of Goldsmiths, because they were not simply trained for the skills of today, had the breadth of education, of theoretical understanding, of imagination, of flexibility, so that they adapted to that world when it came along, when they were employed in the media industry.

I think it is very important to get the balance right between what could be an over-narrow obsession with skills for today—we just heard in the last session about the rapid change in this area—when we are producing graduates who will be employed in the creative areas for 40 years. They have to be really educated to be adaptable.

I think that the two sets of skills councils represented here today are doing very well in their recognition of that, but I think there is a danger of just focusing on what employers say they need now, because that will not be what they need in five or 10 years' time.

Professor Bartholomew: If I may add a little to what the two previous speakers have said, I think there is a cultural problem in our country when we use the word "skills". For some, skills have the whiff of "trade" about them, whereas "knowledge" has a rather more elegant position, but the fact is that all skills are informed by ideas and there is a much stronger connection between ideas and skills than I think is publicly recognised.

If we take ideas, they are the absolute raw material of the creative industries, and it is a raw material that you can't go and dig up. It is something you have to nurture. You have to make it grow. I think one of the impediments—and it does amplify a little of what Dinah said earlier—is that we consider this progress of connecting things, because they are not in isolation. It is the connection between the school experience to

a tertiary experience, the connection between the tertiary experience to industry itself, and the way in which industry exploits the ideas and skills that have been nurtured. It is getting stronger connectivity, and I think the progress that has been made over the last 15 years is remarkable.

Fifteen years ago, the creative industries were seen as some rather peripheral winger of our national endeavour and our national economy, but much of the research and focus has brought that nearer to centre stage. As a consequence of that, there is a much more earnest and thoughtful approach to how we can amplify the advantages that most distinctly do reside in the UK knowledge and economic economy. So progress made but there is still a distance to go.

Catherine Large: May I add just a fear, really, and a sense of risk at present in that, as Dinah said, a lot of work is being done but we are facing a number of risks. We understand that there are risks to creative subjects on the curriculum, and the industry has a great deal of fear around that and the impact of that long term. The industry has a great risk that it faces in terms of unfair access into that profession and the proliferation of unpaid work, which again a lot of work has been done around but does affect specifically technical and professional skills that the creative industries need. I think there is also potentially future risk around higher education—I am sure my colleagues will talk about it further—in terms of those higher-level skills that the industries need. I think we should address those today.

Q433 Tracey Crouch: I was going to touch on those issues now. Over the past decade, there have been a series of reforms within secondary education in particular. How do you think this has affected the number and the quality of applicants for university courses within the creative industries? Probably the professors are best placed to—

Professor Crossick: I think that if one looks at the pattern of applications to study in the category that is called art and design—and that includes all of what we are really talking about today, apart from media, within the HESA statistics—that has seen a steady growth through the last decade you were referring to until this year, the 2012 entry, in which there was something like a 16% to 17% drop in applications for the art and design category on the previous year. But I would not want to—

Q434 Tracey Crouch: Sorry, could I just interject? Do you think that is because of tuition fees?

Professor Crossick: I will come back to that in a second. The first thing I would say is that we still had a higher number of applicants last year, for the 2012 entry, than there were in 2009, so the slipping-back has still not gone back to below the growth that was achieved by 2009. In terms of whether students are applying to do art and design courses, it is too early to tell whether there is a significant change. To answer your question about the fees, we don't know because we have only had one year. We don't have enough evidence to base it on.

The fear that many of us have is that there is a discourse and a language out there that says, "If you

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are going to go to university you are going to have a big debt and, in order to pay off that debt, you have to go into subjects that will lead you to a career where you will earn a lot of money, and those are these subjects, science, manufacturing, professions”.

There are so many false jumps in that argument, and the one I want to point to—and everyone has a role to play in this—is the notion that if you do art and design at school or music or drama or other subjects, or the computing that leads into, which is an important element in the creative industries, you are not going to be able to get a good job. Therefore, if you don’t do it at school, you are not going to do it at university. That is the fear.

It is not that there is precise evidence of anything having happened yet, but the language out there, the language of getting a good job, and getting into a good job is not the kind of world that Dinah described of people who are very excited by their creative energy, very excited about the opportunities they have, forming little microbusinesses, networking with other people to make a living out of it—and doing very well out of it, often. That is not what people think they are going to university for, and we need to get a rethink of that so that there is not the problem that might be building up.

Professor Bartholomew: Can I add to this? When Geoffrey said earlier that one is preparing this raw talent for careers that will span the next 40 years, when we survey the success of UK creative industries—and they are a global success—we then have to think back 40 years. We have to think of the raw talents that were nurtured, that entered careers and are now at the top of their professions.

What was going on 40 years ago had great qualities to it. Is that being developed and enhanced, currently? I have a very strong concern about the elimination within the school curriculum of making things. Although that may be rather simply put, one has to understand that the creative industries are about production. Ideas inform production but things are made. The gradual displacement of young people from contact with materials is a serious issue.

If you look at just one area in which Britain currently is seen as the world leader—three-dimensional design—we will not be that in the decade ahead. We are seeing an extraordinary drop-off of candidates presenting themselves for courses in three-dimensional design, which does encompass architecture, product, a whole range of activities in which we currently are very well recognised. That is a lot to do with the interaction, the unintended consequences of two things—the national curriculum and health and safety. If you go into a school now, the workshop is a place where you don’t touch, for either of those reasons. That physicality of creative experience is diminishing and that will have ramifications for us in the future.

It is very interesting to compare our circumstances with those in the developing countries and the Pacific Rim. We associated, for example, Korea with manufactures, of stealing design from Europe and making it cheaper and bringing it back. Korea is a case study of a country investing in design. It is opening specialist design schools. It is putting huge

resources into capturing the design end and letting young people touch things. I think this is a very significant issue as we spool forward to consider who will be the practitioners 10, 15, 20 years hence. If Lord Foster was sitting here, one of the things he would say is that touching things, when he developed as a young architect and in his training, was essential to his subsequent success as probably the most important architectural consultancy worldwide.

Q435 Tracey Crouch: With the proposed reforms that are currently being considered at the moment on the English Baccalaureate, you presumably have some severe reservations about what is not being included going forward. What do you think needs to be included in the EBacc if there were to be changes to it? What impact do you think that will have in the long term—speaking economically, I suppose—if we continue down this narrow direction of purely having, as you say, knowledge-based courses?

Dinah Caine: Catherine will amplify on this, but just to say that when we introduced ourselves I should have said that I sit on the Creative Industries Council and I chair the skills and education group, whose report came out last January, which was fully endorsed by the Council and are in the process of implementing.

This area was one of those that we have identified as being of concern for us, and in order to help articulate those concerns what we have done is to pull together all the various groups that have an interest in this area. At the moment, we have come together and drawn up a six-point agenda, basically, which we are now out and about discussing with all the parties. Catherine, do you want to amplify on that?

Catherine Large: Yes, partly just to say that one of our beliefs—I sit on the same committee with Dinah—is that it needs to be about a well-rounded education. It is not about that one creative subject specifically should be included. The general feeling is that the art and creative subjects should be included in the EBacc, should be nuanced, and it is evolving into a very sophisticated argument that goes into levels of assessment. We are anxious around that notion of 100% assessment, no coursework, all of those things, which are about academic rigour and which we appreciate are not relevant as such to creative subjects, or which need to be assessed very differently in a very practical sense. Portfolios and art and design coursework is an inherent part of that.

To answer your question specifically in terms of types of subjects, obviously the sorts of things that we are considering or talking about here are art and design, design and technology—very important for the design industry and the future of creative industries—performing arts, music and media. I don’t think we can pin it down to just one.

Dinah Caine: I think the other area of concern is the NextGen campaign, where we have been placing great emphasis on trying to ensure that computer science is included and recognised as a science within the science part of the EBacc. But I think one of the potentially unintended consequences of the rigorous focus on five key areas, key pillars approach is that, by default, schools will then be measured on their

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performance around those five core areas, which then starts to act as a disincentive to offer arts and other creative subjects. One of the things we want to do as industries is to concentrate on supporting some key schools and demonstrating how the importance of those subjects then leads on to the connectivity that Stuart is talking about, because there is going to be an integral link between the quality of people coming out of the school system and the quality of recruits into the tertiary education system.

If I could return to your question about tertiary education, I think the other linked area in all of this is careers advice and guidance. In many ways, now that students are paying fees, then clearly what they need is clarity around signposting the best courses and the courses that command respect and partnership from the industries. While there is a rich wealth of provision out there, it is many and varied and some of it is about the study of these industries—some of it is more practice-based.

One of the strands we have been looking at is the introduction of a quality tick and accreditation for key courses, which will then help signpost students, signpost parents and so on. I always like to describe that movement as, “Are you dancing? Are you asking? I’m asking. Then I’m dancing”. Those really quite positive, profound partnerships between higher education and the industries are now being identified and are now starting to deliver real results, and will also serve to differentiate those that might enjoy higher levels of application, and those that will start to enjoy the reverse, if “enjoy” is the right word.

Professor Crossick: Stuart made a very fundamental point about what the quality of students coming into art and design will be in the future and what they are now, given the character of the education in school. So what we have been talking about in relation to EBacc reflects on that in a much more complicated way than, “Should art and design be in the EBacc or should it not be in the EBacc?” It is more complicated than that and more nuanced, as Catherine said.

In terms of the quality of the students applying, we only have one year to go on for this fall, but the view among many in the sector at the moment is that they might simply be losing the tail of less able students. That is certainly the case for the specialist institutions, the Conservatoires, the specialist arts/drama institutions, which get special funding because of their small and specialised character. They feel they have filled their numbers without any problem with the same quality of students, they just had fewer applications.

I think it may be different in some of the larger, multi-faculty universities—and I don’t know, Stuart, what your experience is in your institution—where it may be that the brighter students and the more talented students—and they are not exactly the same in terms of art skills, but the most talented art students—are being deflected by their own ambitious parents and schools careers advice into doing what are seen to be safer subjects for the future. One year, and in fact teaching these students for a few months, is not enough time for us to establish that, but there is a fear of that.

Professor Bartholomew: I think there is immense complexity that comes out of a very straightforward question, but it is that interaction of the influences that will determine the choice that young people make, and it now not only is very intense within the school but it is also quite intense from parents and also grandparents.

What has been very evident in my own institution, which is a specialist arts university, is that when students attend an open day or an interview it is not just them with their portfolio, it is them with their parents, and then often with a grandparent, because the whole funding of this experience has become a family event. The pressures that they bring to bear often lack the currency that the institution is trying to share with the candidate, which is “where you will go in the future”, where so frequently the parent is thinking of where they were in the past and what was the best option then.

There is a huge amount in this, and it is, I think, trying to get a level field such that talents can express themselves. The problem with EBacc is not that we should not have five pillars of essential learning. It is the impact of that on the other areas of learning and the potential of them being pushed to the periphery and us losing a generation of talent as a consequence.

Q436 Tracey Crouch: I want to press you on two further higher education issues. Just going into a bit more detail about tuition fees, are your institutions by and large charging the top rate for courses within the creative subjects? I see you are nodding your head, but is there much of a market in creative subjects?

Professor Crossick: No. There is no market, no.

Q437 Tracey Crouch: So, no students being charged £9,000?

Professor Crossick: Well, I don’t know how much you are charging.

Professor Bartholomew: We charge £8,600. If you then just spool that forward three years, do you make a decision, given that you will still have incurred £25,000-plus of loan, what is the difference of £1,200? What we will see inevitably over the next year is gravitation to £9,000. All institutions that are over the threshold that might allow them, under the bidding process, to pitch in because of the lower fee, you will see the others gravitate towards the upper limit. I don’t think the fee difference is an issue but what will become an issue is the ways in which some of the key indicators begin to privilege some institutions over others, and what is emerging as being a very important indicator—how that indicator is sourced is a bit unreliable—is progression of your graduates to employment.

In my own institution, we are in the top five of UK universities in that progression rate, 97.7%. The outcome this year, against a trend of lowering applications, our applications are up by 15%, and I am pretty sure it is that one indicator that is the magnet for attracting students.

Professor Crossick: Another point on the fees issue is that the fees are there to pay for the education, and the Government decided that HEFCE would pay a top-up for high-cost subjects, science subjects. I have no

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problem with that at all because they are much more expensive than can be covered by the £9,000 fee. The question is whether the top-up is enough and we shall have to see. It is in some doubt.

For humanities and social science, in terms of blackboard and chalk notions of subjects, universities charging £9,000 are probably a bit better off than they were. Not a lot. For these creative subjects we are talking about, which is the old price group C—it includes computing and psychology as well actually—it is not clear whether they are going to be covered effectively by an £8,500 to £9,000 fee.

In addition to the additional income that you get from the fee, you now have to pay for a significant amount of scholarship funding, which is compulsory through OFFA agreements and through the national scholarship scheme, and virtually all capital funding for teaching has now been removed from universities. So that £9,000, the additional money, is not all extra. Much of it is taken up with other costs. There is a real spread of costs in the creative universities and disciplines within universities, and we need to look very closely at how that cost base is working. It could well be that in some of these key areas the fee that is being obtained is not enough to cover the costs.

What will then happen is that universities will make decisions and universities are already making decisions on the basis of what a university should be like. They don't simply shut down every subject that is losing money, but they are much more careful about which subjects they will maintain and why they are maintaining them, and we could see some reduction of provision in these areas.

I am not saying that any reduction of provision is something that we should rebel against and be appalled by, because we are in a dynamic situation and there will be growth and decline, but we need to be very careful that we do not see a reduction in provision that will damage the flow of students into the creative economy without anyone noticing that it is happening. One of the problems with the current fee regime is that it has produced a lot of instability and not yet enough monitoring of what is really happening as a consequence.

Q438 Tracey Crouch: My final question, and it may be a bit of a daft one, is do you think that the merger, however many years ago it was now, of universities and polytechnics may have had a negative impact on the creative industries?

Professor Bartholomew: I sit here also as chair of a small but very influential group of specialist institutions. The merger settings have suffocated some of the specialisms that were nurtured 10 to 15 years ago. Manchester Metropolitan University, extremely good, but it encompassed as well Manchester College of Art, which was a world leader. Certainly, in the world of art and design, one does not point to Manchester now in the way that one would have pointed to it 20 years go.

You might say a similar thing about Birmingham, although there have been very tremendous efforts to reincarnate the Birmingham School of Art and Design. I think we missed a trick, and, interestingly, if we go back to the example of Korea that I gave

you, they are doing the reverse. They are creating small, highly-focused, specialist institutions, where there is a better opportunity to mesh skills with knowledge. For the creative industries, that is the trick.

Q439 Paul Farrelly: I have a couple of questions regarding the approach to EBacc. Just beforehand, Chair, can I congratulate my colleague Tracey Crouch on standing out from the Government crowd in not voting for the university fees increase? I hope the Whips are listening.

When I was at the *Independent* as a journalist in the mid-1990s, while Ian Hargreaves from the previous panel was the editor, we stood out from the crowd by saying very publicly, "We will not take anyone who has studied media studies at university". Does the panel feel that because of the proliferation of some pretty rubbish media studies soft subjects out there this thinking with the current Secretary of State for Education has percolated down in a misguided way into how you use the EBacc and what should be in an EBacc and has therefore unfairly tainted subjects such as design technology, drama, arts and all the other creative subjects?

Professor Bartholomew: It is very simple. Yes.

Professor Crossick: Shall I give a slightly longer answer? I think that the media coverage of media studies, which became the *bête noire* for all those who believed they were standing up for educational standards, was extraordinarily misguided. I do not know whether there are weaker media studies courses than there are English courses in UK universities. I suspect we can go round the universities and find some subjects that are less well taught in one university than in another, and significantly less well taught. That is the nature of the beast with 130 institutions and all these subjects.

The problem with media studies is that it got this name as being the example of a Mickey Mouse degree. To his great credit, the current Minister for Higher Education stands up for media and says that media courses at university are really important and they are critical for the creative economy, as they are. One of the interesting figures about media graduates is that 50% of all graduates in media, as 50% of all graduates in design, are employed outside the media or the design industries. They are employed right across the economy because media and design are two sets of qualifications and experience that are needed right across the economy. We just need to reinstate the importance and, having been warden of Goldsmiths, I know full well what a very high-quality, industry-related media programme can look like. Let's move on from media studies, is the answer.

Q440 Paul Farrelly: Dinah is straining at the leash.

Dinah Caine: I am. I couldn't possibly answer whether or not there is a link between media studies as the sociology of the 1980s and 1990s and the present Secretary of State's position, but I would like to address that subject, which is that I think it was an unhelpful debate. Nevertheless, within that debate it is true that there was potentially a mismatch between the industry perceptions and education perceptions as

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to the benefit that each was bringing to the other, and research studies that we did many years ago kept on pointing to that.

The problem and the unhelpfulness of the “Media Studies is just Mickey Mouse courses” debate was, of course, it marked and created white noise around where there are genuine centres of excellence, where there are courses that are highly specific and relative to the needs of these industries, and where greater partnerships between the industry and those institutions can address. Some of the mismatches and some of the blockages and problems that we find in the industry are in terms of having the right skills in place to support the industry’s growth. But to pretend that all was well and always has been well is not the case, I would argue.

What then happened was that very mature, progressive, systematic work took place between industry and some centres of excellence, and I think where we are now is that out of the 4,469 courses currently available for undergraduates and post-graduates in the UK that relate quite specifically to the creative industries, we have started the process, as I said earlier, of accreditation, of recognition of centres of excellence. At the moment, out of 180 course applications, we have accredited 132 HE courses.¹ That figure will grow as that process extends.

That is not to say those other courses do not deliver academic excellence and deliver in other ways, as Geoffrey is saying, for other industries, but it is to say that to identify fewer helps to harness more support from industries, which then goes to Geoffrey’s point about these real concerns about costs, about capital, and allows us to bring the best of industry investment and support to the best of the higher education provision.

Q441 Paul Farrelly: My second question about an EBacc takes a completely different approach, a more traditional approach, to choice of subjects than the argument about what else should or should not be included in an EBacc.

My son is just about to do his options for GCSE in what we called the third year. I find that he has no choice. He is good at and likes design technology, music, art, drama but, because of what is in the EBacc and what they are going to be measured on, he can’t take a bundle of subjects because he is effectively down to a one subject choice. I went to an old mortarboard and chalk grammar school, ironically, given the current approach, and found that we had much more choice in terms of the subjects we could drop and bundle, because nothing was specified. We were not measured on bundles of subjects. Do you think this whole approach is damaging to choice, whereas previously we had much more choice in the traditional education system?

Professor Crossick: I think Dinah or Catherine will answer more fully, but I think you are absolutely right. Therefore, the debate on the EBacc has driven us into the wrong position, which is what should we add to the EBacc? What choice should we reduce? I think

the right approach to take is what is the minimum that we should have in something like an EBacc in order to maximise the choice—not just for the creative subjects but for lots of other subjects that will lose out, including computing at the moment?

Paul Farrelly: Years ago it was English and maths.

Professor Crossick: Yes.

Catherine Large: Exactly, and I think we are at huge risk of creating a core curriculum in terms of our pursuit of academic rigour, which is, as you say, essentially the whole curriculum. We have to have space for creative subjects, and I think there is a whole conversation to be had around EBacc and how it is assessed, as I mentioned earlier. But the main thing that we have to argue for is that schools have, as a measure of their success, engagement with creative subjects and opportunity for young people to engage with creative subjects for as long as possible throughout their school career, matched with careers advice and guidance in the right way, delivered in the right way for these industries, which are multiple.

We talked earlier about the creative industries being about small businesses and that very high proportion of small businesses. It is also an industry of cottage industries. It is not similar to hairdressing in terms of that being a sector as well made up of small businesses. Our careers website, Creative Choices, is getting off the ground now. It has 100,000 visitors a month because there is that degree of interest in a creative career and need for information to find out about it. It has 80 different categories of the different sorts of jobs that you can do, just to give that as an example, and I think that is the real challenge for us in terms of the creative and cultural industries engaging with Government. We are talking about multiple different types of industry, and it is very hard, obviously, in that context.

Dinah Caine: I think the other thing that is of interest here is that the Welsh Baccalaureate does include creative subjects. As we go forward it will be very interesting to compare and contrast the different routes that the devolved nations are taking, both in relation to the subject of fees and impact of their approach to primary and secondary education around these areas.

Q442 Mr Bradshaw: Are Maria Miller and Vince Cable fighting your corner with Michael Gove on this?

Dinah Caine: The next Creative Industries Council will be focusing on the issues around the EBacc, but that leads into one of the issues that we would like to draw to the attention of the Committee, which is the importance of all departments really joining up around—

Q443 Mr Bradshaw: What is the answer to my question? They should be battling very hard in Cabinet against this mad plan. Are they doing so?

Dinah Caine: My answer to you is that we don’t know the answer to that yet because we, as the Creative Industries—

Q444 Mr Bradshaw: Can you not ask them?

Dinah Caine: The Creative Industries Council, as we were saying, brought together all of the groups that

¹ The witness later stated that since the evidence was taken the number of courses has risen to 136.

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are interested in this. We have come forward with our six-point agenda. That is going to the Creative Industries Council, which they jointly chair, at its meeting at the end of January. We have requested the DfE also attend that meeting, and I think I would be able to come back to you then with a clearer answer to the appetite for pursuing this.

As colleagues have been saying, of course one supports the emphasis on rigour and the need for the five pillars, but it is the concern about the squeezing out of creative and computer science subjects. It is of concern to a lot of industry leaders and it is of concern to partner colleagues in terms of training and education deliverers. It is an issue that I think is of concern and needs to be addressed, and indeed I hope will also be addressed by the Opposition as it starts to look at its approach to its review on skills and its review on Tech Bacc and EBacc.

Q445 Mr Bradshaw: Is it not even possible to say whether you have the sense that the Ministers who should be fighting your battles in Cabinet are even listening to your concerns and taking them seriously?

Dinah Caine: I think they are indeed listening to our concerns, but I think, as you know, there are strong views and potentially differences within Cabinet as well, and the Department for Education has a head of steam about it.

Professor Crossick: Could I throw in a comment about the compartmentalisation? All four of us have been resisting the notion of compartmentalisation of those things that matter in education and those that don't, and it is simply something that Steve Jobs said about why Apple succeeded. He said, "Apple succeeded because I employed musicians, poets and artists who were all also good at computing",² and I think that is what we need to remember. The creative industries should not be compartmentalising the subjects we are interested in. It is a huge breadth that really matters.

Dinah Caine: That is something that came out very strongly from our report, which is that one of the things that we absolutely needed to lay the foundations around at every level, primary, secondary and tertiary, is an address to what we are calling fusion skills. There is a big emphasis on STEM, as Geoffrey has been saying, but fusion is where you bring creativity, technology and business and entrepreneurship skills together. It is that mix, going back to what Geoffrey was saying, that is needed in order to enable people to have 40-year careers.

It is a mix that we need in the industries to really support and power growth and productivity, and compartmentalisation is an issue—indeed, within some universities still—where those disciplines sit within different faculties. That is absolutely critical and it is something that we need to make sure is a golden thread through everything that we are addressing and something that I very much want to see highlighted in more coherent industry strategy. One of the things that we wanted to draw to your

attention was the need to look at nesting far more clearly the skills and education policies into an industrial strategy. At the moment, we are there in some areas but the EBacc is one area where we would say there was a dissonance.

Turning to BIS and its investment, I think it is very interesting at the moment that out of the £2.5 billion to £3 billion that gets invested in skills, only about £350 million at the moment—and we are very grateful to see this and it is something that we want to see enhanced—is going in investments that go directly to employers to enable them to co-invest in the kinds of delivery and the kinds of sourcing and provision, be it from higher education or be it through further education, that they want to see. At the moment the system operates with large amounts of investment going to colleges who then seek to find the employers and I think that whole issue needs to be turned on its head.

That work started at the end of the last Government. It is continuing through this Government, but it is very important for the creative industries. We hope this Committee would support that approach and would particularly be identifying our sector as a priority sector that should be starting to achieve co-investment and enjoy some of that co-investment in order to drive some of our key plans forward.

Professor Bartholomew: I think the point about dissonance in the politics of this is rather important. It is very interesting that David Willetts has done much to recognise the value of higher education focused upon creative industries. Of the 10 new universities recently created, six are very longstanding specialists whose work goes way back into the 19th century—long established but never able, by virtue of their size, to use full university title. They now can and that is very much something he supported and pushed through.

You see it, too, with Vince Cable. The Heseltine report places a lot of emphasis on development of skills, so this is business innovation and skills. It somehow seems disconnected with education, but one of the points that all of us have been raising throughout this meeting is that you have got to connect these things because they will become more than the sum of their parts. Currently there is a feeling that they are being separated and as a consequence will become quite distinct estates with no connection that will produce the sorts of outcomes we all desire.

Q446 Conor Burns: I want to pick up on a point that Tracey was probing earlier, which is around the drop in the numbers of applications and particularly to explore with you that around foreign students. I know the Bournemouth campus very well and one of the things that is very interesting when you visit is how multinational it is. The companies that these graduates go on to work for are often global companies with links across continents.

You made a point, Stuart, about looking back 40 years. If we look forward 40 years it will be some of those connections that are made, relationships that are built by undergraduates and affection for Britain by coming to study here. We see it in the English language schools in Bournemouth where people come

² The witness later clarified: "The Mackintosh turned out so well because the people working on it were musicians, artist, poets and historians—who also happened to be excellent computer scientists."

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back and do business in Britain because they enjoyed their experience of being in Britain. Are you noticing a decline in the number of foreign student applications? If you are, is that linked in any way to the Government's rhetoric around immigration and student visas?

Professor Bartholomew: I can answer for the two universities in Bournemouth that work very closely in the area of creative industries. We are not seeing a reduction—in fact, rather the reverse, but that is a lot to do with some of the things that we are engaged with that do have a global relevance. For example, in the relationship between the graduate and employment, we now have on campus a division of the largest European post-production VFX company, which is providing internships.

That company works in India, it works in Hong Kong, it works in Bournemouth, and there is a sense that international students get that to be associated with that type of activity is an enhancement to their professional portfolio. They do develop a strong affection for their studies and the place where that is conducted and that is a huge asset, both financially and in terms of the cultural export that it provides. I think there are a great deal of worries about the way in which the UK Border Agency is exercising its responsibilities. I think it is a very serious issue for the higher education sector, although it has not impacted upon us as severely as I know it is in other settings.

Professor Crossick: At the moment, there has been a significant drop in applications for student visas but the figures for universities are about flat. People are still coming, they are applying in the same numbers and there is no evidence at the moment of a drop in numbers coming. But as in so many areas, if we wait for a problem to arise it will be too late to correct it and it will take a few years before we really see the impact of it.

I make two points. The first is you noted the vibrancy of the campus at Bournemouth, Stuart's institution. If you are studying computing or mathematics or physics, diversity of students from different parts of the world, different ethnic and cultural backgrounds is good for your experience but it does not change the way you learn. In the creative subjects it is that diversity and difference that is one of the great drivers of excitement and energy and change and ideas. I think all of those who have worked in these institutions know that.

The fear is, therefore, that it is not just that we will lose the income from overseas students or even that we will lose, as Stuart eloquently argued for, the subsequent importance of these students of their links to Britain, but our own UK-based students will get a less good education as a consequence.

The thing that worries us most in the policy change—put to one side the way UKBA operate, which can be very difficult and hard to understand—is the change of the visa rules to remove the post-study right to work and to limit the ability of an overseas student who did have the right to work for one or two years after they completed their studies. That was removed and it has been replaced by a Tier 2 system.

For a Tier 2 visa, you have to be in a highly skilled occupation and be earning £20,000 a year or more from one occupation. We have all been talking about the portfolio careers of creative people. They are not in one occupation earning £20,000 a year and yet for students who are coming here from other parts of the world, from outside Europe, the ability to stay on and work in the extraordinarily dynamic and vibrant cultural world of the UK is one of the great attractions of studying here, but very few of them can meet the requirements for a tier 2 visa.

What we need, if that visa requirement is to stay, is for it to be an aggregation of your income from different sources that produces the £20,000, because that is how most people particularly start their careers in the creative economy, that is how they make a living. We need to get that recognised otherwise I do think we will see a falling away of applications in the coming years from outside Europe to the damage of the whole cultural scene and university education.

Q447 Conor Burns: I made the offer to the English language schools in Bournemouth that I would take them to see the Minister and the meeting resulted in the introduction of the extended student visitor visa. I would make the same offer to you guys. If you wanted to come and see the new Immigration Minister to make that case, I would happily facilitate that.

Professor Bartholomew: We would welcome that. A very small but very successful part of our creative industries is visual effects. It is a big growth area. It is very interesting to compare, on precisely your point, the way in which Canada is approaching the global market and the way in which we are. Vancouver is increasingly becoming a major centre for VFX work. It is sucking the talents out of the United States of America just across its border. It is drawing them across from the Pacific Rim and it is taking UK students, and it is largely to do with a thoughtful policy towards high talent migration.

What we have not done in the current setting is aggregate. It is all lumped as a person coming here. We have to be much more thoughtful about getting the talent from wherever we choose to source from.

Professor Crossick: Can I add one final point about the bizarre consequences of policy? Overseas students are allowed to work but they are not allowed to work as entertainers and therefore people coming to study drama, music, dance from outside the EU cannot do one of the things you have to do, which is go out and find some part-time work in that industry, because of it. Universities UK is going to submit some further evidence on this issue of visas and overseas students and I know that UUK will be delighted to take up, with Stuart, your offer to lead some discussions on it.

Q448 Chair: Leading on from that, can I ask probably particularly Dinah and Catherine, are there any particular areas within the creative industries where there is a clear shortage of skilled applicants?

Dinah Caine: Part of our work is very much to analyse with the industries in a very granular way, subsector by subsector, challenges, issues, barriers and so on. The one that I would cite as being the most significant at the moment is the one that Stuart has

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just been talking about, which is the VFX industry. It is the only area in the creative industries where key grades appear on the Migration Advisory Council's lists.

There are significant issues there in terms of gaps and shortages in this country that have been brought about by the lack of appropriate skills and talents being developed. Therefore, it is a priority for us and what Stuart has been talking about, which is this partnership in Bournemouth for example, is one of the key areas that is being looked at to start to address this because that has to do largely with nurturing of talent, as Stuart was saying, but also a mismatch between what has been historically delivered within the university in our education sector and the needs of these industries.

I think that points as well to post-graduate issues and it is very interesting then to look at the kind of star courses that the industry would point to in France and in Germany and our ability to mimic and deliver that high level approach to nurture that kind of high quality talent. As I say, we have broken through in some areas but it is a key example. I can talk about others, if I may, Geoffrey, before you come in.

I think the other thing that is really important at the moment, going back to fusion skills, is technology and the impact of technology in these industries—intellectual property you were just discussing before—is having a profound effect, as you know. But what is very interesting is that in industries that previously have enjoyed many people wanting to join them, and therefore in a sense that oversupply of talented people wanting to sign up to work has, I think, masked some serious issues, is now very much starting to come to an end in terms of the technologies because that pool is getting fished in not just by these industries but by every industry where digital technology is beginning to impact. For example, you have the BBC having problems filling posts within its organisation, which must be the first time ever around some of these areas.

I can supply some of this if you are interested, John. We can send further detailed information about how that impacts and also how that impacts in terms of how people manage business, how they manage creating products for multi-platform environments, how they monetise that. There are all sorts of ways in which the impact of technology is changing these industries at the moment.

Q449 Chair: I remember some time ago—I think you and I discussed it—that the games industry's great complaint was that there were 25 to 30 courses claiming to provide a degree in the games industry when the games industry told us, I think, that only three were of any use to them at all. I seem to recall Bournemouth was one of the three.

Dinah Caine: Absolutely. There are now about 85 or 90 courses and we are a partner to NextGen and we have been working very closely with them. We now have 13 accredited courses for computer games, so the numbers are increasing. I would say the benefits of that relationship are now encouraging other institutions to apply, but we still have efforts to make.

Q450 Chair: But is it not extraordinary that there are still all these courses claiming to produce people with degrees in computer games and yet the games industry says they are of no value?

Dinah Caine: You are absolutely right, which is where I think, as I was saying earlier, the signposting point is very important because, in an environment where fees are being charged, that careers advice with the signposting to the key courses starts to create a market dynamic.

Professor Crossick: The information to prospective students that will be required will begin to show those courses that are weak or those courses that claim that they link to industry when they do not. There can well be courses in computer games that are not aimed at the industry, but at other kinds of ways of thinking about computer games, but if you say you are about the industry then you need to demonstrate that your people are actually being employed.

We are back to the issue of compartmentalisation in what Dinah was saying. In VFX, in games, in post-production the shortage the NextGen report showed is in people with the right kind of physics, maths, computing high level experience, but if they don't have creative skills as well then they are not going to be a great deal of use. I remember talking to somebody on the plane ride to LA. You never have a conversation with the person next to you until half an hour before you arrive, but I wish I had started earlier, because he was from a major post-production company and I asked him where he got his high level staff from, his young staff, and he said, "We can't get them in the UK because they have plenty of computer skills but they are not creative, or they are creative and they don't have computer skills. We go to Italy to find the right people". It is bringing those together that is crucial.

Can I pick up on the post-graduate point? This is the most significant answer, I think, to Tracey Crouch's question about the impact of student fees. The one thing we know pretty well for sure is that there is going to be some kind of a major disruption to recruitment in post-graduate education in 2015, when students are emerging with the full current debt. What that will be and how it will hit we don't know. Not only are the creative industries a very highly graduate industry, and in the areas we are talking about now it will be 80% to 85% graduates, but actually it is the post-graduates that are particularly important.

In areas like VFX and games and so on that is where the real skills and abilities develop. Are students going to want to stay on and do post-graduate education when they already have very substantial debts? This applies to all areas of post-graduate education. Government at the moment is refusing to engage with this as an issue and it is hoping that somehow other people will come up with solutions. I think for the creative sector we really need the funding of post-graduate education to be addressed as a major issue now because 2015 is not very far away.

Q451 Paul Farrelly: With the narrowing of choice through the EBacc in the state sector and then the impact of fees and the debt and what may or may not come on the post-graduate sector, is there a general

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feeling that there might be a narrowing of the social background of people who in the next few years will be going on to achieve great things in the creative industries?

Professor Crossick: I think it could be social and it could be gender.

Catherine Large: There is already a very narrow talent pool because we also work in industries where there is enormously high demand for jobs and as such we have a proliferation of unpaid work. When I graduated and went into the theatre industry I did my three-month work placement. Now we hear stories from the music industry where people are working for three years unpaid and that is absolutely impossible when you consider any sense of social diversity. I think what you are pointing to is the sense of EBacc tuition fees and the nature of the workplace in that sense, which all constitute a real narrowing so I am adding another layer to your point really. It is a great concern.

Dinah Caine: That is why the apprenticeship route—something we have not really talked about here—is absolutely critical for these industries.

Professor Crossick: What is essential in internships and work experience is that these are properly regulated, not by Government but by the universities, by sector skills councils to ensure that if people are going and doing unpaid work then they are doing it in a structured environment in which everyone knows what they are going to get out of it and they are properly mentored to come out of it more employable. At the moment, there is a great fear that a great deal of it is not that at all.

Professor Bartholomew: Would you allow me to make a very brief point?

Chair: Yes.

Professor Bartholomew: It relates to something Geoffrey said earlier, which is this compartmentalisation and in particular the cultural belief here that there is a distinction between science and creativity. We were talking about VFX.

I want to give you one example. On a three-month cycle, so four times a year, six of my students go and join the Nanjing Film Corporation. They have been sourced by China because these are students who have a computational skill but also the creative visual understanding that will enhance animation and they spend three months in China at China's expense.

China's benefit is that they get that visualisation that they are very thirsty for. Our students get the immense experience of working in a massive production setting. It is an example where globalisation means that the talents are sought wherever they reside and we should not continue with the sort of belief that Britain is naturally creative by some sort of magic, and that we just have it. We are not naturally creative; we need to nurture that creativity and once we have done it others seek it if we don't seek it for ourselves.

Chair: I think we should probably draw a line at that point. Thank you all very much for coming.

Professor Crossick: I assume that you are aware of the UK report on this, which covers quite a lot of the issues we have been talking about.

Q452 Paul Farrelly: I think John was just about to ask briefly about apprenticeships.

Tuesday 22 January 2013

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Angie Bray
Conor Burns
Tracey Crouch
Philip Davies

Paul Farrelly
Mr John Leech
Steve Rotheram
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **Jeremy Silver**, Chairman of Semetric Limited and Lead Specialist on Creative Industries, Technology Strategy Board, **Jim Killock**, Executive Director, Open Rights Group, and **Peter Bradwell**, Policy Director, Open Rights Group, gave evidence.

Q453 Chair: Good morning. This is a further session of the Committee's inquiry into support for the creative economy. Before I introduce our first witnesses, I put on the record that, as well as being Chairman of this Committee, I chair the All-Party Writers Group, which receives support from ALCS, and the All-Party Group on Intellectual Property, which receives support from the Alliance for Intellectual Property.

For our first panel, can I welcome Jeremy Silver, the Chairman of Semetric Limited and Lead Specialist on Creative Industries for the Technology Strategy Board, Jim Killock, the Executive Director of the Open Rights Group, and Peter Bradwell the Policy Director of Open Rights Group?

Perhaps you would like to begin with a fairly general view of what the principal role of Government is in promoting the creative economy and, in particular, how important you think intellectual property rights are in promoting successful, creative industries. Jeremy?

Jeremy Silver: Good morning, everyone. Thank you, Chairman. I think there is a lot of work that is already going on in Government, as we know, across the creative industries in a variety of different areas and different forms of support, and, as part of my work with the Technology Strategy Board, I am Deputy Chairman of something called the Creative and Digital Founders Round Table, which is a group that Ed Vaizey chairs.

As part of that work, some of what we have been doing is trying to put together in one place all of the different strategies of the various funding bodies that are supporting the creative industries and digital-related activities across the UK, which, interestingly, has not really been done before. We are in the middle of this work, so anything that I say here is subject to whatever the group finally concludes.

One of the things that has been quite interesting is just to try to rationalise all those different activities and try to put them into a list, and it is interesting just to run through that. If you do not mind, I will try to give you a view of that. The first that comes to the surface, and the one that you are already very familiar with, is all about skills and entrepreneurship. That is two parts—one is to some extent about technical skills; the other part is about business skills, and the relationship

between business skills and creative industries is interestingly challenging.

The second one is more about access to finance and private investment, and again what we have seen frequently—particularly with small businesses in the creative industries—is how difficult it is to raise finance. The Government has made some steps to help that, in terms of recent developments with the R&D tax credit, widening the relevance of that and there is clearly some more there that could be done.

The other thing that comes up to the surface and we have been doing a lot of work on, is the data about the creative industries and trying to understand, measure and quantify both what we define as being the creative industries and then, when we can agree on a definition, what we can then do in terms of sizing it, understanding levels of employment and so on. There is some work that is going on.

We are working quite closely with DCMS on this, and there will be some further announcements and some publication around that. Nesta recently published a very interesting paper that, if you have not had a chance to look at it, is worth reviewing. It takes a look at a new methodology for trying to size both the economic and the employment impact of the creative industries. So it is something to point you to, and I can refer you if you want to know more about that subsequently.

Obviously, our international competitiveness is something that we are all very active in, and the reputation of the UK as punching above its weight in the creative industries is significant, but there is quite a lot of concern about the extent to which we can sustain that in the environment of new technology and so on, and the extent to which different agencies are able to collaborate well together—so the way in which UKTI and the British Council, for example, complement one another is something to look at.

The other thing that has come up quite a bit within the context of the technology strategy board thinking, in particular, is the transition that the creative industries have gone through from analogue to digital—if I can shorthand it that way—from offline to online. It is not complete by any stretch of the imagination, but in the process of doing that there has been quite a lot of expertise and experience developed, and there is a lot of interest in trying to apply that experience and that expertise to other

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sectors of the economy—so health or energy or transport, for example.

Certainly, from a technological point of view, a lot of the challenges and issues that are encountered, in terms of data management, for example, and the opportunities that data affords to credit companies, that sort of thing is applicable to other places, as are some of the issues around personal data and personal confidentiality and the tension between, on the one hand, gathering individual personal data to create the economic benefit and, on the other hand, the privacy and the trust issues that arise from that. Again, a significant area that we might shorthand by calling it cross-innovation, if you like—how do you apply innovation from one place to another sector?

The issue that seems to have gone down the agenda a little bit in the last couple of years—probably since the credit crunch—is environmental sustainability. The creative industries have done a lot of work in that area, and that is something that I think has probably been neglected over the last few years. Another area of work that I think is significant—and Creative England is very involved in this—is trying to reconcile the balance between what happens here in London and the rest of the country; there is something of an imbalance there and we have seen attempts to try to respond to that. For example, the BBC moving elements to Salford is an attempt to deal with that, but there is probably more that could be done.

Then, I suppose, the other area is the area of research development and innovation, which is the one that I feel closest to. Again there are interesting challenges here, particularly when we look at the way in which the creative industries work in comparison with some of the more technical or scientific areas, and then thinking about the role of the academic research base in that.

When we think about pharmaceuticals, for example, there is a fairly linear progression of research in universities, in labs, some discovery, some interesting innovation that gets turned into a product that spins off a company that ends up in the commercial world. Actually, in the creative industries we do not have that. We do not have that tradition and we do not have such a clear linear progression, but there is a feeling that, nonetheless, there is tremendous value that comes from innovation in creative industries. But its progress into the market is much less clear cut and much less well understood. Therefore, the role of academia and the role of academic research is something we need to think more about in terms of how we could make better connections, if indeed we think that is the right thing to do. So there is something there.

Finally, and I will shut up after this, obviously, is the IP framework. The challenge there I think is really to do with the balance between what we think of the different elements of the creative industries. We talk about the creative industries as a lump, but they are not and we know very clearly that there are large rights-owning companies that tend to be owned by multinationals and tend to operate at a very high level. We also know that the vast majority of people employed in this country in creative industries are actually employed in small businesses. Small business

needs in relation to IP are not necessarily the same as those large rights-owning companies, nor indeed the same as creators.

Perhaps as a final point, I think one of the things that was notable about the Hargreaves report, which I know this Committee spent a lot of time thinking about, is that it specifically did not address the needs and concerns of creators and content originators—if we use that sort of generic term—and that is something that I think, if we want to think more about what additional steps could we take to support the creative industries, is an area in need of greater focus.

Peter Bradwell: I suppose, in the broadest sense, our interest in part comes from an aspiration to see technology improve people's ability to take a more active role in the cultural and economic life. It should ideally give them tools to be able to do that, whether it is to come up with new ideas and take them to market, or to exploit them or to engage with the cultural conversations around them and so on.

I guess the Government's role in one respect is to look at how technology has affected the position of creators in some pretty uncertain markets, how it has affected consumer rights and how generally it has affected that ability for people to take a more active role in those things. I see Government's role as a role of strong leadership—because there are a lot of competing interests in this—to run an open, transparent process to make sure they are listening to all those different perspectives, and to try to understand how to improve creators' position in that respect.

It is a lot shorter answer than Jeremy's because he has a much deeper understanding, I guess, of the way that the industry works and we have a slightly narrower focus on the technology side.

Jim Killock: I echo what Peter says. I add that Government has a key role in understanding the area, in developing evidence and is also uniquely placed to see things from a number of angles. One thing this area suffers from is some quite vested interests pushing their agendas, having very clear ideas about what they think is going to benefit their industries, which I think can often be somewhat wrong. It can also be simply self-interested, and I would give two concrete examples of this.

I would say the Digital Economy Act, and copyright enforcement in that area, is a very clear example of industry coming up with a particular solution to the problem they have, promoting it pretty much to the exclusion of other agendas—those being somewhat suppressed in the debate. We have had a big debate in the whole *Digital Britain* process, which was looking at copyright flexibility. It was looking at ways to encourage the creative industries, but what actually came out of it was an enforcement agenda, because that was the most important element to the groups that were pushing and lobbying at that time. That has been quite a distortion. I think the role of Government here is to step back and say, "Do we have clear evidence of this or is this purely a political drive? Are we responding politically or are we responding as responsible law makers?" I think, in the case of the Digital Economy Act, it was a political response rather than a measured evidence-based response.

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One of the things that the Open Rights Group did was ask the Government about the evidence that that was based on, and it was the figure of £400 million for damages in copyright enforcement. We got the DCMS to admit that they had never seen the workings for that figure. It was derived from industry, but the workings for that evidence had never been disclosed to the public.

Two more examples of this, where I think the IP framework goes in the opposite direction to the evidence: one would be term extension, which we are currently passing, copyright term extension from 50 to 70 years. All of the evidence showed that the vast majority of that money was going to go to record companies. It was not going to go to artists, and to the extent that artists might benefit they would benefit best from a model that would simply hand the rights back to the original recording artists. But that is not what we have had. We have had a very limited “use it or lose it” clause, where if the artist is not having the work exploited and the artist understands their rights well enough to claim them back, then they can go through that process to claim them back, but that is not really the same as rights reversion.

A final example of this I think is in the database right, which is an intellectual property right extended to European creators of databases, and anybody who invests in the collection of facts in a database just in Europe can claim an intellectual property right on that collection of facts in a database. This was done to incentivise the creation of database services—some of which will be creative industries, some of which may not be. The fact is that in Europe there are fewer databases created since the creation of the database right, and the places that have the most investment in creation of databases are in the United States, not in Europe. The database right has in fact disincentivised, arguably, the creation of databases in Europe, but there is no political momentum for the removal of that right, despite the evidence going rather in the opposite direction to the existence of the intellectual property right.

So in cases like these, the role of Government is to step back and say, “Are we doing the right thing? Are we just listening to people who essentially want protective rights over their particular business model, whether that is a database or a collection of records that might be about to fall out of copyright and competing products might then emerge, or are we doing this in the best interests of the public?” I would argue a lot of the time that is something that is very hard to judge, and I do not think that policymakers have heard very clear, convincing evidence in those areas but, nevertheless, for political reasons as much as anything, policy has gone in a direction that we would argue has not benefited the public or the taxpayer.

Chair: Thank you. We are going to come on to one or two of those things, particularly the Digital Economy Act, in due course.

Q454 Steve Rotheram: Chairman, you have mentioned copyright, and I wonder if we can ask the panel to tease out what you believe to be the main advantages and disadvantages of copyright, and

perhaps if you can give some consideration to being viewed differently online and offline, and in what ways that would impact on copyright.

Jeremy Silver: Shall we go round in order again? When we talk about copyright these days, we tend to talk about two different things. One is the fundamentals of what copyright is actually about, and then we spend a lot of time talking about copyright enforcement and the businesses based on that. I think that is an interesting split that we have to think about. I have not encountered anybody who disputes the fundamentals of the right of someone who creates a piece of work to be recognised, credited and remunerated for that.

Where I think we struggle is because of the power of the internet, and because copyright legislation is essentially based on the ability to enforce the right of reproduction—the right of other people to make a copy of that work. All of the discussions that we have had over the last 10 years about this have all been about how we control the illegal copying. The difficulty is that the internet is a copying machine; that is what the internet does. It is a living, breathing copying machine, which in its every move and every gesture makes copies of things. Most of that may not end up being accessible to people because it is internal within the infrastructure, but it is the essence of it.

That is one piece. The other piece is that digital technology—so not just the internet but more broadly what digital technology has done—has made it extremely difficult to prevent copying; I would argue that ultimately it is actually impossible. The only way to prevent something from being copied is to prevent its being available at all. So there is a fundamental at the very root of our legislation that is unenforceable. That creates this incredible tension, because it is not that it is totally unenforceable, it is not that we cannot, in different contexts in different places, create some technical measures that make it difficult but, ultimately, it is impossible.

As a result, the implications are that, fundamentally, at some point copyright legislation and how it is enforced needs to be addressed. I also understand that I have never come across a politician who has had the appetite to grasp a nettle as thorny as that one, and so what we end up with is something that says, “Look, we live in a real world. We can still enforce up to a point. Enforcement is still useful because it reminds the public of what they should do and keeps the honest people honest” and that is a strategy worth pursuing. But what we end up with is negotiating around exemptions to copyright law.

To me, that is where we end up in a situation that becomes more and more complicated and less and less easy to understand. Lawyers become very wealthy and successful on the back of it, but unfortunately it does not necessarily serve—I do not believe in the long term—the interests of either the rights owners or consumers. So I think there is a fundamental challenge there and equally I feel very reluctant to accept, but I do accept reluctantly, that it is unlikely that we are going to see real political reform. But I do think that is needed.

Peter Bradwell: In thinking about copyright and what it is, I remember reading an article by Graham Smith,

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who is a lawyer at Bird & Bird. In talking about the Hargreaves review, he discussed two different conceptions of copyright. I think the analogy might have just appealed to me because I was hungry at the time, but he talks about a cake being either a perfectly circular cake from which you cut slices out and take away from, in talking about all copyright, or it is an imperfectly shaped cake and the shape of which you talk about and debate and decide upon. I think the point he was trying to make—and it suddenly strikes me that it is a less perfect analogy than I thought at the time—was that this is a right when you are articulating what rights creators have, when they get remunerated and the limits to copyright. That is a question of political debate. It is a question about public debate. There are limits to copyright. There is a property right. There is a duration limit. There are already exceptions in European law and so on. The reasons for those are something that we have to talk about.

The reason why the internet is so interesting, as Jeremy said, is that it is a big copying machine, I guess. Now copyright touches on all of our lives, from reading the news to sharing tweets to just browsing and linking, sharing information in a way that it did not used to be before. So it obviously touches our lives in ways it didn't, and where technology is interesting is that it makes us ask, "Is the law that used to work still fit? What does technology make possible that we could not do before? What of those things are desirable or undesirable, and how should we amend the law to fix that?"

That is why copyright is such a heated public debate and why it is a legitimate public debate to be had and, I guess, why talking about those changes is not just an attack on copyright but a reconsideration of what is acceptable and not acceptable and how you keep to the core purpose of what copyright is.

Jim Killock: Yes. The other thing I would add is that consumer perceptions of what copyright is for, and where and how it should behave, have also changed, as have business perceptions. It has not all been a one-way street. It is not just the case that consumers have gained more rights and are able to do more with copyright goods. In legal terms they are often able to do less. For instance, if you buy a book from Amazon in hardcopy you can resell it. If you buy the digital copy you cannot. If you want to pass on your collection of digital books or MP3s in your will you cannot, whereas obviously the physical products you could.

That happens because essentially digital goods are not really sold. They are licensed and the licensing of the digital goods is usually for your life. It is effectively life-long rental rather than actually a sale. I think that puts consumers at a disadvantage in many ways. The second-hand markets are gone and transfer to your siblings is gone, so you have lost some of those rights. At the same time, consumers gain new expectations. For instance, if you have bought a DVD collection and you know that your kids are going to scratch them, the natural instinct that you have is to back them up. There are restrictions placed on that and you cannot actually, without breaking the law in some

way, backup your DVD collection. For many people that would be an extremely hard thing to do.

The fact of the matter is the copying is prevented but the user expectation is to back up. In the same way, the user expectation for your CDs is to format shift them, put them on your computer, put them on your iPad and so on. So that is where this exceptions debate comes in from a consumer's perspective. Also, from a social perspective, people now do do mash-ups. They do expect to be able to parody their favourite television programmes and post those sorts of things on to YouTube. Again, the Government has to ask where the limits of acceptability are, whether rights holders have an exclusive veto on what happens to their work in the future, or whether these creative engagements are something that society should allow. For all those reasons, I think there is quite a debate.

The other aspect to think about is that copyright, because it touches so much material, anything that is created, in some areas this is very counterproductive, and a few examples would be, for instance, parliamentary publishing. Parliament has made an effort to relinquish by licence a lot of the restrictions that it would have over publishing, and says to the world that parliamentary transcripts can be re-circulated and re-published. Now the copyright position would be that the public could not do that, so in this sort of area Parliament has taken the opposite view to the default copyright position. Similarly with, say, the open access publishing debate for academia, the information that can fuel the creative industries, can fuel all kinds of industries and knowledge—restriction is not always the best way.

I am not saying that is how everything works; I am merely saying that, in some circumstances, the default copyright restriction model is not always the way that works best. So, again, Government has to think quite carefully where and how intellectual property is applied and developed.

Q455 Steve Rotheram: You teased out more disadvantages than advantages on that particular section, but are there any online activities that you think should be treated differently from offline activities, the counterpart, and what, if anything, do you believe gives people the right—as you described it—to illegally copy or to steal other people's property, including their intellectual property?

Peter Bradwell: I am sorry, could you repeat the first part of the question that I did not quite catch?

Steve Rotheram: The first one is about the online activities treated differently from the offline.

Peter Bradwell: I do not think I suggested that people have a right to steal or to illegally copy things, and I would not want to say that. On the first part of the question, about what the differences are between online and offline legal situations, I think there is a myth that online life is a sort of unregulated Wild West and there are a number of examples that demonstrate that is not necessarily the case.

For example, if you look at the prosecutions around the use of social media, you can see a situation where the law is being applied, and pretty strictly as well, and it leads to jail sentences and so on. Or you look at, for example, Richard O'Dwyer is the easiest,

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possibly trite, example of where the law is being applied to the way people behave online. That is not to say it is working perfectly, it cannot be fixed.

As I said in the previous question, I think you have to look at how well the law is working now, what new sorts of activity or behaviour are possible, what we might want to change or not. That does not mean saying that people taking stuff without paying for it is right, or that stealing is acceptable and so on. I think you need to look at how the law is working and whether it is working properly or not.

Q456 Steve Rotheram: You did say that there were limits to copyright, so can you explain how the two things would be different?

Peter Bradwell: There are limits to copyright already, is what I was saying. There is a duration limit, so it lasts life-plus. There are limits set out in the exceptions defined under European law, for example. I think my point was that it is not a right that is absolute, which lasts forever and that there are no exceptions to. I think the point is: what are those exceptions? What is the duration? Why do we have that duration? Are there other areas where permissions might not be the right way to go? I think that is the debate, not is it always okay for somebody to take something without asking? That is a slightly different point.

Q457 Steve Rotheram: Jeremy, you mentioned that you thought that some of the disadvantages of copyright are that it is pretty much unenforceable.

Jeremy Silver: No, I did not say that is a disadvantage of copyright; I said it was a disadvantage of the law that just depended on controlling copyright by the reproduction right. That is a different point. I do not know if I am making myself clear about that. The law basically says that, as a creator or owner of a right, you should be able to control who else has the right to copy. What I was saying was the problem is that technologically that is very hard to enforce—as we know, because we have had so much debate and so much effort in this whole debate around enforcement. To go back to your earlier question, one of the things that we know about the internet is that it is international, it is global. This creates a lot of confusion in the minds of consumers, in terms of the kinds of things that they encounter and the places where they discover—obviously, there is an awful lot of American influence online, in terms of applications and so on, and the law in America is different from the law in the UK as regards private copying, for example.

The refrain that we have all joined in is that we need to find ways of educating the consumer more; we need to find ways of clarifying to the consumer what is and what is not acceptable. But over and above that, we also have to look at the balance of whether enforcement of copyrights, particularly at consumer level, has been the right approach. Generally, the experience of the music industry, for example, has been that they have stopped doing that. They found that suing their own consumers, which they did very extensively in the US and here in the UK, was not an effective commercial strategy in the end. Whether or

not that should be an effective political objective is a slightly different question, I suppose.

In the end, we have to accept that consumer behaviour is what it is. We can influence it up to a point but, at some point, we also have to acknowledge that it is there and people do what they do because technology enables it. Somehow or other we have to respond to that, and we have to find where the commercial opportunity is. In the end, what this is all about is economic growth. What we want is to try to find opportunities for people who are creative to make their living out of it and for people to be able to grow the economy based on that.

It may turn out that actually encouraging innovation and encouraging new ways of doing things—as we are starting to see happen—is going to be a more effective contribution to the economy than trying to spend a very large amount of time and money trying to close things down. That is really a game of what I used to call Whack-a-Mole: you hit it down in one place and it pops up somewhere else.

Q458 Steve Rotheram: To clarify that area then, what you are basically saying is that to expend that amount of money and energy on trying to do those things is not something that you would support.

Jeremy Silver: I think it is absolutely right that rights-owning businesses need to continue to communicate to their consumers that that kind of behaviour is not acceptable. That is entirely understandable. It is about the carrot and the stick but it is also about the balance.

Q459 Steve Rotheram: Trying to change the culture rather than enforcing?

Jeremy Silver: Yes. That is the way I feel.

Jim Killock: I think that is right. The other thing to remember here is that we have very few, if any, examples of the stick approach functioning properly. HADOPI is about to be abandoned in France because it was found to be expensive and counter-productive. In the UK we have not managed to get the Digital Economy Act to function at all. What we do have, however, is plenty of examples of services being introduced, attracting consumers, successful advertising campaigns that are a type of education, I would argue, and all of that leading to growth in digital revenues and in some cases, arguably, reductions in infringement.

The point here is that if something is easy, better and attractive then consumers will pay. There is a sort of myth that was peddled during the Digital Economy Act debate, and very frequently elsewhere, that consumers are divided into a type of consumer who will not pay or is so used to infringing that they are lost to the industry, and then there are good consumers who do pay. The evidence does not suggest this; it suggests that they are by and large the same people. The people doing the infringement are often also the people who are paying money to the industry. That makes enforcement strategies that are punitive difficult, but it also makes enforcement strategies that are about attracting consumers into paying rather easy, because those people are already paying. They are already prepared to pay money, to invest in the artist

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but just experience new services. That is why they can succeed.

The problem that the industry has had is that it is very cautious about which models are going to work, and which it is prepared to license, and when the best time to move into digital is. Some industries have done that very poorly. The music industry in the early 2000s was a classic example of this. Consumers wanted to move into digital. The industry was not so keen, and did not really know how to do it, was not sure how to succeed and what would make the most money, and it delayed for nearly a decade.

On the other hand, the book industry pushed by Amazon—and perhaps the advent of the Kindle and so on—has done a rather good job of transitioning. I am sure they will tell you that they have problems with infringement, but I think it is also very clear that the paying customers buying books are now moving over to digital quite successfully. So it is hard to say that there is a single answer. As I say, the examples that seem to work in enforcement seem to be much, much more about carrot than stick.

Q460 Conor Burns: Can I go back to the first answer that you, Jeremy, gave in answer to Steve? We have become very familiar in recent weeks with all the challenges and the issues, and we are hearing repeatedly the same sort of messages. You said—talking about copyright and the current law—that this is something that needs to be grasped. You also spoke about politicians not being particularly willing to grapple with it. There is great eloquence coming forward from you and others who have sat there before you in previous weeks, about the nature of the problem. Can you tell us what in your view—I accept there will be several views on this, but in your view what does the law look like after it has been grasped and politicians have grappled with it?

Jeremy Silver: I am not a law maker, so I am not sure that I have a complete answer to this. It does seem to me, though, that we are seeing increasing public appetite for new services. Just to make the connection in a sense between what Steve was asking and in answer to your question, my company Semetric—Musicmetric is the product—did a piece of research recently with Spotify in which we looked at the state of the Dutch music market at the point when Spotify was introduced to it, in relation to the amount of file sharing that was going on then. What we found was that as Spotify launched it looks as if we certainly stopped the increase in file sharing, and we may even have decreased it. I am happy to share the data with you. That is hard data rather than just anecdotal evidence, so we can get that to you.

The thing that sits behind that is about new services. In a sense, I am not saying anything different than what we said before, except that it seems to me that there is always a hesitation about licensing something new. If you ask someone to license something they haven't seen before they are not going to want to do it. Economically, we are getting to the point where we are recognising that we perhaps ought to put a bit more pressure. I do not think that necessarily means compulsory licensing. I do not think that it has to go that way, but I think something that encourages more

innovation and something that looks at the law and says, "The value is going to be derived from more people's exposure to this content, this work, or whatever it is", and that is where the effort should go and not into trying to stop people having access to it. Somehow or other, we need to factor that in.

I am not the one who can frame that from a legislative point of view, and I would not profess to be, but it seems to me there is a fundamental shift in premise there. The premise at the moment is, "This is mine; you cannot have it unless you pay for it." What we now know is, "Actually, you can and there is nothing I can do about it." So let us frame something that acknowledges that new reality and uses that as its starting point, which I think puts some focus back on what happens the moment you make something available. So that step that you take as a creator or as a rights owner of putting something, releasing it into the world, is the moment when revenue needs to come and the law needs to take a slightly different view on it.

Q461 Conor Burns: Your view is that the pace of technology change is so vast and so quick now, that the way we have hitherto looked at legislation is always going to be behind the curve?

Jeremy Silver: Unfortunately that is the nature of the beast, as we know. The problem that we have had over the last 20 years is that the level of change has been so rapid and so continual. There are those who are starting to say that the level of change is slowing and that the level of technological innovation is not going to continue at quite the pace that we have seen it at. At the same time, we are seeing digital services and media content businesses starting to generate real, meaningful revenues that are sustainable from the market, without those punitive steps necessarily being taken. I think there is cause for some optimism there, but it does not mean that we do not need to address that fundamental point.

Q462 Mr Leech: Mr Silver, I want to bring up something that you said earlier. I do not want to put words in your mouth, but I think you said that perhaps the difference between why people might think it is okay to take something off online for free instead of paying for it is that it is much easier to do that than it is to perhaps pinch something from a shop. Is that—

Jeremy Silver: That is a bit literal. I think what I—

Mr Leech: That is my interpretation.

Jeremy Silver: That is fair enough, and I am sorry if I did not make myself very clear. We could do lots of studies of individual psychology on this, but the reality of what we have is—and lots of us are saying this—we have a generation of kids for whom that is just what they do. Whatever the ethics of it are they do not see it that way. That is just the reality. I do not think it is necessarily for me to take a view about that. You and I may both feel that it is completely immoral, that it is totally illegal. The reality is that is what is happening out there. I think we have to confront that reality and, whatever our moral and ethical feelings are about it, we have to accept that that is now very widespread consumer behaviour.

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Q463 Mr Leech: The point I am trying to get to is why people feel that. Is it because it is easy and accessible or is it because they do not actually ever think they are going to get caught? Or is it that they do not think they are committing a crime?

Jeremy Silver: Those are all potentially contributing reasons, aren't they? As I say, I am not a psychologist and I am not inside the brain of that large swathe of the population that is doing that. As I said before, I think the work that rights-owning companies have done to continue to demonstrate the moral hazard of that behaviour is right, is appropriate and absolutely what they should do. It has some effect but it does seem as if, from the purely economic perspective, a more effective strategy seems to be to run services that are really attractive, really easy to use that people are just going to use and take up and then they will abandon that illegal behaviour.

Q464 Mr Leech: But surely, without knowing why it is that people are doing it, and what the cause of that is, we as decision makers and law makers are not able to come up with the right policy to tackle that. For instance, I think it is probably easier for me to pinch a CD. It would be easier for me to go into a supermarket or HMV or whatever and pinch a CD than to go online and download something illegally, because I would not know how to go on and download something illegally. I would not do that, and there are many reasons why I would not do that. Firstly, I do not think it is the right thing to do, and secondly, I think I am going to get caught or I am worried about getting caught. So surely we need to get to the nub of why people do it. What is the cause of people's attitude that this is something they can do? Otherwise we cannot then legislate as to what the solution is.

Jeremy Silver: I suppose my view is there are lots of contributing factors. You listed a number of them. The fact is that for a 14-year-old kid it is extremely easy to do. They feel that it is not a property theft because it does not produce scarcity. They know that if they take it, it is still there for everybody else to take. They do not feel that they are depriving anyone of revenue. There are lots of points and plenty of better people than I have made those.

I suppose the point I am making is in the end what is from a business perspective—I would view this from a very pragmatic point of view—which is to say, “What actions and what measures can we take that are going to produce the most economic benefit that will, in the end, give benefit back to the creators, and to the economy and benefit to the consumer?” Striking that balance in the appropriate way is the right one. It is not that I want to be amoral about it, but I think that in a sense, in terms of trying to frame a way forward, one can do that from an economic perspective slightly more easily than perhaps getting caught up in some of these more emotive issues.

Peter Bradwell: Can I just mention the Ofcom research that was published a couple of months ago now? It is really useful. It was part of their responsibilities to monitor this activity and it does give some really interesting and useful results. They mention the caveats around self-reporting and people describing their own behaviour and so on, but it does

go into some detail about the reasons people give for infringing. It also gives a bit of a reality check around the scale of this sort of behaviour, and I think it starts to help us ask questions about what we mean by “infringement”. There are lots of different types of it. There is peer-to-peer infringement, there is sending a file to a mate, there is putting an MP3 on a music blog, some of which will be more or less damaging, some of which will have different effects than other effects.

When we talk about needing to understand exactly what types of behaviour we are thinking about, the Ofcom research is really useful. For example, the percentage of people, all the internet users over 12 who say they infringe copyright was, I think, 8%. For film it was something like 6%. I think it rises to about 16% for people who have consumed content online.

That sort of research is really useful. They are going to keep doing it more regularly so we can track it, and I think it does give a reality check around the scale of the problem, the nature of the problem, what types of infringement we are talking about, which should help us unpack the term a little bit because it does not mean one type of thing.

Q465 Mr Leech: My understanding is that the vast majority of infringements of copyright are by people who generally spend more money on buying things than other people do. I am right in thinking that?

Peter Bradwell: That research also suggests that. There has been other research previously that suggested similar things.

Q466 Mr Leech: In terms of tackling the issue, is the issue about not tackling those people but tackling the people that are then making money out of it?

Peter Bradwell: I think that is right. It seems much more sensible to—I think the term has been coined—follow the money, and where people are offering services from which they make a lot of money, which is clearly infringing, that is a more sensible strategy from my perspective. When you talk about that, and you think DCMS are holding discussions about advertising, networks, payment servers and so on, the question really becomes about due process. Who is alleging that site is infringing? Who is making a decision that it actually is? Is there redress if the wrong sorts of decisions are made and so on? But I think that is the right strategy.

Q467 Mr Sutcliffe: Apologies for missing the early part of the session, due to a constituency issue that I had to deal with.

Going back to the here and now, what is happening, the Government announced just before December on their consultation around copyright exceptions. What in your view are the main arguments in favour of introducing a private copying exception to copyright? What are the advantages and what do you see as the people on either side of the argument?

Jeremy Silver: Private copying exception. To me this is simply a measure that almost everybody acknowledges just allows the law to catch up with the reality of individual behaviour. I do not think it is

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seen, even by some of the more hardcore rights-owning bodies, to be a particularly controversial one. It seems to be a point that they have acknowledged and accepted.

Q468 Mr Sutcliffe: I am quite concerned that legislation is normally through primary legislation, but the Government are proposing that secondary legislation would take care of the exceptions. That could cause a potential problem.

Jeremy Silver: Yes. That is a broader question about the way in which exceptions work, and I think you may not have been here earlier on when I made a brief comment about that. There is a challenge for us in the process of arriving at what the amendments and what the detail of the law ends up being, and that is to do with the fact that when you sit down and you present the draft to the community, there is an enormous set of different sorts of constituencies all of whom have all sorts of interests.

As we know, something like copyright in particular is it is highly complicated and it is very specific to particular sub-segments. For example, in the current proposals that are going through around orphan works, I believe there is an exception that has been put in specifically for photographers. There is a structural process problem that I would love to see us try to resolve. I am reasonably intelligent, but I find it extremely difficult when I go and look at the account of the marshalled list of amendments to the law, to then have to get the original, to then have to put the two things side by side and then try to figure out what the consequence of every single one of those amendments might be.

I would love to see us arrive at a better process. I am sure that legislators in all sorts of other areas would probably say, "Oh, well, it's just as complicated in other places as well", but it does strike me that, particularly in copyright, it is so much about fine tuning and that there are so many specific needs among all these individual players that might be different from one another. The law ends up being a very blunt instrument and I think we could do better. I would love to see us improve the actual process by which that amendment, debate and consultation take place.

Q469 Mr Sutcliffe: In your written evidence you talk about "A legitimate transformative reuse of copyright works". Can you give an example of what that is?

Jeremy Silver: Is that a phrase that I used?

Mr Sutcliffe: It is a phrase I am interested in because it certainly was in the written evidence.

Jeremy Silver: Could you repeat the phrase, "A legitimate—"

Mr Sutcliffe: "A legitimate transformative reuse—"

Chair: It is your description, isn't it, Mr Bradwell?

Peter Bradwell: It sounds like it is mine.

Mr Sutcliffe: What is it?

Jeremy Silver: I will let them answer; it is their phrase.

Peter Bradwell: I would imagine—without knowing that submission by rote—that we were probably talking about parody in that context. So what we are talking about there is people using, for example,

YouTube. They have been able to grab a clip from YouTube, create something new out of it, either by cutting bits out or adding new bits in, making a new version that somehow mocks or jokes about the content of the original, and where people are doing that to entertain a community of their friends, for example. I think that is legitimate. It is not really hurting anybody, but currently it is not permitted under copyright if you are using copyrighted works. We would see that sort of activity as legitimate. There was a programme called—

Q470 Mr Sutcliffe: What is the difference between that and then somebody recording a song for a wedding video, where there is a clear identity of who owns the song?

Peter Bradwell: Are you talking about re-recording an existing song—covering it for a wedding video?

Mr Sutcliffe: Yes.

Peter Bradwell: Okay. So one is transformative, I guess, and it involves making something new out of the previous material. The other is making a cover version of a previous song. I think in the way that the Government plan to implement parody they are doing it as a fair dealing exemption, which means there are tests as to whether it is considered a fair use of the original material, which I think covers some of the concerns about whether it is going to undermine licensing, because whether a licence is available is going to be one of the considerations about whether it is fair or not, and it should also take account of the problems around reputational damage and so on. That is why I think the way that the exception looks like is going to be framed as reasonably cautious and careful.

Jim Killock: There is another example of that, which got a little bit lost in the current consultation, which was in Gowers. The Gowers review identified the idea of sampling, what they called de minimis samplings—say, taking small sections of a song, or whatever, and recycling that in the way that rap artists traditionally have but frankly now happens all the time in music. Their argument was that as long as it was extremely small samples, then that should be permitted by law because it is not really affecting the value of the original. But current practice in UK and US law is to insist on licensing for that kind of transformative use. So there is a case for that as well but that has not entered into the current Hargreaves review.

Q471 Chair: Jeremy Silver said that the exception proposal was pretty uncontroversial. What the rights owners argue is that the copying of material on to hardware—or, indeed, on to a cloud up there—is something that financially benefits the manufacturers of hardware, or indeed the people who own the cloud, and they should make some recognition of the fact that they are basically building a business on the back of the works of creators, and that there should be some kind of licensing or payment. You will have heard those arguments. How do you react to them? Do you see any validity in them?

Jim Killock: Have people already paid for the work or not? If they have already paid for the work and the companies have already been rewarded then I do not

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think there is a case for ongoing rental, no matter where you store your own personal files.

Jeremy Silver: For example, I think the music companies are in licensing conversations with cloud services providers and that seems to me to be sensible and appropriate.

Q472 Chair: You think there should be some kind of licence payment by the cloud operator?

Jeremy Silver: If they can prove that the cloud operators are making some financial benefit out of providing a service that is specific to a piece of music that they own, then I think that is a negotiation that they should pursue and, as far as I know, that is what they are pursuing and there is a licence there. It depends on the nature of what the service that has been provided actually is, so the licence conversations I think are mostly around things like the match service that iTunes runs, where essentially it avoids having to upload a file by identifying what it is and then simply saying, "Well, it is here already". So those things seem to me to make sense.

The reason I said it was uncontroversial is that I agree that there is some discussion around cloud services; other than that, though, there seems to be general recognition that people have been ripping their CDs to MP3 players with permission. The iTunes licence, I believe, is one that has been sanctioned by the record companies, and clearly the largest source of digital revenue for record companies comes from iTunes currently, although there may be some other services that are starting to pick up and contribute as well.

I do not think that is something that is doing anything other than trying to keep pace and bring the law up-to-speed with what consumers are doing. It also, of course, puts us in harmony with what is going on in the US. Obviously, there has been a lot of consumer confusion about the fact that the US has had that right to private copying for a long time, since the Digital Millennium Copyright Act 2000. We are some decade out-of-step, so it would be a useful thing to bring us up-to-speed.

Peter Bradwell: I have one direct comment. I would echo that it is a very reasonable step. I think the way that the exceptions proposals from the Government have tried to deal with that is to say that where a cloud service offers something value added, and that would not be undermined by this exception, so they propose that this would mean where there are already negotiations to make these licensing deals that would not be undermined by this exception. That is certainly the idea behind the way that this exception has been proposed.

Q473 Chair: You are pretty happy with that?

Peter Bradwell: It seems reasonable to me, yes.

Q474 Paul Farrelly: We are going to hear from the associations next. Is it fair to say that the Open Rights Group is not greatly enamoured of the activities of trade associations in the sector and the collecting societies?

Jim Killock: They have a job to do. They have legitimate interests to represent and that is fair enough. I think the problem is the way that policy

evolves. This is a very technical area. The problems are going to affect businesses directly, and it is quite hard for politicians and policymakers at a senior level to separate the wheat from the chaff. Plus, I think copyright traditionally has been very much left to trade associations to suggest the kinds of reforms that are needed.

It has been an area where it has not attracted large public intervention, because copyright has been essentially something for broadcasters, publishers and record companies, but, as we are seeing now, copyright is something that affects the regulation of the internet. It affects the way that we use all kinds of information and all kinds of goods that we buy, from our computers through to our phones. So suddenly there is a lot more interest from the public in what the effects are, and the effects can be potentially quite devastating for consumers and people trying to engage with their everyday lives, and that makes it much more controversial. I think it has taken time for politicians to adjust to that new scenario and, at the same time, I think the trade associations have not woken up to their ability to create a political storm. I think you have a couple of examples of that: the UK's Digital Economy Act was one of those, ACTA was another.

Trade associations were pretty convinced that ACTA, the international treaty, was opposed by people because it was going to stop file sharing, and this was file sharers who were trying to oppose an international treaty to protect intellectual property rights. But the truth was that the people objecting were concerned about free speech, about the regulation of the internet and about their ability to use technologies to engage with politics and society. They felt that there was an attack on those things in the anti-counterfeiting trade agreement, so what I think happened there, when you hear the trade associations describe what happened in ACTA they say, "Well, you know, there was a lot of internet activists who did not know what they were talking about" and this was an attack on intellectual property and they quite often made the argument that if ACTA was allowed to die that this would be a blow for intellectual property across the globe.

I do not think that stands up to any rigorous analysis, and the people who started that dialogue on ACTA—people like Michael Geist, a Canadian professor, they were organisations like ourselves, EFF, Electronic Frontier Foundation in America—these are organisations that support intellectual property. Michael Geist is an intellectual property professor, but they are people who also recognise that there are significant questions and balances to be struck and when trade associations make agreements, essentially with states, and promote policies in relatively narrow scenarios, the public gets cut out and policy goes awry. That is where I think we have an adjustment to make. There is now a very significant public interest in these issues for very real reasons that go much beyond questions around file sharing, which I am sure will go away sooner or later.

That is where the problem lies and I do not blame trade associations for not wanting to face up to that—that is their concern—but I think as both the public and politicians we all have to say, "Well, there is some

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responsibility that is needed here and people have to step up in their game and they have to understand that these public interest concerns need to be represented". Hargreaves is a good step in that regard because it has asked some serious questions about where exceptions lie and where the consumer, the public and the economic interests lie in this debate. But obviously this is not a single step here; we are going to have a very long debate around these issues, I think.

Q475 Paul Farrelly: Clearly, the creative industry is very important to the British economy. Taking a wider picture, do you think the activities of some of the associations with whom you have locked horns are—in the way they are standing up for the members' self-interest—holding back the creative economy and doing it damage?

Jim Killock: I do think that. I certainly think that the focus on enforcement is counter-productive when it is framed as purely a question of changing consumer behaviour through punishment, when so much parliamentary time is spent on something like the Digital Economy Act and so much policy work is done by people like Ofcom with so little result. That does beg some very serious questions about whether they are getting the strategy right.

But I am not in the industry. The Open Rights Group does represent many small creators as well as consumers but we are not attempting to make a bid to run the music industry or to tell them how to do their business or to save a film or anyone else. You can observe from outside and just wonder why they do not open up a bit and think a bit more widely, but ultimately it is not our job to tell them how to run their businesses.

Q476 Paul Farrelly: Just a quick view from the panel on a fresh approach to copyright and loosening things up—what are your views of the proposals for the digital copyright exchange, as they are coming forward?

Jeremy Silver: I think the broad idea of a digital copyright exchange is absolutely right. The more that we can produce automated licensing and the more we can produce a friction-free commercial environment in which a much larger number of service providers can very rapidly access large quantities of content for different uses, the better.

I think that the current efforts in this area are in danger of being smothered by their own legacy. The biggest problem they are all trying to grapple with is the paucity and bad quality of the data in their existing databases, whereas it seems to me the appropriate thing to do would be to create a new model, a new digital copyright exchange that did not try to tackle the legacy problems and then encourage people to put new digital rights into that. We would get a much faster uptake and a much quicker demonstration of the value of a digital copyright exchange if we took that approach.

I have engaged with Richard Hooper on that subject a few times and we will see where we get to.

Peter Bradwell: The moves towards looking at what problems there were around licensing are very positive. I was very impressed with the approach that

the team took and the way that they drilled down on what exactly the problems were. They built a reasonable consensus. It seems they brought lots of people together to work on the issues in a practical way and are making reasonable progress. That can only be a good thing, especially where it improves the situation around licensing, which is one of the issues of copyright legislation—is it too complex, as Hooper describes, the high-volume, low-value transactions that I think are at the core of what he is trying to do.

Q477 Mr Bradshaw: Mr Killock, earlier you challenged the £400 million figure that was put on the damage done to our creative industries in Britain by copyright theft. What is the figure you put on it?

Jim Killock: We are a small organisation; I do not think we have an ability to simply come up with figures. What I would ask is why is it that the methodology behind that £400 million has not been made public and why was it acceptable for the Labour Government of the day to accept that figure into the impact assessment without being shown the workings?

Mr Bradshaw: I believe that the Bill had all-party support.

Jim Killock: It did not, actually.

Mr Bradshaw: It had cross-party support in this House.

Jim Killock: It had cross-party support from the Labour and Conservative Front Benches, yes, but it did not have all-party support.

Q478 Mr Bradshaw: But you are very happy to put a specific figure on the number of letters you think will be issued in the first year of the Digital Economy Act being enacted. You say that 2.33 million letters—that is a very precise figure—are likely to be issued in the first year. What evidence do you base that on?

Jim Killock: Peter is probably a better person to go through those figures but that is basically how the economic model works from Ofcom, so you basically pay a huge amount of money to send one letter and then not very much money to send the next batch of letters. The economics of the Ofcom scheme incentivise a very large volume of letters to be sent.

Q479 Mr Bradshaw: I thought Mr Bradwell in his evidence earlier said that he thought the estimated number of people who were infringing copyright was massively exaggerated.

Peter Bradwell: I did not say it was massively exaggerated; I said it is useful to look at the evidence that we have available to us. The most recent of that is Ofcom. They have done a fairly big survey of consumers, which has given some interesting results, which is not inconsistent with—

Q480 Mr Bradshaw: But your organisation is perfectly happy to put a very precise figure on the number of letters you think would be issued as a result of the Digital Economy Act, but you are not happy to give an estimate of the enormous damage that copyright theft is doing to our creative industries.

Peter Bradwell: If that figure is about the number of letters sent under the scheme—

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Mr Bradshaw: It is in your evidence.

Peter Bradwell:—it will have been taken from the Ofcom impact assessments.

Mr Bradshaw: It is in your evidence.

Peter Bradwell: But I am just saying where it came from; I do not make it up. It is either a quote from the Ofcom—

Mr Bradshaw: It is in your evidence to this Committee.

Peter Bradwell: I heard you the first time.

Q481 Mr Bradshaw: The point I am making is that you are happy to use that figure, but you will not even put an estimate on the damage you think copyright theft does to our creative industries.

Peter Bradwell: I am afraid I have lost the clarity of your question.

Q482 Mr Bradshaw: Having challenged the great amount of work that went into the *Digital Britain White Paper*, before this Committee, Mr Killock would not say what his estimate of the damage of copyright theft is. Are you prepared to put a figure on it?

Peter Bradwell: I am neither an economist nor do I have the resources to carry out such a study. What I would expect, as I think Jim said, of a Government is to examine the problem they are trying to address properly, to look at the best available evidence, do that critically to analyse what the problem is properly and to come up with the best possible solutions to the problem they have identified. That is something that absolutely failed to happen with the Digital Economy Act. The impact assessment just quotes figures uncritically. The figure that is quoted about the number of letters is taken from an Ofcom estimate of the number of letters that we sent.

Q483 Mr Bradshaw: If we accept that this is the number of letters does that not show that there is a huge problem of copyright theft out there?

Jim Killock: There certainly is a lot of copyright infringement taking place. The value of that is much harder to measure. There is a question around whether an individual act of copyright infringement equals a lost sale, for instance. If it is not equal to a lost sale are we are talking about revenue damage; what are we talking about? It is also difficult to know what people's behaviour is. Some people are apparently downloading huge amounts of files. Are they even listening to these files? I doubt it. What kind of damage is that doing if somebody downloads 30,000 songs and listens to 10? Is that damage worth £30,000 or £10? There is a whole bunch of problems in this when you are trying to understand the level of—

Q484 Chair: Why would anybody download 30,000 songs and only listen to 10 of them?

Jim Killock: Obsessive behaviour, it is easy to do. You hear of people doing this sort of thing and the studies show that sometimes you do get people doing this kind of thing.

I am just saying it is very difficult to know precisely what the damage is. Add to the fact that the people who are infringing copyright are also paying for

goods; it is difficult then to know how much is displaced sales or what exactly. That is why it is very important for the Government to get its own evidence together. Again the Hargreaves review identified this. The Government before was also trying to attempt to do this. There is this need to establish figures that the Government can rely on for itself, that is the critical piece here, and then to understand some of the other questions around what—

Q485 Mr Bradshaw: Do either of you accept that there is a relationship between the strength of Britain's creative industries and robust copyright laws?

Peter Bradwell: Yes.

Jeremy Silver: Yes

Q486 Mr Bradshaw: Mr Killock, in your evidence earlier you said that consumer perceptions on copyright had changed. What do you think drives consumer perceptions about the law and its enforcement?

Jim Killock: Firstly, there is a question about morality; there is a question of right and wrong that is in people's minds. Secondly, there is a question of what is convenient, what is easy, what seems reasonable. In the copyright arena, I do not think that there is a widespread notion that copyright is bust or wrong. I think there is a general acceptance that artists should be paid and there need to be mechanisms for that, and it is a good idea for people to be paid for the work that they do.

Again, the studies that exist seem to show that, so even when people are infringing copyright there is a sort of duality perhaps around many of the attitudes of people doing that. I think that is one of the reasons why—

Q487 Mr Bradshaw: You do not think organisations like yours that argue that people should be able to expect to get something free without being punished, without something substantial, without proper enforcement, has itself helped drive consumer perception?

Jim Killock: I do not think we have ever argued any of those things. Where do we say that?

Q488 Mr Bradshaw: In your evidence, you also suggest that the Digital Economy Act will constrain the roll-out of public wifi. What is your evidence for that?

Jim Killock: We have had a very long discussion with Ofcom about this and they and the Government's Ministers have recognised that there is a problem to be dealt with here. Essentially, the Digital Economy Act only recognises two categories of people. It recognises consumers, that is to say subscribers, and it recognises internet service providers, so either you are BT, Virgin or Sky and you are providing internet services or you are a consumer.

Unfortunately many small businesses, particularly hotels—and many others, even libraries, but certainly hotels, cafés and so on—are neither ISPs nor consumers, so trying to decide if they should be receiving letters if copyright infringement takes place on their premises has been a very difficult nut to

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crack. As I understand it, and Peter may fill us in a bit more on this, the problem has essentially been pushed back to ISPs in the current draft code so that ISPs will have to tell cafés or businesses that are running wifi that if they receive these letters, as long as they certify that they are a communications service provider under European law in the British Communications Act, then Joe Bloggs's café can ignore the letters.

This whole problem could have been solved simply by saying, if we have a class of people who are business operators as opposed to subscribers, or internet service providers—if you like they are business subscribers—that they do not have to receive these notifications.

Q489 Mr Bradshaw: Do you believe in any sanction for digital theft?

Jim Killock: We do. In fact, we have even been the beneficiaries of donations from the *Daily Mail* as a result of their copyright infringement. We received a donation of £1,000 off an individual—the wife of one of our advisors—whose work was taken from Flickr and published on the *Daily Mail* without her permission, and she had been very explicit with the *Daily Mail* about not giving her permission. As a result, she extracted £1,000 for the Open Rights Group in a donation. So we are in fact the beneficiaries of copyright enforcement.

Q490 Mr Bradshaw: Do you accept that the incentive for the industry to develop legitimate forms

of downloading is seriously weakened if there is no proper enforcement and sanction against those who download illegally?

Jim Killock: The problem is how do you enforce this system in a fair manner and I think what the Digital Economy Act has shown is that trying to enforce directly is likely to be extremely unfair. It is likely to get the wrong people and it is likely to—

Q491 Mr Bradshaw: It has not been enacted yet.

Jim Killock: No, indeed.

Q492 Mr Bradshaw: So how can you tell?

Jim Killock: Maybe we look at HADOPI, for instance.

Peter Bradwell: We looked at that. The issue with the Digital Economy Act is how you identify the right people and so on and there is a serious problem about the evidence that is gatherable and whether it is accurate or not. Ideally, that sort of thing would have been considered before a law was passed but unfortunately it was not, and that is why there are so many issues with it.

Chair: I think we should probably move on to our next panel, as time is pressing on. Can I thank all three of you?

Witnesses: **Owen Atkinson**, Chief Executive Officer, Authors' Licensing & Collecting Society Limited (ALCS), **Richard Mollet**, Chief Executive, Publishers Association and Chair, Alliance for Intellectual Property, and **Lavinia Carey**, Director General, British Video Association, gave evidence.

Q493 Chair: Can I welcome for our second session this morning Owen Atkinson, the Chief Executive of ALCS, Richard Mollet, the Chief Executive of the Publishers Association, and Lavinia Carey, the Director-General of the British Video Association? Paul Farrelly is going to start.

Paul Farrelly: I had a lengthy exchange with Ian Hargreaves about what has become known in some quarters as his "Google review". The Alliance, of which you are a member, has said in its evidence: "Overall, it has been difficult to overcome the feeling that the Government is more interested in creating policy which will be of benefit to US based global tech companies than that which is fundamental to UK creators and businesses." What makes you say that?

Richard Mollet: As Chair of the Alliance, maybe I will answer that. I think there is a view that certainly not just Google but American tech companies' perspective on copyright has become the frame of reference for a lot of policy making in this area.

Here is one example. In 2007, a lawyer called Jonathan Band wrote an article for a US law paper, for Google, wherein he said that it was no accident that search engines had started in the US because the British and European jurisdictions had a hostile copyright environment. You fast-forward three years and a very similar sentiment is being echoed by the Government in announcing the Hargreaves review—

this idea that copyright is holding up the development of search engines and other ICT companies. You see it echoed in *Modernising Copyright*, which was the IPO publication of December 2012 wherein they said evidence is mounting that copyright is holding up the development of ICT businesses—not, you will note, the wider economy, but just ICT businesses.

I think it is when we see phrases like that echoing down the years it does give rise to this perception that perhaps that view of copyright—that Google legitimately promote, and there is no decrying them doing that; they see it as inimical to their business—has become the frame of reference and the way IPO think about copyright. It allows documents to come out that say that copyright is a form of regulation, as was said in 2011. Whereas I think the perspective of rights holders is that copyright is not a form of regulation; it is a property right that has limitations on it and it is that that drives the creative economy. It allows creators to be rewarded, companies who invest in them to be incentivised, and allows the whole successful ecosystem of our creative industries to work. So we would rather IPO perhaps not have that one perspective of copyright but to listen more to the view that we put forward.

I think in "Modernising Copyright", despite what I just said about that phrase, some of the exceptions that have now been proposed do show some signs of

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having listened to the creative industries. What we have is a narrower set of reforms. A lot of us will still need to see the detail and not everything is perfect, but I think there is something there that we are more comfortable with.

Q494 Paul Farrelly: Through their powerful and very well-funded lobbying activities, they have not only been chipping away at people's rights; they have effectively stolen the language as well.

Richard Mollet: They have a frame of reference on copyright, which I do not decry them for having, and they have a legitimate role in lobbying for that, as we and the creative industries have a legitimate role for lobbying the other way. From the previous witnesses you heard this appeal for Government to have a more balanced view. I disagree with the idea that trade associations have made all the running on this, if only Government listened to somebody else, because I can say from our perspective in the Alliance, it certainly does not feel like that. I think we are in a dialogue with IPO where we know there are very powerful voices the other side of the debate and we just wish for Government to hold the ring between those competing voices rather than, as sometimes seems to be the case, to uncritically buy one side of the analysis without testing it.

Q495 Paul Farrelly: That comes neatly on to the supplementary. What main ways would you advise a Committee like this to advise the Government as to how it might redress the balance?

Lavinia Carey: From the evidence that you have just heard and previous sessions with Ian Hargreaves and others, there seems to be a feeling that we have had it all our own way, nothing is happening and our eyes and ears are closed to progress. The reality, however, is that we have formed commercial relationships with tech companies in order to deliver content to British audiences, whatever type of content that is, and the proliferation of digital services in this country is testament to the fact that copyright is not broken, that it is working, and all these services have developed and have been growing for some years.

But the debate sounds like we are just sticking our heads in the sand and nothing has changed whereas the world has changed massively and even in the audiovisual industry itself, which is one part of the Alliance membership, we have seen a 49% increase just in one year on the amount of money the public spend on video services online. I think the reality is not matched by the rhetoric that you hear from some people.

Q496 Paul Farrelly: So back to the question. What are the main things the Government can do to redress the balance?

Richard Mollet: One very specific thing, which we are almost like a broken record in asking for, is more rigorous impact assessments when Google, the Publishers Association or the Alliance go to Government with evidence that is subject to rigorous scrutiny by Government. I think what seems to have happened in recent iterations of copyright policy is that those impact assessments just have not had that

rigour. From the Hargreaves review, as he said to the Committee, a lot of the evidence was not quantified. When you drove into the report there are lots of gaps in the analysis. It is a little bit better with the latest situation, but not that much better, so I think there should be a better focus on that.

The Strategic Advisory Board in IP, which was one of the things that was set up after Gowers, might have provided that; that has been abolished but that might have been one area where this could have happened.

Owen Atkinson: There is a sort of dynamic tension between organisations like Google that are very successful with their technology but are predicated on content and content of creators throughout all our sectors. There needs to be a partnership and balance, and this is about supporting creative industries, but it takes time for creative industries to come up with structured solutions that give access to the market with quality product, ease of access and pricing. I think we have seen that in music. I think music is a success story in this. My kids these days use licensed legal services because the pricing is right, the repertoire is there and there is a feel-good factor about doing something and making sure that the creators, the authors, get a benefit from it.

The problem is that technology companies do not want to wait; it is very fast moving. So your question about what Government can do to support is trying to find a balance and find a dialogue as well between the content creators, the creative industries, and the technology industries to get that partnership working again in balance, in tandem, because what we all want is access to content through legal structured systems where everyone benefits. The last thing we want is rampant piracy or a perception that things are not working.

Lavinia Carey: If I could add to that. I do not think copyright is the answer to everything. As I have already said, that is just one element and it does not seem to be broken. I would say that the Government, in helping the creative industries and to grow their creative economy, should be looking at infrastructure, should be looking at finance, should be looking at access to better education, should be helping education and should be contributing to the dialogue so that the public do understand what copyright is.

We do have evidence from research that has been done that the people know when they are infringing or not, mostly, and the Government could be helping in making it clearer. So even with the suggestions that have been taken on board by the Government to change copyright, which is fraught with difficulty if it is wrongly drafted, I think the Government has to make it very clear what is permitted and what is not going to be permitted by these new exceptions.

But there is a much bigger picture that the Government is not, in this particular review, looking at. I think it behoves them and the DCMS and the IPO and BIS to work together to look at those bigger pieces and to ensure that the IP sits at the heart of some sort of strategy for the creative economy.

Q497 Paul Farrelly: On behalf of writers and authors, how would you categorise the relationship at the moment with behemoths such as Google? In terms

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of striking deals with them and making them see reason, would you say a *modus vivendi* has been reached or do you still feel prostrate in front of a steamroller?

Owen Atkinson: I think that is quite a difficult question to answer. Our organisation is 88,000 members. I think the views of behemoths like Google would spread across the whole spectrum, but Google are a very powerful player and of course each one of those writers these days is a mini industry in themselves and they need to find access to market, they need to find ways to raise their profile, their brand—working in partnership as well of course with publishers, with producers about getting their content to market through as many channels as possible.

The difficulty is that our members are a small voice, and you have the likes of Google who, we saw, digitised something like 60 million books, and are still digitising, as far I understand, without asking any permission at all. We could say, “What a wonderful thing to do”, except this is the livelihoods of tens of thousands of people in the UK, all of whom have those works’ content, all of whom actually do not have redress, as we speak. So I am not sure I can answer your question.

Paul Farrelly: I think you probably have. The fact that they are doing it regardless suggests the *modus operandi* has not been reached yet.

Owen Atkinson: There are steps that have been taken. I think the IT small claims court is a very positive step forward, and one that will offer some forms of redress on much smaller scales, but there is a huge challenge.

Q498 Paul Farrelly: The Germans, I understand, are implementing a law that takes it a step further, to make using people’s work without copyright permission an actionable civil offence. Is that something we should examine?

Lavinia Carey: I think the laws that exist on the statute books here are fine, if they could be enforced. I would utterly refute the claim that the Digital Economy Act is unfair to consumers and punishes them. It absolutely does not. The first step is to send out letters explaining to people that their IP addresses are being used for infringing activity. There is no punishment attached to that at all.

Q499 Paul Farrelly: Richard, in the Alliance’s evidence, it says, “On many policy issues, Google in particular is opposed to measures which would support the UK’s creative businesses”. Can you give us some examples of what measures it is opposing?

Richard Mollet: Yes. We saw Google’s voice raised against the implementation of the Digital Economy Act. Not vociferously, but I think they were part of the lobby that were opposed to that. As Lavinia has just said, all of us in the creative industries see the DEA as a massively important bit of legislation, not because it is enforcement legislation, but because it is educative, because it will send a very clear message to people who might be infringing that—they should not—and that there are legal services. That would be one example. Also, as I said earlier, they have a different view to copyright from the creative

industries. Fine that they do, but we sometimes find ourselves—at a policy level—in an unfortunately slightly adversarial mode, although the personal relations are good.

I should say, to echo Owen’s point, that at an operational level, the licensing that is going on between publishers, record labels, film makers and everybody, and companies like Google and Amazon and Apple, show that this digital economy in creative content can work. Of course there is tension there. These are two sides doing a deal, and they want a better deal than we might always be prepared to give, but it does show, despite what one can sometimes hear, “It’s the digital age. Copyright is broken. We’d better do something else or else the economy is not going to work.” It is not the case. We have real world, real time examples of the digital economy working. Sometimes one hears a rather academic view that we had better tear it up and start again. But the business world is getting on with it.

Q500 Paul Farrelly: With your Publishers Association hat on, can I just quote to you again? You said, “The Government should maintain a sceptical approach to those who seek to undermine the UK creative sector for their own commercial or even ideological elements”. Do these companies like Google have any more ideology behind them than profit maximisation and tax minimisation?

Richard Mollet: No. There are two groups who lobby on copyright. One group do it for commercial ends. As I said, fair play to them and carry on. There is another group who even set up political parties to campaign against copyright and those would be the ideologues I was referring to there. Sometimes they make common cause. Often, they do not. What I am saying is that there is a strong lobby in some European countries that is at parliamentary level, where there are people who have an ideological view that copyright is old hat, we should do away with it and we need something new. Thankfully, to date, both the British Government and, it seems, the British electorate, have been impervious to that idea.

Paul Farrelly: Are you talking about the Pirate Party?

Richard Mollet: I am.

Q501 Chair: You talked about the need for more rigorous analysis. You will have heard the previous witnesses questioning the claim about the amount of money being lost through piracy. Equally, you will have heard us pressing Ian Hargreaves to justify some of the figures in his report about the potential benefits that might exist from, for instance, introducing copyright exceptions. First of all, can you give us your assessment of how much damage is being done by piracy—how you calculate that and whether it is a robust figure?

Richard Mollet: It is a little bit water under the bridge. I have to cast my own mind back four years ago, when I was working with the BPI, where we did do some very detailed research on forgone revenue from online copyright infringement, which forms part of the £400 million figure. Our figure was £180 million. It was very robust and it was not based on, “One illegal download is a lost sale”. There was

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consumer research in there, asking people, “How much of that would you have bought otherwise? Are you really being honest about your infringing activity?”—all the caveats you would want to put.

I sat down with the Department officials and went through it with them—I can tell you, we did not get a free pass or an easy ride on that. It was very robustly analysed. It is the best that was out there. As previous witnesses have said, all Government can hope to do is work with the best that is out there, and that at the time was the best that was out there. I know the BPI still stand by that evidence now.

Lavinia Carey: As does the British Video Association for audiovisual piracy. Our number was £272 million. What Peter Bradwell was referring to was the fact that in the drafting of that documentation there was an error, which came from the IPO—it was transcribed wrongly and they did not question it. They just quoted an out of date piece of information.

I have taken the ORG through our research methodology. It is perfectly transparent, and it has been explained to the IPO and the DCMS. There is absolutely nothing that is concealed about the methodology, and we all make a big allowance for people who say, “Actually, I would not ever have watched that thing or bought that thing if I hadn’t got it illegally”, and that is a significant number of people. It is 40% of people who are absolutely discounted, so you do not count the whole black market, absolutely not.

Q502 Mr Bradshaw: Is £272 million the figure that you put on the total, or just the video?

Lavinia Carey: Just our sector, yes.

Mr Bradshaw: That would imply that £400 million is a gross underestimate?

Lavinia Carey: It does sound like it, but then—

Mr Bradshaw: That was just based on the film plus music figure?

Lavinia Carey: Yes.

Richard Mollet: I think the Ofcom counter-analysis that has been done is very good and very welcome, and confirms a lot of things that the industry think, both about the scale and the topography of this issue. Long may that continue! I think Ofcom are now under a duty to do that.

Q503 Chair: I do not want to paraphrase Jeremy Silver too much, but his message was, “The internet is a copying machine. There is not a lot you can do about this. You are going to have to find a different way of making money.”

Richard Mollet: It is sort of what we are doing. It was a bit of a counsel of despair. The interesting thing about the internet is that it is not so much a copying machine as a distribution machine. You can do something, but if the creative industries had just sat back and said, “Do you know what? All we are going to do about the internet is enforcement. All we are going to do is stop people copying and stop people distributing,” that would have been ridiculous and we would all be out of business, but of course that is not what the industry did. Certainly, publishing has been putting things online—academic journals have been online since the mid-90s. We have seen e-book sales

grow 366% last year, and film and music and computer games.

Everybody has a similar story to tell, because we did not just say, “Oh my God, it’s the internet”, but we found ways of licensing companies—licensing Amazon and Google and whoever else to put services into consumers’ hands, which funnily enough, consumers love. Our argument back to IPO is to say, “If you modernise copyright in the wrong way and you remove our ability to do some of that licensing, you are imperilling the business, so step gently because you are stepping on our licensing models”. On the enforcement side, we say, “If you do not do any enforcement, you will not allow these new business models to grow, because they are competing with illegal free”. It is very difficult to do that, so we need to keep the pressure on enforcement so that these nascent business models can thrive.

Lavinia Carey: The primary reason why young people say they make illegal use of online content is because it is free. That is the number one reason they give, but I would say that Jim Killock is right to say that the audiovisual sector and some other sectors are cautious about what is licensed, and cautious about what they do. Because if you are not pursuing a commercial opportunity, you can throw the baby out with the bathwater.

Contrary to what is thought, I do not think any of our digital services are making any money at all. They are producing revenues, but they are not making any profit. They are managing to survive because of the ecosystem that exists, and because of what is propping them up. If you just look at say, Apple iTunes, it is the Apple devices that are making the money for that company, not the iTunes sales. We have to tread carefully.

We do have to license where there is a commercial opportunity, and that is the way we are trying to reach as many people as possible—how we grow audiences online. But you can’t just rush headlong into an unknown, uncharted water and expect not to lose your shirt, particularly in the audiovisual sector. As we all know, the film industry is a very risky business and the finance model is very delicately balanced, and it is going to change over time. It is not going to be everything 100% available from day one. But a lot of stuff is available, and all the titles that were released last year that you can think of, practically, on film, are available on digital services for people to access, if that is the way they want to do it.

Owen Atkinson: There are very cogent comments coming forward, but an optimistic view, if you like—the internet is a copying machine, it is a distribution mechanism, whichever way we look at it. What a great opportunity, if we can build these licence-structured systems.

The one great thing about the UK is that we are a nation of creators and we export. Pound for pound, GDP, we are as good as anyone, if not better than anyone, in the world. The internet gives us a fantastic channel if we can support copyright, if we can support creativity. It is one that is emerging, I think.

As Lavinia says, money is not being made at the minute. But I am an optimist. I do believe this will be very profitable in the future, and very profitable for

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UK PLC if we can put the framework in place that enables industry. Take reprography, part of my small sector. In the time that copyright has been discussed within Government—Gowers; I think David Lammy had a review; all the way through Hargreaves—we have moved from paper copying to scanning to digital copying to licensing websites. We have a fantastic resource with the BBC iPlayer, ITV, Channel 4 on Demand, which is being used more and more. These are just developing, they are growing, and we should continue to support business finding licensing solutions. That is what I think Government is here for—to help business create licensing and create income back for UK PLC. Then you are doing your job.

Q504 Mr Leech: I would like to bring you back to the calculation of the cost to the industry. It is never going to be an exact science, and some people, if the figures don't suit, will dispute the cost; if the figures do suit, they will support it. Did the calculation take into consideration the potential cost to the economy of people who are currently buying lots of content, but then accessing lots of free content as well? There is only so much money you can spend on videos or music, whatever it is. Did it take into consideration the potential loss of revenue from the things that they would not buy if they were buying stuff that they were getting for free?

Richard Mollet: Absolutely it did. Yes. I have to cast my mind back, but this was an analysis of forgone revenue, calculated upon the propensity of a group of self-confessed infringers, if you like—both to confess but also to say, “I normally spend X on music, but this month I've spent 70% of that because I have been able to acquire that illegally, and yes, I would have bought that otherwise”. The figure gets smaller and smaller once you ask people, “Would you really have bought that?” This was very granular, qualitative, consumer survey evidence.

Q505 Mr Leech: As far as you are concerned, the evidence is pretty robust, but do we have any robust evidence of the value of copyright to the economy?

Richard Mollet: We do. There is the brute fact of, from the publishing point of view, the £4.5 billion worth of revenue. The members of the Alliance for Intellectual Property have £36 billion worth of revenue; 40% of our revenue is earned overseas. We can throw figures around in terms of the revenue, the profits, the millions of jobs and so on. I think that that is a pretty brute fact of the value of intellectual property to the economy, and a percentage of that is imperilled if there is a lot of infringement.

I would not personally want to get too caught up on debating the size and scale of infringement, other than we know, to quote another witness, “it is a big number and it is positive”. I think our message, I hope, to this Committee is that the value of the creative industries lies in the stuff that we make and export and produce and deliver to consumers. We need something to be done about enforcement, but the big story for us is where the growth is, because again, counter to what you may hear, trade associations are not in this for the enforcement. It is a small part of what we do. We

spend most of our time trying to help small and medium-sized enterprises get to grips with the economy, getting access to skills, access to finance, access to international markets. That is really where the action is as far as we are concerned.

Q506 Mr Leech: Is copyright adapting to the digital economy?

Lavinia Carey: Yes, absolutely. There are interesting debates about collective licensing, about territoriality. We are asking our members to what extent they are doing cross-border licensing, where that is possible. We are getting some very interesting feedback from members to show that, where there is a commercial opportunity, licensing across borders, reaching markets where perhaps it is not viable to do a television deal, but maybe a digital platform is more viable.

The notion that creators do not want to reach the widest possible audience is a bit farcical. Certainly, the people who are licensed to exploit those, to try to generate revenues for creators and for distributors, look at every possible opportunity. It is not in their commercial interest to fail to do that. That is where people are looking at all opportunities within the digital arena, and to say that we do not need enforcement in this sector because you cannot control what people are doing is to say you do not need to bother to enforce speeding or something, because everybody does it and it is too easy. Whatever the industry is, you need a level of balance, but the incentive is there for people to innovate and they are innovating, and the evidence is there for all to see.

Q507 Mr Leech: Is industry doing enough to make sure that the value to the economy that you have established is going to be protected for the future?

Lavinia Carey: We would like to see more being done to help with finance, and to make sure that the internet—certainly for the audiovisual sector; we do need superfast broadband. We need to be universally available, so that you can exploit that and get to the audiences universally. At the moment, you get very high speeds in certain conurbations. We cannot reach the whole country. I know there is an argument about whether or not the Government should be focusing on universal broadband, or whether it should be superfast broadband to fewer people, but the fact is that for the audiovisual sector you do need superfast broadband for the digital services to work satisfactorily—less so for other sectors where the file sizes are much smaller.

Richard Mollet: In terms of whether the industry is doing enough, it is hard to know what perfect looks like. But if we use international comparisons as some sort of guide, as you heard earlier the music industry has more digital services from the UK than any other country in the world. The publishing sector has the fastest growing e-book market in Europe. You look at indications like that and say we are not doing too badly. We could always do more, I dare say, but I do think we are on the right course, and I do not think it is right when people say, “If only we radically reformed copyright, then everybody would be doing so much better”. That proposition at least needs some evidence behind it, which we have not seen.

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Lavinia Carey: Were you thinking of something in particular?

Q508 Mr Leech: Not specifically, but what I was interested to get at is, clearly you want protection, but how much protection do you want, when you consider the law of diminishing returns? Because I can understand your desire to chase enforcement on people who are making money out of infringement of copyright, but given that—you have not disputed this—the people who are most likely to access stuff for free are the same people who are actually keeping the industry going, on the whole—

Lavinia Carey: We are not focusing any enforcement effort on individuals at all. We are going for people who run sites. We are going for people who make a lot of money.

Mr Leech: You are not going for individuals?

Lavinia Carey: No.

Q509 Mr Leech: Where would you draw the line between not going for John Smith, but going for some big organisation that is making a packet out of infringement?

Richard Mollet: You go for John Smith where they are running a criminal enterprise.

Lavinia Carey: Yes.

Richard Mollet: Everybody, all rights holders do that. Where we find individuals who are, from their own home, running topsites or running servers, or running mail order businesses where people email, and they get sent a CD with infringing content on it, and they are making money from it. That is a criminal enterprise and we take enforcement actions with the police and the criminal authorities, and we tend to get successful prosecutions. There is a very clear, shining line there, I think.

When it comes to individuals, as I said earlier, the Digital Economy Act is the solution there, because what it does is write to them and invites them to stop doing what they are doing. It is a very effective mechanism, and contrary to what is being said today and at other times, HADOPI in France has shown remarkable success at that. Some 98% of people who received their third letter stopped infringing. That is a successful—

Lavinia Carey: They are not winding it up, by the way, unless President Hollande has a special line into ORG—the last I heard they were keeping HADOPI, because it works.

Q510 Mr Bradshaw: Do you want to challenge any other evidence that we heard from the earlier witnesses while you are at it?

Richard Mollet: To be honest, Mr Bradshaw, no. We spend a lot of time playing ping pong with Open Rights Group. As I said earlier, we have a very positive story to tell about the value of creative industries in this country. If the Government listened to our side of the argument a little more when it looked at copyright reform, to weigh up what it had heard from the other way and to be more engaging in its reform programme, we would be in an even better position.

Q511 Mr Bradshaw: You do not want to identify any other glaring factual errors that were presented to us in their evidence?

Richard Mollet: There was one. It was not from earlier, but this Committee has been told that copyright law has not been reformed since the creation of the internet. The 1988 Act came some five or six years after the introduction of the worldwide web to Britain, and the 2001 regulations that we all operate under make direct reference to internet service providers. I say that not just as a cheap scoring point, but it speaks to your point, Mr Leech. Is copyright keeping up with digital technology? Yes, and the law is amended in incremental ways as we go along, as it has done since 1710. This idea that copyright policy is somehow back in the statute of Anne and meanwhile we have BlackBerries is not the reality at all.

Lavinia Carey: Could I answer that question?

Mr Leech: I still have a BlackBerry and I rather like it.

Richard Mollet: So do I.

Lavinia Carey: I am sorry. To talk about the individual, what our industries generally decided to do some years ago was to use targeted consumer awareness and educational campaigns to try to influence behaviour change rather than target them with legal action. That is seen to be quite effective.

In our sector, the audiovisual sector, the most recent campaigns that we have been running have been shown through research, through modelling, to have constrained the growth of infringement by four to five percentage points. If you would like more information about that, I am happy to provide it. We do not think there is one solution to these things. We think that innovation and new services and education, with some enforcement against site owners and service providers where necessary, is part of a bigger picture. We think that if the Government would look at the infrastructure and the finance and the other areas, and education, just generally pro-IP education, we would be in a better place.

Q512 Mr Leech: One last question, on the cost to the industry from infringement. What proportion of that is the John Smiths that I have been talking about who do it for individual use, and what proportion is from people who are making money out of it?

Richard Mollet: To come back to the £400 million figure we were talking about earlier, that is the identified losses and forgone revenue from individuals downloading from peer-to-peer sites. In that case, they are not John Smiths doing criminal activity. They are ordinary consumers who are deciding to infringe.

Mr Leech: You cannot put a figure on the—

Richard Mollet: We can, but to be honest I have never aggregated them. When we make the decision whether to go after an individual, we will know, in that case, clearly what percentage or what amount of our material is being sold.

There has to be a threshold for a number of reasons. The cost-benefit analysis for us, in terms of bringing the case; in terms of the police, who under the Proceeds of Crime Act can recover some of the seized assets, and there is a calculation for them; and to meet

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that criminal threshold there has to be a certain amount of money going into the guy's pocket. When you see people running topsites and they are driving around their local communities in very expensive cars, and we can see that their assets are £50,000 to £100,000 from this activity a year, they tend to be—there is no hard and fast figure—the sort of people that look liable for criminal prosecution.

Q513 Paul Farrelly: I wanted to come in while figures were being bandied around. The Government claims that the benefits of its proposals to change copyright are estimated at £500 million in 10 years, with an extra £290 million of additional benefits over each year. Do you recognise and agree with those figures, and if so, to whose benefit is most of it accruing?

Richard Mollet: The Hargreaves study, which I think those figures are from, is worth drilling into. I am sure you have it, or will. The large percentage of presumed benefit from the Hargreaves review was attributed to the Copenhagen report, which is footnoted. The Copenhagen report is a very extensive study done in the European Union that said, if you do a whole load of things to your economy, from digitally skilling your workforce, to teaching ICT in schools, to doing all sorts of things—oh, and having a more flexible copyright regime—then the benefit to your economy could be something like 0.8%. What the Hargreaves assessment seems to have done is taken that 0.8% and said, “We’ll have a bit of that”. But of course, they were applying it just to that one policy idea, IP reform, and saying, “We can get all of the benefits that Copenhagen talks about, just by doing this bit”. So it was a very selective use of the evidence.

Another problem with the Hargreaves analysis, done not by Hargreaves but by his economists, was around format shifting, where there was a £2 billion benefit to be accrued to the economy. The report said, “It is okay, because this is already factored into the cost of material”. When an e-book is sold, the publisher is not thinking, “We know somebody is going to do some format shifting of that”. I do not think it is the case with the music industry either. So this was a highly hypothetical benefit, which then got plugged into the figure, and we are starting to talk about big numbers now. It is all challengeable, I think.

Mr Leech: Not necessarily reliable?

Lavinia Carey: In fact, we did commission a review of that by Oxford Economics and they looked at some of these impact assessments and drew attention to where there were complete voids of evidence or information to support them.

Owen Atkinson: I looked at maybe one of the impact assessments, which was one that looked at education, and education exceptions that were being proposed. What was interesting there was that the impact assessment said that while there would be benefits, the costs would be zero. For our membership of 88,000 writers the cost would be quite significant, because they would lose out on something like £20 million, which comes in from that sector.

There is always a danger of a domino effect of looking at things in isolation. That is quite dangerous, because we also commissioned some independent research

from PricewaterhouseCoopers that looked at the ecosystem that exists, that sort of relationship between authors and publishers and the income they make, and what small changes would actually make. In respect of even small changes, in terms of the secondary income that they collect, what PricewaterhouseCoopers came out with was it could have quite a large effect on the incentives for writers to keep on writing, keep on creating. As I have said, we are very good at what we do and we export around the world probably better than anyone. There are dangers, as I say, of domino, knock-on effects of making large changes. So when you look at the impact and you look at the benefits, I would say there needs to be more research into the costs.

Q514 Paul Farrelly: The Chair did drill into this £2 billion figure, which seems to have rather crumbled in a puff of puffery. At the end I remember Ian Hargreaves saying, “Well, whatever it is”, basically, “no one is arguing that it is not in a positive direction”. You might offer a different view on that?

Owen Atkinson: Well, it might be positive.

Lavinia Carey: Well, I don’t know about that. I mean, just look at our sector, which currently has seen declines in consumer spending from £3 billion about five years ago to the current spend of £2.3 billion. That includes digital platforms. We are certainly projecting losses; even though the business is shifting towards digital platforms, we are seeing losses in revenues and in consumer spending over the next five years and in value terms. That is going faster in a downward direction than the number of transactions. So the volume will not be dropping like that, but the value is dropping.

This is definitely as a result of technology and changes in how our content is distributed. I would say that that is probably mirrored in other areas because the price that you can ask for online is definitely less than the price you can ask for a physical item, whatever that creative sector is. That in itself does not matter so long as the costs also fall. You have to be able to make a return on your investment, otherwise films and television programmes will not be made.

Q515 Paul Farrelly: E-books are costing more than printed, are they not?

Richard Mollet: No, generally not. No, the price is very much a fraction of the printed price. My critique would not be so much of Hargreaves; he was one individual who did a six-month review. He reported to Government and was not necessarily tasked with coming up with detailed economic analysis. The critique then must be of Government and of IPO in taking that report, ingesting it, not then subjecting those figures to a bit more analysis. It has been too easy for those of us who look at the report to critique it, and if we are able to do it, perhaps IPO might have been able to as well. So let us have a more rigorous assessment, proper impact assessments, no blank boxes or “not quantified” or fingers in the wind—proper engagement with the industry, and then there will be a better cost-benefit analysis and policy can proceed. We just have not had that.

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Lavinia Carey: That might go back to the very first question, which is: why did we think maybe Google was behind this? I think that unfortunately Professor Hargreaves did say that we were all guilty of lobby-nomics and we had had it all our own way. So I think the IPO has taken the view that they are not going to listen anymore to our side of the story, and that is really why I think some of the things we have been saying over the last couple of years have been completely ignored.

Q516 Paul Farrelly: Well, Chair, while we are on the impact of copyright exceptions and the proposed new regime, I think the general flavour of the previous panel, Ian Hargreaves and other people is that these proposals are modest—they are not very controversial, they are in some cases just catching up with reality. In the package, are there, firstly, any proposals which are seriously detrimental? Secondly, I think in your evidence the ALCS made a point about one exception that was not covered by Hargreaves, which is involving writers and script writers and the retransmission by cable of broadcast signals. Perhaps if you could say something specifically on that as well.

Owen Atkinson: On the whole, the Government in general has taken a very careful approach with exceptions and has listened to the arguments. There were some very large concerns in particular, some of the exceptions I have mentioned—education is coming up—but what appears to me is an approach that is looking at things *de minimis*, so very modest. But in principle there are dangers with exceptions, because when things come into legislation they are locked in stone.

The great thing about industry is industry does move; it spots opportunities and it moves with technology, it moves with the times and it talks to consumers and can hear what consumers want and adapt as well, adapt in licence. With regard to cable retransmission, I suppose it is a point that the world is moving towards electronic set-top boxes. It is moving towards push technology whereby you do not necessarily watch what is actually on. You start to look at streaming; you start to look at opportunities. I would say this is all about added value.

One of the dangers is not recognising that that value should benefit all, if you like. It benefits consumers; it needs to find a way also to make sure it benefits rights holders. So for exceptions in particular, I would always sound a note of caution. It has to be *de minimis*. Where licences can cover, industry can react. I say in principle that that is by far always a better solution.

Lavinia Carey: Obviously, they need to be really careful to comply with the regulations. The difficulty is going to be in the detail. There are EU directives that have a bearing on all this and there are the TRIPS agreement and Berne Convention. The IPO needs to be extremely careful. Thank heavens that we do have this opportunity now to discuss with the IPO officials how the exceptions will be drafted. The devil is in the detail, and if they do get it wrong it could have unintended consequences.

I think one of the most important things the Government does is to make very clear what the end user will be able to do as a result of this, and that where there are technical protection measures, for example on DVDs and Blu-ray discs or on other content, you will not be able to circumvent it. You will not be able to exercise a copying exception. Therefore they have to make it really clear where you can benefit so that it does not increase consumer confusion, which was what Hargreaves was trying to reduce.

Richard Mollet: It has become quite easy for some people to mischaracterise creative industries as being against copyright reform. It just is not true. You look at, say, orphan works, which is quite a radical proposal—that is something that rights holders have been advocating to happen and it is good that that is now in the Bill. There are other things, from modernising copyright, to allowing libraries to make digital archives for preservation, to allowing schools to allow works to be copied for use on whiteboards that I think are obvious reforms. They were good ideas when Andrew Gowers came up with them; they were good ideas when Hargreaves did.

Then I think there are a few bad ideas in there, or those, as we have discussed, without sufficient evidential backing behind them, like on parody. Is there really an economic case to create a new loophole in copyright for parody and format shifting as we have discussed? Then some which are potentially ugly, as Owen has referred to, around photocopying of education material, which allows people to do things which currently they need a licence for. It is going to hit author's incomes, and it is going to hit publisher's investments. In the package as a whole, we can all see things we like and dislike, but it is not the case, as can be characterised, that creative industries stick their feet in the ground and say, "No more reform".

Owen Atkinson: Another sort of caution. As I say, exceptions when they come in tend to stay there for a long time. It is quite difficult to find parliamentary time to review and come up with primary legislation to change. I support the very detailed process being undertaken in the review of copyright.

I want to comment on one exception—the public lending right exception, which came in back in the late 1970s. What we saw then was that it was very prescriptive, and it dealt with certain types of books in certain types of buildings that were being lent out to the public. There was legislation, I believe, put into the statutes in the Digital Economy Act that looked at extending that—in particular to certain areas like audio-books and e-books. But e-books is a nascent area and there are a lot of challenges. But we know from the Public Lending Right office that there are something like 10 million loans of audio-books every year in the UK. We know that libraries charge for these, but we also know that the rights holders—the authors, the publishers—do not see a penny. That is the danger of exceptions, but there is legislation on that that could be enacted. It is not a significant cost; as I have said, small positive changes can have big impacts back to the creators. If there is one thing you may wish to consider, it is looking at what is on your books.

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Q517 Chair: I want to follow up Paul's question and the initial alarm, which was pretty widespread among creative industries when Hargreaves came out. Now you have seen the Government's proposals for exceptions, obviously, yes, you want to discuss the detail, but essentially you are much less concerned. Is that fair?

Richard Mollet: I think that is fair, Chair, yes. There is less alarm, but the devil is in the detail and we need to know what they mean by certain terms. We need to know better on definitions. Also we have seen as the Enterprise and Regulatory Reform Bill is going through Parliament, when proposals become real with legislative language.

The IPO has been open to having discussions about what definitions are in there and how things are going to work. As we saw with clause 66 in the ERR, the Government can rewrite its own clause to bring clarity which pretty much every rights holder in the country thought was needed. We can have the dialogue. If we are less concerned, it might be because we have seen this chink of light of it, and that you can have a sensible conversation about it.

Q518 Chair: On the more general point, which I think has come out in your evidence, about the priority given to intellectual property, we are now on our third Minister in the space of 12 weeks. Do you think that is an indicator that this is not taken seriously enough or are you confident that the new Minister is going to pick up the baton and run with it?

Richard Mollet: Yes, as we have not yet met the new Minister and I am hoping he will. Not to have a conversation about individuals, but it does not speak well of a policy area that there can be quite such rapid turnaround. It does inevitably mean that it must be difficult for any new Minister to get a grip on what, as these discussions show, is a really complicated area. I think there is a strong argument for a Minister with intellectual property responsibility to have a greater tie into DCMS, which is the sponsoring Department

for the creative industries; it is a silo of a silo, if you like, at the moment. It is in the IPO, in BIS, it tends to be a junior ministerial appointment—not always, but it tends to be. Could it not be a shared ministerial responsibility between BIS and DCMS, just to elevate it so that it wasn't quite so tucked away in Whitehall?

Lavinia Carey: The difficulty of having such a short spell in that period of office is really illustrated by the last Minister who was there for about four months. At the end of it, he had seen through this announcement and still had not really taken on board the difference between the sectors and how they operate differently. That was characterised by his last message to me, which was, "Oh, you will find life on the iPod is fine". We are not the music sector and we do not behave in the same way. The recommendation that the All-Party Group came out with, which was perhaps to have a director general of the IPO who would tie in more readily with policy making, was very good. It would be nice to see the Government looking at that recommendation and exploring ways of bringing it about.

Owen Atkinson: IP is a very complex area and I am sure it takes a lot of time for a Minister to get fully up to speed—not with just the issues, but with the underlying challenges that we all face. It seems to me that perhaps there needs to be some sort of emphasis here because you mentioned there had been three Ministers within the past 12 weeks. Even before then I think it was Lord Triesman, Baroness Young, David Lammy. I very much hope that the new Minister will get up to speed very quickly and we look forward to working with them. At the same time, we feel to a certain extent that we are going around in circles on these issues.

Q519 Chair: Ben, do you want to talk about the DEA at all?

Mr Bradshaw: No.

Chair: You are content with that. In that case, we have come to the end. Can I thank the three of you very much?

Tuesday 26 February 2013

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Conor Burns
Tracey Crouch
Paul Farrelly

Mr John Leech
Jim Sheridan
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **Greg Dyke**, Chair, and **Amanda Nevill**, Chief Executive, British Film Institute, **Adam Singer**, Chairman, British Screen Advisory Council, and **Andrew Chown**, Chief Executive, Directors UK, gave evidence.

Chair: Good morning; this is a further session of the Committee's inquiry into support for the creative economy. Can I welcome the Chairman of the British Film Institute, Greg Dyke, and the Chief Executive, Amanda Nevill; the Chairman of the British Screen Advisory Council, Adam Singer; and Andrew Chown of Directors UK? Jim Sheridan is going to start.

Q520 Jim Sheridan: Thank you, and good morning. Can you give a brief flavour of how you see your roles and what you are doing in terms of supporting the creative economy, in particular film, and also how can the Government help you become more effective? I do not know who wishes to start.

Greg Dyke: We have spent some time trying to answer exactly that for ourselves, and produced this last year, which basically says, "What do we think we can do? What are we trying to do?" You can say you are going to do everything but you obviously can't, therefore there are constraints. We have decided to concentrate, as the BFI, in three areas—three priorities. One is expanding education and learning opportunities about film; so, to try to get kids interested, build audiences and develop quite a small number of talented people to come through as part of that, because what we were interested in was audiences.

The second was supporting the British Film Industry, as we do with the Lottery money, so that hopefully it can grow—and it has grown—but also it is pretty obvious that basically it is still a cottage industry and we could build something bigger.

Thirdly was unlocking the film heritage. We have the best film library in the world, which no one can see, and it makes sense to try to use some money at some stage to unlock that, particularly in the digital world where there are all sorts of ways people could access it if you can digitise it. As a board and as an executive, that is what we decided our priorities should be over the next five years.

Q521 Jim Sheridan: In terms of what the Government can do to support you—

Greg Dyke: The Labour Government—the last Government—was very supportive by introducing the tax break for film. This Government has been equally supportive in continuing that and now expanding it to high-end television, to games and to animation. That is a significant move, which we obviously welcome.

It does mean that those industries will expand; particularly, high-end television I think will expand quite far in this country. You will begin to see some of the Americans making big series over here because it is quite a significant tax break—so, the HBOs and the producers you could attract in. That requires further investment in skills. The Government has given some, but we would like to see some more in training in skills because I think the demand for those skills is going to go up quite quickly. If you do not do something, what happens is the price goes up and then you become uncompetitive again. We think quite suddenly there will be quite a demand for a whole range of people with particular skills. This is going to come in the next 18 months to two years.

The tax breaks are interesting because, if you look at their impact, there are those who would argue that you should not give tax breaks, particularly to creative industries. But these tax breaks have been successful in terms of the growth of the industry, but also enormously successful to the Exchequer in terms of what it is getting back. We think that Government has been—both the last Labour Government and this Government—quite supportive of the growth of this industry. Obviously we can all come up with some ideas, but we cannot sit here today and say, "The Government hasn't helped". I think they have.

Q522 Jim Sheridan: That has been extremely helpful, but what would you say are the main threats or, in particular, the main opportunities for the industry just now?

Amanda Nevill: I don't know about threats, but things that are on our agenda—I think, picking up on the skills, it is almost about a national psyche really, in that across the nations there is still this feeling that the creative industries, and obviously including film, are not as hard-edged as some of the other arenas. For example, one of the things that we have been talking about at the BFI is the whole funding for skills training and film schools, in particular, which are still not regularised in the same way, for example, that engineering might be, and we think that is definitely worth looking at; ditto, I think within the curriculum. One of the areas—and we saw it again with the Oscar wins yesterday—is our ability in this country to deliver great films, but also to do a lot of the work behind the cameras; for example, *Life of Pi*, which was such a great success. You don't necessarily see it

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as a British film, but a lot of the post-production was done here.

What we are finding, especially in the special effects arena, is that the people with the right mix of skills are not coming through, and there is some evidence to suggest that you need people who can marry well the creative skills with programming and more computer skills, so I think a deeper look at how you can bring those together right in secondary schools would be very good.

I think access to finance would be really helpful because, notwithstanding the great support that the Government has given with tax relief and things like the EIS scheme that do work for film, nevertheless the whole recent furore about the lack of clarity has had a very negative effect on investment in film. Film is complicated enough to raise the funds for. It obviously delivers to the bottom line and is clearly a growth area within the economy, so getting absolute clarity to encourage investors into film would be really good.

Greg Dyke: I think it would be very good, because of all the fuss at the moment about what is a genuine tax scheme and what is a fiddle, if your Committee were to say to Government, "Look, this is a perfectly valid tax break". The EIS scheme is a classic example where people are now so nervous of getting hauled before one of your Committees that they have stopped investing, yet the Government has just expanded the EIS scheme. It seems to me that the Treasury could easily make it very clear: "These are perfectly legitimate schemes, and these we do not like". That would help a lot.

Q523 Jim Sheridan: I think the question of education and skills is something that we can explore perhaps later on. Can I ask one or two questions about independents in the industry, in terms of market access issues in the film industry? How do the independents get into these markets? How do they access the markets, or what role do they have in it? Rather than the big moguls, how do the independents break in?

Amanda Nevill: Into the international market?

Jim Sheridan: Yes.

Amanda Nevill: That is a very good question. The third point I was going to bring up was in terms of not necessarily barriers but opportunities we must be very careful not to miss. Again, we are looking at the international strategy across the BFI. If you look at the health of film, we have a very good relationship with the US, and we should not knock it; there is a huge symbiosis. The amount of inward investment that comes into this country puts money on our bottom line, employs people and also creates an infrastructure. That means our emerging British film talent have an infrastructure to create in, which we would not be able to support if we did not have that inward investment.

Hopefully the US market will remain very strong, although, by and large, there is a trend towards films with smaller budgets, and if you are in the US, they will tell you that. The foreign markets for those films are much more important than the domestic US market, which is a real shift in the economy and the way in which films are funded. From our perspective—and I keep saying this, and we have

started to look at it—we need to start identifying the markets for British films. We did a forensic piece of research with a company called Olsberg because we wanted to identify which of the two countries we should develop a long-term strategy for to woo them, so we needed to look at things like exhibition potential, investment potential, export potential, but also we needed to marry that with things like, "What is the environment for piracy like?" and whether they are buckling down on that. What floated to the top were two countries that we really need to strategy-invest in long-term: Brazil and China.

In the *Metro* you probably saw there was a double-page spread about Hollywood into China. One of the things that we have to do—and we won't see the results for quite some time—is woo China with all the weapons we have in our arsenal—cultural exchange, skills, co-production, everything that we can—because it is a vast, growing market.

Q524 Chair: Adam and Andrew, do you want to chip in on any of that?

Adam Singer: A couple of comments, if I may, please. Good morning, I am from the British Screen Advisory Council. To answer the first part of your question, our members include broadcasters and companies like Google, independent producers, a range of tech companies. We are a pretty broad church. We are essentially a crossroads between the audio-visual sector and Government and also a think-tank, in terms of how the techno-economics of this industry are affecting us collectively. That is essentially what BSAC sets out to do.

You asked a question, "What more could Government do? How could it be even more supportive?" I suppose I have a tendency to turn the question around and ask myself, "What would our creative sector look like if it was even more supported by Government?" That is a hard question because, of course, one of the key issues is that this is a highly successful creative sector. It is phenomenally successful. I suppose there are two elements: there is the micro way you can help and the macro way you can help. There are lots of small things in the micro. We have a creative sector that provides skills, in terms of packaging, design and the ability to articulate a message, which would benefit any country. We have a creative sector that generates more GDP for the country than our defence sector, and yet we do not have the kind of support in terms trade missions and delegations that they get. This is not a moral comment about arms; it is about a return on investment. All we are saying is that we could probably provide a better return on investment given that kind of support.

One of the issues that perhaps you should be thinking about in terms of support is, convergence is not done with us yet; every single industry becomes a subset of digital code. If it is digital code, it is easy to copy. If it is easy to copy, how do we protect it? It is not just to do with piracy on music. With the arrival of 3D printers, the type of issue you are going to face is the cutlery manufacturing industry coming to you complaining about the theft of their fork designs. That will come with 3D printers. I make a light point here, but it is purely to show that this is still travelling

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through the industry, and we need one Ministry that is looking at what happens when everything is converged, because when everything is converged it is all a subset of digital code. That is where we need help.

To sound a little like the slave and the chariot, the other thing I need to remind you, of course, is that one of the sad things is that there is a limit to what you can do, because in the end—I mean no offence to this place—in the context of a global economy, this is a minor Legislature and we are dealing with a totally global industry, and it is about how we go out to that global industry. So, anything on the micro would help. To echo Amanda's point, another area in the micro is the fecundity of our culture. Where we are particularly rich and diverse is in the ability to have this highly fecund creative culture that has created this very powerful creative sector. So, if I were you, these are the areas I would be looking at to help us.

Andrew Chownns: Good morning, everybody. I am Andrew Chownns. I am the Chief Executive of Directors UK, and our members are film and television directors. They are in an interesting position because they are one of the two copyright owners in an audio-visual work and they are copyright owners as individuals, the other party being the production company that records the work to be created. We operate in two ways: we operate a collecting society, which collects royalties for directors, mainly in Europe, but we also operate as an extended collective licensing body in the UK—and I suspect we may come on to that a bit later—by which I mean that our members assign their copyrights to British broadcasters and producers in return for a licence fee that we then distribute to them. We have evolved in the last two or three years into more like a professional guild, housing the collecting society within it, so we have the interests of our members at heart.

I suppose there are three issues that I want to highlight to you. We have a clear interest in seeing the maximum possible investment in the creation of great British content. Our members want to work, they want to express their creativity and they want to see that work widely disseminated. They want to ensure that the business and the rights structures mean that there are fair rewards for directors and effective incentives, so that they will continue to create and forge their careers in the UK. We are very interested in career development for directors. In that context, I suppose the difference between me and many of the people you have seen is that we are representing creative individuals rather than creative businesses. There is a huge amount of support that the Government has given to creative industries through businesses. We often feel that there is insufficient attention paid to individuals in the creative industries. The significance of that is that a huge amount of the creation and the production of the content takes place by people who are freelance, who are not full-time staff employed by businesses. Those businesses, I think because of that disconnection, sometimes find it difficult to direct the creative work force and to marshal it effectively. In turn, the creative work force feels rather isolated and disconnected from some of the big policy initiatives.

So I think the biggest single thing that you could do to help those individuals is to have them at the heart of policy making, in the same way you have the creative businesses. That will reflect itself in rights policy, tax, employment, investment, training, career development and the whole spectrum of policy initiatives.

Chair: Thank you. Obviously we are going to come back to look at each of those in a bit more detail in due course.

Q525 Mr Sutcliffe: I want to pick up on the skills gap. You said in the next 18 months there will be a wide need for people. How can you convince somebody that to be in the film or creative industries is a long-term ambition and something to be sure of? You talk about the defence sector, and you can be sure of careers in different sectors, but in the creative industries it could be up one minute and down the next. How do you secure people's long-term vision for being involved with the sector?

Greg Dyke: I think it was Oxford Economics that produced a report that said if the tax break disappeared for film, 70% of the industry would go with it, which is your point to some extent. You change the Government, you have a different view of the world and suddenly it has changed. I am not sure that anybody has that view of industries any more, do they, apart from the professions? I think most people go into industries these days expecting that life changes quite rapidly over time. It seems to me that there are a lot of people who want to come into film, there is no doubt about that. The point is making sure you get the right talent. It is embarrassing that half of the people at the National Film School at Beaconsfield are still living in portacabins. Whereas, if you go to the average university—a sector I am involved with—you do not see that at all. It seems to me that it is time to invest in the film schools through HEFCE so that there is real money. It is ridiculous that the lottery money is being used to fund training for film, which is not what it was intended to do at all, but that is where a chunk of it goes. It seems to me that that should be down to the Department for Education.

We need to look in the next two years—and it is an audit we are trying to do—and say, “Where do we think the skills are needed and how do we get people into those skills quite fast? How do we train people up?” There is a demand for people to go into it all the time. The film industry is still a sexy industry, isn't it? People want to work in the film industry. Everybody wants to be a director, don't they? I don't quite know why. But you are looking at where the gaps are going to be, and how we make sure we can fill them in a world that is suddenly going to expand. That is what we are trying to do.

Amanda Nevill: We are doing a really interesting initiative funded by the DfE. It is a pilot, but it does address what you are asking, which is, first of all, how can we attract young people into it from all over the country, so widening participation and equal opportunity, because it is not just about attracting people in. Actually, if you want the best business in the world you want to get the elite, the really good people, and they can be found anywhere.

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We have this scheme funded by the DfE. It is only for the first two years, but hopefully it will be good enough that we can roll it out. We have mirrored the idea of the National Youth Theatre, but doing it for film. So, in every region of the UK there are courses being run over Easter, and getting into them is competitive. Then, from those courses we are taking the top tier and they are having a residential course, which we are doing with Pinewood and BAFTA as partners. We are, sort of, percolating down people. I think the value of it is: one, we should start to pick up some of the stars of the future; but also—to come back to your question—there might be some people who think they want to be in the industry and then, through this, determine that they do not want to be. I think that in itself is also helpful.

Andrew Chowns: I want to supplement that. A lot of these conversations are about gaps and bringing people in, but we must not lose sight of the fact that there is a valuable incentive of inspiration to be at the very peak. That is at the front of my mind at the moment, because the introduction of the TV tax credit—if it succeeds—is designed to bring in productions at the most inspiring level of the kind of work that we can produce. We want to have young people joining the industry, but we want them to be inspired to operate at the best level and to feel that they have a career that can take them right through to the top. I sometimes use the analogy of sports performance. Young people who join an athletics club, in the end they want to be at the Olympics and they want to win a gold medal, and they want to see a prospect that their career can take them on that trajectory and draw inspiration from the great practitioners in the industry.

Adam Singer: I used to be asked to attend a media group at a college in southern England where they were training young people in the skills of camera, sound, how to write scripts, and I always used to turn up and say, “Why do you want to come into this industry, because the skills you are learning are slowly becoming deskilled and of less value?” One of the points that we ought to be picking up on is that, looking forward in terms of a career for young people aged 18 or 20 now, we are moving into a post-broadcast age. In seven years’ time every television set is going to be internet-connected. The nature of broadcast television supported purely on mass advertising will change, and then the nature of creativity is not just the ability to tell a story, which will be equally as important, but the ability to harness and use that data creatively. It is also about being cool. When I was young, I was with Greg on this: all I really wanted to do was direct. All my children wanted to do was make *Angry Birds*, the Finnish product. So the creative industry should not be thought of as just this narrow music/audio-visual sector. The sector we are going forward into is going to be very different, and creativity is about how you harness data in this sector. It is about how you tell stories; it is about how you tell stories using augmented reality. It is about the intersection between the games, and how you use your games brand and move it into a movie brand and a music brand. The nature of creativity is changing. So I think we should

be careful about trying to encourage people into the creative version of the steel industry circa-1980s.

Greg Dyke: You always were cheerful, weren’t you?

Adam Singer: Yes. It has done me well.

Q526 Chair: We are coming on to *Angry Birds* in our next session. Looking at the creative industries across the piece, there are two or three issues that affect all creative industries. As we have already heard from different sectors, the first one is a pretty universal problem. It is the difficulty of raising investment finance. The normal lending institutions seem to regard the creative industries as somehow more risky and, therefore, less attractive for investment. Do you see that as a serious problem, and what can we do about it? Amanda?

Amanda Nevill: I think one of the things that is a truism, and we do not know whether it is a problem or not, is that investment into film or the whole of the creative industries has not resulted in companies of scale, for example, like they have in the States, and there has been the oft-repeated refrain as to, “Why can’t we build companies of scale?” One of the things that we are going to be looking at in the BFI—because of the world that Adam has just been describing to us and the new digital era, and because of the consolidation of a lot of the screen-based creative industries—is whether in fact there are different ways of leveraging investment to encourage companies of scale. So, I think it is a question mark as to whether it is possible. I don’t think we know the answer at this moment, but we are going to have another look at it.

Greg Dyke: Yes. It is a question that has been asked on numerous occasions over the years. We have taken on the job of having another go and saying, “Look, why isn’t it possible?” It interested me, Adam, when you saw the growth of independent production in television, that one of the safe things—and it certainly is applied in games, as you can ask your neighbours—is: why do we sell out for £10 million when Americans don’t do that? They want to build a multi-million-pound company. We don’t. It is just an observation. I have no idea why it happens and all the rest of it, but the number of people you have seen build a company to a certain level and then sell it, often to another British company and then to an overseas company—the games industry is a classic case. Is it something about the whole psyche? Is it that you think you have done so well to make your £10 million and that will do you in life? I don’t know. But we do sell out. That is what is interesting; even in film the most successful film company in this country, Working Title, is not British. It sold out. The games industry all sold out. The television industry is increasingly getting to a stage of selling out.

It is a question that is worth asking: quite whether you, we or anyone else can come up with why this is the path.

Mr Bradshaw: We will abolish the City, then, shall we?

Greg Dyke: I am not sure—you could argue the other way around: that the City does not make it easy for these companies to go from being £10 million companies to being £2 billion companies.

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Q527 Chair: It is probably a separate issue, but I do not think this is unique to the creative industries, is it? It is a national problem. Adam?

Adam Singer: It is a national problem in that it is very much to do with scale. If you look at the major global companies, leading global companies of the last 100 years, by and large they all came out of the major leading global economy, which was the United States, where it happens to be the first international company like Singer Sewing Machines—not related; wish I was—through to General Motors, through to IBM, through to Microsoft, through to Apple, through to Google. It reflects the scale that they bring to bear.

I hesitate to talk about football metaphors, especially as I am sitting next to somebody who understands the business, and I am not very hampered by knowledge when it comes to football. But it does strike me that there are two kinds of clubs: there are those at the top, and then the clubs further down do seem to make a living out of selling players as much as anything else. I knew this was going to be a mistake.

Greg Dyke: If you want to get into that—

Adam Singer: No, I don't. Retract all that. We do not want to get into football economics. The point is that to get the kind of global growth that you need, you need a major piece of investment, and the major piece of investment often comes from outside. It is capable of coming from within the UK, but more often than not it comes from the outside. They then have the ability to drive this business forward. Greg is absolutely right: the Americans do have a higher horizon than we do.

Andrew Chowns: It may be Amanda and Greg's modesty, but there is one thing that is happening in the film industry that I think is a step forwards here, which is that one of the channels of recommendations from the film review conducted by Lord Chris Smith, for the first time, is to create an opportunity for filmmakers, producers, directors and writers to receive a channel of revenue from the success of their films. This is really important, because at the moment you are dealing with production companies who survive simply by being able to produce their next film. They are moving through the sea of production simply trying to get to the next point. They are not building up an asset base that they can then exploit or expand into different areas. So, it is a small step but I think it is a crucial first step to take, and I commend both the review and the BFI for doing it. From the filmmaker's community point of view, we see this as absolutely transformational and it will energise filmmakers to think about what they do in a different way, to think more about what audiences want, and to invest more of their talent in making their films successful. I think that is absolutely vital.

Adam Singer: Can I come back on two points? If you look at investment in something like film, tax breaks and encouragement have all been helpful and are to be welcomed, but let's just look at it from an individual investor's perspective. If somebody comes to you with a film, essentially you have a one in seven chance of that being a success if you are lucky. It is pretty similar with games. So if you want to make an investment—a shrewd investment—you are more likely to invest in the commissioner or the aggregator

because they are playing across the piece and getting longer odds, so you are much more likely to get a return. As soon as you are investing in the aggregators or the commissioners to move that needle of that investment, to be significant within that investment, that automatically means quite a lot of money. So, you have a single issue there.

It is worth noting that our independent sector is really vibrant. Most of the independent companies that sprung into existence when Channel 4 started are no longer here. Where we have been really successful is in our commissioning structure, because our commissioning structure has managed to keep feeding independents long enough until some of them do get out into an international market; companies like Shed, which have offices in Los Angeles. So there are real issues about how you get return on investment and how you mitigate your investment. The thing that I will be looking at very carefully is the new generation of crowd-source funding. This is beginning to generate a lot of money. It allows people to make small investments. It is going to be very important, and, doubtless, there are going to be one or two huge scandals, but we need to encourage it because there is an opportunity here. This is a new Savannah—the Americans are scratching their heads about it as much as we are—where we could get a lead and secure lots of investment. Recently somebody put up on a crowd-sourcing fund, Looking for an investment for a pen that draws in three dimensions. They were looking for about £75,000. They raised over £1 million immediately. Crowd-funding is a new way of doing this. It is brand new. Look at the new; try to reinforce that.

Q528 Chair: I saw your submission about this, but could you tell us a little more about how you think we can make this happen? Is there anything we can do to encourage the development of this, or is it just going to happen naturally?

Adam Singer: I would like to make two comments. One, invite somebody with much greater expertise than me here—and there are several—on that. So, let's be honest about that up-front. Two, it is going to be an issue that is going to cause tremendous anxiety, and natural levels of paranoia, because you are dealing with individuals putting up money into strange organisations they have not done that much due diligence about. Some will succeed and some will lose, and, sooner or later, there will be a natural conservative reaction to say, "How do we control this?" That is absolutely right, but I would look at trying to find a way of pushing it forward as fast as possible. I understand that the next witnesses will be able to speak on this as well.

Greg Dyke: We will move out, then.

Q529 Chair: We are going to be coming on to them in a minute in the next session. Just before we move on, let us consider three or four people coming to you and saying, "We've got this great idea for a movie. We've got the script. We've got everything. We need some financial backing", and BFI does a bit, Film4, even the BBC. But where is the private-sector lending

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capacity because, to varying degrees, all of those that I mentioned are state organisations?

Amanda Nevill: It is not in a very good state at the moment. I think most producers will tell you that it is extremely difficult to raise private money, particularly for British independent films at the moment.

Q530 Chair: Is there anything we can do about that?

Amanda Nevill: One of the things that would really help are schemes like the EIS, which are fantastic vehicles—and Greg can talk you through it much better than I can—and they are very good vehicles that would work very well for film. But they require investors into those schemes, and at the moment I think investors are anxious about whether these schemes are bona fide and reputationally sound.

Greg Dyke: I think there are five ways we can work out that you can get some public money. It is possible to get the tax break, the BFI, the BBC or Film4, but I am not sure you would call Film4 public money. It is an interesting discussion, but BBC or Film4—you can get EIS, which brings in private investors. The advantage of EIS is that it is an incentive for private investors to come in, and then there is some European money. If you have a £2 million to £3 million movie, you can probably get well over half the budget through those. But the only one that is bringing in any private money is EIS. People have taken fright because of quite legitimate concerns about tax breaks, but we just have to sort out which are legitimate and which aren't.

Chair: We are coming on to that.

Q531 Mr Leech: Mr Dyke, you have already highlighted this morning how important the tax reliefs and breaks are. Yet the BFI argue that we should see how well the four tax reliefs will work together before possibly extending it to other creative industries. If we know that it works, why shouldn't we be doing it now?

Greg Dyke: There are two parts of it, aren't there? The big impact of it is for foreign movies, particularly American movies, to be made here. In other words, they are not movies that are out to reflect our culture, our society and the rest of it. They are industrial productions moved here because there is a good tax break and we have very good technicians. We have the skills and we have a tax break. Do the same tax breaks work in other creative industries? I could not tell you. I do not know. But the major impact is the bringing of American movies to be made here. That has been the big change.

Amanda Nevill: The other thing is that on a global stage it is a very competitive arena. Our main competitors are Australia and Canada. I think it is about staying ahead of that and getting that investment into the UK rather than into those countries.

Q532 Mr Leech: Are you suggesting that the new tax breaks may not be as successful as the ones that are already in place? Is that part—

Greg Dyke: If you look at the tax breaks the Canadians have been giving for years on games—I used to be chairman of a children's animation company, and in the end most of our animation in

this country moved overseas. It moved to China and it moved to Canada, because one was offering cheap labour and one was offering tax breaks. So, I am very hopeful for what the Government are doing. I think it will be effective. Of course there is always the European issue, which Amanda has done a lot of work on. There are those in the Commission who do not like the tax breaks.

Q533 Mr Leech: If we know it works, why do we need to make an assessment of how successful they are, because we already know it works? Why shouldn't we just extend it to other creative industries?

Greg Dyke: You could try to see what happens. Why the figures are pretty spectacular is because it brought American films to Britain.

Amanda Nevill: The new tax breaks that are coming up—obviously Treasury signed them off because there was a very tight economic plan that proved that the level of investment that would come through the tax relief would bring major net benefit back into the UK. For the record—you need to check this, but I think for every £1 of tax relief supports a further £12 of economic activity. There is a multiplier effect that has worked with film, which has been shown based on what the expectations are for games, animation and high-end TV. So, creative industries—beyond that, whether they could benefit from the same sort of fiscal model, what I am saying is I don't think Greg or I would know enough about those industries to be able to say.

Greg Dyke: I am chairman of Ambassador Theatre Group, which is the biggest theatre group in this country, so I do know about theatre. A theatre production, everybody gets sold on the basis that they could have *Cats*. A bit like movies; at the moment everyone gets sold on the basis, "This is the next *The King's Speech*". There is a limited number of *Cats* and there is a limited number of *The King's Speech*. I am sure you could look at theatre production and at tax breaks very easily.

Q534 Mr Leech: Is there a danger that we introduce these tax breaks and other countries go that bit further? You talked about the expertise here. What is it that keeps people coming here, even if other countries go further with the tax breaks?

Amanda Nevill: Again, it is a very good question. Tax relief is very important, but it isn't the only factor in the equation, by any means. The infrastructure and skills are absolutely vitally important. So, if you are making a film, the more you can do in one place with all your skills, the cheaper it is to make that film. The exchange rate is also a really important factor.

The other thing we are seeing at the moment is that almost intangible sense that filmmakers are being drawn to the UK because of the sense of creativity. They are very interested in the writers and the stories. As I said earlier, the US recognise that their international market is much important than their domestic market now, therefore they are looking for stories that appeal to that international market, and they do see the UK as a place that has writers who are able to deliver that.

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Lastly, if you are going to make a huge film and you are negotiating some of your big costs for your cast, for example, then you are more likely to have an easier landing with the cast you want if you are coming to London than if you are going to some other countries, because people like being in London and in the UK.

Q535 Mr Leech: Changing tack slightly, Directors UK have said that anomalies in the tax system adversely affect creative individuals. Can you expand on that a little and explain how the tax system could be improved to take into account the freelance nature of the industry?

Andrew Chowns: I think I mentioned two specifics in my note. One is a rather technical thing. The HMRC have a set of film industry tax guidelines that govern how the tax regime applies to people in the film industry. One component of it is called “the nine-month rule”, but this is basically a way of HMRC working out whether somebody is genuinely freelance and self-employed, as opposed to somebody who is effectively a staff person and should be on PAYE. I think those guidelines were originally introduced at a time when there were some instances of people, who quite manifestly were staff, trying to look like they were self-employed and then getting an advantage under the tax system. The reality is now that most creative people are freelance and have absolutely no chance of being staff because of the employment rights situation, and their employers will do everything they can to avoid them becoming staff. HMRC say that if you have an engagement that goes on beyond nine months, you will then be treated as PAYE. So, we have a very strange situation now where directors, who will quite often be working on a long-running series, are given a contract that finishes after nine months and, effectively, they have to sit at home for three months unemployed in order to go through this pretence that they are not a member of staff. It would be an easy thing to fix. At the moment it looks like freelance creatives are being discriminated against by this peculiar piece of tax legislation.

Q536 Mr Leech: Is there a danger that if we make it easier to deal with that problem, we encourage more of it, so that more people become effectively self-employed as a bit of a tax fiddle?

Andrew Chowns: It would be hard to see how that could happen in TV, because they already are. In any case, I think a more important driver for it is employment rights legislation. That will govern it. In my opinion, this tax rule is only having a perverse effect of creating three months’ forced unemployment.

Q537 Mr Bradshaw: I want to go on to intellectual property, but very briefly, from what you said about the importance of creativity in the education system, did you lobby for and welcome the recent U-turn by Michael Gove on the EBacc?

Amanda Nevill: Yes, we did.

Greg Dyke: There is no doubt, if you talk to anybody in a digital society about what skills they now want, the games industry wants people who can do art and understand mathematics. Well, we have an education system that still divides the two and always has done, ever since I was at school.

Q538 Mr Bradshaw: Great. On intellectual property, could we have your views about the pace and drive of the Government’s implementation of the Digital Economy Act and the measures in it to tackle piracy?

Amanda Nevill: What is interesting at the moment is we have a scenario where we need to balance the expectations of consumers, which are moving faster, arguably, than technology or the financial model that feeds film are able to keep up with. So, we have the Digital Economy Act, and we have the EER Act. So, the EER is within it, and we have had loads of discussions with BFI, particularly when it is the private-copying exception, which as a consumer I can completely understand. If I buy a film, I want to be able to look at it on my iPad, which at the moment is illegal. So, from a consumer’s perspective, we need to be able to do that. There is anxiety in the industry because the Digital Economy Act is moving quite slowly. If you free up that private-copying exception, it will make it a lot easier and better for the consumer. On the other hand, if you haven’t ensured that the Digital Economy Act has enough teeth, it won’t be able to come down on people who abuse the system. So, I think that sense of trying to get those two things moving in parallel would give greater certainty. So, one of the things that we have looked at, at the BFI board, is this notion of, with the private copying exception, whether the timing of that being introduced could perhaps be marked a bit more closely to the speed at which the Digital Economy Act is coming through.

Mr Bradshaw: Anyone else?

Andrew Chowns: The pace at which it is being moved forward is painfully slow. Like Amanda, I am also interested in copyright reform. I contrast the way that that is being undertaken with the way that the film review took place. The film review was a model of inclusion, where all the different sides of industry were brought together to come up with modern proposals. I think the review of copyright has been very adversarial, and one cannot escape the feeling that its conclusions were rather set out at the start and also what has followed from it. There has been a missed opportunity, particularly in private copying, because I think where we are now is that the Government has felt that it should make a step towards liberating private copying by individuals to regularise what are quite clearly some anomalies in the way that individual behaviour takes place. But they felt very constrained because they don’t want to create a fair reward to rights owners for allowing that use. So, we have made teeny, tiny steps towards liberalisation without any remuneration, and that is going to end up with no party feeling satisfied.

The alternative would have been for the industry to look at a more liberal private-copying expansion, which creates more opportunities for digital businesses to move into that space with clear rules

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and a fair reward for creators. If that had been set out as a proposition, you would have had all parts of industry and the consumers coming together to work on it. It would have been a tricky one to get through, but the outcome would have been positive for everybody, and I fear we have got ourselves to a point where limited ambition will result in something that doesn't satisfy any of them.

Q539 Mr Bradshaw: What are your views about the process for a digital copyright exchange, if any?

Andrew Chowns: I am a supporter of it. It is a modern way of licensing a certain kind of use. I often hear criticisms levelled at collecting societies that people don't know who owns the rights for certain works. If something will facilitate that, it is a very good idea. If it facilitates identification of orphan works, it is a very good idea. I don't think most rights owners have much to fear from it, frankly. It is a very positive development.

Amanda Nevill: I would echo Andrew. The only thing is, it does feel such a big, complicated beast, doesn't it? Just from a common-sense perspective, if it was easy to achieve, there would be a huge benefit and an economic benefit. At the moment I can't quite see my way through how it is going to be. It is a big ambition, without the business plan or the budget behind it, to make it work at the moment.

Adam Singer: I would just echo that I think it is a very worthwhile experiment.

Q540 Chair: Can I ask Andrew Chowns a question specifically? You have a very interesting background. You have worked as a commissioner at ITV. You have worked for Pact, representing production companies, and you are now representing the creative individuals we talked about at the beginning of the session. You oversaw the imposition of the terms of trade, which are generally thought to have been the big catalyst for the growth of independent production companies in this country. From what you were saying at the beginning, I had the impression that you almost felt there needed to be a second terms of trade to benefit the creative individuals against the big companies. Can you say a little more about that?

Andrew Chowns: That is a very interesting way to characterise it, John. There have been huge benefits accruing from terms of trade. At the heart of it is a principle that, if somebody is fairly incentivised to be successful, that is what they want. They want an opportunity to get out into the market and make something of their own work. If they feel their own work has been expropriated by somebody else, they lose that interest in an incentive to make it better. The terms of trade have been fantastic in independent production companies in that respect. You can see that reflected in export earnings, DVD sales and expansion into digital markets and so on. That has not trickled through to creative individuals yet. I expect it will and we are determined that it will because the same process is at work, particularly when you note that an individual is one of the other two copyright holders.

Directors always say to me they are fired up by that sense of owning their work, seeing it become successful, seeing it connect with audiences. I think there is a stage two to go through. We are a little way down the road, but there is a fair way to go.

Q541 Chair: When we talk to the music industry, the whole of the industry agrees that piracy is a huge problem. But you then discover that, if you talk to some individual composers and performers, they are very unhappy about the proportion of royalties they get, and they think the big record companies are taking too much. The Featured Artists Coalition are very much making that view. Are you saying that the creative individuals, directors particularly, have a similar resentment of the production companies?

Andrew Chowns: No, I don't think they do, but, to be frank, it is hard to find individuals fired up with the same sense of fury or injustice about IP theft as you will get from big businesses. I attribute that to the fact that many of them see little by way of trickle-down of the value of their work. If that were fairly reflected, they would be standing shoulder to shoulder, absolutely.

Chair: Interesting.

Q542 Tracey Crouch: Ben touched on this issue already, but I thought I would just probe a bit further on education and skills. We started the inquiry before the Government made its U-turn on marginalising the creative subjects from the EBacc, but do you think this is enough in the UK to develop the skills and education that is needed in the creative industries? Do you think more should be done within, certainly, secondary education?

Greg Dyke: One of our ambitions in this document is to put the ability to get involved in film clubs into every school in the country. We looked at how much we feel it would cost, and that is what we have put aside and that was the aim. Now, that isn't film in the curriculum. Part of the other work that we are doing is: how do you begin to get people to use the moving image and film in teaching in schools and the rest of it? Some of them are obviously very good and some are not, and there is some resistance. We are certainly of the view that the moving image is going to be the means of education in the 21st century, and it seems odd to us that it doesn't have a bigger role, both in the creation and in the curriculum itself. But then everybody who comes from any part of anything in this country goes along and wants their bit of the world represented in the curriculum, and yet there is another whole argument that says no. What we are trying to do is say, "Okay, we think that fight is too hard", so we are going to try to introduce film in every school in the country, through film clubs and all that sort of thing, and try to find talent. A lot of the people you think are going to get involved in a film are not people who are ever going to work in the film industry. The vast bulk of them are not going to work in films, but you can find the talent in that process as

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well. So, it is a dual approach. You could say that we weren't ambitious, but we thought, "Hang on, we have the money. We can do this now, as opposed to a five-year campaign to get it into the curriculum that we might not win".

Q543 Tracey Crouch: Is it a cunning way to get people watching film rather than getting them involved in the film industry?

Greg Dyke: It is a cunning way of getting people to watch film, yes, to get involved in film and a wider choice of film than just Hollywood blockbusters. That is the point. That is what we are trying to do. All the evidence shows that people who have become involved in film clubs at that stage in their lives stay involved in film for the rest of their life.

Amanda Nevill: I want to add one big win, if you were looking for some big wins. Film is the communication medium of the 21st century. It isn't something that is just an entertainment medium. We learn more about the world and ourselves and the environment we live in from the moving image than arguably we do from the written word, or just as much. Just as we need to get film into schools, I think a huge win would be, at teacher training level, to have at least one module to give teachers the confidence to be able to talk about and use the moving image within the classroom itself. It is something the BFI has argued for and has helped teachers to use film in the classroom.

If you contrast the sort of environment that young people have at home, and the sort of environment they have in the classroom, I am not sure one is always keeping up with the other. My plea would be that including teaching using moving image in the classroom, at teacher training level, would be a huge modernising factor.

Adam Singer: To offer a slightly different perspective, I don't think we are looking for any specific skills in the classroom in that sense. What it is about—the question one needs to ask is: what do we mean by literacy in this day and age? Education is about literacy. Education is the ability to give people the ability to encode, decode and get a message across. Those skills in this century have now changed significantly. What we need are people who know how to communicate. That isn't just about being felicitous with words; it is also to do with the ability to enhance those words with other forms of changing the message, be it picture, be it music, be it interactivity or be it the engagement of games.

For example, if you want to do games, then you need to be grounded in science and maths, because there is no point in projecting a ball across a screen unless it is following some form of physical law that we all recognise. You need those kinds of basics in there. So, what we will be arguing for is we want to see the word "literacy" incorporated in all those things and, within that, increasing the vocabulary of said literacy. At which point, films in schools is an excellent idea. Also, as you go forward, we are dealing more and more in a probabilistic world where the ability to sift and gain data from vast amounts of numbers also changes. That changes the nature of the kind of maths syllabus that we need everybody to have. It is a broad

education that is providing that kind of literacy. Once they come out of school we can give them the specific skills they need for that piece of media du jour, as long as it survives.

Q544 Tracey Crouch: Andrew, you obviously spoke about the gap in skills in your written submission. I wonder if you have anything further to add to that.

Andrew Chowns: That was more to do with professional training rather than schools.

Q545 Tracey Crouch: Can I ask: do you think that the sector does enough to showcase itself and highlight what it does? An example that I can give you locally is that quite a few movies are being made down at Chatham Dockyard at the moment, and yet there is no outreach to local schools to bring them on to the set to show them that, "Yes, you can go off and be an electrician but, hey, you could also be an electrician to a major movie company", or, "This is what it is like to be a carpenter and build an entire set in your local surroundings". Do you think that enough is being done to showcase the talent that is the creative industry sector?

Greg Dyke: When I first got this job as Chairman of the BFI, I said at my interview, "Look, I don't think you are the British Film Institute. I think you are the London Film Institute". Chatham—I would say yes, in the London and surrounding area there is access to all sorts of things that there isn't in the rest of the country.

One of the things we have done in this document is to try to say that now, we are going to be the British Film Institute. Now we are going to start doing an awful lot of things in an awful lot of cities, and that is what we are trying to do. The problem is if you are making a film in the Chatham dockyards, your major job is to make the film. Your job is not to go and involve the local community and the rest of it, because you are working on a pretty tight timetable, you are working on a budget and you are probably behind anyway. So, as you say, it almost has to be another agency that does that, to involve that, because the producer will not do that. That is not what the producer is trying to do. The producer is trying to make a film, to make it work, to make a great film that might make the money back.

I think in theory you are right. I don't see how you can easily do that in practice, but if you can do it through what we are doing in the schools, and what are doing in these regional hubs that we are setting up for film, you have some chance of beginning to get what you are talking about in those sorts of hubs. I don't know how you describe Chatham. I suppose it isn't really London, but the problems are greater outside of London than in London.

Amanda Nevill: Apart from in Bradford, of course, where there is a fantastic pilot going on in all the schools there to use film, and also Bradford College, which has brilliantly just done a deal with Whistling Woods Film Studio in Bombay. They are putting up a film school in Bradford financed out of India, which I think is real pioneering stuff.

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Q546 Chair: Amanda, I am most impressed that you know exactly how to press the buttons.

Greg Dyke: Some people could call it sucking up.

Amanda Nevill: For a Bradford girl, it is an easy one.

Andrew Chowns: I used to be on the board of a charity called First Light, which was designed to fund projects among groups of young people, schools and externally to make films. It was not just observing a film being made and being inspired by that, but doing it yourself. That was pretty effective in its own right, because it was clearly and demonstrably having an effect on those young people, in terms of the skills that they could then adapt, and working with teams, being creative and so on. But it was potentially a step on a career ladder that would get people drawn more into it by giving them the chance of first-hand experience of that.

Adam Singer: One of the things we should be looking at is not how we get children “into film” or “into television”. I understand why we are there, but one of the things that I find difficult to deal with is this kind of ghettoisation of the creative sector. There is this creative sector and then there is, “You poor drooling audience lot over there who are not part of the creative sector”. I don’t think that is quite how it is, because there is no such thing as a successful business that is not creative. Vacuum cleaners are not part of the creative sector. Mr Dyson would say he was creative. If we are teaching creativity in schools, one of the things we should be teaching is how you can apply that form of creativity in absolutely every single thing you do. There is not some greater glory about being in movies than in vacuum cleaners. If you can do something brilliantly wonderful in vacuum cleaners, like Mr Dyson—and I have to say I prefer to have an investment in him than in most movies—then that is what you should be following.

Q547 Mr Bradshaw: I am so sorry. I have already moved on to the second session, Chairman. Yes, you have been quite critical of the make-up of the Creative Industries Council, and I wonder what your reasons for that are and how you feel it could be improved.

Amanda Nevill: I don’t think that we have been necessarily critical of it. The only criticism that we have is that we would like to be part of that.

Greg Dyke: On it.

Amanda Nevill: We would like to be on it because film is represented there. There are some very good film representatives but there is not one body representing film, and we think we are a very major part of the creative industries.

Q548 Mr Bradshaw: What is the history here, just to remind us?

Amanda Nevill: For it being set up?

Mr Bradshaw: Yes, and the role of film on it and its predecessor.

Amanda Nevill: I think my history lesson here is a bit jaded, but there was a Ministerial Film Forum, which I think was set up by Ed Vaizey and the Creative

Industries Council was set up by Vince Cable and—I am looking for some help here—with DCMS.

Greg Dyke: Jeremy Hunt.

Amanda Nevill: Jeremy Hunt. Why the BFI has been excluded from it we don’t quite know, but I think it might be because the thinking was that there was the Ministerial Film Forum. But from a joined-up perspective it would make sense to include film formally.

Q549 Mr Bradshaw: Andrew, did you want to add anything?

Andrew Chowns: The thing that struck me, looking down the list of people on it, is, with the possible exception of David Sproston from Aardman, there are no practising eminent creative individuals on it. It is mostly “suits” and regulators or legislators. To me, that simply looks like there is a whole section of the creative industries that is simply not on there, and part of it must be about seeking inspiration and ideas from our leading creatives. You think, “Why isn’t there a place for someone like Danny Boyle or Paul Greengrass?”

Q550 Mr Bradshaw: But as it never meets, does it matter? It has never met as far as I am aware. Has it ever met? Once?

Greg Dyke: My point to Amanda: do we really want to argue to be on something that might not do anything? There are lots of things like that, there are a lot of organisations that meet to meet, and that is it; and is there any evidence that this is going to do anything?

Q551 Paul Farrelly: Greg, could you answer your own question there, please? It is pretty fundamental.

Greg Dyke: That is true. No, I think if Amanda, as the Chief Executive, thinks it is of value for us to be on it, then I think she should go on it. But don’t put me on it, because I do think there are an awful lot of meetings and committees and the rest of it, and you just think, “Is this really achieving anything? Are we really getting anything done here, or is this just another meeting that is in the diary that comes up every so often?” But then I am getting old and cynical, perhaps.

Q552 Chair: If it did not exist, would you not be equally critical that you—

Greg Dyke: I would expect so. We would demand it, I expect, yes.

Amanda Nevill: Is the answer: at the moment the jury is out, but it seems like a laudable idea to get together the creative industries, as a whole, to see what might come out of it? Indeed, there is some good thinking coming out in terms of access to finance. Having the different industries round the table, so we can start to understand where the cross-over is, is a good thing. Is it value at the moment? It is probably too early to tell.

Q553 Paul Farrelly: Is it good, Andrew, that this particular body full of suits has not met substantially or if ever because, therefore, they cannot do any damage? Would it be a good idea if a different body full of different people did meet?

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Andrew Chowns: You might be right about that. If it is there to try to harness a diverse range of brain power to apply itself to some big issues, like achieving growth or promoting British creativity, then I would be prepared to give it a shot. But if it is simply neglecting one crucial element of creative industries,

it seems misconceived to me, and, until it produces something of merit, I am going to carry on being critical of it for that.

Paul Farrelly: We are grateful.

Chair: I think that is all. I thank all four of you.

Examination of Witnesses

Witnesses: **Dr Jo Twist**, Chief Executive Officer, Association for Interactive Entertainment, **Ian Livingstone CBE**, Life President, Eidos, **Dr Richard Wilson**, Chief Executive Officer, and **Vincent Scheurer**, TIGA, gave evidence.

Chair: Good morning. Can we now move to our second session, which is focused specifically on the games sector? Can I welcome Jo Twist, the Chief Executive of the Association for UK Interactive Entertainment; Ian Livingstone, longstanding supporter of the industry but currently Life President of Eidos; Richard Wilson, the Chief Executive of TIGA; and Vincent Scheurer, also representing TIGA?

Q554 Jim Sheridan: Good morning. If you could perhaps give us a flavour of what you see your role as in helping the games sector succeed, and, in your opinion, what are the main challenges that perhaps Government could assist you with?

Dr Wilson: TIGA is the trade association that represents UK game developers and digital publishers, in particular independent developers and digital publishers. It was set up back in 2001. We see our role as helping the UK games industry to be the best in the world. That is what we are aiming to achieve. We have three broad activities. One is ensuring the industry is properly represented at a political level. The second is to raise the profile of the industry, particularly in the mainstream media, so that people understand how important the industry is, particularly economically. Thirdly, we try to help our members commercially, providing best-practice information advice, networking and enhancing their commercial opportunities. Those are the various ways we try to support the industry.

In terms of the key challenges, over the last few years the key challenge has certainly been the unlevel playing field that the industry has been competing on in the UK. Our key competitors have tax breaks against production; the UK hasn't. Skills have been another issue. I would also single out the need for managers and leaders in the UK games industry to continually enhance the skills. Many of them are moving into self-publishing now, publishing their own content, and this creates new challenges for them. So, I think tax and skills are particularly the key challenges facing the sector.

Q555 Jim Sheridan: What do you mean by "unlevel playing field" and your competitors; who are they?

Dr Wilson: For example, Canada and the United States have had tax breaks against production, which have effectively reduced the cost of game development in those jurisdictions. The UK has not had a tax break against production. Fortunately, one is going to come into effect from April this year,

assuming the European Commission gives the green light to that. Once we have a tax break in place, the competition will be fairer. There will be more of a level playing field between different countries.

Dr Twist: My name is Jo Twist. UK Interactive Entertainment exists to represent the entirety of the games industry, from the smallest of developers in one-person studios to the largest multinationals and publishers in the country; again, to try to support, grow and promote the industry, to make sure that the UK is the best place to make and sell games and interactive entertainment. As we heard from the previous session, convergence is a major factor in terms of what games can do and the expectation of interactive entertainment as a whole.

For us, there are six main issues. The first is obviously the supply of skills. That includes creative, artistic as well as technical skills into the industry and as well as immigration issues. We already had one big policy win thanks to the Government and thanks to the work of the Next Gen Skills Coalition campaign, which Ian led on and did magnificent work on, and which UKIE members paid for. We got success with the disapplication of boring ICT and instead—in its place—computer science. It is very important that we continue to support teachers and to support educators, to make sure that that is implemented in a rigorous fashion.

As Richard has already said, the tax breaks were the second big policy win, and we are very grateful for that because we do want to be recognised as one of the key cornerstones of the creative industries and the digital economy future for this country. We want to make sure—and we are working very closely with Government colleagues in order to ensure—that the tax breaks implementation and the cultural test recognises all parts of the industry, from the smallest developers to the largest multinationals who will be making inward investments.

The third is access to finance, and we have particularly done a lot of work on crowd-funding, as you heard from the previous session as well. We believe in innovative access to finance as one of the keys to the ecosystem, and we want to consider how we can boost the take-up of SEIS and EIS schemes. Crowd-funding is extremely popular with developers. Late last year, Kickstarter—the most successful of crowd-funding platforms—launched in the UK. In the first months, £2 million was pledged in donations to support various projects; £1.2 million of that was for

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games projects. In 2012, Kickstarter called 2012 the Year of Games.

We also want to do much more work and seek support from Government to help to grow clusters outside of London. Tech City is not the only cluster in the world and in the UK, and, in fact, in the games industry we have other key clusters, including in Dundee, Leamington Spa and elsewhere.

In terms of IP, it is very important that we do seek to protect and exploit the IP creation, which is very important and a backbone to our industry. As an industry, we are very innovative and agile in terms of coping with different forms of IP exploitation, including the premium model on mobile phones, which has basically made piracy very much redundant in terms of mobile space. However, it has brought up other IP protection issues.

Finally, we do want to work closely with Government to help measure the size of our industry. Currently, the statistics don't match up to what we think is the economic impact of our industry, which is in great transition.

Q556 Jim Sheridan: Could I confirm that you are still based in Dundee, because there was some talk earlier about moving on, wasn't there?

Dr Twist: Sorry, say that again.

Jim Sheridan: There was some talk earlier on about the games industry leaving Dundee for various reasons.

Dr Twist: The games industry will not be leaving Dundee, as far as I understand. There is a lot of support for growing companies and for a talent pipeline. That is one of the key successes to growing an ecosystem that creates a cluster.

Ian Livingstone: I would just like to try to put the games industry into perspective, into context with the other creative industries. The games industry is the largest entertainment industry in the world. It is worth \$50 billion a year in software sales alone. That is going to rise to \$90 billion by 2015. The UK historically has been very good at making games, and yet, without help, it has been successful.

What I would like to see more of is a number of items to help the industry across the board. One is raising the profile and the perception of games, making people, parents, teachers, Government and media understand that it is a really strong and viable career option. On the back of that, it becomes an investable industry for external finance. We are very good at creating intellectual property in this country. We are not so good at retaining it. We often have to give away our IP in return for project finance. Just parking the copyright issues, we do happen to have a very good copyright law. But we are so often a work-for-hire nation in this country in all our creative industries. While we get the Oscars, the BAFTAs, most of the revenue derived from our content is often banked overseas. How can we create a competitive and yet fair tax regime linked to UK production that allows for intellectual property to be retained in this country? Two of the most important things, of course—well, three of the most important things, including broadband. It is not games that make people violent; it is latency. What we need is to get people to be able

to not only download, but for content creators to upload content to global audiences via super hi-fi broadband. The two most important things, of course, are access to finance and people. We are delighted with the announcement of production tax credits. It is going to make the UK a level playing field. Of course, we are delighted that schemes like SEIS and EIS continue to help the games industry, but the most overriding thing for me has been a skills base.

You may be aware of the Next Gen Skills campaign. The Next Gen report led to Michael Gove changing the ICT curriculum. Historically, ICT had been teaching children how to use technology but gave them absolutely no insight into how to create technology. We were effectively teaching children how to read but not how to write. The skills of computer science and computer coding are transferable. It is not just about making the next Angry Birds in the UK—of which there has been 1 billion downloads by the way, and there is a great opportunity for anyone anywhere in the world to make those games in this country—it is also about transferability. Whether it is fighting cyber crime, designing the next jet propulsion engine or building financial packages, computer codes are everything: the heart of the industrial world in which we operate today. So, we have to turn our nation of digital literates into a nation of digital makers, not just for using technology but making technology. Digital manufacturing is our future, not traditional manufacturing, I would say, at this moment in time.

Vincent Scheurer: That is interesting. My day job is as a lawyer representing SMEs who create video games. For the first time in the last 15 years I am more positive about the video games industry than about the wider economy, although that is partly a reflection of the wider economy rather than the games industry.

There are three things that have happened that have been extremely relevant for us. The production tax credit is going to have a major impact on the UK industry. The advent of crowd sourcing—particularly Kickstarter coming to the UK at the end of the last year, as Jo mentioned—is a very, very important development as well. We will probably talk a bit more about that later. But also, the advent of Apple and Google as distributors, so that a small company can create a game made for £100,000 and sell that game directly to the entire planet—there will be 1 billion smart phones soon—and take 70% of the margin, with the other remainder going to Apple and Google, is an industry-changing development.

In terms of what TIGA is doing, other than assisting its members generally to navigate those things, the big challenge we have is going to be taking the production tax credit, when it is hopefully implemented, and making sure that the industry is able to use it. When TIGA was set up, the R&D tax credit was already available, but no one knew it existed or that it applied to the video games industry. Accountants did not know that it applied to the games industry, because there weren't broken pipettes or people buying stuff, so people did not claim for it. One of the things TIGA did right from the beginning was to make sure that everyone in the industry who made games understood that there was a tax credit for R&D. That took a lot

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of work, going to see people, running events. I remember a number of events in Dundee to encourage people to take up that tax credit, and I think we will have the same job. We have already started it. We had an event in Dundee last year and in other hub areas, explaining to people what the tax break was going to be. Making sure people implement it and use it is going to be a big challenge of ours in the next few months.

Q557 Jim Sheridan: On the question of SMEs, how easy is it to start up an SME in the industry, and what is the composition currently in terms of SMEs and multinationals?

Vincent Scheurer: It is extremely easy to set one up. We lose track of this in the UK, in that it is extremely easy to set up a company in the UK. I was at an event in Switzerland where we met games companies and small companies. It is very hard to set up a company there. Also, there isn't the entrepreneurial mindset of people wanting to—of families saying, “Yes, go into business because it's great”—rather than being employed by someone else. In that respect, the environment here is extremely positive. It is much, much closer to Silicon Valley than it is to anywhere in continental Europe. If I was anywhere in continental Europe and looking to set up a game, I would be coming to the UK.

Q558 Jim Sheridan: What is the composition of SMEs, multinationals—

Dr Wilson: The vast majority of studios in the UK will be SMEs. As of December 2011, there were 329 studios in the UK. Almost all of those—some 96% or 97%—would have had fewer than 250 employees and would have been classified as SMEs. We will be updating those numbers within the next month I hope with some new data. But the vast majority of development studios will be small companies. For example, in Scotland, with the exception of Rockstar, the vast majority will have less than 50 staff.

Ian Livingstone: It is all about being able to empower creative people with the right skills and access to finance to be able to start their own business. There aren't many jobs out there. So, if you have a skilled work force that has content, that is valued by the investment community, by Government, by media, they are more likely to be able to build studios with small, agile teams that can scale to global markets. It is very important to have that encouragement into our industry, because it is the largest entertainment industry in the world. Yet it remains largely a hidden success story, especially for the UK.

Q559 Jim Sheridan: Overall, how many jobs are there in the industry?

Dr Wilson: There are about 9,000 currently.

Jim Sheridan: Nine thousand?

Dr Twist: In development alone; much more in terms of the entire games industry and sporting companies.

Ian Livingstone: But the whole industry is moving. It is going through an incredible transition period at the moment. It is moving from boxed product to a digital service. It is moving from analogue to digital consumption and creation; therefore small, agile

teams are able to create content and serve it to global audiences via high-speed broadband. The supply chain has been completely reduced. Historically, you used to have to extend incredible amounts of production money, investment in the tens of millions of pounds, to make a physical product that is put on a truck, put in a shop, with distribution costs before you reach the end user. Today there is a direct communication between the content creator and their consumers, and they are able to iterate and serve content and monetise that often free content at extraordinary rates. There is no barrier, other than skills and access to finance and a willingness to do so.

Dr Twist: Can I make a point on the figures? This is one of the biggest issues that we face, particularly as we welcome the tax breaks and the change in terms of mending the skills pipeline. We need a benchmark to start with and then an understanding, as the film industry has, of the economic impact of the tax breaks, and understanding how we do that is critical. Skillset estimate that there are 485 companies in the games industry. DCMS says there are 200 development studios. DCMS says the games industry employs 28,000 people, including 9,000 developers, but these are old figures; they need updating. Many of our companies are not represented in the right SIC codes, and we welcome the consultation on SIC codes.

We are such a fast-changing industry that we need help to understand who is starting up and who is clustering. We did a recent business model survey of 50 games companies, and nearly 40% of them alone had fallen since 2009, which is a factor of the lower barriers to entry to game creation, which is a fantastic thing. In terms of start-ups and SMEs, a lot of the companies do need plain English help in understanding. Again, I would welcome this starting at school and in further education, in terms of learning how to run a business, learning more about those soft skills and entrepreneurial skills, which I know TIGA are very supportive of as well.

Q560 Jim Sheridan: Finally, am I correct in assuming that your industry is very much dependent on the film industry, a number of which—I mean films—are very violent? There is a certain school of thought among some people, none more so than the Chair of the Home Affairs Select Committee, who is concerned about the influence that your industry has on young people?

Dr Twist: Our industry is an extremely mature industry, a mature media, and we welcome the implementation of PEGI. The industry has worked very hard to ensure that parental controls on all the major consoles exist, that we have information in guidance for parents, just as the film industry does. Violent games and 18-rated games only constitute 7% of the total box games market. There is a huge diversity of games that are suitable for all audiences, and parents need to be educated about the tools that they have at their control and the maturity of the industry that caters for all audiences and tastes.

Q561 Jim Sheridan: I have the impression that you anticipated that question.

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Ian Livingstone: The positive aspects of games is not often reported in the media at all, or understood by Government. In fact, when you are playing a game you are solving puzzles and problems. You are learning about choice and consequence. You are learning about intuitive learning. You are learning about technology; social aspects. Games communities are learning to teach mathematics. Games can be used as a training tool for training pilots, the Armed Forces and surgeons in a very friendly environment. Games technology is all-pervasive. President Obama said this week that games could make education relevant for young people, and cited Mark Zuckerberg's interesting games as leading him to want to learn to programme, which in the end, in turn, led to him making Facebook. In this country, how are we going to use games in a positive way to send out a great message that it is not just about making the games; all the creative industries could benefit from interesting games and turn that interest in playing games into a career of making them?

Getting back to the violent aspects, games are often cited or blamed for the evil of society, most recently with the shootings in the United States. The facts are that \$13.6 billion is spent on games in the United States, \$7 billion spent in Japan and \$3 billion spent in the UK. Japan's spending is probably twice that per capita on video games, and yet, if you look at the number of firearm deaths in the United States per 100,000 people, there are 10 in the United States. There is 0.7 in Japan and 0.025—so there is a 100 multiple of firearm deaths in the United States. Clearly, it cannot be linked to games. Any time anyone tries to link anything heinous to games, they never have the facts. It is just an emotional thing put out there by people who have never played a game in their lives.

Vincent Scheurer: Our perception is that that argument is largely going away anyway. In fact, the people who are now running it are mostly the head of the NRA, who was desperately trying to deflect attention from the firearm sellers. He was the only person in the United States—at least on TV—to say, "It's all the video games industry", rather than, obviously, his members who are providing the assault rifles and the ammunition to American citizens. It is part of the industry growing up. One hundred years ago it was the novel, then it was the violent comic book, and then it was Elvis Presley. Every so often—it is the whole of the video games industry growing up—someone else will be blamed afterwards. I assume Facebook or someone else will be blamed, and people will leave us alone.

Ian Livingstone: As a measure, in terms of the film industry, we are only in the 1930s, yet we have achieved so much in a relatively short period. We are growing up as an industry, and I think that has been witnessed by your interest here today.

Jim Sheridan: Apologies, but Elvis Presley will be leaving the building.

Q562 Chair: You have been quite positive about the prospects for the industry, but you have said it is a huge transition. For some people, the perception is that games have peaked. There was a time when there

were three stores on every high street; now they have all gone. HMV is disappearing. You are moving into streaming online distribution. But also it seems sales have slowed down a bit, platform sales are slowing down.

Dr Twist: This is another significant point about data in our industry. At UKIE we have a PC digital download chart from BETA. At the moment those kinds of stories are based on the boxed product sales. As we transition, as every other industry, following the needs and the changing behaviour of the consumers in the 21st century, we are moving towards digital. Again, it is up to us as an industry to try to capture those sales figures and try to capture those figures in order to represent the industry fully, so that we don't hear those stories. The high street market is extremely important for the games industry, in terms of the visibility of games as a mainstream form of entertainment, but the market looks after itself at the end of the day.

Vincent Scheurer: The high street is largely finished. The concept of a digital product being delivered to people's homes via a shop is on its way out.

Dr Twist: Unless you like shoes.

Vincent Scheurer: It will not be gone totally.

Ian Livingstone: We are following the music industry. Clearly, they have much smaller files. We have much larger data in our files. But the fact is the games industry is technology-driven like no other industry. Facebook is now a games platform. It was 400 million people playing games on Facebook. There are hundreds of millions of people playing games on smart phones. Everyone is carrying a games platform around in their pockets, and if they are not playing Angry Birds, they are playing social games, like Words with Friends or chess online. The games industry is evolving all the time now. It has now become a mainstream entertainment industry.

Q563 Chair: It is, but there is the problem. I play Words With Friends, I play Angry Birds. I play Mafia Wars, all sorts of games. It is research. All the ones I have mentioned, I don't pay a penny for.

Ian Livingstone: You don't, but enough people do for games. Clash of Clans gets \$500,000 a day in revenue from the sale of virtual goods inside those games. Between 1% and 5% of people have either got an ego problem or impatience and are willing to spend money inside those games for a more rich experience or a faster experience, and that is the growing market for you to play.

Q564 Chair: Yours is not like the music industry, where physical product is disappearing; it is all going into downloads, but they are not making any money out of it.

Ian Livingstone: It is an addition to.

Dr Twist: It is a mixed economy and a really diverse range of business models: from Paymium—i.e. you still pay that upfront fee, but you might get it delivered digitally as opposed to from the high street—to, as Ian said, the free-to-play model, on which micro-transactions play a strong part. Ultra fans and people who love the features of that brilliant game are willing to pay incrementally for that.

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Ian Livingstone: There are great examples of the UK doing well in the free-to-play model, whether it is a company like Playdemic up in Manchester with its Facebook games or Village Life. There are subscription models like Jagex and Mind Candy with Runescape and Moshi Monsters, Boss Alien with racing games; extraordinary numbers. We just have to recognise that and make sure that the world understands what we are doing and we are very good. We are, perhaps, the most creative nation in the world. Look at our film, our fashion, our music and so on and of course our games. But it is a marriage of art and science that drives our ability to make games. It is just that we have never had the support from anyone, from Government, from finance, from the media, to help drive this industry bigger than it should have been today.

Q565 Chair: There is a view, particularly among the younger generation, that things they get off the internet should be free. You are confident that despite the demise of physical product and its replacement by download or streamed content, nevertheless you can still achieve the same returns that you did?

Dr Twist: Yes.

Ian Livingstone: Zynga are a case in point, IPO'd at \$9 billion. All their products are free to play; they monetise in-app purchases inside those games. There are millions of people playing these games. If 1% of those players are spending several dollars a day on that game for an enhanced experience, then it is a successful thing. You don't physically buy a film when you go to the movies. You are buying an entertainment experience. Similarly with a game, you are paying for some entertainment additional to the basic offering.

Dr Twist: The industry is being very good at having a fantastic relationship with its fans, the players. It is extremely important to protect that relationship. When you price something right, you make it accessible at the right time in the way that people want it, your fans want it; then people are willing to pay.

Ian Livingstone: You cannot fight the market, and you can monetise free, either through in-app purchases or through advertising, or you can pay not to have the advertising. There are ways of monetising.

Vincent Scheurer: There are definitely losers in this thing. We used to be very good at making very large-scale console projects as well as small projects. Since the cost of making a big game has gone from nearly £250,000 when I started off, to up to £100 million, those projects are simply no longer being done by independent companies any more. That was somewhere where we were very big in the UK in the past. So companies that really focused on large console developments for external publishers are struggling a lot, and they are going to struggle a lot more when we make the transition to the next console. The other issue is if one looks at price points, one might play a game on a smart phone, and the price is usually perhaps £1. People will balk at paying £2 or £3. On any other model, an entry-level price will be £10, and in the end it will go up to £40 or £50. We don't know yet how that is going to play out, but the consumer is okay paying out on smart phones. The

consumer will view £3 as being a horrifically high price, and yet traditionally for PC games £10 was the entry-level impulse buy; "I'll just get it for a tenner. That's nothing". Yet, on iPhone it is now too high.

Dr Wilson: On the IF point, it is interesting that there was a survey last year, based on about 250 companies and their games on the IF platform and, of those, 50% made less than \$3,000 per game. I think 25% made more than £30,000 per game, over the lifetime of that game. So, there will be some break-outs that will be very, very successful, but, in many ways, because it is so easy to launch games, obviously the marketplace is extremely competitive, and that probably drives down the price to an extent.

Dr Twist: Vincent makes an extremely valid point, in terms of large major development studios and companies setting up in the UK. Obviously, what we hope is that the attraction of lower corporation tax, of the tax breaks as well as the skills gap being fixed, will encourage more companies to locate their businesses in this country, not just in London, significantly. We are doing a lot of work. We are embarking on quite a large promotional campaign, one, to educate developers about the tax breaks and how they will work for them, but we are also working very closely with the UKTI and No. 10's GREAT campaign in order to highlight the fantastic businesses and talent that we have here. I think that is extremely important.

The music and film industry have had a lot of support and strategic agency help, in order to do that and to do trade missions and to sell the UK abroad. That is the next step that we need to really tackle as an industry.

Ian Livingstone: We are delighted with what has happened in recent years with the Government's approach to the industry. In particular, Ed Vaizey has been a great supporter of the industry. He has been behind the Next Gen Skills Campaign. He is behind the production tax credits, and he is sending out a great message beyond these walls.

Q566 Paul Farrelly: Obviously John is either so skilled or so pure that he has never felt tempted to buy a Mighty Eagle or Millennium Falcon on Angry Birds, just to blast your way through to the next level. On what you were just talking about, about Ed Vaizey and some of the things that have been going on in Government, from some of the evidence it would be quite easy to get the impression that the industry felt itself somehow the poor relation of film, TV and music within Government. But what you have just been saying has changed that impression and, Vincent, what you were saying was the industry is very confident in itself. Jo, I can imagine you going into BIS and jolting them into the 21st century, those civil servants, by bowling the minutiae of standard industrial classification codes at them as well. Where do you think the Government is not getting it right for you? Are the civil servants behind the Ministers now? Is there still a—

Dr Twist: I think they are. I have only been in this job a year, so I am coming in from the outside, from Channel 4 and BBC worlds that are quite different. I sense an enormous positivity and understanding. Part

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of that is because your children and grandchildren, perhaps in some cases—not around this table of course—are playing games. So there is a greater understanding as the widening audience for games increases. More than one in three people play games in this country. The average age is 30-something. It is not just a kids' thing. It is mainstream entertainment, and it is the expectation of entertainment in the future generations. So we have had a lot of support for UKIE, and we have met with three Cabinet Ministers in the past few months and a range of MPs. We have constant support from BIS and DCMS, and I do sense there is a shift in recognising that everything we ask for as a games industry makes us fit for purpose in terms of what the digital economy requires. So, I will use crowd-funding as the example there.

Paul Farrelly: I am going to come on to that.

Dr Twist: We will come on to that. I will use that later.

Q567 Paul Farrelly: We are going to come on to the details of the tax credit. Do you feel there is anywhere where the Government, the civil service, the advisers are lagging behind in any way, where they could do some more for you?

Ian Livingstone: The civil service tends to be slow, in that they don't like change because change is a risk. In this country we are not always great at risk, whereas when you are making games you have to make mistakes to learn from those mistakes and move on. The creative industries themselves have often been seen as fluffy industries run by a bunch of luvvies, so I welcome the Creative Industries Council as being a good thing to put the sector on the map, to be seen on an equal status as pharmaceuticals and the financial sector. I do sit on the Creative Industries Council, so I would say that, I guess, but it has already produced two reports, *Access to Finance* and a skills report, which have been well received, and I am sure a lot more is to come. It is good to be seen to have a good seat on that table.

Q568 Paul Farrelly: It got a bit of a pummeling in the past session, where it was stylised as never having met.

Ian Livingstone: The point that nobody creative is on that Council.—well, I make games for a living and I am on that Council, and there are other people who are part of the craft process as well. The only thing that is slightly odd is that the definition of the creative industries needs to be looked at, because it is 13 disparate industries, some relic, like arts and crafts; some service, like advertising; and some content companies, like content industries, film, TV and games, to name but three.

Q569 Paul Farrelly: Where and how could it be sharpened?

Dr Wilson: Future investment could still do things to support the industry more effectively. They are helpful. They do do things to help the sector. They run the Trade Assistance Programme through trade associations. On a number of occasions, we have suggested to UK Trade Investment that they should use the tax funds more flexibly to help cover the combination of the travel costs and not just simply for

exhibition costs. When the Trade Assistance Programme was originally set up, I think it was primarily being used to help manufacturers to display big products. But in a digital world, where video games obviously don't take up a huge amount of exhibition space, I think you could look to use the grants more flexibly. Especially now, as we have so many small and start-up companies that operate in the UK games industry, it could help more than to travel to overseas trade shows. It would be a useful and effective way of using the money, without increasing the total budget of UK Trade Investment. Using the grants more effectively would be more useful.

Going back to your point about how Government and civil service support the industry, compared to five years ago there seems to be much more universal support for the sector, whereas five years ago we were still making the case. That does not seem to be the issue any more.

Vincent Scheurer: I would like to just put my penny in for the civil service. There is a team based at BIS, with a Lynne Kilpatrick who is now at DCMS, who were very strongly supportive and who helped found TIGA in the first place. They have always been very supportive. Part of the difficulty was that, from a political level, there was always the fear of a *Daily Mail* headline, "People bludgeoned to death because of video games", and one can date that change to the release of *Grand Theft Auto IV*, which is a British-made game. I think the *Daily Mail* gave it five out of five rather than a terrible headline, and it grossed \$500 million in seven days. That really put the British games industry into the mainstream. It was not just that we were bad people any more. It was we were creating things that can be commercially very successful and that people very much liked.

Ian Livingstone: If people understand the cultural, social and economic contribution of the games industry to society—and it is a main component of the British economy, going forward—with traditional manufacturing dead-flat and financial services in disarray, surely these are the industries that should be promoted at all levels.

Q570 Paul Farrelly: Before we go on to finance, can I finish off the conversation about the Creative Industries Council, which has had praise from you and a walloping in the previous session? I asked the question: how could the Creative Industries Council be sharpened? In your mind, you have said inside it was all full of arty crafty—

Ian Livingstone: It is sending out a positive message to say, to be seen as an important sector, rather than a number of disparate, loosely connected industries, to see that the content is being created. As I said earlier, we were often seen as a work-for-hire nation. We have to be able to not just create, not just retain but also protect the intellectual property, because value in companies can only be built by owning long-term intellectual property and scaling that, in the digital context, to global audiences worldwide. So, making sure that we are an investable sector, perhaps have a creative institute or a creative industries bank, in addition to crowd-funding to make sure that people see the real value and it is no more risky than any

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other traditional industries in the analogue world. The digital creative industry is very investable, because of the global potential of the content it is creating. We are so good at creating content, but we always seem to lose it, having to sell it short-term in return for project finance rather than going the whole hog and scaling it to its ultimate potential.

Paul Farrelly: Which brings us neatly on to financing issues.

Dr Wilson: Sorry, just on the Industries Council point, the Chairman of TIGA, Jason Kingsley, runs a studio in Oxford called Rebellion. I think he would echo one of the points in the last session about having more people on the Creative Industries Council, who are running operations, running digital businesses. That would just be his recommendation on how it might improve that particular council, to answer your question directly.

Q571 Paul Farrelly: Who would like to lead on telling us about the arrival of crowd-funding, the prospects for it, how important it might be and how it plays into the regulatory system that covers collective investment?

Dr Twist: We released a report this time last year on crowd-funding and how the legislation could be tweaked in order to enable ordinary people, not just high-net-worth individuals, to have an equity-based crowd-funding model in the UK. There are basically three models that crowd-funding platforms operate largely, and Kickstarter falls under the first one, which is a donations model. This is where people will back a project and get a perk or something in return that is not equity-based. As I said, Kickstarter is the classic example of this model. In the US, under the Jobs Act, they are trying to change legislation so that they can allow or operate an equity-based model. The second is the debt model, where a wide pool of investors will loan money on agreed repayment terms and Funding Circle operates that model in the UK. Then we have the equity model, where people will take a stake in the company in return for an investment, and Seedrs is an example of a crowd-funding platform that operates this model.

Crowd-funding has been broadly welcomed by all political parties, and the internet has enabled crowd-funding to happen in a way that is more structured. Unfortunately, FSA regulation hasn't kept up in step and in time with the digital economy and things that the internet allows people to be able to do. I think there is a bit of misunderstanding and a bit of fear factor, and what needs to happen is more guidance and more acceptance and recognition of crowd-funding as a legitimate way to get investment.

UKIE did this report last year, and then we also chaired and facilitated the creation of the first crowd-funding association in the UK. Through that association, we hope that Government will work hard with us, and across Government Departments, to ensure that crowd-funding is understood and recognised. To ensure that more crowd-funding platforms can operate an equity-based model and get approval from the FSA to operate this model, which will benefit not just the games industry but a whole cross-section of sectors outside the creative industries

as well. Essentially, the current regulatory frameworks around equity-based models are not designed for crowd-funding and the internet age, so that is what we would urge Government and across Government Departments to work on.

Vincent Scheurer: One needs to distinguish between two very different types of crowd-funding. As Jo mentioned, there is the Kickstarter style where one just gives money, and it is forbidden to have any form of financial return whatsoever. They are very clear about that and, for instance, they don't want the law to be changed in the UK there. The other is where people can put their money in and they might get something back. In that second case, the relationship is totally different, because bringing that kind of financial incentive in has a corrupting influence on the relationship between the person putting the money in and the recipient, or potentially has a corrupting influence, or ends up with people putting in in order to have a massive return, which may or may not happen, rather than handing over money that one knows will just be lost; there might be a credit in a game, but there might not, but that money is lost.

In the Kickstarter case, there is no prospect of anyone putting their life savings into a video-game project, which is a very high-risk project on any level, and people don't necessarily know that. With the equity-style investment there is that risk, and in fact there are already in existence institutions that are trying to receive money to fund games, where people are putting in vast sums of money of their own life savings, taking money out of their mortgages to put in already. That is something that I think one would be very, very concerned about.

Dr Twist: I think the UK has a real opportunity to attract, again, companies, crowd-funding platforms, to base themselves in the UK rather than the Netherlands, in some examples of crowd-funding platforms, if the legislation and the FSA regulation were made more fit for purpose for this kind of activity.

Vincent Scheurer: The Jobs Act is good, in the sense that they say, "Okay, we can allow people to gamble some money on a potential return, but we will limit the amount they can put in", so I think small investors can only put in \$2,000 per year. They also have a number of very clear requirements as to disclosure, people understanding what the risks are and fully understanding that they might not get any of their money back and so on. They spend a lot of time doing that, although the regulations haven't been thrashed out yet. But one would certainly want to see something like that happening in the UK if the FSA rules on collective investment schemes were changed. The other point being that in the equity one; a company is giving up equity in return for money, whereas under the Kickstarter crowd-sourcing model you just get the money. You are not giving up any IP, you are not giving up any equity, you are not giving up any of the profits, and any company would want to go along that route first and any other route secondarily.

Dr Twist: At the end of the day, it is also about giving people the option and trusting people, with guidance, to spend their money and invest in a way that they

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might want to invest so, whether that be through a simple donations model or more choice, that will increase competition.

Q572 Paul Farrelly: Centuries of history might come down against you there, Jo. But Ian, you have been a veteran of the old-fashioned way—or the newly stylised old-fashioned way—of the City underwriting and raising money and distributing shares in that way. In what way can we practically support these initiatives in this modern digital day and age, while also offering sufficient protection to investors? What can be improved?

Ian Livingstone: I think it is very important that UK citizens understand the opportunity, both as someone making an offer and those that are taking advantage of that offer, because the financial sector seems to strangle at the moment especially the games companies. You walk into a bank today and say you have this great idea for a game, and the bank manager looks at you rather like an Alsatian watching television and kind of nods strangely and urges you out the door, and yet we are a very investable sector. So you have to understand the portfolio approach that you can do through crowd-funding, and understand that people who might not ordinarily be able to raise finance can do so through crowd-funding. So, we need to get the regulatory requirements around crowd-funding sorted out, sooner rather than later, because it is an immense opportunity for people, sometimes with skill content, to reach an audience who they would not ordinarily have been able to get that content, but they desperately would like to do so. It has always been the traditional gatekeepers have stopped innovation in many ways from happening.

Q573 Paul Farrelly: Again, with the crowd-funding funding, you are essentially doing what Apple and Google are doing in being able to distribute apps and games. You have the technology to advertise your wares, in this case be it shares or what you have to a wider audience.

Ian Livingstone: There are many potential problems. For every Angry Bird, there are probably 10,000 dead birds out there. So you have to go in eyes open, aware that not everything leads to success.

Q574 Paul Farrelly: One of the arguments that the regulators would say to you is, “Well, at least in the City there is a sophisticated audience”.

Dr Twist: But I think there needs to be quite a lot of education with a lot of the VC community, not just in terms of the games industry, and how we have transitioned from a product to a service and how we have become something different and a mixed model. But again there is also the fear factor: we do not have the same VC and investment climate as we do in Silicon Valley, and it is focused around London, naturally, but we need to focus that and de-risk. Crowd-funding allows for people to access finance in innovative ways, different ways, even if they are not based in London, around the financial capital.

Q575 Paul Farrelly: I am not going to dwell on banks, because I think in many industries at the moment we have just given up on banks.

Ian Livingstone: They were never keen to put money into games, frankly.

Q576 Paul Farrelly: What sources of public funding do entrepreneurs in the industry benefit from?

Dr Wilson: It is pretty limited. There is the Abertay Prototype Fund in Scotland, in Dundee, of course, that provides up to £25,000 of finance for developing prototypes. I think they have made about 58 to 60 awards so far. There have been about 300 applications to date. So that is a form of public finance, of course, public funding that has been reasonably popular and I think it is a worthwhile activity, a worthwhile scheme to have, because investing in games is risky, so it is good to be able to have some public support for prototype funding.

Obviously, going back to UK Trade and Investment, the chance to get the trade investment programme grants is another example. But of course it is really going back to the tax system. We obviously have games tax relief coming into effect and the research and development tax credits that you can draw upon.

Dr Twist: I would make a point about other public monies available. Again, when you watch a film and you enjoyed the film and you can see at the beginning or at the end of the credits there might be some lottery funding or Film Council funding or Film 4 or BBC Films, we don't have anything like that in the games industry and I think it is probably about time we did. We have managed without that, but it is a real recognition of the cultural value of the content and the experience in games and it is a signifier. I would argue, having worked as a commissioner at BBC and as a commissioner at Channel 4, the fear factor around games and the misconception of games not constituting public service content is mistaken and flawed. Games are not just for children and they are part and parcel of what a modern broadcaster or content company should be commissioning, should be thinking about and should be giving the opportunity for developers to create.

Ian Livingstone: It is only 5% of games incur an 18 rating, but 95% of the games that the media never talks about are family-friendly.

Q577 Paul Farrelly: I am amazed here that, having three young kids, I have never come across International Racing Squirrels. *[Interruption.]* I am going to have a look at that when I get back to the office.

My colleague, John Leech, is going to ask about the film and tax credit, but could I just gently ease in on that with one final question? We had a tax credit proposed. It was then scrapped, and now the tax credit is coming back in again. What has been the effect on the industry in the meantime? What is the balance sheet of losses and gains for the industry?

Dr Wilson: Almost certainly more investment that we could have obtained and jobs that might have been saved were forfeited. There was no advantage in delay, obviously. It is fantastic that everyone across the political divide now supports games tax relief, and

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it is worth saying in the run-up to the general election 2010, all four political parties in the UK supported games tax relief and tightening proposals in particular, so that was good news, except unfortunately it did not come into effect in the 2010 budget, but we are very glad it has come into effect now. But there is no doubt about it: jobs continue to be lost and investment opportunities lost. As you will have seen in our submission of evidence, when we look at the period 2008 to 2011, the Canadian games industry grew by 33% in terms of head-count, the French games industry grew by 25% and the UK games declined by 10%, and I don't believe—and no one can convince me to believe—that it is because our teams and our staff in the UK were—

Paul Farrelly: The UK declined by 10%?

Dr Wilson: Yes, absolutely. So there was definitely an impact, so it is great that the games tax relief has come into effect now, and I am glad that all political parties support it.

Dr Twist: We just need to make sure that obviously the final implementation of that and the guidelines are very clear and recognise the nature of the industry and game production.

Q578 Mr Leech: I think Paul has pinched the first question I was going to ask. It is like being back on the football pitch with him again.

I want to come on to taxation, but I want to raise two issues that have been mentioned already by Jo. The first was in relation to cultural content, because I can well understand the argument for financial support from lottery and so on, but is the problem that there is a snobbery against the games industry that isn't there with the film industry?

Dr Twist: As Ian made the point earlier, and probably will again, we are a young industry, we are 40 years old, and I think there is a cultural bias. It even comes down to when we talk about e-books, reading digitally as opposed to reading on paper. There is a real cultural bias, which is changing, and I think again there is a cultural bias—or potentially it could be called snobbery—which is changing. But there has been a cultural snobbery about games in the past, I would argue, yet we have a huge games-playing constituency in this country. It is mainstream. I think that is rapidly changing as new platforms open up to new audiences.

Q579 Mr Leech: Why is there that cultural bias against the industry though?

Dr Twist: Because as humans, we naturally are culturally biased to anything that is different. We were naturally biased against colour TV; we are naturally culturally biased against change.

Ian Livingstone: I think also the historic headlines expressed in some of the popular press have always been negative and we don't have the celebrity like film and TV have either, so there have never been sort of photo opportunities for politicians to cosy up to the latest celebrity.

Dr Twist: Although we do.

Ian Livingstone: There has always been this negative perception around games until recently, until the advent of Facebook and smart-phones. People who had never played a game always had a cultural bias,

of course. If you had never seen a film before and I asked you to go and see *Texas Chainsaw Massacre* and *Saw* and asked you to write a critique of the film industry, it is likely to be quite negative. Certainly, if you only play one or two 18-rated games, which appears to have been happening in mainstream media, they have always written negatively about games, rather than all the wonderfully creative games that are now being carried across all platforms and the fact that we are very good at it, and it is such a great contribution economically to this country and it can grow.

Q580 Mr Leech: Is this to do with the perception that games are for kids?

Ian Livingstone: That has always been one of the main perceptions.

Q581 Mr Leech: Because that brings me on to the second point I wanted to raise from what Jo had said earlier and that was about the age profile of people who are playing games. I imagine the age profile—the average age is somewhere in the 30s, because my generation has had ZX Spectrum and the Commodore 64. We were brought up with games, but is there an assumption within the industry that John will still be playing Angry Birds when he is 75? Will that age profile continue to rise, or is there an assumption that at some time, people stop playing games and grow up?

Dr Twist: No, I believe people won't ever stop playing games. If you look at the different demographic breakdowns and different genres, the demographics shift all the time and the average age is different or the male/female split is different. At the moment, it is almost half and half in general for the whole population. The fact is that our games industry, given the ecosystem that we are creating and together supporting, and as we get the flow of diverse faces and talents and people into the industry who are inspired to have a great career in the industry, we will have more games that appeal to more audiences, no matter what age you are, no matter what background you have, so it is only going to diversify.

Q582 Mr Leech: Doesn't that mean then there are bags of potential for the industry growing massively further than it already has?

Dr Twist: Absolutely.

Ian Livingstone: Absolutely. As I have said, it is \$50 billion a day, and it is going to be \$90 billion by 2015; this is just extrapolating figures already out there. The tipping point is this year from boxed products sold in retail through a digital service, and anyone in the world, hopefully in the UK, can make content for global audiences. Now, there is so much diversity in content today, young and old are playing games, male and female together. It used to be the perception of the dark arts, the young teenager locked away in the bedroom, then that came out into the living room with the Wii and the family started playing games together, now we are all playing on connected devices, either together in the same room or over the internet. Games have become pervasive, and therefore the opportunity is there for everybody to take part in that.

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Q583 Mr Leech: But is this an expansion of people playing games, or in 50 years' time will there still be people playing chess on the chessboard? Will there still be people playing Monopoly on a Monopoly board?

Ian Livingstone: I hope so, yes. I don't think everything—

Mr Leech: So it is not replacing those?

Ian Livingstone: If you think of games-playing, when we arrive in this world we interact with it; we learn through play. I think we are playful by nature; we learn and we interact through play. It is just that we have always been too shy or too embarrassed to admit that we would like to carry on playing throughout our lives. What is the cut-off point for games? There shouldn't be one. You just have to make appropriate content and appropriate devices so everyone can be included. Through the high point of the console gaming, which required a certain amount of knowledge and expertise to be able to manipulate a 15-button controller, suddenly along comes the iPad with swipe technology, and Apple nailed the user interface and suddenly a whole raft of new people can play games.

Dr Twist: There are also cloud services, with increasing broadband infrastructure, with pervasive devices everywhere with an always on society. We do have members such as Hide and Seek who combine digital game-playing with physical games, physical street games or playground games, and it is all part of a play culture that as a culture we have lost. We do tend to think that that is for young people and it is not, it is for everyone.

Ian Livingstone: We don't want to lose sight of the fact that as an industry we are all about the STEAM agenda, not just the STEM agenda, to have the art inside science technology, engineering and maths, and let's make our learning relevant and practical. We are delighted that computer science is now being seen as the fourth science in the English baccalaureate. That is a wonderful revision of the law and could be transformational for this country, but—let's make our learning rigorous and robust to satisfy DfE, but at the same time let's make it relevant and exciting for children to want to be part of it. Let's make sure it is not just a purely written examination, let's make sure that half of that learning is practical, so we can make digital makers, whether it is learning how to play and make through games like Minecraft or LittleBigPlanet, games can be a fantastic learning tool. If it is just a written exam, question one, "Who invented the World Wide Web?"—interesting perhaps for a quiz night, perhaps interesting per se, but I would rather have someone who can show me what they can code and I can give them a job tomorrow. So let's have course assessment and practice digital making skills part of that computer science curriculum, rather than just another dry science.

Dr Twist: Can I just add to that? Crucially, it is also about getting that diversity of people taking up those skills; so, girls in particular. Last year, there were only 241 girls in the whole country who took computer A-levels. That is shocking and appalling in a society where half of our workforce is female.

Q584 Mr Leech: Moving on to taxation, general consensus that tax relief is a good thing for the creative industries, but in UKIE's written evidence, it is stated that some important questions remain about how a tax relief scheme would function in practice. What are those questions or concerns that you have?

Dr Twist: For example, unlike the film industry, we as an industry do not just release a game and that is it, game over. We do not have that sense of theatrical release. Increasingly, the large proportion of your production budget will be spent post-release in iteration, adding new features, adding new content, keeping your audience and your players coming back for more. So, it is important that the tax relief is structured in a way that recognises that. It is also important that if—

Q585 Mr Leech: What specific features would you have to recognise that?

Dr Twist: You would be able to account for DLC downloadable content benefiting from the tax relief, so it is not just about that initial creation. If you are talking about the film industry, the film and that is it. It is that post-release iteration, that post-release production, that needs to count that you need to be able to claim on.

Ian Livingstone: It is the ongoing costs for providing additional content that you can monetise over time. It is the long tail of the game: does that qualify as well?

Dr Wilson: The good thing is the Government has acknowledged that. I mean, they have recognised that we don't just launch a game now and that is it, and people move on to a new product.

Q586 Mr Leech: So, you are confident that Ministers and civil servants get it?

Dr Wilson: Yes, under the legislation.

Q587 Mr Leech: Finally, in terms of other areas, obviously corporation tax is one that can impact the industry. Are there any other specific tax measures that would help the industry to grow in this country?

Vincent Scheurer: SEIS I think is brilliant, and I think the amount that is brought back through an income tax credit at 50% is absolutely fantastic, because if you look at a small company trying to raise, say, £100,000, £150,000 to make a game, three people coming out of university, they have a great idea for a game, they can now get it on to the app store so it is feasible to sell it, but they need £100,000, £150,000. They are never going to get it from a bank. It is not going to be easy to get it necessarily even from a crowdsourcing platform, although that would be the starting point. Friends, family and fools are the classic kind of source of investment for that kind of funding, and to get half of your money back straight away it changes the entire calculation.

Ian Livingstone: The only thing I would add to that is to make sure the bureaucracy around the application and SEIS and EIS is not overburdening, particularly the small companies. I have heard of a couple of examples where it has gone wrong because the intent was not communicated to HMRC and that resulted in it not happening, which it should be simplified, particularly for small companies. The other area that

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might benefit long-term is perhaps to possibly look at a patent box around IP linked to UK production, which could ringfence to ensure that global revenues come back to the UK on IP production produced in this country.

Q588 Mr Leech: Is there anything being done in any other countries by other Governments perhaps as a bit of a fight back because the UK is doing what it is doing? Is there anything to learn from other countries about how they are trying to support the industry?

Vincent Scheurer: The tax credits in Canada have been the ones that have had the most impact, so you might look at, for instance, a very low corporation tax rate in Ireland. I don't have a perception that that has had a massive impact in the UK, and I am not aware of other countries looking at such generous schemes as the SEIS scheme. I think that the focus on helping relatively small companies to start up and getting funding into those companies—this is what the SEIS does—is really the right way to go, and I am not aware of any other country having a more generous scheme.

Ian Livingstone: That is great for UK content creators, and it is no surprise that some of our best studios in the UK have attracted an incredible amount of investment from overseas, because of our historic brilliance and creativity matched with our knowledge of high technology. It is just that over time our skills had become lower than they should have been and our costs were higher than they should have been. Now that trend is being switched because of the introduction of tax credits and the introduction of computer sciences, so over the long-term, that will empower our creatives to be, if not the best, right up there with the best in the world.

Q589 Mr Leech: Are we keeping ahead of the game, or are we just keeping in touch with others who are doing the right things?

Dr Wilson: I think we are catching up. We are catching up in terms of the tax break, and of course other jurisdictions have had tax breaks against production for a long period of time, particularly in Canada. So we are catching up on that front. I think there are still some things we could do on the R&D tax credits. We have a good R&D tax credit for small firms in the UK, but there are still some amendments we can make. In France, for example, you can use the research and development tax credit to claim for the costs of IP protection, and indeed, I think defending IP cases, where developers feel their IP rights have been infringed. But there is an area where the UK Government can look at here with regards to R&D tax credits.

In other countries, some of the Nordic countries, I think also in Germany, they have Government-funded competitions with games. That is a fairly small level of intervention, but it is another one to consider. In France, again, they also have a scheme whereby they will cover I think about 50% of the production costs if you generate a generally new or innovative game. So it is a source of direct funding for each of the particular game projects. I do feel once the games tax credit comes into effect, it will make a big difference

to the UK games industry. It will not be the most generous level of relief in the world; Quebec will still have the highest, and I think Singapore has a high rate as well compared to the UK. Nonetheless, we do get a flat 25% level of relief that all game projects can claim for, and that will be certainly helpful.

Dr Twist: Just to Richard's point, Canada also has a digital media fund, so it encourages investment and covering of the development of converged interactive entertainment content, so working with broadcasters and TV companies. We used to have that in the form of 4iP, which came out of the discussions around public service publisher. We don't have that any more. Canada has that, it worked very well. Potentially it is something that we need to think about as well.

Q590 Chair: Can I turn quickly to IP? When we have talked to the film industry and the music industry, obviously piracy and illegal downloading are a huge concern. To what extent is it affecting your industry and how do you regard the copyright changes that are in prospect?

Dr Twist: We are very supportive of the copyright regime as it is. It supports our industry very well. We are classified as software, and we welcome that, so any exceptions do not apply to us as an industry, which we are keen to maintain under the European copyright directive. As an industry, we have evolved our business models very rapidly. We have always been a digital industry, so we haven't had the heart of our industry ripped out of it, as the music industry have had or the film industry have had. If you look at BitTorrent traffic, in terms of traffic for games, it is around 3% to 4%. However, we do support—

Q591 Chair: Sorry, 3% to 4% of all BitTorrent is games related?

Dr Twist: Of the traffic is around games. We are very concerned with IP protection. We do support enforcement measures, but we are always in conversation with our colleagues in the music and film industries, and we join Ed Vaizey high-level roundtables on copyright and we welcome those as a chance to bring the industry together. We are very supportive of the approach of strangling the blood to sites potentially, so through payment systems work and advertising support on sites. That kind of work we are supportive of, but currently the current IP system works very well for our industry. We have an always on connection in many cases through consoles with our players, so many companies devise really funny and interesting ways, through technical protection measures, to identify whether someone is playing a pirated disc. For example, one game will let you play for a while and then a giant red scorpion will appear and stop you from going anywhere, because it knows it is a pirated game.

Q592 Chair: Sorry, where does the red scorpion come from?

Dr Twist: It is something that appears when the company knows that the game is not a legitimate copy.

Chair: Is this in the console?

Dr Twist: Yes.

Chair: So, the console detects—

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Ian Livingstone: In the long term, of course, technology will work in our favour as more games are in the cloud from which you download the client, and then it is streamed from servers from around the world. That is going to be a huge problem for pirates, and also the move from premium to freemium titles where you are serving free content. In some respects, pirates can be marketeers for you, because if they then pirate your game, it still has the app purchases inside it and it still has the advertising inside it, so you can still monetise content that has been put around by pirates. But we can never condone what pirates do. It is just that long-term I think technology is really going to work in our favour.

Dr Twist: We also face increasing problems more around cloning of games and trademark infringements.

Vincent Scheurer: One of the points that Hargreaves makes is to have a cheap way of settling disputes, so cloning is an issue of people copying games. You can't go to court as an SME at the moment in the UK without risking your entire business on a lawsuit based around an intellectual property dispute because the costs will come in at £200,000 or £300,000, and then if you lose then you are hit for the same again. He has suggested to have a very low-cost way of settling disputes is very useful, I think.

Dr Twist: We would say around the DEA, we support in principle the educational benefits. We think there is a lot of work to be done just to advertise to consumers, to players, to parents about the legitimate route to finding legitimate content.

Q593 Tracey Crouch: Ian, can I just ask you: I think you co-authored a report with Alex Hope from Double Negative reviewing the video games industry for the Government.

Ian Livingstone: With Ed Vaizey.

Tracey Crouch: Yes. What were the gaps in skills that you found, and do you think that since what was published that the Government has taken the report on board and is progressing the recommendations?

Ian Livingstone: Yes, Ed Vaizey commissioned the report and it was funded by NESTA, who also provided us with two full-time researchers. First off we looked at universities, why so many university courses were simply teaching soft skills, the social relevance of games in our lives and some design, but were not giving students the opportunity to learn hard skills of computer programming, art and animation. We were wondering why fewer people apply for computer science, even at universities like Cambridge. We found that the fundamental problem lay in schools, that the ICT curriculum as was taught was largely learning soft skills, learning how to use applications but giving no information as to how to create applications. There was a strange hybrid of Word, PowerPoint and Excel, and it had no relevance to children's lives, who as digital natives understand this in a week. They certainly don't need to spend a year learning PowerPoint and then be examined on the back of it. So against all odds, we manage to turn them off technology for life for devices that they love so much. Children run their lives through games with

communication and playing games. It is second nature to them.

So, we made 20 recommendations, the main one being in the report that computer science be put on to schools' national curriculum as an essential discipline. It was well received by the games industry of course and the digital-effects industry, but beyond that not so much. It wasn't until we formed our Next Gen Skills coalition, funded by UKIE, where we got companies like Google, Facebook, Microsoft, the Sector Skills Council, even GCHQ on board, because we had shared a common need to have computer programmes of a much higher stature than was currently being offered.

It wasn't really until Eric Schmidt, Chairman of Google, referenced the Next Gen report in his MacTaggart lecture in 2011, during his Q and A session, that suddenly the Government sat up and took notice, because Eric said so it must be true. That resulted in us being fast-forwarded through into the DfE and through BIS and the other Departments. The penny dropped that to have a skilled workforce that can create content, again not just for the games industry, it is important that they have the right skills in computer coding and also maths and art and so on that are vital to the digital economy.

The net result is that in 2012 Michael Gove made a historical speech saying the current programme for study for ICT was going to be withdrawn and replaced with a curriculum that had computer science at its core, and quite recently, over the past month, he also announced that our number 5 recommendation to have computer science brought on to the English baccalaureate as the fourth science was also going to happen. What we are still campaigning for is to have our other part of recommendation 5 to then apply to art. Because it is the marriage of art and science that is so important, not just for games, I keep stressing, but for all creative industries including, say, for example, architecture. You need that visual aesthetic so you can imagine what a building might look like from a beauty point of view, but also you need to understand the maths inside it to make sure it doesn't fall down and kill you. So we are delighted with the way the report has been taken. We are delighted with the way UKIE is supported on the Next Gen Skills campaign, and hopefully this will be transformational, not just for the games industry but for all creative industries going forward.

Dr Twist: We have just hired a talent development co-ordinator to look after the other more practical recommendations of the Next Gen Skills report, and that is part-funded by Creative Skill set, in order to help to create closer ties between the industry and schools and further education and higher education. Crucially, one of the next steps in the Next Gen Skills campaign, as well as sort of introducing STEAM and pushing the STEAM agenda, is also to make sure that teachers, particularly the ICT teachers who are going to be transitioning to a rigorous programme of computer science teaching, are supported and retained and that CPD is really helping them.

Q594 Tracey Crouch: Yes, I was going to ask you about that, because I think your written evidence was

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that two-thirds of teachers are judged not to have sufficient qualifications to teach even the outmoded ICT curriculum, so clearly there is going to be a gap.

Ian Livingstone: There is, but we can't afford not to do it. If you look at some of the countries that do have computer science on the curriculum, like Israel, Finland and more recently Estonia, it is no surprise that some of the best high-tech intellectual property coming out of those countries is world-renowned, so we cannot afford not to do it.

Tracey Crouch: Will there not be a gap?

Ian Livingstone: There will be a gap, and we are going to make mistakes, but as Albert Einstein said, "Anyone who has never made a mistake has never tried anything new". We have to do it. We can't afford not to do it. One of our Next Gen Skills alliance partners, the British Computer Society, and their affiliate organisation Computers in Schools, have 500 teachers able and willing to become centres of excellence around the country, to teach other teachers in local schools around those skills all to demystify computer science. Also there is an opportunity here—if we can get over the sort of ego problems—that teachers become facilitators, allow the children to work together, collaborate. Teachers can learn with the children, and just trust in their natural ability to learn, trust in their ability to teach their fellow children, and they can do group learning in collaboration.

As Ken Robinson says, collaboration is often seen as cheating. But in the real world all our industries are built on collaboration; so, let them learn from YouTube, and let them learn Scratch from MIT. There are fantastic online free resources around the world. Let them do their learning at home, let them do their homework at school, and together during this period, where we are training up a new raft of teachers to teach computer science, we will be able to get through through this collaborative learning process. There has also been bursaries announced, I think 50 for £20,000 each, that Michael Gove announced recently in that to ensure that computer science is seen as an equal science with the other sciences.

Dr Twist: There is also informal activity that we as an industry do, so we run the Video Games Ambassadors Scheme for STEMNET, which is sending industry people into schools, volunteers, and we have over 40 ambassadors who are going to be re-launching that and publicising that because we need different faces, we need to recruit a lot more. But already in the last year and a half, they have spoken to around 8,000 children, so it is crucially important that we get those role models, that we inspire teachers as well as kids into the industry and crack it open for them, and then help support them in terms of career pathways, careers advice and advice on how to teach science and computer science with art.

Ian Livingstone: With entrepreneurial skills as well, or however are we in this country ever going to build the next Google, Twitter or Facebook?

Q595 Tracey Crouch: Richard, did you write a paper on the games business? This is the R Wilson that is in the—

Dr Wilson: Yes, that is right. One of things that we have argued is that, of course, it is very important to

invest in computer science. Everybody accepts that it is very, very important, and we have to try to tackle some of the skill shortages that currently exist. No one disputes that at all. But I think, over and above that, it is really important to emphasise and provide entrepreneurship, the commercial training skills that many people need in the games industry. One of the good things over the last few years has been the big increase in start-ups within the UK games industry. I think we have had something like 260 new start-ups between 2008 and 2011, but 197 businesses in the games industry closed down over that same period, not all exactly the same ones, but nonetheless quite a high annual mortality rate.

So we believe it is very important that, in addition to providing technical skills, we also have training available for people who want to build up studios, want to set up their own companies, and they can learn some of the new monetisation discovery techniques, new analytics effectively. This is very important because if we want to grow the companies, if we want to create a more sustainable games industry, we clearly have to ensure that the management and leadership is as effective as it can possibly be.

Vincent Scheurer: One of the people who spoke at the previous session mentioned the importance of, for instance, just improving the country's ability to parse probability, and those kind of basic, core subjects on which you can build an entire business, and I would second that. I think that is a point where we are fairly weak in the UK at the moment, where we definitely need to do more and that has a general application.

Q596 Tracey Crouch: Just to follow up on Richard, you mentioned in your written evidence about the decline in the number of students doing computer science at university, and Ian has just mentioned that as well. Those statistics go up to 2010/2011. I wonder have you seen any change in that, and is there any impact from tuition fees?

Dr Wilson: No. I suppose the encouraging thing I would say would be that maths and physics are in the top 10 I think for A levels this year, which is good. To some extent, one wonders whether the advent of higher tuition fees may be focusing people's minds more so they can see that there may be financial, as well as creative reasons, for doing some of these hard subjects. That may be a possibility.

If I can link that on to one of the other points I made in the submission of evidence to this Committee? I also mentioned the issue about migration. Obviously companies in the UK want to recruit locally wherever they can do so, but it has to be useful. While skill shortages exist in the UK, it has been useful to be able to use the Shortage Occupation List to bring in highly skilled people with quite rare talents in some respects, sometimes lead programmers, for example, sometimes producers, so it is very useful to be able to have that Shortage Occupation List to be able to bring those key people in. The Government's Migration Advisory Committee agreed with many of our recommendations, which we put forward before Christmas, which they published quite recently. They said the Shortage Occupation List shouldn't be

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automatically wiped clean after two years that there was a case for keeping on software developers, producers, artists and, in fact, they added again designers, which we are very pleased about, because we do need this window of opportunity to carry on drawing high-skilled people from overseas while we are training people in the UK.

Ian Livingstone: Yes, I agree with that. The tier 4 restrictions on skills, labour coming in, I have had a number of instances where amazing programmers are not allowed to stay in this country. Now, we should incentivise them, first, to help the business here. Also, they might set up their own businesses and build businesses for themselves, so sending them or not allowing them to be in this country is wrong, to my mind.

Q597 Tracey Crouch: You have successfully answered what was going to be my last question. But can I very quickly ask you about art on the curriculum, because we have obviously focused very heavily on the computer science side. What age do

you think that art should remain on the curriculum? I presume that you are quite pleased with the Government's change in thinking around the English baccalaureate that allows the creative subjects to still be measured, but do you think there should be any particular age that children should be studying art up to?

Ian Livingstone: It is a bit like saying, "What age do you stop playing games?" For me art and music and all the creative skills, that give our competitive edge in this country, should be taught as widely as much as possible. It is all about making subjects relevant to the individual, and if you have a wish to do so you should be allowed to be indulged because you are likely going to benefit from that, certainly as an individual, possibly and hopefully as a creative entrepreneur, so we are all for art and science to be combined, because our ultimate graduate is somebody with a double first in maths, physics and art.

Tracey Crouch: That rules me out, then. Good; thank you.

Chair: That is all we have. Thank you very much.

Tuesday 12 March 2013

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Angie Bray
Tracey Crouch

Mr John Leech
Steve Rotheram
Jim Sheridan

Examination of Witnesses

Witnesses: **John Tate**, Group Director, Strategic Operations, BBC, **Magnus Brooke**, Director of Policy and Regulatory Affairs, ITV, and **Dan Brooke**, Chief Marketing and Communications Officer, Channel 4, gave evidence.

Q598 Chair: Good morning. This is a further session of the Committee's inquiry into support for the creative economy. May I welcome the Director of Strategy at the BBC, John Tate; the Director of Policy at ITV, Magnus Brooke; and the Chief Marketing Officer of Channel 4, Dan Brooke. Could you begin by giving a brief outline of the contribution that your respective organisations make to the creative economy?

John Tate: Thank you. I am very happy to be here and very happy to give you an opening contribution. The BBC recognises its special duty to the creative economy of the country by way of its receipt of nearly £3.5 billion of licence fee money. It works across the UK creative industries, as you would expect it to, with of the order of 300 independent production companies. BBC Worldwide, in its exploitation of British intellectual property, takes BBC content abroad, but it takes UK content more widely abroad. It works with 200 independent production companies, operates in 200 countries around the world and accounts for about 10% of British creative exports in the relevant categories in which it operates. The BBC in the UK is a trainer of the industry, spending about £27 million a year in various efforts, including the BBC Academy and training both BBC and non-BBC staff. Of late, we have been trying to promote the benefits of the UK creative economy in the work the BBC does across the UK. We have done that in Salford. We are very proud of the result and we can talk more about that later on, if you would like.

We are involved in a mixed economy with the independent production economy in the work we do in-house with BBC productions, so titles like *Top Gear*, *EastEnders* and *Dancing with the Stars* abroad—or *Strictly Come Dancing* in the UK. We think they are of great worth both to the UK and, as I say, from commercial receipts abroad in many cases. We value very highly those titles we have supplied to us by the independent production community and the co-productions we are increasingly entering into, and we can talk more about those later on too, if you would like. I will leave the synopsis there, Chairman, and come back on any questions.

Q599 Chair: Fine. Thank you. Let's go to Magnus next.

Magnus Brooke: ITV has a quite similar story in some ways to the BBC. We are an integrated producer-broadcaster. We invest nearly £1 billion a

year in programming, the vast majority of which is original UK content. We invest in our own programmes, which we make in-house as a producer, but also very substantially in the indie sector. Around 40% of our content on ITV, our main channel, is original independent production. We also have a very rapidly growing international and UK content business, growing at about 18% in the last year. For the last few years, we have achieved double-digit earnings growth as a company, and our target is to expand internationally in particular. We grew our international content production business about 21% in the last year. All this has a very significant feedback effect into the UK industry. The £750 million or so that we invest each year in original production in the UK we invest across the UK, not just in London and the south-east, but particularly in Manchester and Leeds, and with the indie sector. The crucial thing is the multiplier effect of our spend across the creative economy in the craft sector, but also among actors and writers. We employ at any one time about 40 writers, I think, simply on the two soaps, so effectively full-time writers writing storylines, scripts and so on. More generally, there is a very substantial throughput of writers, actors, directors and craft talent through what are effectively drama factories in the north of England. In terms of the stimulus and offer of employment to the creative arts in the UK, I think we make a very substantial contribution.

Q600 Chair: You have had to close some regional studios?

Magnus Brooke: We have concentrated our production in Leeds and Manchester primarily. Some network production in East Anglia, outside London, has moved, though we did shut some of the network production there. I noticed one of your questions is about hubs. There are real economies of scale in concentrating investment in a handful of centres—in London, Leeds and Manchester—and that is what we are trying to do. We are concentrating our investment in those places, and concentrating people as much as we can to get economies of scale and of scope in what we do, which we think is the most effective way of maximising the impact of our investment.

Q601 Chair: Dan?

Dan Brooke: Good morning. Thank you for the opportunity to give evidence. Channel 4 makes a substantial economic impact on the creative industries

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and supports tens of thousands of jobs, the detail of which we have put in our written submission. I think perhaps it is Channel 4's strategic role that is the most important, and there are three strands to it. First, there is our unique remit, given to us by Parliament, for innovation, diversity and new talent, among other things, which very much makes us, as we have always been but remain, an important R&D lab for the British television industry in particular. Secondly, there is our publisher-broadcaster status, which makes us a very significant client of the independent production sector. We are on a mission at the moment to try to let 1,000 flowers bloom in the independent sector. We worked with 460 different producers last year, which is up 6% year on year, and last year we grew our investment in the nations and regions, which we are pleased with. The third strand is our not-for-profit status, which really means we can invest as much of our revenue as possible into UK-originated content. Last year, despite the economic climate, we spent a record amount, in Channel 4's history, on investing in original UK content.

If one example could illustrate the impact of these three strands, it would be the Paralympics last year, where we took an event that I think very much was perhaps an afterthought to the Olympics and brought it into the mainstream. I think, based on available evidence, it had some impact on affecting social attitudes to disability in the process. We spent the thick end of £1 million developing new talent in the form of our disabled presenters, many of whom have now gone on to other things on Channel 4 that are nothing to do with disability. We nurtured a Welsh indie, Boomerang, who made 40 episodes of *That Paralympic Show*, and of course we broadcast two of those epic adverts for British creativity, the opening and closing ceremonies of the Paralympics.

The Paralympics, though, is only one example of our ongoing strategy for investing in innovation in the creative industries. Since we retired *Big Brother*, we have invested the money that was spent on that programme across a substantial range of genres. We have established 40 new returning series since the retiring of *Big Brother*, which of course is the export lifeblood of the independent sector. We started a new channel to maximise the audience for all this new British programming that we are making. We remain the pioneers in second-screen innovation in the UK and, of course, we are also reinventing our commercial model, principally through the use of data. We now have 7 million people registered on the Channel 4 database, including one in three people in the UK aged 16 to 24. This is very significantly helping us to grow our digital ad revenues.

In a nutshell, that is the contribution that we make. It is a contribution that Channel 4 has always made for the past 30 years, but we believe that contribution is as strong as ever and as needed as ever. I think in the last couple of years the stability on which the organisation is operating is probably more stable than it has been in previous years.

Chair: We will explore some of these issues in greater detail.

Q602 Tracey Crouch: In the written evidence from the BBC, there is a lot of mention of partnerships, particularly digital production partnerships. Could you outline the partnerships that you have, in particular the DPPs, and how you think this can help grow and sustain the creative economy?

John Tate: Partnerships are a fact of life at the BBC across its operations now. It is not altogether known how widely they have spread. You might take BBC Gaelic as a partnership operating successfully—

Jim Sheridan: Please take it.

John Tate: Please take it; okay. We have established The Space with the Arts Council. We have many other flourishing partnerships, and you might look at the example of YouView itself, which was very much a partnership of the BBC's initially, but has gone on to be a stand-alone entity.

In the case of digital production, we are looking to create common standards in a way that benefits the whole industry, and that is a continuing tradition that BBC R&D and technology has done for many years since the BBC's founding in 1922. Wherever we can make things of wider use to the industry we will. Subject to market impact and competitive tensions, we will look to make our standards and approaches common ones.

Dan Brooke: We work in partnership with a whole range of organisations in the industry. The absolutely critical one for Channel 4 is our relationships with independent producers, but we also have deep relationships with advertisers. Another area where we have put a considerable amount of effort in is partnering organisations to bring young people into the industry, particularly in the area of skills. We are a very significant partner of Skillset and the NFTS. We have a partnership with a whole range of different production companies and organisations to offer apprenticeships, internships and training programmes, which we do within London and within Channel 4, and also throughout the country in a whole diverse range of places. Specifically, as far as digital is concerned, we operate a programme called Fuel 4, which attempts to bring people from different creative disciplines together with the idea of fostering ideas in the area of convergence, and not only that but people from both creative and technology backgrounds, which is a productive exercise.

Q603 Tracey Crouch: Magnus, I presume that you have the same views on relationships?

Magnus Brooke: Very much so.

Q604 Tracey Crouch: Do you think these partnerships make a qualitative difference?

Magnus Brooke: I do. I think, as an organisation of our scale, it would be difficult to avoid having good partnership relations with customers and suppliers, and also with other people in the industry, particularly around digital terrestrial television. There are clearly a series of partnerships there, YouView being one example. They are very productive partnerships, actually, and in the public interest, offering better products than we could offer by ourselves.

The DPP thing is interesting because I think that is an example of a really productive and useful partnership

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between the broadcasters to try to establish a single standard for supply of content in a way that I hope lessens the barriers, particularly for independent producers, to getting their content online. Over time it will lessen the cost of supplying the major broadcasters, rather than us each having our own individual standards that you have to comply with as a supplier. I hope that is a helpful development.

Q605 Tracey Crouch: It is funded and led by you guys, but is it a significant amount of funding? What level of funding is it? Do you think it is enough?

Magnus Brooke: For the DPP?

Tracey Crouch: Yes.

Magnus Brooke: As far as I know. It is something that is in its relatively early stages. John may know more from the studio's point of view. It is in its relatively early stages. We are very committed to it. I am certainly happy to go away and see how much we are funding it, but as far as I know we are putting quite a bit of funding into it, and it is beginning to pay off.

John Tate: We could write to the Committee afterwards, perhaps.

Magnus Brooke: Yes.

Q606 Tracey Crouch: I think that would be helpful. Can I turn to the film industry? I watched *Made in Dagenham* on Sunday, and it is a BBC2 film. Do you think you are doing enough to help the British film industry? That was an obvious example, and there are others, but I still feel that perhaps the broadcasters are not doing enough to help the film industry. I wanted to have your own views on that.

John Tate: We have roughly 70 projects on the slate at any one time in the area of film, and roughly about eight films a year come out of the BBC, but it is important to recognise the way that we work is very much in partnership across a range of organisations. We will not generate, produce and distribute a film in our own right. We will put together lots of different interests who are interested in the production of a film, and we will provide some seed money and different contributions, based on the different projects that we work with. We put in roughly £11 million a year to that effort. If you were looking at the larger picture, would you say that films are part of the BBC's DNA, back at its origins? Well, perhaps they are not, but they are an important part of what we do none the less, particularly in the area of original UK-produced films.

Q607 Tracey Crouch: But £11 million is not very much money.

John Tate: If you look at the commercial reality of film, it is a very difficult marketplace. Certainly the Hollywood studios are pretty much locked up in their arrangements, let's say, for the showing of films in the UK. We do not think it is a wise use of licence fee payers' money to play in those leagues, so instead we operate at the level of original different productions that move the creative game on a bit in certain areas. It has had to take a fair share of savings, so we have had to make a reduction in that area along with our revised licence fee settlement—it has forced us to—but I think £11 million is still a great deal of money,

particularly with the way that we use it to put together projects. It is not just us; it is many different actors working at the same time. We will be an organising force, but we will not be in all cases the heavy lifter, if you like.

Tracey Crouch: I shall refrain from mentioning how much the BBC spent on lawyers defending itself over Pollard.

John Tate: Thank you.

Q608 Tracey Crouch: Guys, do you want to come in?

Dan Brooke: Film 4 has always been an absolutely central part of Channel 4's operations and I think Film 4 does make a very significant contribution to the British film industry. It is now part of our statutory remit that came in under the Digital Economy Act to make British films. We invest about £15 million a year across a range of different projects. That is the highest it has been for some time.

Tracey Crouch: Did you say 50 or 15?

Dan Brooke: £15 million. That was increased a couple of years ago. We are highly committed to film. We have recently established a new division of Film 4 called Film 4.0, which attempts to develop younger filmmakers making films that can enjoy digital distribution. That has turned out to be very successful with newer filmmakers, and with more established filmmakers who want to do work that is more experimental.

Magnus Brooke: ITV is essentially not in the film business. This is not a business we hugely understand, particularly in terms of distribution. It is also an industry in which you can lose a very large sum of money quite quickly, and the risks are very acute. What we have occasionally done in the past, although less so recently, is give some dramas a cinematic release where that has appeared to make sense. *The Queen* is the best example of that. The key aspect of our contribution is really in drama, and if you look at the number of film directors, producers, writers and others who come through that drama stable, it is enormous. Some of the best names in British cinema—Tom Hooper, Michael Apted; all sorts of people—have come through the ITV system and gone on to direct films. There is a real crossover between our investment in drama and a healthy film ecology in the UK.

Q609 Tracey Crouch: Turning to something different, Magnus, ITV is on the Creative Industries Council. Could you comment on how effective you think it is in setting the policy agenda, and do you have any recommendations for improving it?

Magnus Brooke: I think it is always useful to have a forum in which people from the industry can come directly and discuss things with Ministers and officials. It is a big group, and there are a lot of different and diverse entities around the table, which in principle, in many ways, is useful. I think Sky made the suggestion in its written evidence that there might be a case for some sort of sherpa group beforehand to help to focus the agenda and surface those things that really matter, and I think that makes a lot of sense.

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Q610 Mr Bradshaw: Can I ask John Tate why the BBC spends so much less on independent production in radio than it does in television?

John Tate: The market for independent production in radio is a very different one. It is often very dependent on BBC commissions, as you probably know, so in certain areas—let's say drama—if you are producing content, there may be nowhere else to go than Radio 4. It is quite a peculiar market; quite a small market. The network effect of it is not as it is certainly for television productions. We could not seek to have it distributed around the UK as much as we do with our television production and investment resources. It can be quite episodic and quite specific in the way that it operates. As I say, in many genres we are on many occasions the only commissioner of content, so businesses will spring up to meet a particular need and then may not have an outlet in future years. I think that is the way I would characterise it.

Q611 Mr Bradshaw: What would the BBC's reaction be to a proposal to establish a quota in the same way there is a quota for TV production?

John Tate: You would have to think long and hard about transferring an approach from what is a well-developed, UK-wide, successfully exporting industry to an area that I have described in the terms that I have. It operates fundamentally differently, both in terms of scale and in terms of the buyer-supplier relationship, so you have to think about a very bespoke set of arrangements, not necessarily just bringing over methods like quotas.

Q612 Mr Bradshaw: One of the complaints of the independent radio stations, as you are probably aware, is the lack of transparency about the figures. Could you provide this Committee with figures as to how much not just in terms of volume, but in terms of spend, the BBC commissions independent radio production?

John Tate: I can provide that. It would need to be offline by way of further written evidence.

Q613 Angie Bray: Can I turn to creative start-ups and find out what you do to help them, what you could do to help perhaps more and what can be done to help you help start-ups more? Can I start with you, Dan?

Dan Brooke: Yes. As I said in my opening remarks, we are very much on a mission to help to make 1,000 flowers bloom. We have a number of initiatives, principally something called our Alpha Fund, whose aim is to direct hundreds of thousands of pounds of development money into projects specifically with start-up and smaller companies, and also companies not based in London, and companies started by people from diverse backgrounds. It has been extremely successful. The number of new companies with which Channel 4 has worked in the past 12 months is still being audited as part of our 2012 accounts, but I am confident that the number has gone up quite significantly. This is a self-imposed strategy of trying to get out and about, and to get our commissioners out and about—both people and money out—throughout the UK to root out the best possible ideas and the best possible producers to work with, and thus

far we seem to be getting some traction with that strategy.

Q614 Angie Bray: How healthy is the Alpha Fund?

Dan Brooke: It is somewhere between £1 million and £2 million.

Q615 Angie Bray: Is that enough, or do you think it should grow?

Dan Brooke: In 2012 there was about 20 projects that the Alpha Fund helped to fund, which I think is quite significant. It would be great if it could be more. The people who run that fund do not come frequently and say, "If only we had double the budget," although clearly that would be nice.

Q616 Angie Bray: You are talking about 1,000 flowers blooming. What is the scale of your ambition realistically?

Dan Brooke: We have grown the number of producers we work with across television, film and online by 6%, and I would hope we would continue to develop that. Of course, it is partly dependent on supply, but we really are getting out and about throughout the country very actively to try to find the best people.

Q617 Angie Bray: John, did you want to come in on that?

John Tate: Yes. I think one of the ways that we look to benefit the industry as a whole is through the training budget that I described, and every year we are putting nearly £30 million into overall BBC training efforts for the industry.

Q618 Angie Bray: £30 million?

John Tate: £27 million point something, yes.

Q619 Angie Bray: Annually?

John Tate: Annually, yes.

Q620 Angie Bray: Into BBC training efforts?

John Tate: That is right, of which the BBC Academy is the single largest element. We have specific programmes. I should mention the work of Worldwide in relation to bringing on individual artists, helping them form businesses and helping them export their content. If you think of co-productions and joint ventures established by Worldwide—for example, the creation of *Teletubbies* or *In The Night Garden*—and the international success of those brands, they are directly attributable to Worldwide seeking out and working with the best talent and bringing them on in the way that you have described in your question. We have started something called the Connected Studio project. This is very much to find new ways of working across platforms, new content formats, and new creative IP, and that is leveraging off our traditional strength in studio production, but also the technologies we bring to bear and making those available to people to come in and see what they can do using our technologies and studio space.

I have talked about Worldwide, but I should also mention it as an export platform for wider UK creative industries. The very fact that you can knock on someone's door in a far-flung country and say that you

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are from the BBC is worth a tremendous amount, if you are a small, struggling creative looking to get access to big buyers abroad. In working with over 200 indies through Worldwide, we do a lot of that sort of activity, as you can imagine.

Q621 Angie Bray: Do you have ambitions to do more? Is this an area you want to grow?

John Tate: Yes, we would like to do more. There are constraints, some of which the Government might think about helping us with, but we would like to do more. We need to be careful within the UK market, but overseas, in terms of acting as a platform for the export of the BBC and wider UK IP, I think we would like to do even more than we are doing now.

Magnus Brooke: The key for us is to commission on merit. As far as we are concerned, we want the best ideas and we want them to come to ITV, and we will do what it takes to get those best ideas. We worked with about 75 independent production companies last year. One of the things I observe about the independent sector is that it is constantly reinventing itself. People are constantly spinning out of existing independents, particularly when they get bought out, and setting up new businesses. It is a very fertile area for small businesses in the UK. You can establish a new business relatively cheaply. If you have good creative talent and you have the experience in the industry, it is not that difficult then to get commissions as relatively small businesses, albeit potentially with individuals with track records. It is actually quite a healthy sector, I think, and there is constant demand. We are between us pumping hundreds of millions of pounds a year into the independent sector, so there is very substantial demand, and therefore very substantial incentive for individuals to set up small businesses. In some ways, the key for me is the significant demand for the best ideas.

Q622 Angie Bray: How easy is it for a very small, newly set up company to penetrate to get your attention? If you are saying you are looking for the best, and there are obviously some well-known companies around that provide that, how easy is it for the new ones to get through that layer to get the recognition that they need so that you start commissioning from them?

Magnus Brooke: Again, I think it depends on the quality of the product that they have. Do they have some credibility? Do they have things that they can show you that attract your attention? We have people who are constantly scouting for new talent, and on-screen and off-screen talent. We have people who go around regional theatre, drama schools and so on looking for new talent. Equally, from a commissioning point of view, the last thing you want is for a fantastic idea to go to either of these two guys. We have every incentive to get out there and be as active as we possibly can, and not just go to the usual suspects, precisely because of the dynamism of the industry. People are constantly setting themselves up as new entities. Some have track records and some have experience, and you very much want to tap into that, if you simply rely on the same old suppliers, you are not going to get anywhere.

Q623 Angie Bray: Should the Government be doing more to help you to help these new creative growths?

John Tate: I think the framework for the creation and growth of an independent production company in the UK is about as good as you could imagine. Looking around the world, I think the UK is a comparatively attractive place to do business. The terms of trade were put in place to make sure that that was the case and that has produced a thriving industry. The industry now sees more foreign ownership and control by private equity companies. Might you want to think about having the terms of trade supporting original UK production optimised to remain fit for purpose? I think there may be a conversation there. Could Worldwide do more? Well, there is access to capital, and currently Worldwide's borrowing facility counts towards public debt. We do not think that need be the case. There may be a conversation to be had with the Treasury about that. There are things that could be done, but I think, overall, that I would agree with Magnus that it is a relatively attractive place to do business.

Dan Brooke: Yes. I think there are things that the Government can do perhaps in more general ways. As I said, from our point of view, because we are a not-for-profit, we do invest as much of our revenue as possible into UK-originated programming. Any measures that the Government can introduce that would help us either to raise our revenues or to reduce our costs. In our case, we could pretty much guarantee that that investment would go into more UK-originated content.

Q624 Angie Bray: What kind of positive interventions on that front would help?

Dan Brooke: I think probably the most substantial one for us as a commercial PSB would be the harmonisation down of advertising minutage. We have this situation where commercial PSBs and non-PSBs have differing levels of advertising. I think if they were harmonised down, that would be of great benefit to viewers, partly because they would have fewer adverts, but also because it would produce a revenue upside to the commercial PSBs. As I have said, in our case, we would invest that in UK-originated content, thereby benefiting the independent sector.

Q625 Angie Bray: Do you want to comment on that, Magnus?

Magnus Brooke: Yes. I would agree with that. I think that the critical thing both for us and independents, and in a sense where we are aligned, is the need to ensure a return on investment. I think there are two dimensions to that. One is broadcast-specific; the other one is more general. The broadcast-specific one is about the relationship between channels and platforms, and making sure that the intellectual property rules and the regulatory rules around the supply of our channels to platforms are such that we get a reasonable return from the exploitation of our content downstream by new and old platforms. I am not sure that is the case at the moment under the existing regime.

The second is a much more general thing about intellectual property and making sure that both we and

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independents—because there is a degree of sharing now at the back end of the secondary rights, and therefore secondary revenues—have a robust intellectual property framework in the UK, and also a broader framework in Europe that allows us to make a return on the exploitation of our content downstream. Looking at the way in which the exception regime may change in future is quite troubling.

Q626 Angie Bray: You presumably would agree with Dan about the advertising minutage?

Magnus Brooke: We would.

John Tate: If I may, there are things the Government could refrain from doing that might help as well, such as not introducing charging on our use of spectrum, which might see us freer to invest into the creative economy, rather than paying that money towards the use of spectrum.

Q627 Chair: Would you not say, however, as an economist, that spectrum charging actually is by far the most efficient method of allocating spectrum?

John Tate: I think the theory is flawed as it applies to broadcasting. It is a noble intent, in that it is a limited resource and you want to use it in the wisest way. If we take the BBC as an example—colleagues may wish to comment for their own organisations—we must reach the country basically universally, and the services we offer are licensed by the BBC Trust. The theory that we would adjust those in response to a tax on spectrum just does not work. The incentives would not work on us in the way that they are intended to in that market-like fashion. There is a fundamental flaw in the theory as it applies to broadcasting, particularly PSB and the BBC, and we think Ofcom should just think again.

Dan Brooke: There are a couple of other things as well. One is the area of EPG prominence, where I think the existing language could be tightened up, but also now with more and more viewing on different platforms. If the concept of EPG prominence was expanded to include other platforms, I am sure that would be of great benefit to all the public service broadcasters. The other is maintaining the stability and importance of the DTT platform, because we all enjoy higher ratings on the DTT platform than we do on others. So, I would add those two things.

Chair: We may come on to EPG prominence.

Q628 Mr Leech: How important is the extension of tax relief to high-end TV animation and games?

Dan Brooke: For us it is a welcome initiative. There is probably only a handful of projects that Channel 4 do that would fall into this category every year. That may now rise as a result of the initiative. It is early days, so it is hard for us as a publisher-broadcaster to know whether the economic benefit of that is going to flow back to us, but in general we very much welcome the initiative.

Magnus Brooke: Yes, we particularly welcome it. There are probably three or four dramas that we make a year that may well end up being made in the UK now but might previously have been made overseas.

John Tate: I do not think I can add anything to the previous two answers. We welcome the initiative. I

think it is of limited application to the BBC, although where we can and where it is relevant, we will take advantage of it.

Q629 Mr Leech: Do you see there being any changes to the actual programmes you commission or produce as a result of the changes?

Dan Brooke: We have not seen any evidence of that so far.

Q630 Mr Leech: Is there any danger that it will just lead to already profitable programming getting all the cash, and not necessarily developing other programming that is not being done at the moment?

Magnus Brooke: I think it does a little bit depend on what the purpose of it is. In our case, for example, we made *Titanic* abroad because the economics of the labour market and the tax regime made that make sense. If we had our time again with a new tax credit, I think that would be a much more finely balanced judgment. Potentially there could be substantial additional economic activity happening in the UK, particularly driving craft industries. It is the craft talent that you don't tend to take to Hungary to film *Titanic*, because you would use local labour. I think that will make a difference to the UK. In other words, a production will probably get made one way or another; it is just a question of where it gets made. I think the difference the tax credit makes is that it is more likely to get made in the UK.

Q631 Mr Leech: It would only be a balance between whether or not it was being made here as opposed to somewhere else—as opposed to being made at all.

Magnus Brooke: There may be marginal productions that might be more likely to get made, but in a sense it is not going to shift the dial, because all it is going to do is replace a subsidy or a low labour cost over there with a tax credit here. It is not going to make a decisive difference, probably.

Q632 Mr Leech: Are there any other views on that?

John Tate: We are careful about perverse incentives but, on balance, for the reasons Magnus gives, we are in favour of this measure, but the implementation is important, and we should watch it closely.

Q633 Mr Leech: Are documentaries likely to pass the threshold for tax incentives?

John Tate: Not in our case.

Magnus Brooke: From memory, I do not think they are included, are they? I think they are specifically excluded from the wording, the last time I looked at it. I think it is just drama.

Chair: I think it has now been extended to include documentaries.

Magnus Brooke: I can't think of documentaries that would have that sort of budget—certainly that we would produce.

Chair: David Attenborough seems to spend a fortune on these documentaries.

John Tate: As I say, we would look to take advantage of it where we can, but it is going to be a distinct minority of cases.

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Q634 Mr Leech: Being devil's advocate, is there a danger that this could be seen as an additional way of the general taxation system publicly financing public sector broadcasting?

John Tate: I think that is a question for the Government.

Q635 Mr Leech: You don't have any comments on that.

Dan Brooke: As I have said, in our case, the tax benefit principally arrives at the door of the producer, and it remains to be seen whether any benefit of that passes on to Channel 4. Obviously we hope that it would. Beyond that, I am not sure there is anything relevant for me to comment on.

Q636 Mr Leech: I have to say that I expected you all to be slightly more enthusiastic about these tax incentives than perhaps you appear to be. Is it that you are just not quite sure how helpful they will be in practice, or do you have some reservations that it is not actually going to make a great deal of difference?

Magnus Brooke: They are very welcome but, as I say, we are talking in our case about three or four productions a year. It makes a difference in that we would sooner make them in the UK if we could—we would rather not have to go abroad—but the truth is that it puts us almost in the same position we would otherwise have been in, but we are making it in the UK rather than—

Q637 Chair: To try to look at it positively, let us take one example that you have come up with. How much did you spend on *Titanic*, and how many people did you employ making *Titanic*? Presumably that money and that employment would have taken place in the UK had you chosen to make it with the tax incentive.

Magnus Brooke: Quite so, which is a very positive economic benefit for the UK.

Q638 Chair: But you do not happen to know how much you spent on *Titanic*?

Magnus Brooke: Well, I know in outline. It was very expensive—many millions of pounds.

Q639 Chair: Tens of millions of pounds?

Magnus Brooke: Probably not as much as that. You are absolutely right: it is about the economic benefit to the UK and the spend in the UK, rather than in another country, but from a producer and broadcaster point of view, you do not end up with lots more money because, in a sense, you are ending up with the same product at the end of the process at probably a similar cost.

Q640 Chair: From our point of view, we end up with British jobs and British investment.

Magnus Brooke: Quite so. From a public interest point of view, one can see the case for it, absolutely.

Q641 Mr Bradshaw: What are your predictions of the success, or otherwise, and the impact of local TV? You do not have to say anything if you do not particularly want to, but I will take your silence as a pretty good indication of what you think.

Can I go back to the question that you raised with Mr Brooke earlier, John, about the decline in the number of regional news centres, although I may be wrong about this. Is ITV committed to its current level of regional news footprint in the English regions?

Magnus Brooke: In fact, we have just put proposals in as part of the licence process to Ofcom for a more local service for regional news, with slightly less minutage. We think that is a proposal for regional news that is sustainable for a new licence period for another 10 years. What we are doing is making more local content in smaller areas, so going back to a pattern that is closer to where we were in 2009, but making some saving by reducing minutage, mainly at times when the audience is not watching in large numbers—so during the day, at weekends and late at night—and concentrating on the programme at 6 pm.

Q642 Mr Bradshaw: Do you agree it is very important that the BBC does not have a monopoly of quality regional news provision on terrestrial television?

Magnus Brooke: We do, and that is why we are proposing, as part of the new 10-year licence settlement, to continue to provide an effective regional news service that absolutely provides competition to the BBC. We completely agree.

Q643 Mr Bradshaw: Can we move on to intellectual property and specifically the implementation or not, as the case may be, of the Digital Economy Act? Could you give us your views on the state of that implementation and whether you think it matters or not? I don't mind who goes first. Dan, you are nodding, so why don't you go first.

Dan Brooke: We believe, as you might expect, that a strong IP regime is incredibly important. We think the current system is strong and works well. The measures in the Digital Economy Act and similar measures we note in other countries appear to have had a positive impact. We support them. We have a slightly different, nuanced position to perhaps some of our peers, because we do not own all the rights to the things that we commission and the rights that we do own we distribute on a free-to-air basis. It is incredibly important that that content does not get pirated, and it is very high up our priority list, but perhaps it is even higher up the priority list of some others.

John Tate: I would echo the general welcome you have heard from Dan. I think the nuance for us would be—it is more than a nuance—that we are motivated by making available content on as wide a basis as possible and releasing the archive as much as we possibly can—getting content to as many people as possible. That said, ownership rules must be respected, and there are important considerations commercially in play. Are there slicker systems for the clearing of rights? I think there are, and there are some welcome moves in that direction. Of course, through Worldwide, we have a commercial motivation, and we are just generally interested in clamping down on piracy, but our overwhelming motivation is to get the content out there to people in the most convenient way.

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Magnus Brooke: We are very supportive of the Digital Economy Act and keen for it to be implemented quickly. We are focused particularly on commercial piracy, so trying to concentrate our resources not on individuals, but on organisations and commercial entities seeking to make money out of pirating our content. That is where we put our enforcement resource.

Q644 Mr Bradshaw: What is your view of the Hargreaves reforms?

Dan Brooke: We are supportive of Hargreaves. There are a couple of detailed things. We do believe in a copyright exception for parody, and we are supportive of a private-copying exception, provided the definition of it is very narrow.

John Tate: A similar response. We are supportive in general. I would say more than in general—in most specific cases, we are supportive with a few exceptions.

Magnus Brooke: We are supportive of aspects of it. A code of conduct for collecting societies and orphan works are broadly sensible proposals. We are certainly supportive of the Hooper initiative to investigate whether there is a possibility of a digital copyright exchange. We have difficulty on the extension of some of the exceptions. We think we can live with private copying, provided it is drawn very narrowly, but our difficulty with Hargreaves is around the rhetoric that surrounded it and the concept of IP as a barrier to growth. We think precisely the opposite. We think a strong IP regime with limited exceptions is the engine of growth. In the UK creative economy—including the independent sector that we were talking about—UK producers and broadcasters are absolutely the engine of success and comparative advantage for the UK, and we find it hard to understand why IP is being attacked. In a sense, the debate moves a bit on to Brussels now, and particularly the 2001 copyright directive. We have real concern that there may be a broader assault on the principles of the 2001 directive. One of the reasons why I think Hargreaves ended up with quite a narrow set of exceptions is because he bumped into European law. If there is a kind of longer term threat here, from our point of view as a creative business investing in original content, it is actually from that framework being undermined.

Q645 Chair: You both said that you might accept the private-copying exception if it is drawn narrowly. Does that include cloud-based storage?

John Tate: I guess it probably would.

Magnus Brooke: I think the assumption in the current proposal is that it would include narrow cloud-based services but, in a sense, the devil is in the detail on the private-copying exception.

Q646 Chair: My question was not whether it was included in the proposals, but whether it was within your narrowly defined exception that you would be supportive of, because there are other creative industries that are most certainly not supportive of that.

Magnus Brooke: I think the difficulty with cloud-based services, and it is a definitional problem that

you can already see, is how you define it. There is the concept of vanilla cloud-based services versus added-value services. In our experience dealing with commercial operators, and particularly technology companies, they are adept at creating all sorts of services in the cloud and exploiting intellectual property for no reward, which is the general concern about exceptions. Our issue is less with individual consumers format shifting from a CD to an iPod, and much more about commercial exploitation of exceptions. It is interesting if you look at the time-shifting exception these days; it is being used now in ways that can never have been foreseen in the age of the VCR. Suddenly you have devices that are storing 11 months of ITV1's peak-time schedule, which is a very different concept to where you started with the time-shifting exception. I guess our concern a little bit about cloud storage is where does it stop and what is the definition of the things that are permitted or not, and how are companies going to piggyback off your content via cloud-based services in order to make a lot of money via subscription services that they sell to consumers.

Q647 Jim Sheridan: Dan, you may have already answered this question about PSB levels, but Channel 4 in particular is asking for the repeal of section 73 of the Copyright Act. Is that the same thing that you referred to earlier on, or do you wish to comment further on why you wish this section repealed?

Dan Brooke: We would, yes. There are website-based services that are retransmitting our television channels and selling advertising around them. That obviously does not seem right, and it is reducing the potential revenue into Channel 4 that could otherwise be invested in UK-originated content. We would like to see that repealed.

Q648 Chair: You have had a success with TVCatchup, have you not?

Magnus Brooke: The right way of putting it is probably that we are on the road to success. We have had a judgment by the European Court, or rather guidance to the UK High Court, not about section 73, but about communication with the public, which is another aspect of the case that we are pursuing against TVCatchup. The issue we have left, and I very much agree with Dan, is that the UK court has so far held that TVCatchup can take advantage of section 73, which was designed in another era to facilitate cable rollout in the UK in the 1980s. There is no definition of cable, so TVCatchup takes the view that it is distributing its services by cable, and the UK courts in the first instance agreed with that. There is still a real issue with section 73 and people using it as a loophole. Indeed, I think it is the only place you can find adverts round the BBC's television services online, and the foundation of that is section 73.

Q649 Chair: Would it be possible for each of you, however you wish to do it, to let me have a specific note on section 73?

Magnus Brooke: Very much so, yes.

Chair: That would be very helpful.

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Q650 Steve Rotheram: Channel 4's written evidence suggests limiting red tape to encourage apprenticeships and work experience schemes that are flexible enough to appeal to smaller organisations. Isn't the old "bureaucracy gone mad and red tape holding up progress" argument a bit lame? If that is not the case, can individual members of the panel identify any unnecessary red tape or bureaucracy that is hindering the establishment of apprenticeships in the creative sector?

Dan Brooke: In our written submissions those were broad comments, and I can certainly come back to you in writing on any absolute specifics in that respect. Notwithstanding those observations, as I said in an earlier answer, we do go a long way, I think. Our remit is for innovation, diversity and new talent, and bringing new talent into the industry is incredibly important. We do operate a wide range of apprenticeships, internships and work experience, and those tend to be within Channel 4 or within production companies. We also make a significant effort getting out and about into the country. Last year we went to a range of places as diverse as Penzance, Barnsley, Derry, Dundee and Cardiff, holding open days and workshops for people who are interested in getting into the industry. We surveyed those people. One thing we are very interested in is that across 2012, of those who came to the workshops and open days who answered the survey, 60% said that they came from backgrounds where neither of their parents had been in higher education. We thought that that was a very interesting and valuable finding. So while there may be general levels of bureaucracy, I do not think it is overly holding us back from our ambition to try to bring many young people, but also people from very diverse backgrounds, into the industry.

Magnus Brooke: We are very committed to broadening the pool of our recruits at the bottom of our organisation. Indeed, we run a scheme for 14 to 17-year-olds called Work Inspiration every year, where we go out and make very active efforts to find people, particularly outside London and the south-east, who would not normally think of a career in the media. We run a two-week course every summer for them. We stay in touch with them subsequently. We have an apprentice scheme that some of them then go on to, and we have a very broad number of recruitment schemes for people for production and for office functions within ITV, and we are trying to reach as broad a group as we can. In some ways, having the presence that we do have on the ground in Leeds and Manchester, in particular, is very valuable, because we are part of the communities we serve and we need to recruit people for our business from those communities.

John Tate: We are an active participant in apprenticeship programmes, and I think there are two main drivers for that. One is, as you have heard from my fellow contributors, widening the voice and contribution, so getting beyond over-reliance on a graduate flow of recruits and reaching out to a wider base of potentially interested people and talent. Often we can start apprenticeships in a way that will lead to people developing the talents to fill the key gaps in the industry. An example of the latter is the technology

apprentice scheme we are launching in September this year. I think there is a wider question about take-up and respect for apprenticeships within the industry. We will play our part, and we will look to other employers. Once we have trained people up and they go on to new things, we will look for their qualifications and experiences hopefully to meet with the credibility and respect they deserve. That is key, and the development of that credibility and respect is key in the wider industry. I think the jury is probably still out at the moment on that.

Q651 Steve Rotheram: But the industry already has a long tradition of apprenticeships going back many decades. Specifically, what is the hindrance to you being able to offer further apprenticeships? I noticed in Dan's answer that he gave a long list of areas that were included in the road show workshops. One of them is not Liverpool. There were 100 apprenticeships advertised for the BBC, which is based in Salford. They were all for people in Manchester, not for people in Liverpool. If, for instance, the BBC wanted genuinely to become a hub for the north-west, it should not concentrate on just one part of the north-west. If Channel 4 is going round doing workshops, why are they not held somewhere like Liverpool that the BBC is not specifically targeting, if you are looking for new talent?

Dan Brooke: In our case, I do not think we would see it as a question of leaving out. We do quite a lot in Liverpool at the moment through *Hollyoaks*, which is produced near Liverpool. I take on board what you say and we will look at increasing our presence in that and other regions.

Q652 Jim Sheridan: As part of this inquiry, the Committee took itself off to America and spoke to some of the main players in the creative industries. Almost all of them were extremely complimentary about the UK system, and not just the tax incentives, which obviously they appreciated, because they identified areas such as skills, training and craftsmanship, and that was the reason why they brought some films to the UK. One of the questions I want to ask is: what are all of us doing to exploit that goodwill and to bring even more jobs, films—whatever it may be—to this country?

John Tate: If you take a step back and look at the advantages that Britain has in the creative industry—the English language certainly; well-developed capital markets; great latent creativity in the generation of ideas and IP—you might think that we can do more. If you look at the factors for that, and if you are trying to develop IP over a certain scale in certain areas, you will go to the States for the money. If you are J.K. Rowling and know there are the studios, the ideas and everything else in the UK, at some level you just have to get the US studios to back your idea and get the funding. I think there might be something, and I do not have the answers here, about the level of understanding within the UK's capital markets for creative IP and the backing of creative IP. You have the City of London, one of the world's biggest capital markets, the English language and great IP, so why is it not quite connecting in world-beating ways as much

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as it could? I think that is an interesting question for the Committee. It is not one I have any answers to immediately, I am afraid, but we are playing our part.

Magnus Brooke: I think the key thing is growth. The critical thing is growing your business and producing profit, and therefore persuading people to continue to invest, in ITV's case, in ITV as a business that is producing attractive returns for investors who are looking across the world at potential investment opportunities. The critical thing is that we can say, "Here is a company that is growing rapidly. Invest in us," and it is an attractive investment proposition.

Q653 Jim Sheridan: The question I am asking is: are you out there selling yourselves, or are you saying, "No, we are good, guys; we will wait for the films to come here"? Are you out there selling yourselves?

Magnus Brooke: Absolutely we are. We have strong international growth. Our studios business internationally outside the UK last year grew by over 20%. We are busy acquiring. We have just acquired a majority stake in a company called Gurney Productions in America, which is producing a lot of content in the American market. We have acquired producers in Finland and Norway. We have operations in Australia, Germany and France. One of our biggest priorities, and the key to our overall business plan, is growing our operations through acquisition, and also through organic growth outside the UK. That produces a stream of profits that we can reinvest back in the UK creative industries. The critical thing is the virtuous circle for us—we invest in the UK, we make content famous on our own channels, and then we go round the world to sell the format and the finished programme, by ourselves and via alliances with other producers in other territories. All that is a circle of reinvestment back into the UK's creative industries, and that is the critical thing for us.

John Tate: In Liverpool, in February this year, Worldwide held the largest export fair for creative IP, with 700 attendees from around the world. It was a great success. I think we are going to do similar events in Latin America and China. As I say, outside the US majors, Worldwide is the largest exporter of TV programmes in the world.

Q654 Chair: The BBC identified four policy priorities in its submission, which I think will be of relevance to both the other two witnesses. I am not entirely convinced by any of them, so I would like to go through them. First of all, you are concerned about having to pay carriage fees, and you suggest that if you did not pay carriage fees, you would have more to invest in programme content. Well, you would have more to invest in programme content if you did not have to pay your electricity bill, but why shouldn't you pay carriage fees?

John Tate: I think the analogy is not appropriate to the payment of fees for electricity. The licence fee payer creates something of value, and it is right that when other parties benefit from that value created, the flow of value is respected. In the case of our payments to Sky, its ability to offer the BBC's channels is hugely important to it operating as a business.

Chair: Well, it has to be by law.

John Tate: Hugely, hugely important to it operating as a business, so if it is to carry those channels, the flow of value is clearly from the licence fee payer who has created that content to Sky. It is operating very healthily—billions of pounds of turnover—and it should compensate and pay for the carriage, perhaps in an open or deregulated system, but at a minimum we would agree with Ed Vaizey's comments that there should be a zero-payment regime. At a minimum, we think that is a very fair outcome.

Q655 Chair: Without a "must carry" obligation?

John Tate: I think it is overwhelmingly in Sky's interest to carry the BBC, so the idea it would "go black", in the jargon, and pull the BBC services would undermine its business model. Carrying the BBC is essential to its business model, so the fact that it should come to fair terms with licence fee payers for the carriage of that valuable content is axiomatic.

Q656 Chair: Is it not the case that Sky has spent a huge amount of money on developing satellite television and the conditional access system and all the technology that goes with it, and it is entitled to expect that other broadcasters should pay something for having access to that?

John Tate: I don't agree. Initially, it took a huge bet and invested behind that bet—and, all credit to it, that has paid off royally. Average revenue per user is more than £500, versus £145 for the BBC. As I say, it is far bigger than we are. It is turning over billions of pounds. The licence fee payer should not have to pay twice for the carriage of its content.

Q657 Chair: Do you agree?

Magnus Brooke: We certainly think that you need to look again at the relationship between channels and platforms, and it is a general point across all platforms. The historical interventions here were about forcing the analogue monopolists to provide channels to new entrant platforms. We completely understand, and it was a worthy and sensible policy objective to encourage competition to analogue monopoly. We absolutely understand that, but I think we are in a very different world now. We have a whole series of competing platforms, which are extremely powerful and are extracting value out of input provided for free by the public service broadcasters. It is not just about carriage of the services, although that is clearly an important thing, since a lot of the viewing in Sky and Virgin homes is to the PSB channels, which does suggest that the platforms are deriving quite a lot of value out of the channels. However, new services, like PVR services, for example, which are using the time-shifting exception and, in the case of Virgin, section 73, are subscription services—very innovative, sensible subscription services—but they use the content of the public service broadcasters overwhelmingly as part of the overall attractiveness of their offer to consumers. I think there is a need therefore to have a look again at whether the balance is right—whether in fact it should be free supply. Should the money go the other way? Should there be money going from platforms to channels?

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Q658 Chair: That is a much more half-hearted approach than John Tate, who is saying, “This is an outrage. We shouldn’t have to pay, and if anything, they should be paying us.” You are just saying, “Well, we should look at it again.”

John Tate: Chairman, if I might go even further and say—[*Interruption.*] No, I am serious. I think comparing the creative lifeblood of the platform to a commodity like electricity is, frankly, insulting.

Q659 Chair: All right. Do you wish to harden your position?

Magnus Brooke: There has to be an assessment of the relative value of those, and, as it happens, I suspect you might end up in a position where the money doesn’t change hands. Potentially, in a few years’ time, you might say some money ought to come from the platform to the channel, so it is a process that changes over time. Was it right 20 years ago that we should supply our channels for free, or indeed have to pay Sky? Possibly it was, because we were analogue monopolists, and there was a very substantial analogue surplus. Have economic conditions changed? Has the value of the channel to the platform potentially increased in a world of PVRs? Yes, it has. Do we think that necessitates the reassessment of the balance of value? Yes, it does.

Q660 Chair: Dan Brooke, are you with hard-cop BBC or soft-cop ITV?

Dan Brooke: I think the principal issue for us is, if there is going to be any kind of financial exchange on this matter, it should actively reflect the value that channels bring to platforms. It does not escape our notice that 50% of viewing is to PSB channels, and 70% is to the PSB portfolios, and further that the DCMS has commissioned a report from a third-party expert that has come back saying that there may indeed be very rational reasons for the financial flow to be in the opposite direction. That said, I think we are very much in the category of saying the relative value that is contributed in the equation should be looked at in close detail and the result based on that.

Q661 Chair: Let me take you on to a related issue, which is that although you do pay carriage fees, you also get something that is of immense economic benefit to you: prominence on the EPG. You seem to be suggesting to us that despite already possessing slots 1, 2, 3 and 4, you would like more prominence on the EPG. Perhaps you would like to say a bit about that.

John Tate: Yes. I wouldn’t describe them as going in tandem. I think there are different interventions. As Magnus rightly described, in the early days of the creation of the satellite platform, it may have been the right thing to give them an inducement. That is certainly not defensive to the flow of value today, I think, fundamentally.

The prominence question is a different way of supporting public service broadcasting, and over the years, the decades, Parliament has taken the decision, rightly in our view, that one of the key ways in which you support PSB alongside access to spectrum and the licence fee has been to make it duly prominent, and

that has taken the form of prominence on EPGs, as you know. What we are saying—I would not necessarily speak for others, but I think our position is in common here—is that that the prominence regime that Parliament has decided upon should keep pace with the evolving media sector and the technologies used, and it should not be allowed to wither and be got around and be ignored.

Q662 Chair: It is not withering, though. You have held 1, 2, 3 and 4, and you are keeping 1, 2, 3 and 4.

John Tate: No. Look at the Sky sub-menuing system, on which CBeebies appears at 13th position for children’s channels. I think that is an example of withering.

Q663 Chair: These are quite valuable assets, and you could argue that, for instance, Sky’s dramatic increase in investment in original content means that it is now probably spending more on television original content than Channel 4.

John Tate: Well, it is not.

Q664 Chair: Yet. We have gone from a situation where it was spending very little but it is now spending a great deal. Should that not be reflected?

Dan Brooke: We are enormous supporters of the public service ecology in the UK, as John says, going back many decades. Were there to be people who are not currently PSBs wishing to join that group, we would be incredibly supportive, because it would further enhance this great tradition of public service that we have. If Sky wanted to seek that status—

Q665 Chair: Do you not think the Discovery Channel or Sky Arts are public service broadcasters?

John Tate: I think I am right in saying that together the PSBs still account for 90% of investment in UK original content, so Sky’s contribution, though welcome, is small, especially in comparison with its turnover.

Q666 Chair: It depends to some extent how you define original content. As I say, do you not think that now the world has changed so that Discovery, for instance, could equally be argued to be providing public service content?

Dan Brooke: I used to run Discovery in the UK and it makes fine content. It made fine content then, and I understand it makes fine content now. Our critical mission is to ensure the health and diversity of the PSB culture within the UK. If there are other channels that believe that they merit that status, we would genuinely encourage it.

Q667 Chair: You say that the two issues are separate. I am not sure they entirely are, because you seem to be arguing that you should, if anything, have even greater prominence on the electronic programme guide, but at the same time that you should not have to pay the broadcaster any of the fees that you currently have to pay.

John Tate: No. I think that the due prominence regime should keep pace with evolving technologies and platforms, so it should be fit for purpose. That is

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my argument. In terms of the carriage fees, I think they are, as I said, wholly illegitimate. I am aware of the implication in the question, but I think, as I say, it is offensive to the flow of value.

Q668 Chair: We will be interested to hear from our next witnesses on that. Can I very quickly touch on your other two policy priorities? One of them I have raised myself in the House, so I do have some sympathy with it, but I would be interested to see how great a threat you regard this. That is the possible occupation of an increasing amount of the spectrum by mobile services, and the threat that that might prove for your DTT transmission. You raised the possibility that you might have to be given additional access to spectrum to compensate for that. Just say a bit about that.

John Tate: DTT is an incredibly important way of reaching audiences in the UK, and we have just completed, as you will well know, the UK-wide digital switchover programme on time and under budget, and the way we serve viewers on DTT has lots of life left in it. I think I would agree with Ofcom's assessment that DTT has a long shelf life, running to at least 2030, and we would probably say beyond that. While the explosion of mobile broadband that is fuelling demand for spectrum is understandable, it should not undermine the quality of experience viewers receive through DTT, and we are looking to make sure, with our fellow broadcasters, that that is the case.

Q669 Chair: Do you think there is a serious risk that existing DTT spectrum is going to be given over to mobile?

John Tate: There are commercially motivated positions—and these things are now decided internationally—that would, given a free hand, sign over lots of the spectrum to other uses and away from public service broadcasting but, as I say, over the years in Britain, we have taken the decision that access to spectrum is a key component of the way we support public service broadcasting, and we look for that to continue.

Q670 Chair: You do not have any sympathy with those in another place in this building who have suggested, "Well, it is all going to move online anyway, so DTT is in decline"?

John Tate: I thought that was a rather odd thing to say.

Magnus Brooke: I think eventually that may well happen. However, Ofcom has recently published their thoughts on the future for spectrum strategy and concluded that it was something for the 2030s, rather than for the next decade or even the decade after that.

Dan Brooke: We would agree with that. The DTT platform is incredibly important to television and incredibly important to the creative industries, for reasons that I outlined earlier. We are supportive of things like 5G, because we think that they represent opportunities for our business, but if, as a result, broadcasters are going to have to move to other spectrum, obviously that is a very significant exercise involving a lot of cost and a lot of planning. We would urge the Government to put as much effort into that process as was put into the digital switchover that we have just completed. I agree with my colleagues here. We do not agree with the idea that DTT in 10, 15 or 20 years will not be incredibly important, and we would observe that many external forecasters on this matter take the same position.

Q671 Chair: Just for the sake of completeness, finally, net neutrality. As far as I am aware, the Government have said that we want to see net neutrality. Ofcom has said that. Are you seriously concerned there is a risk that there is going to be some kind of bias against your programming by the ISPs?

John Tate: It is a fact that the providers of ISP infrastructure increasingly get into content incentives that have been created to privilege certain traffic. It is whether they are allowed to operate or to act on those incentives. We have seen in the BBC's case the throttling of the iPlayer, so we have experienced this, and I think we are looking for a very clear statement in principle, not legislation, that net neutrality is to be respected in certain forms.

Q672 Chair: Has not Ofcom basically said that?

John Tate: Yes. It has made very encouraging statements to that effect, and they are to be welcomed.

Q673 Chair: It is not a serious concern at the moment?

John Tate: No, it is a very serious concern, because if you are looking at the evolution of ISPs and content owners and content distributors, you are setting up a massive incentive there to traffic-shape, and you have to keep a close eye on that as we move on.

Chair: I think that has covered all the points we have. Thank you very much.

Examination of Witnesses

Witnesses: **Adam Minns**, Executive Director, Commercial Broadcasters Association, and **Adam Kinsley**, Director of Policy, BSkyB, gave evidence.

Chair: We will now move to the second part of this morning's session. I understand that Dee Forbes, the Chairman of the Commercial Broadcasters Association, is unwell and therefore unable to join us, but I welcome Adam Minns, the Director of COBA; and Adam Kinsley, the Director of Policy at BSkyB.

Q674 Angie Bray: Can each of you start by outlining the roles you play in supporting the creative economy, and perhaps tell us what you think the Government could do to help you to make an even more significant contribution? Shall I start with you, Adam?

Adam Minns: Thank you for inviting me today. Dee Forbes, our Chair, does send her apologies. She is ill, but she was very keen to be here today.

Over the last year, we have spent a lot of time and resource analysing and evidencing our investments in the UK production sector, and the changing, shifting patterns in investment in UK television production. I hope we can discuss some of that this morning. There are three headlines I would like to highlight.

The first is that broadcasters in the digital, cable and satellite sector, COBA members, are increasing their investment in UK television content. It went up by 27% over the last three years, despite the difficult economic market. The second point I would highlight is that, thanks in part to that increasing investment, coupled with other sources such as investment from the independent production sector itself, the total investment cake into UK content has gone up over the last three years, despite, I suppose, some relatively flat spending by the public service broadcasters. The third point I would like to make is that my members, many of which are multinational broadcasters, invest more in the UK than any other European member state, so we think that helps establish the UK as a European broadcasting hub. All in all, I think my sector is increasing its investment in the UK and UK content strongly, and we are moving towards a more mixed ecology in terms of investment in UK production.

Q675 Angie Bray: Is that investment safe? Should we take it for granted?

Adam Minns: We never take it completely for granted, but, as was touched on by the previous panel, the UK has a range of long-term advantages that make it attractive to invest in domestic content. There is a strong production sector, great content, skills, the English language and infrastructure. Coupled with that, I think investment is coming from a range of different players, so you have Sky increasing its investment, as was mentioned earlier, but also there are a range of different channels within the cable and satellite sector that are increasing their investment. Investment in UK children's content went up by 60% over the last three years. You have Fox, National Geographic, Discovery and UKTV all increasing their investment as well. I think, given a reasonable regulatory regime, we have every reason to be optimistic, yes.

Adam Kinsley: Thank you for inviting me in this morning. I am also suffering a little bit, but I couldn't leave Adam on his own.

Sky has been making a significant contribution for the past two decades, but what is really notable is the increase in the scale and the breadth of our contribution in terms of what we are putting on screen and the technological advances that we are making in how our viewers are watching that content. Last year we invested £2.3 billion in content, and two thirds of that is invested here in the UK. What is really interesting is that the growth areas are in original programming and areas that have not been traditionally associated with Sky. We have committed to increase our spend on UK production and content by 50% over a three-year period, so next year we will be spending £600 million on UK content and production. It is in important genres such as high-end drama and entertainment where we are seeing the best talent coming to Sky and looking at working with us on exciting projects. It is in the arts—we are hosting the South Bank Awards this afternoon—and it is in comedy, where we will be spending more than the BBC on British comedy.

On the technological side, Sky has obviously been a pioneer, bringing in Sky+, HD and 3D, but now we have around 800 software engineers, who are constantly looking to innovate and bring new ways to watch this content. We are seeing huge growth in products like On Demand. In October last year, we had around 1.7 million downloads per week. By December it was up to 4.4 million per week, so it is a huge growth area. With things like Sky Go, where people are watching content on the move, we received around 3.1 million unique visits in the second half of 2012.

It is a significant investment in itself, but it is sustaining the wider sector and wider economy. We commissioned a study last year to try to quantify that, and Sky's activities were said to bring around £5 billion to UK GDP, supporting around 120,000 jobs and bringing £2.3 billion to the Exchequer. It is a significant contribution. In terms of what the Government can do to support or grow this, we have managed to achieve all of that in the last period where we have had a relatively stable regulatory environment.

Q676 Angie Bray: Can I ask you a question? Sky has been quite late at the party, so to speak. There has been a lot of criticism about the lack of investment that Sky was making in original programming. You appear now to have done quite a change of tack. What actually triggered that change?

Adam Kinsley: I think we always were contributing, but it had been in genres that were news, sports and movies, and there was a call from people expecting Sky to do more in British content. We have realised that if we want to reach out to wider audiences and more customers, investing in those areas that they really want to watch is something that we need to do, so we started that several years back and it is growing

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steadily every year quite significantly. It is basically filling the gaps that maybe are not being served as well by some of the traditional broadcasters. If you look at Sky Arts, in particular, it is filling a huge void, and I think that it is proving massively popular, so it is giving customers what they want—what they are not going to get anywhere else. We are having to fight for every viewer who comes to Sky, so we have to give them that content.

Q677 Angie Bray: You started to talk about what you think the Government could do. Could I put it another way to start with? Do you think that you can continue to grow your contribution without further Government intervention, or does there have to be Government intervention to get more out of you? Adam Minns, can I come to you on that?

Adam Minns: Our biggest concern domestically is that we want to have consistency and clarity going forward in terms of the legislative and regulatory frameworks we work in. We think we are growing strongly and we think the overall market is growing strongly, and we do not see a need for large-scale changes domestically. On a European level, we do see a threat around the country of origin principle. Again, we don't believe there is a need for any large-scale changes at the moment.

Just on your question, also the tax credits that you talked about earlier are a very welcome development and will help encourage investment.

Q678 Angie Bray: You were saying you think there is more the Government could do to encourage—

Adam Kinsley: No, I was going to answer your question as to whether there was anything Government should do. We don't come here with a wish list, as we have heard in the previous session. We have managed to achieve our growth in a stable regulatory environment, and the biggest threats to the growing investment that we are making are legislative changes that are basically very UK-focused and that simply move the deckchairs around because we are looking at the market in a UK context. You were out in the west coast of America last week. That is where the competition is for us. Looking at this market parochially and with regulatory interventions on that level, picking winners, is not going to help the UK Creative Industries and will only introduce regulatory uncertainty for us. That is the biggest threat to our growing investment.

Q679 Angie Bray: So, really, certainty is the key?

Adam Kinsley: Yes, it is critical. We made our commitment to invest £600 million by 2014 several years ago. It is a long-run investment, and you need that certainty to make those decisions.

Q680 Angie Bray: Can we see further investment from you in the future? Are you able to predict that?

Adam Kinsley: Yes. It is difficult to predict, but all the time we are introducing more investment in a wider set of genres. We have recently just announced a great new slate for drama. That is new for us. In the right conditions, I think it will grow.

Adam Minns: I can only echo that, really. As I said before, our biggest concern is to have consistency and clarity in legislation. We think the current framework is working very well. The UK has underlying long-term advantages. We talked about production sector skills and so on. The final piece in that jigsaw was probably around the TV tax credits that are coming in, and that makes the UK all round a very competitive place.

Q681 Chair: You will have heard my exchange in the previous session, particularly with Dan Brookes, about investment in original content. I have just been looking at the figures we have had submitted. According to your submission, you are spending £450 million rising to £600 million in original UK content, and Channel 4 said it is spending £419 million rising to £450 million, so on the figures we have been given, you are spending more.

Adam Kinsley: I would make that assertion too, yes.

Q682 Chair: Dan Brookes seemed very clear that you were miles behind. Would you like to—

Adam Kinsley: I think that we are spending more. In fact, our investment in content overall is more than any other broadcaster. While you are picking up on the previous evidence, there were also some numbers we would dispute with, I think, John Tate from the BBC.

Adam Minns: The 90% figure. John Tate said that PSBs are responsible for 90% of UK content investment.

Chair: He did.

Adam Minns: That is a very old figure, going back to Ofcom's public service broadcasting review, and that is five years old—something like that. We commissioned some research last year—we have made this public and it is in our submission—that the total investment from the actual PSB channels is currently 73%, including their portfolio channels as well.

Q683 Mr Bradshaw: What is the definition of original UK content?

Adam Kinsley: For us, that is going to be original investments. First run, it is going to be production. It is going to be across the genres I mentioned before. It is arts, comedy and drama.

Q684 Mr Bradshaw: But not the Premier League?

Adam Kinsley: No; absolutely not including any acquisitions, any sports rights. It is absent all of that. This is a like-for-like comparison with the PSBs.

Q685 Mr Bradshaw: The criticism that was made of Sky in the past—I remember from my time as Secretary of State—was that you were not fulfilling your obligations. I think there is some EU legislation around this, isn't there? Anyway, you were way below the level of investment in original domestic content. Is that no longer the case?

Adam Kinsley: I am not sure if that was the case then, but it certainly will not be the case now, no. As I say, we will spend £2.3 billion in total, and two thirds of

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that is going to be in the UK, and £600 million next year, excluding any rights or acquisitions.

Q686 Chair: Can I invite perhaps both of you to let us have additional written submissions just responding to some of the claims in the last session? It would be interesting to establish who is right in this fairly simple question as to who is spending more.

Adam Kinsley: Yes.

Chair: Thank you. Steve, did you want to—

Steve Rotherham: It was exactly that—just to see whether we could have a written submission on the like for like, and perhaps we can do a comparison. We are going to have to ask the others who were here earlier for that as well, Chair.

Chair: Absolutely.

Q687 Jim Sheridan: On the question of the watershed, is now the time to review the timing of the watershed in terms of 15-certificate content and obviously the appropriate protection? Would that interfere in any way with the family viewing?

Adam Minns: This came about in our thinking as a result of the convergence question, where we are moving into a world where we have linear channels sitting next to non-linear, on-demand services. Currently, in on demand, you can access a whole range of content up to R18, I think, at any time of the day. In the linear world, you can currently show 12 and 15-rated films, providing they are on a subscription channel. You could show something like James Bond before the watershed behind a PIN, but you couldn't show anything else. A drama, like the Terry Pratchett dramas, for example, is 12-certificate. You couldn't show that before the watershed. Our thinking then was—perhaps not now but looking forward—how can linear channels respond to that and respond to changing consumer expectations and competition? If we can get the PIN right and we can make sure it provides strong protection, we think that that could be a way forward. That is not to replace the watershed, but this is something that could run alongside it and just give channels more flexibility.

Q688 Jim Sheridan: It will not reduce in any way the family viewing aspect of things?

Adam Minns: I don't think so. Do you mean in terms of protecting children and making sure they don't—

Jim Sheridan: Yes.

Adam Minns: I think there are two key factors on that. The first is to make sure that the technology is in place so that parents can control. They can change their PIN codes whenever they want. I think that is already in place. You can do that in under a minute online. The second point is to make sure that parents understand that that is important and also how to do it as well, and we are getting there with that. We are looking at that internally to work out what is the best way of promoting that to parents. It is education and technology.

Adam Kinsley: Just to add that the concept of the watershed is obviously very well known and it works for terrestrial TV, and it is a little bit one size fits all. There are more controls that are available to go on top of that. On the Sky set-top box, you have flexibility as

a parent to set your own watershed, to remove certain channels, to block other channels and to put PIN restrictions on certain viewing. As the discussion and debate continues around convergence, it may well be that there are new ways of protecting families in addition to the watershed concept, and the proposal that COBA makes is just future-proofing that environment.

Q689 Angie Bray: Changing the subject, how effective do you think the Creative Industries Council is at driving policy development?

Adam Minns: I don't sit in it, but I have spoken to its co-chair.

Angie Bray: You must have views on it.

Adam Minns: Indeed I do. As you have heard from other witnesses, it is a broad church, and that creates difficulties in getting consensus. From what I have been told by the co-chair, its bid to map data—which goes to your point about like-for-like data—across the creative industries is one work stream it is working on. I think there may also be some possibilities around the Joint Skills Initiative. It sounds promising.

Adam Kinsley: Like others have said, it is a good thing that the Government are trying to get together the creative industries, but the creative industries span a very wide spectrum of views. It was good to hear in the previous session that ITV picked up on our suggestion, which was that one of the core things for us is making sure that Government's policy is right when it comes to intellectual property, and that has not been on the agenda for the Creative Industries Council.

Q690 Angie Bray: Why is that? I would have thought that it must be one of the most serious issues facing the creative industries, and it is not actually on the agenda.

Adam Kinsley: Yes, and we think it should be. It may be that the right people are not on it to discuss what can be quite technical and esoteric policy developments, which was why we suggested that it could be that you had some sort of sub-group of sherpas that could do the thinking there to try to make sure that Government were getting the views from the creative industries when it comes to intellectual property.

Q691 Angie Bray: Given what you are saying and what we heard in a previous session, is there now sufficient pressure on it to make this one of the issues it is going to be looking at in some detail?

Adam Kinsley: I think a submission has gone in making that point. I don't know the status of that, if I am honest.

Adam Minns: I would have to clarify with Nicola Mendelsohn if that is on the agenda currently. I am sorry; I don't have that information with me. I will have to clarify with the co-chair whether that is going to be on the agenda.

Q692 Angie Bray: All right. You have talked about setting up these small, detailed groups to look at detailed policy. Are there any other changes that you would recommend on the way it operates, the

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members on it and things that you think could improve it?

Adam Kinsley: Nothing springs to mind from us, no.

Q693 Angie Bray: You think it is fine and dandy as it is?

Adam Kinsley: I guess it depends what it is trying to achieve. I think it is important that—

Q694 Angie Bray: What is it trying to achieve?

Adam Kinsley: That is a good question. It is a forum for the creative industries to put their issues to Government. It is one way that the Government can listen to industry, but it probably is not going to be sufficient if that is the only way. I think there need to be other ways of reaching out and making sure the views of industry are properly heard.

Q695 Angie Bray: Other organisations, rather than changing this one?

Adam Kinsley: Yes, or just other gateways and other discussion points.

Adam Minns: Perhaps a more formal way of putting forward ideas, like IP, and seeing whether that can be put on to the agenda would be helpful—more openness on that front—but otherwise it seems to have a very broad cross-section of people. As we said, it is a broad church. I don't think there are particular gaps other than, as an earlier witness talked about, individual directors and writers, but beyond that it seems to be fairly comprehensive in terms of the people sitting on it.

Q696 Angie Bray: Is there a danger of it being too comprehensive?

Adam Minns: Yes. As I said, that can bog things down, and you can get a one-size-fits-all approach sometimes. Comparing an issue in the fashion industry is not always relevant for an issue in the television industry, but there may be some common ground at the same time.

Q697 Angie Bray: Perhaps the suggestion of having these groups form within it to look at detailed policy might be a way of doing that.

Adam Minns: It certainly sounds interesting, yes.

Q698 Mr Leech: I was quite surprised by our previous witnesses not being particularly enthusiastic about the changes to the tax incentives to include high-end TV. Do you share their cautious support, or are you more enthusiastic in your support for the extension of tax relief?

Adam Minns: I look at the potential for what it can do and I think it is amazing. You look at what *Game of Thrones* has done in Northern Ireland, where you are now well into the third series in Northern Ireland. It is creating sustained investment to the extent we have probably not seen before in Northern Ireland in the television sector. If we can attract more productions like that, I think that is going to be an incredible strength for the UK. As you are all aware, the UK animation sector has been under a lot of pressure in recent years, and again that could be a real asset. I know that my members are looking at how

they can increase their animation production in the UK as a result of that.

Q699 Mr Leech: Will it result in more original content, or will it result in more content that would have already been produced simply being produced here rather than abroad?

Adam Minns: It is really hard to predict that categorically, but I think the clearest and most obvious increase will be in attracting productions to the UK that were going to take place in other countries, or to keep in the UK productions that might have moved out of the UK.

Q700 Mr Leech: But it will not necessarily increase the original content.

Adam Minns: It could lead to that, but I am not able to predict that with any certainty.

Q701 Mr Leech: What is your view on the decision to extend it to documentaries? Will that be taken up?

Adam Minns: Documentaries have a lower cost per hour on average than high-end drama.

Q702 Mr Leech: Is there an issue about the threshold and whether or not you feel that the threshold for documentaries perhaps should have been lower?

Adam Minns: There is an argument for looking at different genres and whether there should be different thresholds for different genres, but beyond that I am not really in a position to say. I know Discovery, one of my members, has suggested that in its submission, but it is not something that we have discussed at COBA level.

Q703 Mr Leech: What proportion of documentaries would reach that threshold?

Adam Minns: I think a very small number. There are some very high-end documentaries involving special effects and things that are quite global and do move overseas. In terms of volume, it is a small amount. In terms of the value, it would be quite considerable.

Q704 Chair: Can I ask you to react to the discussion we had in the last session, Adam Kinsley? John Tate seemed to suggest that the BBC having to pay carriage fees to your company was deeply offensive. How do you respond to that?

Steve Rotherham: I think he said that about your comparison to electricity.

Chair: You are quite right. I stand corrected by my colleague. He did say that about my comparison with electricity payments, but—

Adam Kinsley: I heard the debate, and, I have to be honest, it was somewhat confused. It might be worth me setting out exactly how the regime does work, because some things were said in the last session about Sky carrying certain channels and profiting from them, which is not really how the system works. It is really important to understand that the way the legislative structure and regulatory regime works here is that there is an obligation on the Sky platform to be an open platform. It is unique in that, so it differs from the Virgin Media cable platform, BT Vision, YouView or any other platform. The Sky platform has to be

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open, and what that means is that any broadcaster that has an Ofcom-licensed channel has the right to have its channel included in the Sky EPG listing. What that does is give it huge benefits. It gives it access to 11 million homes that have Sky satellite equipment, regardless of whether they are a Sky customer or not. So you could have a Sky box and no longer be a Sky customer, and you would still receive those channels across those homes.

In return for Sky being subject to that obligation and providing that listing, the regulation sets out that we are entitled to recover the costs of developing and operating the platform. The way in which we set out those charges is regulated by Ofcom, and we have to do so in FRND—fair, reasonable and non-discriminatory—terms. At one point, this was not subject to a transparent rate card, so there was more of a negotiation, which I think is what had been proposed in the previous panel, but Ofcom determined that that was inappropriate and there should be a published transparent rate card. The last rate card we issued was in 2012, and that saw the platform contribution charges come down by 40%, because we had recouped most of the costs of developing the platform. We also took the opportunity to put out an indicative rate card for 2014, which showed that the costs would come down a further 40%, and you can see the direction of travel here. By 2014, the PSBs in aggregate will be paying around £6.7 million for these services, which includes regionalisation, interactive services and so on.

Q705 Chair: You say “in aggregate”. How much would the BBC be paying?

Adam Kinsley: The figures are transparent. I don’t have them right in front of me. It is going to be a subset. It is going to be something in the order of £4 million. It may not be like electricity, but I do think it is a normal distribution charge. It is the same type of cost that you would incur when you buy satellite space from Astra or any other distribution charge. If you look at the BBC’s accounts, they spend more than £560 million on distribution and support costs, so the context here is that it is a relatively small number, and it is getting smaller.

The question was raised that there are benefits to the platform for having the PSBs on it. It is an interesting point, and it is one that Ofcom has already opined on in the past, because it is not a new point. What Ofcom said was that there is a benefit to the platform of having those channels there—indeed any channels, including COBA members, and we have over 200 broadcasters on that. There are benefits for the platform of having all those channels there, but there are also huge benefits to channels from being on the platform. What Ofcom determined was that it would be inappropriate for Sky to try to quantify those benefits in either direction for each channel, and in fact that what we should do is simply recover the costs, so that is what we do. We think it is a fair system, and—

Q706 Chair: Will the downward path hit zero at a future date?

Adam Kinsley: There is always going to be an operational element to it, but the significant development cost, which was over £1 billion, has been recovered. I should also add that around 90% of those costs have been incurred by Sky channels, so the PSB element of this is quite marginal. I think that the regime works. It is subject to quite complex regulatory levers. It is not a simple regime, when you look at it and try to unpack it.

We have heard what the Minister said at a very high level when he spoke at Oxford, and we are happy to talk to him about exactly how we would come up with a new system and how that might work, but as yet we have not had the opportunity to have those conversations.

Q707 Mr Leech: Just a couple of points on that particular issue. Did you say it was going down to £4 million?

Adam Kinsley: Sorry, that is really broad. I do have the number: it will go down to £6.7 million for all of the PSBs.

Q708 Mr Leech: All right. Given in the overall economics that is a very small amount of the revenue that comes into Sky, are you saying that that cost simply covers the costs of putting the BBC on to your network?

Adam Kinsley: Yes. That is a cost recovery number.

Q709 Mr Leech: Can you explain where those costs come from—is it just from having BBC on Channel 101 or ITV on Channel 103?

Adam Kinsley: Yes. I think that the PSBs collectively have around 60 channels across the platform. The reason the BBC pays more than another channel is because it has lots of regionalisation, and that is pretty expensive to try to put into place. There are also other interactive services—red-button technology—that it chooses to use, which many other broadcasters don’t use. It is basically the operational costs of doing that, plus an element of reducing fixed costs for the development of the overall platform.

Q710 Mr Leech: Hypothetically, if you didn’t have any BBC or ITV channels on your Sky network, but your cable competitors, for instance, or internet competitors did, the loss that Sky would make from losing customers to your competitors would surely be worth the £6.7 million—however much it might be in the future—that the BBC or the other public sector broadcasters have to pay.

Adam Kinsley: Hypothetically, possibly, but you are mixing up the cost recovery number, which we are charging on a non-discriminatory basis, with another discussion, which is about the relative benefits. There is an element of this that is not hypothetical, because for a period ITV did not offer its channels on the Sky platform. It determined after a period that that was not the best commercial decision, and it decided that it was going to. If we are talking about the net benefits, I think the case study demonstrates that the benefits are probably flowing to the PSBs.

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Q711 Mr Leech: The point I am trying to make is you say it is impossible to quantify the benefit to Sky of having the channels on your network, but I am asserting to you that I suspect that it is significantly higher to you to have those BBC, ITV and Channel 4 channels on your system for the amount of money that you would potentially lose in terms of customers migrating from Sky to cable or internet services that did provide BBC and ITV on their networks. While I can appreciate you wanting to recover your costs, I suspect the benefits that you receive for having those channels on your network far outweigh the costs that BBC and ITV are having to pay.

Adam Kinsley: I think you are mixing apples and pears. One number is to do with cost recovery, and one number is to do with the benefits to the platform, and I think the thing that we are missing from the equation is the huge benefits that the channels have from being on the platform. I didn't say it was impossible. What I said was that Ofcom determined it would be inappropriate.

Chair: Steve?

Steve Rotherham: No, John has just covered that quite comprehensively. I agree with John.

Q712 Chair: Perhaps we could quickly cover the other discussion we had, which was EPG prominence for PSBs, and particularly that some of sub-pages of the EPG do not reflect their contribution.

Adam Kinsley: Yes. We have to come up with a model for EPG allocation that balances a number of things. It needs to ensure not only that there is appropriate prominence for the PSBs, but that there is a fair allocation for channels that may have moved to that genre earlier. DCMS has commissioned a report by Technologia, which determined that the system we have is a fair one and it does balance all the needs, and most broadcasters are happy with that. The one anomaly that the BBC raised is to do with the children's channels, and what I would say on that is that when you look at the share of viewing that those channels have, the facts don't really bear out the arguments made by the BBC, because they get the highest share of viewing anyway. I would also point to a comparison of where they sit on the Sky EPG, where they get a higher share of viewing, perversely, than they do on the Virgin platform, which has them higher up the EPG rankings. I think that the debate may be being over-analysed, and it may not be quite as significant as is being portrayed.

There was a broader point that was made by some of the other members, which is to do with prominence on new emerging platforms that might be video on demand, or they might indeed be platforms like Sky Go. It has been argued that there ought to be some sort of regulatory "must be found" notion there. That is an interesting one, because on the one hand we hear the PSBs say that, but then, on the other, when it comes to the commercial day-to-day reality, a different attitude is portrayed by different PSBs. For example, we have been in commercial discussions with Channel 4, and Channel 4's channels will be carried on Sky Go from next week, in fact, so they will be found and they will be prominent, and yet when we try to have those same conversations with

the BBC, they are far more reluctant to have them. I don't know whether there is a regulatory gap that needs filling or whether it is a state of mind from some of the PSBs.

Adam Minns: Can I make a couple of points on that? Earlier on there were two debates around the EPG going on. One was should we extend prominence on to on-demand platforms, and the other was should we tighten up the definition. That was where the children's example comes in and where the BBC were talking about the channel being No. 13. On the first, it is a really complex area. Extending that prominence to on-demand platforms is interesting, but I think it does raise potential competition points and the potential to dampen innovation. That has to be looked at as part of any conversation or debate around this, and so far I don't think it has been.

I would make a few points on the tightening up of due prominence so that the BBC children's channels would be top of the Sky section. The first is that the BBC children's channels do very well already on Sky and on other platforms, and CBeebies is top in its demographic. The second point is that they already have a due prominence. It just doesn't give them the top slot, but it does give them the best available slot, and that has meant that they have leap-frogged over channels like Nick Jr, which shows 50% British shows. The third point is that, uniquely, because of its licence fee funding, the BBC isn't dependent on its EPG position to determine its investment in UK content, whereas we are. As we have put in our submission, we have increased our investment in UK children's content by 60% over the last few years, and the BBC's proposals would damage that.

Q713 Mr Bradshaw: Can I have your views on IP and the status of the Digital Economy Act and its implementation?

Adam Minns: With DEA, whatever the rights or wrongs of the process behind it, it has been an opportunity missed in terms of there are two or three years where we have not managed to do anything to address it, and IP is incredibly important to our businesses. It is probably the single most important thing there is, and that does seem to be a shame. I think it has undermined confidence.

Adam Kinsley: I would absolutely echo that. We are very anxious to see it implemented, and the fact that we are sitting here in 2013 and we are still some way off seeing any progress is a little bit depressing. What we need to think about is that when we come up with the next set of reforms for IP, which may be less helpful for the creative industries, we need to think very carefully about how we do that and the time it is going to take to implement those as well.

Q714 Mr Bradshaw: When you say "the next set of reforms", are you referring to—

Adam Kinsley: Hargreaves.

Mr Bradshaw: The Hargreaves reforms. Can you talk about those, and also why you think implementation of the Digital Economy Act has been delayed?

Adam Kinsley: There have been lots of reasons why it has been delayed. It has been legally difficult, clearly. There have been some challenges to it, and

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there have been some other legal, technical reasons why it has been delayed.

Q715 Mr Bradshaw: But in the context of Hargreaves and the different direction that seems to be taking us—

Adam Kinsley: Yes. I would like to think the reasons for the delay are not connected. I don't think they are. When it comes to intellectual property, it is a really important cornerstone for the creative industries. It encourages risk-taking, and it tries to protect ideas and it creates property rights around all of that. Some of the current debates around intellectual property seem to be about deregulation, and it seems quite a strange notion to try to deregulate a property right. It does not seem like the right thing to do, and that is why I think there has been some resistance from the creative industries, because of the general rhetoric surrounding that. We have not seen the detailed proposals from the Government on this, so it is quite hard to comment on the specific exemptions, but the language around it and the direction of travel does not seem to be a particularly healthy one.

Adam Minns: What I would say on the exceptions is that, in principle, we would prefer them to be unbundled so that we can look at them individually and have individual impact assessments wherever possible.

Q716 Chair: Can I see if we can find agreement across both panels? Do you share the concern about the use of section 73?

Adam Kinsley: Looking at the European case last week, I think there may be some issues that the UK Government have to make sure are in line with the European Court's ruling, but other than that it is probably more one for the Government to work out.

Q717 Jim Sheridan: Unfortunately, I didn't have the opportunity to go on the recent visit to the Sky Skills Studios that a number of my colleagues went to. What evidence is there to suggest that Sky Skills is enhancing the creative industries curriculum?

Adam Kinsley: It was a shame you couldn't come. It is a great facility, and it is an exciting way of engaging young people and giving them an experience of the creative industries, using really state-of-the-art technology, green screens and fantastic editing suites. Hopefully it will tap into the creative juices of these young people and they can see what the creative industries can offer. It is one element of what Sky is doing to try to encourage people in this space. Hopefully some of those schoolchildren will be excited by that, but probably more tangibly we offer a very good apprentice scheme. We have around 100 people joining us this year, which is across the mix of our business, and that, together with our graduate scheme, is probably where the growth is going to be. The Sky Skills Studio is a very exciting model. We are going to get 12,000 schoolchildren from lots of

MPs' constituencies, so I am sure we can get you to come along and showcase it to you.

Q718 Jim Sheridan: How many of these 12,000 schoolchildren are from outside London?

Adam Kinsley: I should know the facts and I can get those to you. It is not just about London. I think we have had people coming from quite far afield, people making the journey and travelling several hours to come down. We did give the Committee the facts last week, but unfortunately they are not at my fingertips.

Chair: I am not sure there are many yet from Scotland.

Q719 Jim Sheridan: I would hazard a guess. At the end of the apprenticeships, are they guaranteed jobs?

Adam Kinsley: To be honest, I am not sure exactly how the scheme works, but I think that the apprenticeships scheme is embedded within Sky. I think these are full jobs, but I would have to get back to you.

Q720 Jim Sheridan: Are there any other broadcasters that have similar schemes—the BBC or any others?

Adam Kinsley: I think the BBC does have an apprenticeship scheme. I do not think it is on the same scale as Sky's, actually. I think I read in its submission that it had around 50 people, but I am not sure now.

Q721 Jim Sheridan: Can I perhaps focus on the really young children? Regardless of what you think of the Disney Channel, it does make a significant contribution to young children's education. Does Sky do anything like that?

Adam Kinsley: Sorry, I am not quite sure—

Jim Sheridan: The Disney Channel has very good young children's education around how to count, read and all these kinds of things. Does Sky or any other broadcaster do similar?

Adam Kinsley: I think some other broadcasters on the Sky platform do. I don't know if you have examples of that, Adam?

Adam Minns: Disney is a COBA member, as are Nickelodeon and Cartoon Network. Do you mean in terms of their educational remit towards younger children?

Jim Sheridan: Yes.

Adam Minns: I think it goes across the board. That is really part of the culture in those channels. Disney you have mentioned. Nickelodeon, for example, had a three-year anti-bullying campaign. It partnered with the Government and I think that was very high profile. Turner does a lot of outreach work with the Leonard Cheshire Disability charity and Diane Abbott's schools programme—there is a lot of that educational and CSR ethos in those channels, yes.

Chair: I think we have finished all our questions. Thank you both very much.

Tuesday 26 March 2013

Members present:

Mr John Whittingdale (Chair)

Conor Burns
Tracey Crouch
Paul Farrelly

Mr John Leech
Jim Sheridan
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **David Arnold**, film composer, **Sandie Shaw**, Chair, Featured Artists Coalition, and **Matthew Griffiths**, Chief Executive Officer, PLASA, gave evidence.

Q722 Chair: Good morning. This is a further session of the Committee's inquiry into support for the creative industries. For our first session this morning, can I welcome David Arnold, the film composer, Sandie Shaw, who is chairman of the Featured Artists Coalition, and Matthew Griffiths, Chief Executive of the Professional Lighting and Sound Association? Can I invite Jim Sheridan to begin?

Jim Sheridan: Thank you, Chair. I think the general consensus seems to be, given I am the most experienced, then perhaps I should kick off the questioning. Basically, the first question is: can you give a brief overview of what you see as the main challenges facing the creative industries and what we can do to help? Who wants to kick off? Alphabetical order.

Sandie Shaw: I had a list of all the different things that you were interested in, so I have put little points of all the different things, so I have done it that way.

Chair: That is fair enough.

Sandie Shaw: I was working under a huge umbrella; I was trying to be—

Jim Sheridan: I am extremely sorry to disappoint you, Sandie, but that is now over. I may have done that back in the 1960s but we have moved on from there. Anyway, what are the main challenges, David? Kick off in alphabetical order.

David Arnold: I think there are a number of things. The issue of downloading is something that I think is working its way through, and it is almost impossible to predict the absolute effect that that has had. I think everyone is very aware that there are piracy issues. There are one or two artists who believe that giving away music for free is a good idea for exposure and stuff, but I think the general consensus among artists, who I know and have worked with, is that they are very aware of the impact that piracy is having, so there is an issue with that. On the ground, from a working musician's perspective, I have noticed certainly over the last 10 years there has been a huge reduction in the amount of musicians walking through studio doors to work. Some of this is because of technology and people making music in their bedrooms. It is a very competitive business—studio ownership—and most of the big ones have closed and the ones that we do have left are in danger of closing, too.

The main studios that we have for orchestral recording are Abbey Road and Air Studios. Air Studios is currently up for sale, with an unpredictable future. We have gone from four or five major recording facilities

to two. If we go back to one then I think we are in grave danger of losing London as a centre for recording, especially for media. Media film appears to be the place where there is still money to pay full rates. Musicians get full rates and the supporting infrastructure surrounding big studios, whether it is catering, taxis and hotels, do very well out of Hollywood productions. The good thing about it is, technically, it is all export. So I think the protection of our facilities for a start. Perhaps the other thing especially is music and education: maintaining a level of education in music tuition in schools as part of the curriculum—and traditionally that has been a great starting point, certainly for everyone that I know and certainly for me—inspirational teaching, peripatetic instrument tuition made available for people, instruments for kids to learn on, which will build the next generation and the generation after that, in terms of musicianship and competent musicians, to maintain the level of excellence that I think we have in this country, which is quite extraordinary.

Q723 Jim Sheridan: Is there another part of the country that can compete with London in terms of facilities, and you talked about accommodation?

David Arnold: In terms of recording facilities, no there isn't really. You could record in places like the City of Birmingham Hall there, which is a beautiful acoustic space, but the amount of technology that you would need to put in for a contemporary recording negates that as a possibility. Plus the fact that, as fine an orchestra as the CBSO are, the core group of musicians who play for film music in London—there are probably about 300 to 400—are very used to working under those conditions. It is a very different job playing Tchaikovsky than it is playing the opening titles of *Star Wars* to *Click*, where there is a constant need to change performance, to change even the music that has been written and to produce a sound that is suitable for a film.

So, even though we have fine orchestras around the country, the skill of working to film is a very specific one, and you tend to only be able to learn that by doing it. So London, I think, will probably remain a central part for that. On top of that, we have all the post-production facilities, like De Lane Lea or Pinewood, where they do final dubs or mixes of the film and also cut the films. As far as film and TV is concerned, there seems to be a proliferation of post-production where music exists centred in London. It is nothing to do with musicianship elsewhere in the

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country but it is a very specialised facility that allows you to synchronise all these things together.

Q724 Jim Sheridan: The future of artists, Sandie? What is your view of that? What are the main challenges facing your organisation?

Sandie Shaw: I am going to address the point about what support we need, which is the main first point. Finance is the biggest barrier for emerging artists. At the moment, unless you are Mumford & Sons, and come from a public school and have a rich family that can support you, you are on the dole and you are trying to work and, by the time you get a sniff of a record contract, you just grab anything that they might offer you. We would like more independence. We would like to be able to get up to the stage where you have the work half done, so at least we can negotiate on fair grounds with record companies.

There was that thing that you tried to do with banks—give money to the banks the other year—and we didn't get a penny. It stayed with the banks because banks do not lend money to creators. They don't and they don't know how. We even had a meeting with Ed Vaizey and a guy from the Royal Bank of Scotland, and it was very clear that he was just going round and round in circles, because he didn't know what to do with the money, and he just gave it over to a load of other people that handled investments. They know nothing about creators. I have some ideas for how that money could come into the thing, but I will talk about that later.

There is this CDIS scheme, which looks promising, but it hasn't kicked in yet. So many artists are disadvantaged. They cannot start because of their background, and the best music comes from those in challenging backgrounds. It comes from Glasgow. It comes from Manchester. It comes from Essex. It comes from places and people that are struggling to make some meaning out of their existence. All we are getting is a load of Simon Cowell-type stuff, which is being paid for and owned by people, and the artists are just mere puppets now I say.

Q725 Jim Sheridan: Sandie, if I was being a devil's advocate—

Sandie Shaw: Please do.

Jim Sheridan: And looking at a working class singer performer, somebody like Adele, but when she has made it, cannot wait to get off to LA, starts complaining about paying taxes—

Sandie Shaw: Adele, I think she is fantastic for us. She is a great ambassador for British music. She is a wonderful artist, and exactly what we should be known for. We should not be attacking her in any way, we should be giving her, and people like her, as much support as possible.

Can I tell you about the life cycle of an artist? An artist is really lucky if they have three years. They are really exceptionally lucky if they have five years. They are a living legend if they get 10. Their money comes in fits and starts. To be a great artist, to have longevity as an artist—I can talk from experience here—you have to be able to afford to have fallow field periods. We don't work 9 till 5; we work under extreme pressure for an amount of time. You can

probably manage to stagger through it for six months and then you need a whole time off after that, perhaps a year. Women need to have babies. We can't go on stage with a big lump in front of us. It is hard. You can but you can't breathe.

This isn't taking into account that we don't earn an annual income, so therefore we should look at our tax in a different way. We should look at it at perhaps over a five year period, so that we can manage our affairs over a five year period, so that we can be more creative. What we could also do with tax—the huge amount that we do pay in tax when we do make it—we could have a portion of that taxable income kept aside for us to reinvest in the business. We have the option of being able to do it because who else—other than somebody who has already been a success in the business, rather than bankers—knows how to invest money in the creative sector? These are really important points that would really make our life so much more pleasant and easy. We wouldn't have people dropping down dead all the time. We wouldn't have people disappearing before their time. We would have people that were able to develop a lifetime career in music. Even if they were no longer an artist, they would have the wherewithal to start a different kind of business and use their experience in a different part of the business. I am banging on now, sorry. I am very passionate about this. I am an artist.

Matthew Griffiths: From my point of view, we come in at the live entertainment end. The companies I represent, which are predominantly small and medium-sized enterprises, perform entertainment technology and they form the connection between the artist and the audience. So everything that Sandie and David were talking about in the modern world only happens with our members being able to make that connection. We are often seen as backstage or the invisible side of the industry. People don't see what we do.

In terms of challenges that we have, I would probably categorise them in five general areas, picking up on themes that David and Sandie mentioned just now. Skills: particularly for us getting apprentices into the industry, getting a younger labour force that can come on and succession plan. IP: both protection and investment in the intellectual side of it. Finance, I think, is a theme that will run through all of this. Promotion: we are leaders in the world backstage as well as front of stage. We are leaders in the world. We need to be promoted by our Government. We have just come out of the most successful live event we have ever had in this country—certainly in modern day history—and we are still not allowed to promote that fact. I have comments about the Supplier Recognition Scheme if you want to get on to that a little bit later.

Then the final point I would make is engagement, and part of the engagement is this Select Committee, but we would dearly love to have more engagement at our local level. Sandie was very passionate about it now, and I would agree that it is people on the floor at the sharp end of what we do in creative industries, being able to engage meaningfully with Government or with the civil service or with people that are enacting policy, but that is—

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Q726 Jim Sheridan: Can I just take you back to the London centre thing? What are the creative industries doing for young people in Glasgow or Leeds or Manchester or Bradford even? What are you doing for people in Glasgow?

Matthew Griffiths: From my point of view, we are looking to employ younger people. A lot of the backstage side—

Q727 Jim Sheridan: I do not just mean performers. I mean technicians, composers and—

Matthew Griffiths: Yes. We now have the Sector Skills Council for cultural and creative industries, and we have the National Skills Academy framework that is rolling out. We are very supportive of that and we would like to see more of that going in. In terms of our own members, they are looking to employ apprentices, but they would like to be helped as well. We all know the issues around apprentices and what have you. I would say over 50% of our sector is degree educated. What they actually need is vocational experience. We need people that come in, the fixers, and by “fixers” I mean people that can electronically fix things, technical, and what have you. A lot of these entrants into the industry do not want to go through degree courses; they want to get in and get their hands dirty.

Q728 Jim Sheridan: The question I am asking: do they have to locate in London?

Matthew Griffiths: No.

Sandie Shaw: No, they don't, but it would be much easier and the FAC is really interested in setting up these creative hubs all over. At the very least, what they will do is give artists some sense of community and support, an exchange of ideas, the sharing of ideas. Look what we all did together at the Olympics. It was a sharing of creative ideas and not necessarily just recording artists or just composers. It needs a whole mix, and to have technology in there with it so we can play with it. We love technology and we love to play. The more openings and opportunities we have to do that the better.

David Arnold: There are very lively scenes all around the country in each different town. Last year, I spoke at colleges and universities in a few different places, in Cardiff, in Newcastle and in Edinburgh. There is an awful lot of stuff going on regardless. London as a place where record companies are located this is still just a matter of fact, but I think that is becoming less and less important. We talk about media centres. The BBC has moved to Salford, so now people from London are travelling there to do interviews if necessary, making it easier for people in the north of the country either to get access or to attend those kinds of things. There is still definitely—

Sandie Shaw: It is the moving on from that part, though, isn't it?

David Arnold: Yes.

Sandie Shaw: It is to get into the finance, because they are stuck there unless they come to London and they sign their life away to somebody. In order to make it easier for them to be more independent, we need to be able to give them this access to finance

first, because otherwise that is the only other option that they have.

Q729 Jim Sheridan: From my understanding that is what the creative council is for. Is that working?

Sandie Shaw: I am not a member of the creative council. We are artists we don't get invited.

Matthew Griffiths: My only engagement with that is through the skills and training side through the Sector Skills Council. However, it strikes me, when you look at the make-up of the council, from our industry point of view it is sort of disengaged; it is something else. It is very digital. It is very big company led, and so I suspect a lot of our members would have exactly the same reaction, which is that if they know it exists they do not particularly engage in it. I would encourage that; we would like to have more engagement in something that would get a very real feedback back into that system.

Jim Sheridan: Thank you.

Q730 Mr Sutcliffe: You have already mentioned the Olympics and the Paralympics and the success of that. There is no doubt that Britain is riding large on this. Having been around through the Select Committee, and I was in America recently, everywhere I go internationally people have said, “Wow, what a fantastic event.” The issue now is how do we maintain, promote and develop the legacy from the Olympics and Paralympics, which means that we can continue to be leaders? Another specific issue is around PLASA, which I will come back to. In general terms, what would you like to see happen on the back of what happened with the Olympics? Sandie, you said it was everybody working together; but tangibly, what can we do in creative industries to benefit from the legacy of the Olympics and the Paralympics?

David Arnold: To a certain extent, the Olympics were a magnification of what happens in this country anyway in terms of the arts. That is why people connected to it so effectively because I think people who consume or listen to music, or watch films or plays, have an understanding and a connection with the people that create that work, which is beyond something that you can teach. This is the great mystery of it, isn't it? Why do we feel a certain way when we hear certain pieces of music? In the Olympics, it was exclusively about creativity, whether it is to do with architectural design or theatre or song writing or composition or performance or playing or musicianship—anything—because it was a celebration of all the things that people say that we do very well as a country anyway. Most of the people who appeared on that were self-made artists. As Sandie said, they were people who struggled on the dole in the '60s and '70s, and the '80s to a certain extent, and found a voice and found a way through it. I don't think there is that much undiscovered great talent in this country. Great talent tends to be noticed reasonably quickly.

In the '60s and '70s, when there was a traditional sort of bedsit idea, they were kids together, formed a band. Of course there is going to be myriads of failure in that, but the ones who made it through, that struggle and found a voice and then found an audience, did it

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in a very old-fashioned way. They found places where they could play. They found places where they could play and hopefully not have to pay to do that. To a certain extent, I think word of mouth with the digital age now, and I think probably a demise in record company influence; the idea of word of mouth and democratisation of promotion is probably where we are heading. People recommend things to people, and they discover it themselves and they have more of a sense of ownership of it.

Going back to the original question, I think whatever support we can give to people who feel that they are driven to create music as artists—and I would say that as far as actors or playwrights or anything is concerned, even designing hats or something—if they feel that there is a burning passion for them to do that, it is irresistible and they would be doing it anyway, then I think whatever we can do to support those people, rather than perhaps force them to do something that they do not want to do in order to be assisted, in the hope that you will get an artist who becomes—

Q731 Mr Sutcliffe: I think that is great in general terms, David. I agree with you, but it is specifically: what can we do? You look at the different platforms that music and film is available on now and the whole issue around contents. There is going to be a need for more content, we are being told by the big companies and all that. On the back of the Olympics—and I agree that was the role that people came through—what is it that the Government or the industry can do to channel in to making these things happen? You are right to say we have to create the environment, and I understand that, but there must be other specific things that we can do as well.

Sandie Shaw: Why do we have to wait for the Olympics for there to be an event? Why do we—

Q732 Mr Sutcliffe: I am not saying we have to, but I am saying on the back of that success.

Sandie Shaw: You are saying that that was an opportunity to make a community out of the creative industries. It was a really lovely feeling, wasn't it? We felt great to be able to start liaising with other people and playing with other people. There must be at least one small scale thing that we could do in the year, and perhaps by doing that it will be clearer what the steps are that we can take. We need to have a frame for our picture. That is what we need.

Matthew Griffiths: I would probably pick up on that theme a little bit, which is: the games itself became a great place for British innovation all round, be it construction architecture, technology, the arts, everything was great about it. I think what we should be doing at a bigger level is promoting that worldwide: 70% of my members export their services. If you can promote it, if we can use it as a showcase then they will do the work for you. They will be able to take on and innovate on the back of that. I think that is what can come out of these situations.

I might point out that creative industries always get judged by other industries, "There is all that creative lot over there." All of this came together within a minute of 9 o'clock when the deadline was. There was

no putting it back because we didn't have the right colour light or an artist had not turned up or something had not been rehearsed. It went live to a worldwide audience within a minute of the scheduled time. The fact that these events are now being broadcast globally to so many people, the technology all has to work, the artists all have to know what is going on. That is something that should be celebrated in this country, and I think nobody else has done it as well as we did it last year certainly.

Sandie Shaw: You are saying what we need is like a show off thing that we can do once a year?

Matthew Griffiths: Yes. Let's be proud. Let's be un-British about it and celebrate it.

Sandie Shaw: Why not?

Q733 Mr Sutcliffe: What we decided to do in sport was to bid for every competition, so we bid for the Rugby League World Cup, the Rugby Union World Cup, and the Commonwealth Games. We bid for everything, on the basis that that was then the event that would take place. It was hoped that we would have a decade of sports that could lead to those frameworks that you were talking about. I think you could do the same thing with the—

David Arnold: We won't probably know the influence that the Olympics have had probably for another five or 10 years with the people who saw that and decided, "This is what I want to do." So those are the people in a way that are the most important: the people that appeared at the Olympics, for example, the rehearsal facilities that we had. I have to tell you it wasn't easy. By the time we got down to 8 o'clock on the Sunday night, when the show was beginning, it was very much fingers crossed because some stuff had never worked up until the point when we actually did the show. I have never felt as confident as I have in my life surrounded by so many people—a lot of British people who did a lot of the heavy lifting at Beijing as well, in terms of the design and lighting—that have done Olympic ceremonies before. As everyone got together and did it, you just felt that there was a sense of absolute excellence, calm and professionalism. You felt that everyone knew what they were doing. That was through years and years of experience and nearly all of them started, as Sandie described, at the rough end of things.

There were not that many people there who were university educated or went on courses and things like that. Education is fine for certain things, but in terms of raw kind of smarts and creativity, it is like you have either got it or you haven't. Usually, those people are the worst at looking after themselves—I am probably one of them—in terms of looking after finance or worrying about contracts or any of these kinds of things. All you want to do is do the work. That is all you want to do, and you want to do that to the best of your ability and everything else is a hindrance to that to a certain extent, which is why you have managers; it is why you might have assistants or you might have accountants.

I think whatever can be done to help younger people, first, to have the facility and the right to rehearse and to practice, but, more than that, somewhere where they can play and be seen. Because I don't think it is

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anyone's right as a musician to make a living at it. If people like what you do then well done. If they don't like what you do, if you are going to do what you do anyway, then the fact that other people like it and perhaps might want to buy it or come and see you, as they used to say in the music press, that is all a bonus. Artists will always create. If anything, the Olympics was a showcase for the people that had already made that journey and had already got there. The next generation of people, the people that felt like picking up a guitar or a computer or a violin or a trumpet, having seen anything that they saw on that, those are the ones that we need to make sure that we have the right venues available, rehearsal facilities that are perhaps reasonably priced. At Chalk Farm in Camden, at the Roundhouse, they have rehearsal facilities and studio facilities in the basement and it is a community-based thing. Dozens of kids from local estates come there and practice with their bands, and it is an amazing thing. That is a fantastic thing to have.

Sandie Shaw: They also need to learn to look after themselves.

David Arnold: Yes, and I think if you are among other musicians as well, other performers and other artists, and that sense of, "This happens to you as well," in terms of having support networks and what you can do is very useful. So anything like that, facilities, venues and protection against bad practice—although I guess it will always be there—but to a certain extent the Musicians' Union have legal facilities for that for people.

Sandie Shaw: Not for new starters. Not for recording artists—

Q734 Mr Sutcliffe: Matthew, can I move to you now on the marketing issues in terms of what has happened, and can you explain to the Committee what the issues are in terms of the marketing rights and what the Government have done so far?

Matthew Griffiths: Thank you for the opportunity. I don't want to bring a downer on this particularly, but it follows on from the showcase element of the Olympics. It was a unique opportunity to promote what a lot of companies that took part did and the excellence that was there. Of course we were prevented from doing so because the arrangements in place with the main line sponsors, which, when speaking to the main line sponsors, the understanding was to stop gorilla marketing and utilising all the benefit that comes from the Olympics that these sponsors had. Post the Olympics, it would seem only fair and right that companies that took part would be able to say that they took part, and that did not happen immediately afterwards.

A couple of months ago we had the Supplier Recognition Scheme that came in, which we widely applauded. We thought that was a great thing. Although, unfortunately what has happened is that the categories that have been drawn up are so broad—for instance, there is a category that prevents anybody talking about audio, video or audiovisual. That covers everything. A number of our companies—people that did the sound in the live event, people that provided entertainment lighting—are getting caught under broad categories like industrial lighting, so it bears no

relation to what we were trying to protect. It means you have a disconnect. You have people going down to Rio to try to bid for the games down there, paid for by the British Government through UKTI, but they are not allowed to talk about the work that they have done on the Olympics, technically, because of these restrictions.

Q735 Chair: They are bidding for an Olympic contract, and they cannot talk about their experience in working in the Olympics?

Matthew Griffiths: At the Olympics, correct. If you follow the—

Sandie Shaw: It is ridiculous, isn't it?

Matthew Griffiths: It is ridiculous.

Q736 Jim Sheridan: It is linked to the IOC and the protection of the main sponsors, is it not? That is the problem.

Matthew Griffiths: That is what it is. I don't know if I am allowed to use names here, but the one covering audio and audiovisual I suspect is Panasonic, which is fine, absolutely right and good, and they ploughed a lot of money into it. However, someone that was doing an audio system, or the entertainment lighting on the opening sound, doesn't come anywhere near Panasonic. Someone that is doing entertainment lighting doesn't come anywhere near GE. These are big billion-dollar corporations. They are not going to be affected by someone saying, "Look, we did this. We helped get the cauldron working as an iconic event." There is a company in the south of England; 20 people in there; they built the iconic Olympic rings that went up. One of the best images of the games I thought in the opening ceremony. They are not allowed to talk about that. Consequently, SMEs have given up. They just see it as—again they are a bit cynical—something put in their way.

Q737 Mr Sutcliffe: It is not just protection of sound; it is the people that laid the tracks in the velodrome. It is all the small companies.

Matthew Griffiths: They are all small and medium-sized companies. I genuinely believe the intent was to try and help and everybody understood why the restrictions were there, but it is blown up in our face a little bit. All it leaves the companies that are trading and trying to work is just bitter. They have become cynical about it, and they give up on it basically.

Q738 Mr Sutcliffe: For the record, what would you like to see happen further to that scheme?

Matthew Griffiths: Either we need to be more specific in those restrictions with the Supplier Recognition Scheme immediately, or if they would like to engage with groups like us, clearly I would be very open to that. You have companies out there shouting about it, so you have to review those restrictions or lift all restrictions completely.

Q739 Mr Sutcliffe: Have you had any discussions with the IOC, the International Olympic Committee, about this or anybody else?

Matthew Griffiths: Yes, we have been constantly trying to get meetings. We have been speaking to

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Members of Parliament; we have been speaking to Lords, trying to get the heat underneath this. I think it is one of those nettles people don't particularly want to grasp and it will go away in time.

Q740 Mr Leech: How important are further tax reliefs to the creative industries?

Sandie Shaw: I have done my bit.

Matthew Griffiths: Any type of tax relief would be great for the creative industries. We are no different from any other industry. I think anything that centres around perhaps R&D, innovation and skills training, bringing new entrants into the industry, anything that helps the smaller companies do that, to encourage the young into the creative industries is a good thing. Very broadly, yes, tax relief is obviously a good thing. Film benefits from it, particularly in TV. I think the live side could do with it. We are a big contributor to the British economy and any sort of relief would help us.

Q741 Mr Leech: Are there any examples from abroad that you think the UK could learn some lessons from?

Matthew Griffiths: Nothing I could pull off the top of my head for my sector at the moment. I don't know if anybody else has anything.

Sandie Shaw: We are leading the world in creativity anyway, so what can we learn from them really?

Q742 Mr Leech: I am interested that you make that point. On that basis, given that the creative industries here are doing quite well, in relative terms to other parts of the economy, why is it that we should give additional tax relief to the creative industries when other industries are struggling and the creative industry is doing relatively well?

Sandie Shaw: My idea was for us to give ourselves the money. We are not asking for the Government to do it. We are asking for the money that we would have paid in tax—a portion of that—for us to be able to reinvest it in our business. It is not like it was in the '60s, '70s or even '80s. You can see the vast amounts of technology that a new artist needs to get going, get on the ground. We live a lot in the past here. We have to live for the future. We have to invest because it is all going to run out.

If you look at copyright extension, if you look at that that is not going to benefit any of those old people—all the recording artists in the '60s and '70s are not going to get a penny. The only people that are going to get money are the record companies, the collection societies and the session musicians. The people that made those records are getting a tiny portion of it because nobody cares for them. Why shouldn't they be looked after when they are old? None of them go on stage anymore. You don't really want the Troggs jumping about on stage, do you? You want them to have a life. They have put enough money in. It is like looking at it as R&D. Those are people from the past and we should look after them and treasure them, which we don't. The people for the future they need investment. The R&D is in these artists. You cannot just pick up a guitar nowadays and do it. You need much more than that. We need access to technology so we can play. We need to be able to work directly

with technology without all these people in-between that take bits of our money away. We want to learn how to be more independent. The more independent we can be, the more income we can make, the more longevity we will have. We don't want this feast and famine thing going on; the stress that is totally unnecessary to work in. We can have so much more creativity. Why should there be an end to it, a finish to it?

Q743 Mr Leech: Are further tax reliefs more about keeping ahead of the game, rather than taking us even further forward though from the industries' perspective?

Sandie Shaw: If you don't keep ahead of the game you are finished because creativity is like this.

Q744 Mr Leech: I come back to the point I made earlier, about there are other industries that are struggling and the creative industry is doing quite well. Are you suggesting that, without further tax reliefs, the creative industries in this country are going to start falling behind other countries or are you suggesting that, by giving additional tax reliefs, we can expand the creative industries much further?

Matthew Griffiths: Yes, I would go for your second option. We are a growing sector at the moment, given the economic situation. Because we are a growing sector, if you support it a bit through the tax relief, you will get an even more successful sector. For all the reasons that Sandie was laying out just now, we are growing, we are not stagnant, and we can do a lot more. If we don't invest it is true to say that we will be overtaken.

We have a massive threat coming in from Asian companies at the moment—China, with the manufacturing. What we have unique in this country is creativity, and we have to support that every which way we can. That allows us to stay ahead, and if we stay ahead that means we have more people paying tax—be it corporately or individually—and that goes back into the system. So I would say it helps us not only to stay ahead, but it will give us the edge going forward.

Q745 Mr Leech: I think in your written evidence you suggested that the support should be towards innovation, research, development and manufacturing. What shape would you see those tax reliefs being then?

Matthew Griffiths: In any shape at all. Anybody that is investing, we in this country—

Mr Leech: The reason why I push you on that is because it is all very well to say, "Yes, tax reliefs would be great." Everyone accepts that tax reliefs would be great, but if there are going to be tax reliefs what we need to know is exactly what shape and form they should take to be the most effective. What would be the most effective way of helping the creative industries in terms of tax reliefs for you?

Matthew Griffiths: Purely from my perspective, the two areas where we need to put it in is into the innovation end of IP tax reliefs, so for companies that are innovating new technology, for new products, purely at that end because they are the ones that are

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shaping the industry going forward. The other would be tax relief for companies that are going down the route of employing apprentices and bringing a younger workforce in. They would be the two areas that I believe our members would greatly appreciate as opposed to just general tax relief.

Q746 Mr Leech: As an aside, do you think that the current focus from the Government on pushing for apprentices is encouraging the creative industries to take on enough apprentices? If it is not, what is missing from that process to encourage the creative industries to be taking on those apprentices that you need?

Matthew Griffiths: Without wishing to hog this, I would say it has heightened the whole issue of apprentices, which I think is good. I think it suffers from bad press, though, where we have had people working for nothing type of media that flies around. Sorry, I have lost track of the original question. I was going to make the point. You were asking how we can encourage it.

Mr Leech: The question was whether the Government's focus on apprenticeships was enough to encourage the industry to take them on, and, if it was not, what more did the Government need to do to make those apprenticeships attractive enough for creative industries to take them on?

Matthew Griffiths: I don't think it is ever enough. The more we can do to help small businesses in some way, shape or form to encourage them to take them on. We are not big corporations that can take on cohorts of apprentices—like 20, 30 apprentices at a time. We have to do this at a local level, where people have been taking on ones, twos or whatever.

Apprentice Week was a couple of weeks back, I think. It was good to see the Deputy Prime Minister down in South London—funnily enough at a PLASA member—supporting the work that they are doing but they are employing half a dozen apprentices. It is at that level. It is trying to get support in at that level and also encouraging school leavers that this is an option, “You can go through this. You are not going to be abused as a workforce, you are going to...” Some 60% of the apprentices that go into these companies actually stay with the companies, so it does work. I suppose better promotion in that respect, but that is purely from a technical point of view. I think from a creative side it would be different.

Sandie Shaw: Each artist is a small to medium business, so it is quite difficult to take an extra person on board and be stuck with the employment laws because, as I say, your business is feast and famine. It is quite difficult for us to do that, but we would love to do it. We love training people in that way. We don't really favour degrees.

Can I go back to your thing about, if a business is good, why should we keep putting more money into it? At the moment, we have no UK record companies. We have lost all of our record companies. They all belong outside of here. They are all multinationals. If we reinvest, and if artists can learn to become more independent and learn to make new ways of accessing their audience, working with technology, then we would replace that old industry that is dead now. It is

dead. It has gone. It doesn't exist. We need to create new record labels here that are UK-based. It was the worst thing that ever happened that EMI went. That was such a national treasure.

Q747 Chair: This Committee, two weeks ago, had a meeting with Lucian Grainge. He is a Brit—

Sandie Shaw: Lives in America and works for a multinational.

Chair: who is currently in LA, but, none the less, is re-launching some of the most famous labels, the ones that signed the Beatles and some of the greatest artists. He is investing in British artists. He says that he is going to send his A&R guys out and find lots more artists, and he was more positive about the future of the music industry than I have heard him particularly speak for quite some considerable time. The fact that his label happens to be centred in Los Angeles, does that matter, as long as he is investing in British artists and British artists are going to have that opportunity again?

Sandie Shaw: I think Lucian Grainge should be allowed to dig his own grave and if he wants to do it is not for me to—

Chair: Do you think that is digging a grave?

Sandie Shaw: No, I was just being facetious. I am saying it is none of our business what he does. Let him do what he does. However, we need to start reinvesting here and having our own UK business. It doesn't matter what Lucian Grainge does anyway. That is fine; it will help some artists. It won't help some others. All I am saying is why don't we have a record business here? It is outrageous.

David Arnold: Musicians tend to not be very good at running businesses. They tend to be not very good at running record labels. That is why they are—

Sandie Shaw: I am very good at running my own business. What are you talking about? Most artists are brilliant at it. We do courses all the time, teaching them about copyright, and the first thing is the more you teach them, the more they realise they are being ripped off by everybody.

David Arnold: Yes, I agree. I know it is essential that they do know all about it, but I think a lot—

Sandie Shaw: What is their manager's job?

David Arnold: If you have a manager. There are two strata that we are talking about: there is the music industry, which is the record companies and so on, and there are musicians. The majority of musicians in this country don't have anything to do with the music industry as we are describing it, as record labels. Most of them are not signed. Most of them don't have publishing or recording deals. Most of them don't have management help. Lucian, when he does his sweeps of the country, which if he manages to find a brilliant talent and make it work it is the most fantastic thing, but we cannot—

Sandie Shaw: We cannot all rely just on Lucian; there have to be other options.

David Arnold: I am not saying that. In terms of what we are talking about, where tax breaks might help, if there are facilities where people without any of these facilities can rehearse, gather, perform and practice, if they can have access to instruments in school, if they can have access to peripatetic teaching in school, if

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we continue to keep music seriously as a subject in school, so that people can learn the mechanics of it in terms of being a musician at a grass-roots level, I think that is really important that we manage to keep at least an option of opportunity available for people who want to try it.

Q748 Jim Sheridan: David, I am surprised that from the music industry nobody has suggested that they want a comparison in terms of VAT with the games industry or the phones industry?

Sandie Shaw: We are creatives. We are not thinking like that; we are thinking about how we could be more creative.

Q749 Jim Sheridan: In terms of tax or VAT, you do not want to be compared with other creative industries, such as films and games and so on?

David Arnold: In terms of what, sorry, Jim?

Jim Sheridan: VAT. They have different VAT payments.

Chair: It is not VAT, no.

Jim Sheridan: Is it not VAT? I apologise.

Chair: For tax reliefs, it is a tax write-off against corporation tax.

Jim Sheridan: I thought it was VAT.

Q750 Tracey Crouch: None of this is particularly new—is it?—in terms of the fact that the creative industry has always been part of a global industry in many respects and, over the years, peaks and troughs as to whether or not the UK is more competitive than others; whether or not it is more beneficial for artists to be based here or to record abroad. I saw the documentary recently on BBC4 about Queen and the fact that they had to go to LA to record some of their albums because they were being charged 83% tax in the UK and things like that. So none of this is new. You talk about technology taking over. I am a big vinyl enthusiast, and watching all the series about the history of the record industry and everything else, this is just the next step in that surely? What is important for the industry—is it not?—is that we are still providing the most competitive, most creative base for the industry as a whole. Something like tax relief, whether it is the existence or continuation and development of them, is surely something you would be in favour of for that base to still be here.

Sandie Shaw: Of course.

David Arnold: I completely agree. I think we are in huge transition at the moment, and to a certain extent, a lot of people rely on collective representation in order to have their affairs taken care of, whether it is through PRS or PPL if you are releasing your own work. If you are not a writer or if you are just a musician, for me if there was incentive for someone to open up a recording studio or a rehearsal facility in a town where people could gather and do that sort thing. People will always want to be making music and are always going to be wanting to, so I think if we can offer them some facility whereby they can continue that and do that to the best of their ability, that would be helpful.

The digital world is such a minefield. For example, when you get a new service that turns up, like Spotify,

which all of a sudden pushes up the amount of access people can get to music. Post Spotify, I think PRS processed 65 billion individual uses of music in 2012—65 billion—which is an extraordinary amount of things to keep a hold of. As a musician, no matter how adept you are at knowing your business, contractually or whatever it is, these are the kind of runaway things that we have very little control over and, to a certain extent, would rely on sensible legislation, in terms of what people can and cannot do with material that is produced by content effectively.

Sandie Shaw: Please don't keep saying that. These are my babies. First of all, it was called "product" and now it is called "content".

David Arnold: Yes, but it is just an easy way. The songs that you make someone can build a business on and somehow say, "We can't afford to pay you anything for this until we become incredibly..." It is a bit like building the greatest car showroom in the world and expecting BMW to give you all their stuff for nothing until they can make their business model work. I don't know the Spotify numbers in terms of what they pay to artists, but it is a very different environment.

Sandie Shaw: Nobody knows. It is all these NDAs.

David Arnold: Yes, it is a bit smoke and mirrors and it is a little bit unknowable, and that is the thing that troubles most people. With a physical record, you send 10 to a record shop, if they sell five, you get the money for five and you get the other five back. With the way music is now, it is a very different scenario. When you talk to kids who are of record buying age, the way that they experience music is completely different to the way that we used to. They are not interested in ownership; they are not interested in buying necessarily something that they can have. I am not saying that this is everyone, but certainly 13, 14, 15-year-old kids, who are buying music or experiencing music, tend to do it either by streaming or what they call sharing.

Q751 Tracey Crouch: So short-term consumers basically?

David Arnold: Yes, and then the argument always is for musicians, "Well, you should somehow make the money that you might make from a sale from doing something else." You could do adverts, which is fine if you are Paul McCartney. Although if you are Paul McCartney's keyboard player, it is less easy for you to go out and get sponsorship.

Sandie Shaw: It is fine if you are a young, slim girl; you can get lots of branding. However, if you happen to be a bit big or not so young then you cannot rely on that. It is stopping people from being what they are, and that is singers or musicians. Why would they have to be clothes dollies?

Q752 Chair: Sandie, I want to come on to something you have strong views about, which is IP. Just before we do, can I make it absolutely plain in my mind what Matthew was saying earlier because we might be able to help on this very specific issue about your marketing. Is it that the contracts that your members signed with LOCOG, I assume, specify that they are

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not allowed to basically publicise the fact that they have a contract?

Matthew Griffiths: That is correct; that is where it started from. The original contracts were absolutely clear that you could not promote your involvement in the games. Everybody understood that because a lot of money was coming in from the headline sponsors, so everybody signed up to that. What also fell out of it was that a lot of the work was subcontracted down, so you have people who are signing the contracts and then you have about three or four levels underneath that. So everything became a bit messy as to who could say what, but the general view was nobody could promote prior to the Olympics.

Q753 Chair: However, what of the contract? Did the contract say “promote” or did it say “make any kind of public statement at all”?

Matthew Griffiths: There are three or four clauses in it. If you were reporting in a news piece so, “Matthew Griffiths supplied a javelin to the Olympics,” I could say that, but I could not have an advertorial. I could not promote it in publicity. I could not market it and that sort of stuff, and clearly that is what we need to do. Some of the rigging technology that was used was very special to that stadia and how it was put together, but we cannot advertise that.

Q754 Chair: Your interpretation that you cannot even put it in a tender document, is that explicitly stated in the contract originally signed?

Matthew Griffiths: No, you are allowed to put a short piece that is factual along with other things that you have done. So, “I have done this, this, this and this,” and one line or two lines of that will be, “We provided X, Y and Z to the Olympics,” but that is not the same as going out there and promoting and pitching for contracts by showing what you did at the Olympics.

Q755 Chair: Right and that is the explicit result of the contract, which is all you are allowed to say. Presumably, your members did know that when they signed the contract?

Matthew Griffiths: Yes, they did. Of course they did, and they understood why that protection was in place. What no one thought would happen is that that ban would stay in place post the Olympics, or that there wouldn’t be a relaxing on that ban, more particularly to the companies that are two or three levels down from the people that signed the contract.

Q756 Chair: Once a contract has been fulfilled and you have supplied the equipment, I mean how is the ban enforced now?

Matthew Griffiths: Badly. I cannot give you any anecdotal evidence or any evidence at all that the ban has been enforced, but we cannot go around saying, “There is a contract in place but don’t worry about it, ignore it, just go around and promote.” We would rather we were doing it legally, I suppose.

Q757 Mr Sutcliffe: It goes back to what I was saying; they blacklist companies and refuse to allow contracts from—

Chair: No, I understand the IOC rules. What I am not clear about now is you signed a contract with LOCOG to supply rigs or whatever. You have done so. The games are over, end of contract. If your member now went and put in a tender document, “This is what we did; here is a great picture; it was a great success,” who is going to come? LOCOG has been dissolved.

Matthew Griffiths: It is the BOA now that takes those rights on, yes, and my understanding from the contracts is that it was implicit in that that the ban was for ever. There is no end date to the matter. They don’t say, “After six months”.

Q758 Chair: Have you sought legal advice on behalf of your members?

Matthew Griffiths: No, we thought trying to work with the system and trying to get it clarified would be the easier option than trying to get the legal beagles involved. To be honest, a lot of our members again, because of their size—if we had massive legal departments that might be another thing—a lot of them are thinking, “You know what, it’s too late now; we have had the opportunity; we have blown it; let us just plough on and do something.”

Q759 Chair: Would it be helpful to you if we contacted the BOA and said, “What is your view of what is permitted and what is not?”

Matthew Griffiths: Yes, that is absolutely what we should be—

Chair: I am very happy that we pursue this with BOA and try and get some clarification because it sounds completely impossible.

Matthew Griffiths: Any help, Chairman, would be absolutely encouraged.

Q760 Chair: Can I now turn to IP more generally? Just to set the scene, can you say what you think of the current state of copyright law and, in particular, what you think of the proposals from the Hargreaves report? It is probably more David and Sandie.

Sandie Shaw: Can I just make a suggestion rather than keep—

Chair: Yes.

Sandie Shaw: Regarding piracy—

Chair: I was going to come on to piracy.

Sandie Shaw: I will come back to that, okay. All right then, I am concerned that the IPO are not listening to us. I am concerned that there is a Bill just about to go through about the extension of copyright, which is so totally and utterly unfair to artists. The finances are such—

Q761 Chair: Which particular measure are you talking about?

Sandie Shaw: It is the copyright extension.

Q762 Chair: You are talking about term extension?

Sandie Shaw: Term extension, yes. When the artist’s royalty ends up as 1p and the records company gets 46p and the session musicians get 9.4p, there is absolutely no sense in that whatsoever. Why are they getting 1p? Nobody has asked us; we have not been consulted on it. We are left out of it and they are saying that they are just going to do it. They do not

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want to listen to us. Is it possible for you to say, "Could you possibly take on board what this group of people would like to happen?" because they just won't listen to us. We have tried time and time again to get some kind of hearing, but what they are going to put through is just going to be awful. They say something about, "We can't have gold-plated arrangements. We have to do what Europe does," but Europe have left us to do it as we see fit within our own culture. So why can't we sort our own mess out, come to an agreement and then advise the IPO how it would work best for us, including the artist? We are always excluded from all of these talks and nobody is representing us. The Musicians' Union do not represent us; they represent the session musicians but not us. It is grossly unfair and we would like the IPO to give us some say in what is our future.

Q763 Chair: The term extension proposals are obviously subject to consultation, but you feel you are not being listened to?

Sandie Shaw: They are not inviting any comment at all. I started this whole thing off about copyright extension myself years ago with Eric Nicoli, who used to run EMI, and said, "Do you realise that all you record companies, you are dependent on the money from your back catalogue to finance all your R&D, and the back catalogue is going to finish soon?" because it only had 50 years. He said, "I had no idea." I said, "I think we should work together on this." Nobody worked together with us; they went ahead and did it on their own and just screwed the artists.

Q764 Chair: I remember when the campaign started, there was a full page advertisement signed by something like 500 artists all calling on the Government to campaign for term extension, which I supported, and we then finally got term extension through Europe, but you are saying of the 500 artists none of them are going to see any benefit?

Sandie Shaw: They will see 1 penny per download. The record company gets 46p and the session musician gets 9.4p. Is that fair?

Q765 Chair: How does that compare with the existing?

Sandie Shaw: You see all of these artists from that time do not owe any money to the record company. They are all repaid. It is all sheer pure profit. There is no outlay whatsoever, nothing from the record company. All they have to do is to make it available to the public for downloading, and why should we only get 1p. This is the heritage of the music industry; why are we being treated so badly?

Q766 Chair: However, this is less about term extension than about the contract between artists and—

Sandie Shaw: No, it is to do with the terms of the term extension—our terms, among ourselves, and how it is implemented. It is wrong to implement it in that way. They will not listen to us and we need them to listen to us, at least for us to be able to explain to them what the outcome is going to be. Then if they

want to screw us, you know, we are getting used to it now.

Q767 Chair: We are talking to PPL later obviously about a slightly different matter.

Sandie Shaw: PPL are also getting a huge amount from this, too, but we have no governance, proper governance in PPL. Our moneys are split 50:50. You know about PPL; it is the money from broadcasting fees and all of that. So they collect that money: 50% is for the labels; 50% is for the creators. The labels own PPL; we don't. We have no ownership of that of which we are a member. Like PRS, PRS has proper governance; PPL doesn't. We have two artists on the board. They have four label people. They have an MU on there for the session musicians. Equity are on there and two people from PPL exec. That is not very fair when we own 50% of the money. What is going on here? Why aren't we offered ownership the same way as PRS is done?

As we move forward from the past historically, lots of things have to be cleaned up and made fit for purpose. How can we even think of doing a hub with PRS and PPL, doing this and taking control of this, which would be great if we were the London centre for the whole of Europe at least? How can we think of that when we do not even have proper governance in one of the organisations? This has to change.

Q768 Chair: We will obviously talk to PPL about that in our next session. Can I ask you about what you also mentioned at the start, which is piracy? You said in your submission to us, "Peer to peer should be dealt with through education," and then you say, slightly later on, "Organised piracy is theft and should be stringently dealt with by the law." I am not quite sure how those two—

Sandie Shaw: Well, it is theft, so sue them, take them to court.

Chair: I know, but when you say, "Peer to peer should be dealt with through education," that implies you do not support the legal measures.

Sandie Shaw: Peer to peer or sharing is often used by artists to find a way to an audience. If it is done with the artists' consent, then why not? However, if it is not done with the artist's consent, it should be dealt with by law. One of the ways of really disadvantaging the piracy people is to stop their advertising money. There are so many people advertising on that, it should be illegal to advertise on a pirate site. Why not? It is sense, isn't it?

Q769 Chair: Those are remedies that we have explored with Google and such like. The way they tackled the original pirate radio stations was to try and cut off the advertising.

Sandie Shaw: I like the original pirate radio stations, but at least it gave birth eventually to BBC and how it is today.

Q770 Chair: I remember the Featured Artists Coalition had some unhappiness with provisions, for instance, of the Digital Economy Act and the measures being taken there to deal with piracy.

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Sandie Shaw: I think as we have gone on we have learnt a lot. We have learnt a lot about what can and what cannot be done, and so we are only putting forward now the things that we think can be done. As a creative, I would like to work creatively with other people and follow the money.

Q771 Chair: David, do you have any thoughts?

David Arnold: I think piracy is a very complicated issue. It basically comes down to one very simple thing. As a creator of a piece of work, I think I should have the final say in what happens to it. If I choose to give it away then that is my business. If I choose to allow other people to give it away on my behalf, that is my business. If I choose for other people to sell it on my behalf, that is my business. Every day in my inbox on Google Alert I get two or three pieces of information about where I can download various sound tracks or records or songs that I have done for free, like torrent sites and sharing sites. That is just a matter of fact. I think education is where the whole thing could probably be nipped in the bud. Most people that I know who I have spoken to about, “Do you know what happens to the regular musician who might”—the majority of PRS members earn less than £5,000, £6,000, £7,000 a year in PRS payments. It is a very small amount that gets the big numbers. Every time someone brings up Elton John’s flower bill it does everyone else a huge disservice because it is not like that for anyone other than Elton John.

People’s perception of sharing music, in the way that we have come to know it, is that it is harmless and no one is losing anything. I have had discussions with those people about what happens from the grass roots, at the working musicians’ level. When you don’t buy something then that money doesn’t get through to the studios, it doesn’t get through to the musicians, it doesn’t get through to the instrument manufacturers, it doesn’t get through to the facility providers and, one by one, those things disappear. The musicians will not be coming into studios, either the musicians do not exist or there is no money to pay to employ them. This is what we are seeing; we are seeing a very gradual erosion of our skills base, of the people that know how to mic up a piano properly, how to record an orchestra properly, even how to get a guitar to sound good in a room. That is what we are in the process of seeing at the moment, which is obviously very distressing. Most people do not know that that is the result of them downloading something for nothing. To a certain extent—and we thought about this a few years ago—if you were to show people the everyday life of a working musician, like the everyday life of most working people, it is really not a very spectacular thing. You are doing what you love, which is fabulous, but you have to get up, you have to go somewhere, you have to perform at a level of excellence that I have to say is only required by surgeons. They practise seven or eight hours a day if they are working or they are not working. If people understood the impact of piracy on our skills base is so great, I think most people would probably choose a facility whereby they feel that their money is getting through to the people whose livelihoods are being most affected by it.

A subscription-based service, like Spotify, as an idea is a great idea. How it works in practice I do not know the mechanics of it, but you hear varying degrees of satisfaction or dissatisfaction with that. However, I think we are probably moving more towards subscription-based music consumption where people will be paying so much a month, like they do for Sky or Netflix. You pay them £6 a month, £10 a month and you get the choice of access to music. As long as that is accounted for correctly to the people that own the music, own the copyright and the performance, then I think that is probably where we are going to end up heading. It is very difficult to—

Sandie Shaw: We could do a great education programme on that, couldn’t we? We could get together and we could do something inspiring for kids. You have to realise that most kids don’t have a pot to piss in and they don’t have any money. They are unemployed. They have no hope. Music is something that can build that up inside them. So first of all, you have to remember that that is the situation that we are dealing with. We could grab their imaginations and teach them and show them in some way. We could make a film or something, or do some music. We could do something. If we were saying, “Here is a lump of money. We will use it and we will do it that way.” We could do that. They don’t want to listen to record companies; they do not really care about them; but they do care about their artists. They love their artists, and so it would be great if we could speak to them directly about our situation—also to make more legal things more accessible.

David Arnold: In a way, I think, successful artists are the worst people to be fronting these things because they look at people that have had success and achieved success and say, “You’ve done all right out of it.” However, it is such a tiny minority of people that get to that level. We are constantly talking about education, education, education.

Sandie Shaw: I do not mean education like learning by rote.

David Arnold: No, I am talking about how do we make this a physical, actual practical thing that can be done, that can be achieved? How do you tell people, “This is what happens when you download something that you haven’t paid for that the artist would have liked you to have paid for.”?

Sandie Shaw: We could make a film about it.

David Arnold: We could make a film about it or you might be able to—

Sandie Shaw: We could get it scripted. We can get—

Chair: A lot of these things either have been tried or indeed are happening. There is no shortage of attempts to educate people about copyright law. We are going to have to move to the next session.

Q772 Tracey Crouch: One last question on training and skills. I think we have established that you think that music should still be on the curriculum and that we should be doing more to encourage our creative youngsters. Matthew, there is a reference in your own evidence about further and higher education institutions having a central training role, but you also allude to the large number of regulations that inhibit

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the development of these, and I wonder if you could expand on that slightly.

Matthew Griffiths: It is about getting the access to 16 to 18, 19-year-olds. It is more around vocational training, bringing people in. I suppose a lot of our companies, a lot of the people that we represent feel there are a number of hurdles trying to get access into that community for obvious reasons. You know, just making sure that youngsters are not abused in any way, and I am talking about in an employer rights sort of way. I suppose it is making that entry system easier, simpler. Again, we are echoing the points we have just been talking about here. It is about education; it is about knowing that there is somewhere that 16 to 19-year-olds can go and there is a career for them, and it can nurture their skills base without having to go through tons of regulation and whether it fits into particular frameworks.

Every time you start delving into this, there is always a framework that you have to look at, there are always certain restrictions, barriers to entry; there are certain checks that you have to go through, all these sort of things. A lot of our companies started with people very much like the musicians, where they did not conform to the usual look of a student; they wanted to get in there and make something and do something. I think we just want to get back to that. So anything that removes those barriers, where we can make those connections would be helpful.

Q773 Tracey Crouch: Do you think a student of today—a young Matthew—would be able to start in your industry as a tea boy and work his way through the maintenance and technical side?

Matthew Griffiths: Yes, I think he or she could. We would love it. That is the lifeblood of our—

Q774 Tracey Crouch: Do you think you do enough to promote that, though?

Matthew Griffiths: We do internally. However, it is very difficult. If you are hitting a community that is getting hit all the time by the industries, like defence or aerospace or any of the big of industries, it is very difficult for creative industries to go in there and get to a big enough community and say, “Look, come on, we need as many engineers.” We have a shortage of engineers in the creative industries, in my side of the sector. The shows that we are doing now need engineers—

Sandie Shaw: I will tell my son.

Matthew Griffiths: I will give you my card afterwards. We also need marketers. We need financial

people. We need all of these things, and we need to get on to people’s radar. We talk about STEM—and I know this has come up in previous sessions—but arts do not feature in that. It is still considered as one of those things that we do not get to. We need to get arts, creative industry, whichever way you want to call it, on to the agenda. However, we also want to get it on early enough in the school system so that people think, “Okay, I can be entrepreneurial and go and work over there.”

Just to speak to the point we were listening to just now, I would make a very general observation that nothing happens in creative industries until somebody sells something. You can only do that when a creative person creates something—a new baby, as it were—and from that point all this other stuff; we don’t have an industry unless we are working with artists or with theatre or whatever. So it all starts at the creative end. It all starts from the nurturing bit of this, so we have to encourage that end of it. I would say the same about bringing people into our industry. It is not all about degree education; it is about getting to kids early.

Sandie Shaw: It is also difficult if somebody has no qualifications to see whether they can do anything or not. So what we tend to do is we take them on as an intern for six months. If they show any nous or any aptitude, then we take them on part-time and then further on from that, and that seems to be a good way of finding things out.

David Arnold: For your information, when we did all the Paralympics recording and engineering, my engineer was a woman and the assistant engineer was a woman. I was the only bloke in the room, which was great, and they did a brilliant job. Just going back to the Olympics, I think it is a bit of a shame that part of the legacy is an enormous cut in arts funding. A lot of times, in the very places where the talent that we trumpeted so loudly last summer was born and developed, it feels a little short-sighted to me to pull the rug out from underneath those people at a point where you feel like if anyone was going to be inspired to do something it would from last year.

Chair: Okay, I think we need to move on to the next session, so can I thank all three of you very much?

David Arnold: Thank you very much.

Sandie Shaw: Thank you.

Matthew Griffiths: Thank you.

Sandie Shaw: We lost our audience. What did we say?

Chair: You have an audience out in the wider world as well.

Examination of Witnesses

Witnesses: **Adam Barker**, Director of Business Affairs, Universal Music UK, and **Peter Leatham**, Chief Executive Officer, PPL, gave evidence.

Q775 Chair: Thank you for waiting. We now turn to the second session this morning. Can I welcome as our witnesses, Adam Barker, who is from Universal Music, and Peter Leatham, the Chief Executive of PPL. Perhaps we might start with a general overview. Could you give us your view of what the present challenges are facing the industry are and what changes you would like to see?

Adam Barker: Perhaps I should start. I should probably explain what I do. My role with Universal Music is Director of Business Affairs, so broadly that makes me reasonable for the legal affairs of Universal Music in the UK. Universal Music UK is part of a broader company, Universal Music as a global organisation that operates in about 70 countries throughout the world. The UK operation is based here in London. It employs around 450 people. It is broadly split into what we call frontline record labels, which are Island Records, Polydor, Decca and now Virgin EMI. Through those frontline record labels, we release artists that we have signed here in the UK, predominantly British artists, and we also release artists that have been signed by our overseas companies, again predominantly American artists that have come through our operation here. In terms of the challenges that the music industry faces, I think the number one challenge that we have is simply piracy. It is a barrier to the growth of the music industry.

We have heard from the last session that the music industry in the UK is thriving. I take a more measured view of that. Over the last 10 or 11 years, we have had almost double digit decline in the music industry, or certainly in the recorded music industry in the UK. To a degree, that decline is levelling out. The global recorded music industry grew last year by, I believe, 0.02%, so a turning point of sorts. However, again, I think the number one peril that we face is piracy. We know that the retail value of the recorded music industry in the UK is around about £1 billion, and from research we believe that there are also about £1 billion-worth of illegal downloads in the UK as well. I am not pretending that all of those illegal downloads could be converted to legal downloads. Although research shows that that figure would be around about £250 million, so it would be an enormous boost to the music industry and would remove one of its great barriers to growth. That said, I think it is a fantastic industry. It punches way above its weight globally, and in very simple terms, we like to believe that the Government should do all it can to support such a wonderful industry. It is not an industry that is struggling or in terminal decline. To a degree, it is thriving, certainly creatively, and it could do even better. That is my simple point.

Peter Leatham: I support Adam on that point as well. It is not a question of the Government helping at the expense of the industry doing nothing. Certainly, as Adam was identifying there, this year in the UK the music industry is going to do a majority of digital business in terms of the revenue streams, when you look at getting four out of the top five albums in the US last year, which is a significant achievement and a

gain of a 13.7% share of the US market. So, in terms of getting support for piracy, it is very much against the backdrop of the industry here having really developed its business model, embraced digital and continued to punch above its weight on the world stage. Certainly, from PPL's perspective as well, I think that we do not need a lot from Government. We just need a strong IP framework, and we need to be given some support around what we do. That is something that does baffle PPL, the music industry, the creative sector, as to why for such a thriving sector there is not more understanding or more supports, even if it is just in a way of talking to business around what we do and so on. It is just a bit surprising. It feels like we are a bit of a company that has forgotten the products that we produced that are good, or the territories that we deal with, and are so keen to search for the new product, the new territories, we are forgetting about the ones we are quite good at and focus on trying to support and promote what they are doing. So, in terms of what we need, it is not that much other than just letting us get on with our business.

Q776 Chair: When you say there is a lack of understanding and recognition, are you talking about within Government or more generally?

Peter Leatham: If you take PPL's business, if you look at the work we have to do with the Intellectual Property Office, when we have recently been having some impact assessments that are put out; it shows a clear misunderstanding as to what we do in terms of the impact on the market and the things that are put in there. It tends to be things of fairly low-quality work, which are quite important because it is then driving policy around what then happens in the IP sector. It also creates an impression, in terms of the wider public, as to how well things are run, how things work and so on. So I think there is certainly some understanding and quality issues there.

Chair: We will come on to IP particularly in due course. First of all, let me pass to Jim Sheridan.

Q777 Jim Sheridan: I have a question for both of you, but in particular Peter. You heard the previous evidence session. How would you categorise your relationship with individual artists?

Peter Leatham: I would characterise it as being very positive. We have been on a journey with PPL in that performer rights came in in 1996. So PPL was formed back in 1934, at the time when only record companies had rights in public performance, licensing, nightclubs, bars, restaurants and so on. Then later came broadcast, the likes of the BBC, commercial TV, commercial radio and so on. In 1996, there were a couple of other performance societies that were set, PAMRA and AURA, at that time, and over a dialogue realised that that was probably an inefficient way of trying to represent record companies and performers, and they would be much better placed by putting them into one organisation.

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So, in 2006, we had a merger of those three societies into PPL, and that was something that was a five-year discussion and negotiation with the performing community, the Musicians' Union, Equity and so on. That led to us bringing everything together, and we had to go for a merger clearance at the Office of Fair Trading to make sure that performers' interests were being properly looked after and represented within PPL. Since 2006, we have then been on a journey of trying to increase collections, provide better services and show that we are a fantastic home for performers. So, generally speaking, that has been a very successful journey and work with the performer community. I think what Sandie is saying there, in relation to representation, is that we have the chief executive of the FAC as a director at PPL. They would be very pleased, as are the MU, as are Equity, in terms of the journey we are on. They are talking that they want the equal representation of directors on the PPL board to finish that journey. What we have effectively been on has been a journey, from having no representatives on the board to then make sure we increase the representation. In fact, we have just been having a dialogue as to the next stage, when we come to our AGM in June, to then increasing the representation of directors on the board again to carry on that journey. We wanted to have quite a controlled process of change and understanding who is going to come and represent; is that going to add to the running of PPL; is it going to make it carry on being more efficient? So the relationships are very good actually.

Q778 Jim Sheridan: Who represents the individual artist at PPL?

Peter Leatham: What we have is a whole governance structure. We have a main board, we have a performer board, we have a finance committee, a distribution committee, so what you have is you have a range of representatives that will stand and represent performers. We also had a Director of Performer Affairs who was appointed, a person called Keith Harris, who had a long career as a music manager, who was brought in to work on a day-to-day basis to make sure the interests of performers were being properly represented. There is a whole structure there where that works, and ultimately, in terms of how performers choose to distribute their money between the featured and non-featured talent on different policies, that is completely decided by performer representation only. So they are in control of how their affairs are dealt with. That is a very good control mechanism for how their affairs are dealt with.

Adam Barker: I think for Universal Music, and I am sure for most record companies, the most important relationship that those companies have is with their artists. When we work with our artists what we are trying to do is give them the right environment to produce the very best work that they can, and a great deal of our time and resources are spent on our relationship with those artists. There is obviously a framework initially for how we work with artists. Usually the framework is initially a recording contract. Although the relationship goes way beyond that, and in most cases the recording contract sets out the very basic commercial terms of a relationship with

an artist: how many albums they are going to produce; what advance they might get; what royalties they might get. There are an enormous number of other activities that we perform with the artists, making videos, providing tour support, providing studios, providing recording funds. Often those are not laid down in any contract. They are a matter of the personal relationship that we have with the artist. If we are not able to have good relations with our artists, we are not able to attract new artists and we cannot survive as a company. So I am sure that most people in Universal Music would say those are the most important relationships we have.

I know Sandie has said that there are certain old contracts that she might see as being unfair. I think it is incredibly difficult to generalise about artists' recording contracts. There are recording contracts that were signed in the early '60s that say one thing; there are recording contracts that were signed in the '80s, '90s and the noughties that say something entirely different. Over time, most artists will inevitably renegotiate their contracts, things change, and it is a very fluid relationship. Often in a very short space of time, an artist might sign one particular recording contract, have great success and then we will be meeting with them nine months later to complete a new contract.

Q779 Jim Sheridan: Do you have any empathy at all with the artists who are perhaps not getting what they think they deserve?

Adam Barker: I do. I think it is very important that artists should be properly paid for the work that they do. Their work is the lifeblood of the recording industry. It is the lifeblood of the music industry, and I think it is worrying to think that some artists feel they are not properly paid. However, as I say, it is a very fluid thing, and we have conversations and meetings with not only the artists that are currently recording for the company but those that recorded for the company 30 or 40 years ago. So I would stress that it is very much an open door policy and it is a fluid relationship.

Q780 Jim Sheridan: Can I move on to these collecting societies? What has generated the discussion on regulation for the collecting societies? What is the catalyst?

Peter Leatham: I think the catalyst came from the Hargreaves process, and I would say that is one of the things that has not been the greatest piece of work in relation to looking at why collecting societies need to have statutory regulation. Certainly, we had already committed to and are part of a voluntary scheme for regulation, where we have a whole range of codes of conduct, a range of information that is provided about us, our structure, where you can do things, complaints, a third party ombudsman for any complaints that need to be escalated and things like that. So I think that it was coming out of Hargreaves looking that there are a number of overseas countries that have a statutory regulation regime and then came to a range of reasons, which, as I say, I think were not the greatest piece of work as to why then it would be something that was

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needed in the UK. So it came from the Hargreaves process.

Q781 Jim Sheridan: So, regardless of the size of the company or the artist—I probably know this question—is everybody treated equally?

Peter Leatham: Everyone is treated fairly and proportionality. So yes, absolutely. PPL works as a fantastic lowering of barriers to entry and a very demographic process because, effectively, if you have rights and recordings, which nowadays more and more it is not just a record company; it is individuals; it is people who are actually producing music. In February, we had a number of hundred people join us. You can join for free, and if your recordings are played then you will get exactly the same amount per second on that recording that you do as Universal would or anybody else would. If you are setting up in business now, you don't have to think about setting up a collection arm for business to business licensing; you have PPL there. You can join it for free; you get exactly the same rates. I think it works as a really good incentive to allow business to think, "Right, I don't have to worry about that part of the business." Due to our collections and the way the market is working, the amount of money that comes from business-to-business licensing is a very important part of the overall amount of money you make in the music industry now, in today's world.

Q782 Jim Sheridan: Yes, but they operate country by country. Would it not be more productive to operate globally?

Peter Leatham: As I say, this is the journey that we are all on, so in the last few years we have put the performer and record societies together. We are now in a range of discussions with PRS in the UK about committing to further joint working, joint licensing and a whole range of activities, which will continue to bring us together in the UK over the years to come. We are also in ongoing substantial discussions around how do we make the world work better. One of the things we have done in PPL is, because we are effectively the leading operation of a sound recording society for record companies and performers of what we do, we are trying to look at taking a lead and try and take the investment we have made in repertoire, technology, to look at how we can use that around the world and try to consolidate if not the front-office at least the back-office operations. That is something certainly that the international companies, like Universal, are very keen for us to try to do, so you are not continually reinventing the wheel in different countries.

There is a good opportunity for PPL and the UK to be a real lead driving force in the work that we have done to date, and we will then benefit from a world market that works better, that is more accurate and more consistent in what it pays then because the UK produces so much good repertoire that is played around the world then British artists, British record companies will benefit. So we are very keen to continue to drive that forward and look to break down barriers in how we operate overseas.

Adam Barker: There is an important distinction here between the systems that are required in a digital world, when one is dealing with copyright. It used to be a very much simpler model in the physical world, speaking on behalf of record companies. Record companies, by and large, going back 20 years used to pretty much control the ability to distribute vinyl and CDs through their distribution centres to certain record shops. To a degree, record companies had a monopoly in those days on the distribution of records. The digital age has brought the great democratisation of the business, not only in terms of being able to distribute recordings, an artist can distribute a single recording themselves to iTunes and sell it to a global audience without going via a record company. However, also in the way that music is made. It has never been cheaper to record music. In all respects there is a much greater amount of activity that takes place outside record companies, outside major record companies, outside smaller record companies. The challenge that the digital age has brought to record companies in particular is: how do you effectively distribute hundreds of thousands of recordings, via multiple digital services in multiple territories, and effectively get paid, so that you can account to the artists and the producers? It has become very much more complicated. The systems that we have had to develop, and the resources that we have had to invest in those systems, that is a real challenge but it is a very different thing than saying that copyright is broken in any way. Systems need to constantly develop, but the copyright framework that we have is a robust one. There are things that we need to do to enforce that. There are issues we need to deal with, such as piracy, but the Hargreaves supposition, that the copyright laws themselves are broken or are a barrier to growth, I think is nonsense. I think we need to keep developing systems. We need to protect artists and rights owners against rampant piracy, but to say that the copyright rules are a barrier to growth I think is simply wrong.

Q783 Mr Sutcliffe: I want to touch on a couple of things that Jim was focusing on, and you talked about fairness for artists and artists' representation. I am looking at the makeup of the PPL board, four major record companies, four indies, two PPL execs, one non-exec and Musicians' Union and Equity, two performers and then you go on to the performer board. I take the point there is diversity in different contracts over many, many years and that sort of thing, and I was interested to hear what you said about there is an open door policy for people from 30 to 40 years ago, but they do not come with any power—do they?—in the sense of if you are not under contract you have no power. I wonder how that example that Sandie gave us could occur—I do not know if you have seen the piece of paper; I will hand it over to you—where the artist only gets 1p.

Adam Barker: I do not know of any contract where the artist only gets 1p.

Q784 Mr Sutcliffe: It just seems to me there is an unfairness there and you are looking to the variety of groups that are there. Adam, you said that many years

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ago the record companies had complete power over distribution and over the contracts for people, and we see some of that now perhaps in terms of the *X Factor* and some of that sort of thing where new young musicians are under contract to people like Simon Cowell and they have control. What are the mechanisms for allowing people to have longevity? Sandie said in careers three years was good, five years was brilliant, 10 years a superstar. So what are the mechanisms that companies can help and assist young people to have long careers?

Adam Barker: I think the *X Factor* example is a very specific case, and I am sure that the Committee is aware that talent shows—such as the *X Factor*—operate in a very different way and in many ways are outside of the music industry. That is part of the broader entertainment industry. Certainly, the contractual arrangements that those contestants enter into are not representative of the broader music industry. When we sign a particular artist, and Universal Music in the UK probably signs between 60 and 75 new artists a year, each of those artists has a legal representative, has a lawyer. We would never sign them unless they had legal advice. Often we will pay for that legal advice for them.

Most of those deals that we do are highly competitive, so we are competing against other major record companies, independent record companies or, in some cases, a desire and the power on behalf of the artist to simply do it themselves, and it never has been easier for them to do it themselves. I am not pretending it is easy for them to get the capital together, but it has never been easier or cheaper. It is not a perfect world. So, when we come to negotiate those contracts, there are powerful forces on the other side, and I would say that those contracts are very fairly struck. In many cases, it is the record companies that would be squealing because they feel that they have perhaps had to overpay because of the competitive nature of the deals.

The issue of very old artists' contracts is a different one. I think they were structured very differently. Most of the artists that had any kind of success at all will have long ago renegotiated those contracts. Then they have had the ability to renegotiate them because the record company needed more rights. The record company often requires consents and approvals from artists, which artists are able to use to leverage into better terms. So I am not sure where Sandie gets the 1p example from. I am certainly not aware of anything like that.

Peter Leatham: I think also linked to the longevity point, though, is the availability of a paying market. So clearly the decline in the value of the recorded music market, because of piracy, has impacted how long people can invest in. Basically, as a physical retailer, it does not matter how good a retailer you are, about the staff you get, how you deck your shop out, how you try and sell your products, if the shop next door is selling those same products for free it is going to impact your business. It is not just the creative sector that is impacted by that; it is anyone wanting to provide a service because if you are going to go and buy recordings from Universal and say, "Right, I am going to open up some sort of streaming service

or other activity," you are still competing with "for free" plus the 70 other digital services that are out there. The pressure on the amount of money available has meant that the record companies can spend less time taking risks on a certain number of artists, and that does impact the longevity as well.

Q785 Mr Sutcliffe: Which is interesting because, in the film world, what the big studios are saying is that they will make a small number of films each year, which has opened up the opportunities for independents to make films that might not otherwise have been concluded. Is that the sort of thing that will happen with the music industry that you might see some independent companies coming through?

Adam Barker: To date, certainly Universal Music has tried to maintain its level of investment in new music. We spend between £20 million and £30 million a year investing in new artists making new recordings. It is increasingly difficult to justify that level of expenditure when the returns are under threat. Having said that, I think in the UK we also have a very thriving, independent music sector as well that can compete on every level. It is a much-used example, but there is the example of Adele who sold 25 million copies of her album. Adele was signed to XL, Beggars Banquet—an independent company in Wandsworth. So again, I think there has been a democratisation of the music industry, and it is easier for people to interact with it, easier for artists to get their music played, whether it is on YouTube or whether it is via a licence to iTunes.

Q786 Mr Sutcliffe: Are you seeing more artists performing live? I seem to have noticed more concerts, and more specific concerts, because it is a better way of showcasing and building a fan following. Does that impact on your contracts?

Adam Barker: I think that is true. I do not know the statistics, but I think a greater proportion of artist money comes from live, as opposed to records, than it used to and there has been a proliferation of bigger concerts and—a lot of festivals but obviously, like anything, there are only so many festivals and concerts that people want to go to. Ultimately, that particular bubble might burst. I think it is always important to artists to have a broad range of income to support them, whether that is song writing, recorded music, or live work.

Peter Leatham: It is interesting; in February, we had around 400 new businesses join us as owners of rights of sound recordings—traditionally, record companies, but increasingly more individuals. They are from all over the country, Cornwall, Devon, Kent, up to Yorkshire, Cumbria, Lancashire, Scotland, and Northern Ireland. It is all over the place. That is clearly a range of sizes, and quite how successful they are all going to be I don't know, but they can come and join us for free. They are clearly doing something around setting themselves up and owning recordings and wanting to register. They might be in a trading name themselves or have attached their name to records or something, or whatever. So it is interesting that we are certainly seeing hundreds of owners of recordings continuing to join PPL, continuing to do

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something in the sector, and it really is the entirety of the UK that they come from.

Mr Sutcliffe: That is good to hear. Thanks.

Q787 Mr Leech: I want to follow on from one of Gerry's questions, and that was in relation to the balance of live music against recorded music, because I think perhaps one of the positive things to come out of falling sales is that artists have done more live music. When we were in America we were told that, as a result, contracts that were being negotiated between artists and record companies often included a slice of the revenue from touring that did not go to record companies previously, but is going to record companies now. What proportion of your income from an artist now comes from live touring compared with previously?

Adam Barker: You are right in that, over the last few years, there has been a development in the way that labels sign artists. In some cases now, labels are entitled to a small share of the artist's live income.

Q788 Mr Leech: What is a small share?

Adam Barker: Possibly between 5% and 10% of the net profits that they might make during the term of the recording agreement. Not for the rights period, not for the length of time that the record label might own the rights and the recordings, but for the term which is the length of time that the artist is recording with that company, which might be one year or it might be five years. That traditionally would be a small share of the artist's live income, which very often, because it is based on the net profits, might well be zero and in many cases it is zero. It takes artists quite a long time to build up a profitable live business. As to how much of our own income that amounts to, it is a tiny percentage. I would say it amounts to, last year, less than 1% of our revenues would come from that.

Q789 Mr Leech: I presume there can be a massive discrepancy between artists though, depending on how successful they are and whether they fill 80,000 stadiums or 2,000 venues.

Adam Barker: That is right. One thing I would say is very few artists play stadiums. A handful of artists will play stadiums. The majority of artists are playing in much smaller venues, clubs with 100 people, and theatres with a few thousand people possibly, and the profits from those are relatively modest.

Q790 Mr Leech: In terms of the artists themselves, traditionally tours were to promote albums, rather than to necessarily generate revenue.

Adam Barker: Yes. It often works the other way around now, it seems.

Q791 Mr Leech: Yes, but what sort of proportion of income that an artist gets comes from their live performances these days?

Adam Barker: I don't have the exact figures, but I would imagine at least half. Again, it varies enormously by artist. You might have a guitar band like Coldplay who will play in stadiums, or you might have a solo pop artist that is not necessarily suited to playing bigger venues.

Q792 Mr Leech: That cannot perform live?

Adam Barker: Yes, exactly, so certain artists have a disproportionately large live business. They make almost no money, sell almost no records, but have a very healthy live business, and for some artists it is vice versa.

Q793 Mr Leech: Do you think there is a likelihood that the proportion that the record companies get from live tours is likely to increase over the coming years if something is not done about falling record sales?

Adam Barker: If something isn't done about falling record sales, or not so much about falling record sales but about piracy, I think record companies are always going to be under more pressure to look to finance the investment they make in recordings from other sources. If records are selling less then record labels have to find some other way to keep investing.

Q794 Mr Leech: So the easy answer would be yes?

Adam Barker: I think there are barriers to that, and artists are usually very well-represented by lawyers, managers and agents whose job it is to resist certain elements of a record contract that we might want to impose. So it is a very open negotiation.

Q795 Conor Burns: It is not unusual in this place for the two sides of the House to hold diametrically opposite views on the same set of facts. Before coming to this place, it was my experience that that tended not to be the reality in the real world and the commercial world, but it does seem to be very much the reality in your world. I think you were in for the previous session. You will have heard what Sandie Shaw said about how badly treated she perceives that artists feel by record companies under the rules. Can I ask you to respond to some of the points she made?

Adam Barker: I think Sandie's main point was that certain artists with older contracts don't receive sufficiently high royalties from the sale of digital downloads, or I suppose from the sale of records. It is impossible for me to comment. Record contracts vary enormously. As I say, I have no experience of a record contract that would deliver as little as a penny to an artist from a digital download. It really is very difficult to generalise. I suppose, if I attempted to generalise, I would say that the royalties that are payable to artists under record contracts have increased steadily from the birth of the modern music industry to today.

In my own experience, (I have worked for Universal for about 10 years), and certainly the standard artist rate—if there is one—is probably about 30% higher now than it was when I started working at Universal. So what causes that I don't know. I think falling record sales is one element. Artists are looking to get a bigger piece of a smaller pie. It is difficult to say. Certainly, if you go back to the '50s and '60s, we have all read stories about unscrupulous managers or unscrupulous producers (not always record companies) that have signed artists to unconscionable agreements. I do not think that is a feature or has been a feature of the music industry for many decades now.

Peter Leatham: On the term extension there, for example, I think that Sandie was being a little bit unfair. I do have lots of concerns around the IPO and

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how they are treated, but I think that is a bit unfair in relation to the IPO.

Conor Burns: Be careful, she is still behind you.

Peter Leatham: So I think that what has happened is there was obviously a European directive, and often with European directives it has lots of ambiguities, flaws, and so on, but that is a directive, and that is a directive that the IPO has to implement and it wants to implement it pretty much in accordance with the way it does with directives nowadays, which is pretty much to say, "That's the directive; that is what we're going to implement." There are some nuances around that. As part of the encouragement to try to get the Government to support term extensions, there was an agreement entered into between the BPI, AIM on behalf of independents, the Musicians' Union, and also on PPL as the administrator, around saying, "We will make sure the performers are looked after. We will have a session fund for the session players." There was an agreement to have a 10% minimum royalty without any deduction, which brought it pretty much up to modern day royalty. If there were any past old contracts for feature performers, there was an agreement in there to do that. There was a whole range of other things contained within that, trying to address the issue of older contracts.

What has now happened is that was going to be on a particular basis of how the rights were to be administered by PPL, broadcast, and so on. That is now not going to come through, so there is a discussion going on as to how those terms can be replicated by whatever is then implemented by the Government. There were quite a lot of attempts by the record companies to address the issue of older contracts and to make sure there was a minimum royalty, and then when we came to the administration side that the session players were also getting looked after.

It just so happens that the way the directive works is that the session fund for the session players is very high, and it will mean that often they are going to get paid more than the feature artist, but that is the way the direction has come through and that is something that has to be implemented into UK law.

Adam Barker: I would support that. It does seem slightly odd, but I am not sure if anybody really understands how the session musicians' fund—which I understand to be effectively a 20% royalty set aside, on term-extended recordings for session players—how that figure came about. It seems disproportionately high, because that royalty applies whether there are 20 session players or whether there is just one. So in theory, if you were lucky enough to play the triangle on an early Beatles track, you would be getting a royalty that might well be higher than the Beatles themselves receive, so that seems slightly arbitrary. However, certainly as Peter says, there are a number—

Q796 Chair: Do you think that has come about just because of the power of the Musicians' Union lobbying?

Adam Barker: I think it may be. To Sandie's point, I think there are a number of discussions about whether there should be a minimum artists' royalties as well,

and there is some fairly vigorous discussion around that.

Q797 Chair: The term extension was something which the entire industry campaigned for, for years. For a long time it appeared we were getting nowhere. We finally got it through Europe. There was much cheering, but now what I am hearing from quite a lot of people is that they are unhappy about the way it is being implemented. You have highlighted the anomaly of the proportion that the session musicians were getting, but do you think the directive is flawed?

Peter Leatham: I think having the directive has been a good thing, definitely in terms of term extension, and one of the things that is not talked about there is that in relation to public performance, broadcast income, that will continue to be paid through. That was not mentioned earlier on, but those are other areas of exploitation which can be very valuable for feature performers and session players and that will carry on being paid through. The problem is that in relation to implementing the directive there are quite a few things that are going to be problematic, just to make sure that they work.

It will be a bit of a shame to get bogged down in the fact that implementing has this range of uncertainties and what that means. There is going to need to be a lot of joined-up discussion across the industry to not turn a success into a disaster, when it has been a good thing to have the extended term and it is just going to be a lot of work to try and make it work and understand what certain undefined terms mean, and so on. There is no doubt that there is going to be a lot to be done.

Q798 Chair: That work is ongoing with the IPO?

Peter Leatham: With the first stage, there has been a significant amount of work with the IPO who only have a limited ability to address those issues in implementation. The next stage is there has been some frustration around that process, and about what cannot change and there are constraints as to implementing a directive. Going forward, when we then have the directive implemented, there are going to be lots of terms as to "what does that mean". So there is going to be a lot of working around what that means in practice, how that is going to work and that is just going to be the reality of the work that needs to happen now.

Adam Barker: I think Peter is right. There is an element of fine-tuning required, and there is going to be a lot of discussion and debate, and it is important that that is right, but it should not take away from the fact that the term extension was a very positive thing for the creative industries in the UK. It was the last positive, major positive, step that I think the Government has taken, and it leads on really to there are more steps required. I am sure you have heard people talk about the implementation of the DEA, the Digital Economy Act, which again, to many people, it is quite baffling how the Act has not yet been implemented, despite having been passed three years ago. I think most people in the creative industries would agree it would be a very important step to combating piracy.

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Q799 Chair: Yes. We have taken evidence on that, obviously. In terms of particularly the evidence we heard earlier, you seem to be suggesting that a lot of the problems relate to contracts with artists that were signed in the '60s and '70s. Is it partially that when you signed a contract with an artist in the '60s the word "streaming" was meaningless? The concept had not been invented and the contracts therefore do not reflect the modern technology which allows music to be distributed in all the different ways.

Adam Barker: That is true. In many very early contracts, there is a specific reference to records, and it is very clear that that meant, in those days, vinyl records. However, I come back to the point that recording contracts are a very fluid thing. It is very seldom that a contract is simply signed and put in a drawer, and obviously a large part of what I do is constant refinement, renegotiation, discussion, interpretation of contracts with artists, with their lawyers, with their advisers, with their accountants, so it is a very fluid business. We do not simply sign an artist, put a contract in the drawer and wave goodbye. We have a relationship with those artists, and whether that is an artist that is no longer recording for us and last recorded in 1974, or whether it is an artist we signed last week, we exist because we have relationships with all of those artists. As a record company, if for a minute we forget that we are lost, simple as that. That applies to recording artists from any decade.

Q800 Chair: The suggestion that was being made at the time was summed up by "use it or lose it". Do you have sympathy with that argument?

Adam Barker: I think record companies use their copyrights and use the copyrights that they have. In many ways, this is one of the great boons of the digital age, that it has never been easier to distribute records on a global basis. We know there are challenges around collecting income; there are certainly challenges around enforcement; but in terms of pushing music out to its widest possible audience on a global basis, the internet has been a boon. It has clearly brought some challenges, but we are hopeful that we can overcome those challenges.

Q801 Conor Burns: I think the Chairman has hit the nail on the head. We have had quite a number of these evidence sessions and heard from both sides. Is there not a sort of sense that we, as legislators with the capacity to create regulators, are constantly looking to regulate yesterday's problem, whereas the pace of technology advances so rapidly that the reality is none of us know what to do? You do not really know what to do; the artist does not really any longer know what the right way to make money is any more; we do not know how to regulate when we regulate within a jurisdiction, when the web has abolished jurisdiction in a really profound sense, and this will only all become clear in five or 10 years' time.

Adam Barker: I think it is obviously impossible to predict the future. In terms of technology and how people consume music, I think we get a peek into the future. We know that people want to consume music whenever they want, wherever they want and however

they want, and more and more people want to consume music on their portable devices. One of the limitations of the Digital Economy Act is that it does not have any application to mobile devices, so that is a shortcoming. We are never going to be able to look 20 or 30 years into the future. As one manager has said to me, "How do we know? Maybe people will have brain implants that will play music to them digitally. How do you legislate for that?" We do not know, but what we do know is there is a great proliferation of legal music services, whether they are download services or streaming services, which cater to people's needs, and as an industry if we do not cater to what people want and how they want to consume it, we get very quick feedback, because they either take the music without paying or they do not consume it in sufficient quantities for us to be able to survive and for the artist to be able to survive. So we have to constantly react.

Do we know what is going to happen in 10 years' time? No. Do we know what is going to happen in five? We think we do. We have seen a proliferation of streaming services and certainly with my own children I know that they see music really as a utility. That they know it should be paid for by somebody, but hopefully not them, and they would like to consume it wherever they are, whether it is on their iPod, on their mobile phone, or less and less on a PC. So we have glimpses into the future, and I think we can legislate for the near future. Beyond that, of course, no, we cannot.

Q802 Conor Burns: Short of a whole-scale nationalisation worldwide of the internet. This is a very depressing conclusion for the report, but I am struggling to see really anything profoundly significant that we can do, in legislative or regulatory terms, that will satisfy the demands of the artists and will continue to ensure that people are paying to consume what you are pumping out.

Adam Barker: I think it comes back to a grass-roots basis that, if Government is able to provide a level playing field for the legal sale of music, then record companies get paid, artists get paid, producers, engineers, and studios.

Q803 Conor Burns: Doesn't that only work if you can close off the illegal download through the web? The web is a recognised jurisdiction in that sense.

Peter Leatham: The industry does know the challenges it faces, and with the legislative tools available, it does try to take action to block websites that do things like that. It is interesting that if it was pornography how things seem to move along a lot quicker, so I think if there is a willingness—and I think you are right—there would be an ability for the industry to identify the things that are causing the most harm and the remedies that would help to then stop some of the worst illegal actions. I think there would be a process of knowing exactly the challenges that are faced today and what action would help, and I am sure that is something that could be helpful in terms of identifying.

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Q804 Conor Burns: We sense no urgency on the part of Google to do what you are asking the way they do with child pornography. What you are advocating is that we become a sort of slightly more effective King Canute?

Peter Leatham: I think it is one of the questions, so is downloading music illegally just slightly immoral, as opposed to pornography being very immoral? I think there is a whole issue about attitudes and that is where Google's attitude is going to be also driven by public opinion, by Government pressure, so volunteering to start to delist infringing sites from searches was probably based on a bit of public perception as to the way the legislative process was going. I think a number of things can be joined up to try to make progress and have more people interested in helping to get the right outcome.

Q805 Mr Leech: What elements of the music industry do you think merit the sort of tax reliefs that the film industry is enjoying?

Peter Leatham: Historically, the music industry has not asked for that many tax reliefs. It has wanted to get on with a clear IP framework, be allowed to go and conduct trade business and to invest and to just keep generating success. So certainly, from PPL's point of view, I would not have a particular view on tax relief.

Adam Barker: I do not think it is anything that the music industry has specifically asked for.

Mr Leech: I think you are the only creative industry that has not.

Adam Barker: Yes, more fool us. I think if we were to focus our minds on it, it would be geared around the very creative end of the industry, and it would be some kind of favourable tax regime that encouraged investment in music, in innovation within the music industry, and it would need to be at a very grass-roots level.

Q806 Mr Leech: In her written submission, Sandie Shaw suggested that one of the ways of supporting artists would be doing tax returns every five years rather than every year. Are there any changes to the tax system that would assist the industry, not necessarily tax reliefs, but any changes that would be beneficial to the industry as a whole?

Adam Barker: I do not think there is anything specific I can think of, other than to give companies and individuals a greater incentive to invest even more money in creating content and creating music would be a very good thing.

Q807 Mr Leech: Are you aware of any tax incentives or changes in other countries that have been beneficial to their music industry?

Adam Barker: Not so much on tax, but, for example, Canada has a wonderful track record of supporting its creative industries and providing funding for musicians and film makers to travel overseas. Again, rather like the UK, I think Canada punches perhaps less above its weight than we do, but again they see that it is something that they should be nurturing and supporting. As someone that works within a record company, it is quite baffling that it does feel that the

Government takes for granted the wonderful, creative industries that exist in Britain, and they exist almost despite rather than because of what the Government does or does not do. It is baffling and it is disappointing, and it is perhaps indicative of an almost apologetic attitude towards the wonderful assets that we have in the UK. The Olympics were a great thing because we were able to trumpet those assets across the globe, and I wish we could do more of that and I wish the Government would support it more.

Q808 Mr Leech: Finally, why is it that other creative industries have been very keen on tax reliefs and have argued very strongly that they are needed to compete, yet that has not been the case within the music industry?

Adam Barker: I think the music industry has always taken an approach of self-sufficiency. To my knowledge, it has never looked for basic handouts. Perhaps it should be looking for handouts. It has never been the attitude of the music industry. What it has sought the Government's help on is achieving a level playing field, to say, "Look, we create these wonderful things. Please at least remove some barriers to us selling even more of them than we do," and it is indicative of the music industry that it has not sought a tax handout.

Q809 Mr Leech: So, if lots of other countries suddenly started giving tax relief to the music industry, you would be knocking on the Government's door straightaway?

Adam Barker: I think we might well review our attitude, yes.

Q810 Chair: You just said that the success is despite the Government rather than because of it, and you said that you cannot understand why the Government does not support the creative industries more. Most of this inquiry we have heard evidence that the Government does support the creative industries a lot and that is one of the reasons why we are so successful. Where do you want the Government to support the creative industries that it is not?

Adam Barker: Again, I come back to a point we have talked about a lot, piracy. It seems to me that the Government can take some simple steps in completing a course of action that was started that would have a very significant, positive impact on the music industry.

Q811 Chair: Are you talking about the Digital Economy Act?

Adam Barker: Absolutely, and I think there are other things that the Government can do. I think the Government needs to get to grips with the process by which illegal websites are taken down. It costs many hundreds of thousands of pounds, takes a great deal of time for any organisation, whether it is the BPI or a record company, to have a wholly illegal website removed. I think it is very disappointing that when one searches for a particular artist or a particular song on Google, the first four or five pages come up with illegal sites.

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Q812 Chair: Google now tell us that is no longer the case. That was the case, but they have changed the algorithm and they have addressed the problem.

Adam Barker: There has been some recent research that was submitted to the BPI, which is a progress report on Google's steps, and it has found very little change in the way those search results are produced. I think there is always going to be a delicate balance between tech companies and content companies, and it is very important to us that companies like Google exist. Google, iTunes, Spotify, they are great companies, but again it is about a level playing field and it is about finding a delicate and correct balance between creative and tech, so that both can thrive.

Peter Leatham: It also looks like the Government is going to continue to follow the not having a compensation route for copying, in terms of that has been something that has not been in place in the UK for the last 25 years, so the UK has aligned itself with Ireland, Malta, Cyprus and Luxemburg as being the only other EU countries that do not have a fair compensation scheme for copying on to devices or other media.

Q813 Chair: You are talking about the hardware levy?

Peter Leatham: Yes, so when you look at the rest of Europe, in 2010 there were €650 million passed through to the creative sector to help fund and generate those creative sectors that we have to compete against. It depends how you look at these things, because I understand that because of the way in which you look at the law now and you say, "Well, of course you can copy a CD on to an iPod and it sounds daft that you cannot allow that to occur." That was a decision that the Government took many decades ago and, of course, when you look at it now it looks rather odd that we moan about it being a problem. However, it is interesting that all the other EU countries and many other countries beyond have a compensation scheme to help fund the creative sector for the loss that would occur through piracy and other things that were going on there, and in 2010 it was €650 million and, as I say, while we all share in that to some extent, when there is exploitation of our works in those countries, that is still quite a significant amount of money going into the creative sector which we have to compete with.

Q814 Chair: When you say, "The loss that occurs," are you suggesting that if I bought my CD and I then wished to put it on my iPod I should pay again to download it?

Peter Leatham: The original idea of setting up a compensation scheme was that when you had blank tapes and so on there was an ability to record it.

Q815 Chair: That was compensation for law breaking. That was compensation for the fact that everyone was using blank tapes to take music off the radio instead of buying it. When it comes to private copying, which is the exception proposed, that is arguably not because of any loss of sales. This is simply somebody who owns a piece of music and just wants to put it on a different device.

Peter Leatham: I understand that. I am just trying to talk about the previous history that has led us to this point, and where we differ from who we are competing with in the rest of Europe, and identifying the sums of money that then get pushed into the creative sector to help them and compete with us. I accept exactly what you are saying; I am just trying to point out that was a different route to where we arrived at today.

Q816 Chair: Okay, so are you suggesting you are unhappy with the private copying exception proposal, if it does not also have associated with it some kind of compensation or licensing?

Peter Leatham: I think the music industry does have to look at fair compensation for activities that take place, and where other people are going to make money off the back of that. Certainly, it has been more interested about the cloud issue, which I know you have had evidence on, as opposed to the iPod. It is just unfortunate that, by not having closed that loophole many decades ago about private copy, it has been a significant peg for detractors of copyright to point to to say, "Copyright is not fit for purpose because, look, you cannot copy a CD on to an iPod, how ridiculous," and in some way also the music industry has been tainted by that as well.

Ultimately, if there are activities and services that are being provided, which in some small way also are from the use of music—and I know that cloud services are to be used to store photographs and so on—I think the juxtaposition is that there should be some sharing of arrangements. Again, I suppose the industry feels that having missed out on these fair compensation systems for decades, just at the point of licensing of cloud services that are making money for providing services around music and those licensing activities are taking place, just at a point that money is being made from those, that is now going to be proposed to be shut down as well as an option for earning money. I am just trying to put the historical context into what is quite a tricky area to deal with.

Adam Barker: I think Peter is right; it is important that we establish that if someone wants to copy a CD on to their iPod that should not be an illegal act. I think it is nonsense to say that is an illegal act, and I think going back a couple of decades that should have been clarified, and I think it is right that it is clarified. What is also important is that that clarification does not extend to cloud services.

Q817 Chair: It does not extend to cloud services? You would not allow private copying onto a cloud-based service?

Adam Barker: I think at that point that becomes a licence which is generating revenue for a third party and at that point that should become something that is licensed, not something that can be achieved without any revenue flow-back to the creators. I think there is an important distinction between copying it on to your iPod and using a Google service or whatever it might be to store it in the cloud that a company is charging the consumer for.

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Q818 Chair: You see it as an important difference. I am not quite sure what the difference is.

Adam Barker: I think the difference is in value transfer. If a company is providing a service to the consumer and charging the consumer in order to allow copyrighted material to be stored in a certain way, and is charging in many cases a specific subscription charge to the consumer, I think at that point the creator or the owner of the copyright has a right to license those rights, rather than to have all of that value from that transaction shift away from the consumer into the hands of effectively an online storage facility.

Q819 Chair: You could make that argument about an iPod.

Adam Barker: I think an iPod is a commonplace physical/digital storage device.

Q820 Chair: The cloud may become a commonplace storage device which just happens to be up there rather than down here.

Adam Barker: I think one distinction is that you buy an iPod. You do not pay a subscription to operate your iPod. If you want to have a cloud service or a locker service, you will invariably have to pay a third party to facilitate that storage function, to facilitate a transaction around copyright.

Peter Leatham: I just question aligning ourselves with Malta, Luxemburg and Cyprus. Are we in the right place?

Chair: Yes. I do not want to have our policy dictated by what the Germans do, however. I think we probably have finished all our questions, so thank you very much.

Tuesday 14 May 2013

Members present:

Mr John Whittingdale (Chair)

Mr Ben Bradshaw
Angie Bray
Paul Farrelly

Jim Sheridan
Mr Gerry Sutcliffe

Examination of Witnesses

Witnesses: **Mr Edward Vaizey MP**, Parliamentary Under-Secretary of State for Culture, Communications and Creative Industries, and **Viscount Younger of Leckie**, Parliamentary Under-Secretary of State for Intellectual Property, gave evidence.

Q821 Chair: Good morning. This is likely to be the final session of the Committee's inquiry into support for the creative economy, and I should like to welcome, as our witnesses this morning, the Minister for the Creative Industries, Ed Vaizey, and the Minister for Intellectual Property, Viscount Younger. Jim Sheridan is going to start.

Jim Sheridan: Good morning, Ministers. Can I ask, when it comes to supporting the creative economy, what the Government is doing best but, equally important, what it is doing least well?

Mr Vaizey: I think we are doing a pretty good job on the creative industries. I think it is an area of policy we are getting broadly right. We have, I think, some of the most successful creative industries in the world. Certainly, if you measure it on a per capita basis, they probably are the most successful in the world. One of the things we have done is set up the Creative Industries Council, which brings together the Secretary of State for Business and the Secretary of State for Culture, Media and Sport to meet the industry on a regular basis.

I think the most successful policy intervention has been the continuation of the film tax credit introduced under the last Government, and its extension to high-end television and animation and I hope soon to video games. Broadly speaking, though, I think some of the initiatives in terms of tax-efficient investment, like the EIS scheme and so on, are good for the creative industries. We have tried to focus on skills, encouraging creative apprenticeships and a skills investment fund, IP protection—which my colleague, Lord Younger, would no doubt wish to talk about—and the Technology Strategy Board, as well as bringing together digital catapults. So, the creative industries are quite a wide spectrum of different industries, but I certainly think the screen industries are benefiting very substantially from tax breaks, and other industries benefit from the Government's stance on issues like skills and IP protection.

Q822 Jim Sheridan: Just on the film tax credit, you will be aware that the Committee visited America last year, and it has proved it is a very popular policy, certainly in America. Viscount, do you have any comment about what we are doing best or not doing?

Viscount Younger of Leckie: Yes, very much so. First, I should say that, having stepped into the role in January, I have had a pretty steep learning curve. My role of course is somewhat broader than Ed's, in that

I cover intellectual property in general, which focuses on patents and trademarks, as well as the important area of copyright. There is a huge amount going on, and you will tell me that there is a huge amount of change going on in the market, particularly looking at the digital markets with the challenges that that brings. In terms of what we have been doing, I am proud to say that there are a number of successes that I want to explain. We have supported the EU extension of copyright term for music performances. We have been developing an IP education campaign with industry input, as discussed at the Creative Industries Council. We made some changes to the court system, so that small companies can better bring their claims in a small claims court. We are also working more closely with DCMS, which I think is extremely important—which we can talk about later—on tackling online infringement, and yes, I can talk later about enforcement. I am very pleased to say that we are in advanced discussions with the City of London Police about setting up a new IP crime unit.

There is more, but just to say that, in terms of what we can do better, it is simply this: the market and the changes in the marketplace are moving very quickly, and we feel that we need to keep ahead of the game. There are of course, as I have discovered since January, very strong activists and people who have strong views in the world of copyright at both ends of the scale. I see my role as producing the optimum framework for growth. My role is to protect and grow UK companies, but not to protect to the extent that the consumer end is shut down completely, and it is an important balance. There is no easy answer. There is no "yes" or "no". That is a challenge that I am grappling with. I think it is very important, and I will continue to grapple with it.

Q823 Jim Sheridan: Minister, the Secretary of State said recently, "The creative industries have to prove they have got economic worth". Do you think or believe that the arts should be defined purely by their profitability?

Mr Vaizey: I think what the Secretary of State was saying was what he thought the arts sector wanted to hear, which is that we value the intrinsic value of the arts. They are important for their own sake, but I think the arts themselves want people to understand that they also contribute to our economic growth. So, if you are running a large arts organisation it is not just a "nice to have" or a luxury. It is not valuable simply

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because it is producing great art. It should also be seen as part of the growth story. We have a Government that is very focused on growth, so you have a Secretary of State who wants to argue the case to the Treasury, and to other Ministers, that she represents a sector that contributes importantly to our economic growth.

Q824 Mr Bradshaw: I want to ask Mr Vaizey about those figures, because we have heard a variety of figures from different organisations about the value in percentage terms of the, broadly speaking, creative industries to the UK economy. What figure do you settle on?

Mr Vaizey: For the creative industries as a whole, we tend to focus on a figure of £36 billion GVA. The Arts Council—I do not have the exact figure in front of me—has just published, specifically on the arts, a paper on the economic contribution of the arts, which I think was around the £2 billion to £3 billion mark.

Q825 Mr Bradshaw: What does that GVA figure represent in terms of a percentage of our overall GDP?

Mr Vaizey: I cannot remember off the top of my head, but it is probably around 4% or 5%.

Q826 Mr Bradshaw: It would be really helpful if you could write to us with a figure, because I know from my experience in your shoes under the last Government that when you are making arguments to the Treasury, in the context of the Comprehensive Spending Review, it is incredibly useful for your argument to be able to explain to them how important the creative industries are in terms of their overall contribution to the economy but, also, their potential to deliver growth and jobs.

Mr Vaizey: Yes; well, you filled slightly bigger shoes than mine when you were in office, but that is absolutely right. I think that goes back to what my Secretary of State, Maria Miller, was saying in her speech. She was saying that the case for the creative industries—particularly film, television and so on—was well made. People understand that, and that is why tax credits were introduced, for example, to encourage investment in those industries. The arts have always made the case for their economic contribution. I personally thought it was very good news that we have a Secretary of State who is prepared to stand up and say, “I don’t just value the arts for their own sake but I make the case to the Treasury that the arts are just as valuable and economic, as part of the economy, as any other industry, and, therefore, we should regard what some people call ‘art subsidy’ as arts investment”.

Q827 Mr Bradshaw: Indeed. I seem to remember I may have myself used a figure, when I was Secretary of State, of around 8%. That may have included a broader definition of the creative industries—

Mr Vaizey: Yes. There was a change to do with whether or not software was included in the creative industries, which changed the definition slightly.

Mr Bradshaw: In any event, it would be very helpful for us as a Committee, I think, when publishing our report, to get a figure.

Q828 Angie Bray: Vis-à-vis those figures that you gave, in terms of what you said the figure you tend to use—

Mr Vaizey: We tend to use a figure of £36 billion. If I can just check my briefing to ensure that is accurate: we say that 1.5 million people are employed; about 5.14% of employment, and that GVA is £36.3 billion; 2.9% of UK GVA.

Q829 Mr Bradshaw: Do you still favour the evidence, as we did, that Britain has the biggest creative sector as a proportion of its overall economy of any country in the world?

Mr Vaizey: Yes, we do.

Mr Bradshaw: Great.

Viscount Younger of Leckie: Could I, if I may, just add to that? I agree with Mr Vaizey’s figures. I have a figure too, which is probably quite helpful to the Committee, of £36 billion a year. The creative industries generate in the same way £70,000 for every minute for the UK economy, and, as Ed was saying, employ 1.5 million people. But there are some other statistics that the Committee might find helpful. From the IP perspective, the total annual investment in intellectual property rights represents 4.3% of UK GDP, which is quite significant. The UK has been rated No. 2 in the recent Taylor Wessing Global IP Index, and I think that has something to do with the fact—I am delighted to say—that the UK is now going to be hosting the GRD, which you probably will have seen: the Global Repertoire Database. That must say something positive about the UK and the reputation for IP.

Mr Bradshaw: That is the same figure for both, so that is helpful.

Q830 Chair: Viscount Younger, you will have seen that Professor Hargreaves produced a number of figures about the possible value to the economy of some changes to copyright law, and some of those figures are quite controversial. We may come on to explore that in a little more detail in due course. But the figures you quote: is that a figure that you estimate as the value of intellectual property rights to the economy, or has there been any calculation of that?

Viscount Younger of Leckie: The calculation of that is never an exact science, but there are two sides to this. One is that, as you will know, Professor Hargreaves—who I think gave evidence himself to this Committee—has said that the value would be between £5.5 billion and £7.9 billion to the UK economy by 2020.

Q831 Chair: I am not talking about his recommendations, because I want to come on to those a bit later. I mean about whether you as IP Minister have a figure in your mind for what IP is worth to the UK economy?

Viscount Younger of Leckie: Yes. The figure I gave earlier is what I have. In terms of copyright, which I think maybe you were alluding to particularly, we reckon that particularly with copyright exceptions, we will add £0.5 billion to the UK economy over 10 years at current prices, with additional benefits of £0.3 billion per year identified. You mention Hargreaves,

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which you might talk about later, but the issue is that the figures are not an exact science. So, we look at Hargreaves, and we look at the Government figures, but the UK investment in copyright was approximately £3.2 billion higher than previously thought. It was £5.1 billion in 2009, if that is helpful. Overall, if I could say, the creative industries accounted for 10.6% of the UK's exports in 2009.

Q832 Chair: Have you made any estimate of the cost to the UK economy of IP crime?

Viscount Younger of Leckie: That, again, is not an exact science but the answer is yes, we have. We have had some figures from different sectors in the creative industries. For example, the UK film industry has estimated that the costs of piracy are £170 million per year. There are various other figures, for example, from BASCAP—Business Action to Stop Counterfeiting and Piracy—where, for example, €1.7 billion for every 1% of increase in crime caused by counterfeiting is the figure that is given.

What we do not have, and we are working very hard on it, is one holistic overall figure. I hope the Committee will appreciate that it is extremely difficult to get one accurate figure, but we need to work harder on that. A particularly important part of what we do is enforcement, and prevention of piracy.

Q833 Chair: At the moment, the figures you have just quoted are industry estimates. It would be helpful if the Government could express a view as to what the level of crime is across all the industries in terms of IP theft.

Viscount Younger of Leckie: Yes, I agree, and that would help us. I am agreeing entirely with you. Hopefully you will appreciate that it is quite a challenge to get to the bottom of where the piracy is happening and to determine what the costs are for that. For example, the retail value of single tracks downloaded from unauthorised sources in the UK is £984 million, which is another figure plucked out of the air. The challenge for us is to continue to delve into these figures and to give a holistic overall view, but I do not believe it will ever be entirely accurate. I do not believe you can ever get—

Q834 Chair: But you are going to have a shot at it?

Viscount Younger of Leckie: Absolutely. Yes. It is very important because protecting our creators and our rights holders is very important indeed. We are particularly strong in that in the UK. We are doing a lot on the enforcement side, and getting to the bottom of the figures, and what we need to do to stop piracy and theft, to put it bluntly, is extremely important.

Q835 Mr Bradshaw: Do you accept, from the figures you have just given, that if you look across the sectors, those amounts soon build up to a figure considerably higher than the figure you quoted from the *Hargreaves Report* after the benefits of relaxation of copyright?

Viscount Younger of Leckie: I have no doubt the figures are higher, because there will be many aspects of piracy that we have not been able to detect. For example, the measures we are taking, including

talking to the City of London IP Crime Unit will help enormously, to help us delve into matters of piracy and crime and get further into where the problem lies. It is a big issue.

Chair: We will come on to the detail in due course, but, before we do that, let me turn to Gerry Sutcliffe.

Q836 Mr Sutcliffe: Good morning, Ministers. I want to turn to the very successful Olympics and Paralympics that were held in 2012, and to ask Mr Vaizey: do you think that UKTI have been good at securing business for British businesses on the back of the successful Olympics and Paralympics, and, perhaps in more general terms, what do you think the legacy of that successful period has been for sport and for culture?

Mr Vaizey: I think UKTI has been very successful. I would like to pay tribute to UKTI. I have worked with them as a Minister off and on over the last three years, and I find them to be a very effective organisation. I do not know; they sometimes say the Queen thinks the world smells of fresh paint. Whenever I go on a trade mission people come up to me spontaneously and tell me how marvellous the UKTI is. I do not think they have necessarily been primed to say that. I was very struck, for example, when I went to the Mobile World Congress, that UKTI had secured a prime position for British businesses. I think British businesses were the second most represented businesses after the Americans. I also went on a trade mission recently to South Korea and to Taiwan, specifically taking sports organisations or organisations involved in the creation of events, including architects, for example. That was a very well-organised trip to two countries that are holding major sporting events over the next few years.

The British Business Embassy, which was the event effectively based at Lancaster House to encourage British businesses to engage with foreign investors—I have seen a figure of £1.8 billion as a target for what we want to get out of that. Foreign direct investment: I have seen a figure of £2 billion on the back of the Olympics as a target, and for higher value events, like Sochi and obviously Rio as well, a target of something like £1.5 billion. They have put into place an account management system for top exporters. So, I think it goes absolutely without saying that we have a unique opportunity, after the Olympics, to capitalise on expertise built up by British companies in putting on what was a show-stopping event, which was an event obviously started by the last Government, finished by this Government, and I think a great tribute to British organisational skills and engineering, manufacturing and almost any other industry you can think of, and creativity of course. I think that people are very alive to that opportunity, and it is potentially a decade-long opportunity for us to take advantage of.

As far as the cultural legacy is concerned, again, the Cultural Olympiad is deemed to have been a great success; something like 40 million individual participations over many thousands of events. We are certainly considering how we can build on that. We use an initiative, again started by the last Government—the UK City of Culture is proving to be very popular. But I certainly think people are looking

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at whether there is a way of harnessing, effectively, what the Cultural Olympiad was—a national cultural festival—to see whether it can be continued in some way in the future.

Q837 Mr Sutcliffe: It is refreshing to hear that. I think the Committee and all of us who have travelled abroad since the Olympics and the Paralympics have felt an upsurge in the fondness of Britain, in terms of putting on events. So, that is great news. There was a slight hiccup, though, and I think you have personally been involved in terms of the protocols around the marketing issues for companies that could not say that they were involved in providing services or manufacturing for the Olympics. How is the new scheme going that you introduced?

Mr Vaizey: The hiccup—I certainly know that, from my own perspective, in terms of the industries that I look after, architects were very vocal in wanting to ensure that they could shout—quite rightly—about the contribution they had made, in iconic buildings, to the Olympics. Clearly, as you will know from your time in Government, Gerry, there are strict protocols and contracts put in place by the IOC to protect the sponsors who make a very significant financial contribution to the Olympics, and I think that is appropriate. What we have put in place, which I understand is the first time it has been put in place in any Olympics, is a supplier recognition scheme, which allows people to apply for a licence in order to market their involvement with the Olympics. My understanding is that something like 600 licences have been issued. Some have been refused. I am not quite clear of the grounds for their refusal—presumably because it came to close to what a particular high-level sponsor was doing in terms of their marketing. So, certainly, we have provided a route, after negotiations with the IOC, for people who have contributed to the Olympics to showcase their contribution.

Q838 Mr Sutcliffe: I would add, Chairman, from the organisations involved, that there were difficulties, but hopefully this new scheme will iron it out and people will have the opportunity to benefit from their involvement in the Games because I think, going back to your earlier point, it is important that they are able to market to the wider world the successes that they were involved with. Are you confident that enough has been done? Is there more that could be done in trying to promote this Olympic legacy in its wider sense across Government? Part of the problem sometimes is that the Department is enthusiastic about promoting the values that you talked about, but how can we continue the story, if you like, right across Government to make sure that that momentum is maintained?

Mr Vaizey: I think that is an interesting question. Certainly, from my perspective, I think I would divide it into two areas. One is obviously to benefit the UK economy, to benefit UK companies that have participated in the Olympics, so to use UKTI and other organisations to ensure that they get the chance to market their expertise abroad to countries that are organising big events such as this. Certainly, in terms

of the Cultural Olympiad, we need to build on that success, but I would hope that other Government Departments where they thought it was appropriate, whether it was in education or in health, would see opportunities to use the Olympic legacy. It is hard to believe it was less than a year ago that the Olympics took place.

Viscount Younger of Leckie: Could I just come in here to say that from a business innovations skills angle—Ed will know of course that we are very fully involved, and it comes under Michael Fallon's aegis to look after the legacy from the business angle. He has asked me to help with that. So, in a way it is quite convenient that from the Olympic side, linked with DCMS, I will be playing a bit more of a part there.

Mr Sutcliffe: Good. Excellent.

Q839 Paul Farrelly: Just from the business point of view, one of the concerns from the outset was that as many businesses as possible would get the opportunity to bid for contracts, be they creative industries or normal construction industries. The Government seemed with LOCOG to have set up quite a successful portal to allow as many businesses as possible that opportunity. Are there lessons that the Department has learned from the Olympics that have been shared across Government, in terms of maximising the opportunity for small business in particular directly to access Government contracts, rather than going through big-company gatekeepers?

Mr Vaizey: I will check with my officials afterwards and write to you if there are specific lessons from the Olympic contracting process that we shared with Government. But I certainly know, from my dealings across Government, that the Cabinet Office is very, very focused on ensuring that we can procure contracts with small companies. I think particularly, the one example that I seem to come across mostly is IT contracts, because now IT contracts, as I understand it—and I am speaking outside my brief now—go through the Cabinet Office. You get bids from the Department for vast contracts of many millions of pounds, which the Cabinet Office can now deconstruct and invite in bids from smaller companies, and the cost reduces dramatically. So, I think there is a real appetite in Government to ensure that small businesses have an opportunity to procure with Government, not just because it is the right thing to do to support small businesses, but actually you can, in many cases, get far better value for money. I will certainly ask whether the Cabinet Office could also write to this Committee about the work they are doing on encouraging procurement from small businesses, because I know that is something they feel very passionate about.

Paul Farrelly: That would be very helpful.

Q840 Jim Sheridan: Ministers, can we perhaps move on to the funding and finance issues? As I understand it, the Government has announced another £440 million funding through the Technology Strategy Board, and it would be interesting to hear how you think this money will help the creative sectors. I understand that some of the money is earmarked for digital technologies. I am interested to see how the

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Government seems to think preferring to invest in digital technologies over the creative industries is helpful. Certainly a vast amount of money could go to America, whereas the successful creative industries in the UK will not see much of that money. Is there some sort of disconnection there in Government, in terms of supporting American technological firms rather than the creative industries?

Mr Vaizey: I think there are a number of different schemes that would support the creative industries. Going back to your first question, Jim, about whether or not the Government could do things better, I certainly think that we need to provide an element of coherence about the number of potential funds that are available. I once—just a sort of window into my sad life—spent a period over Christmas hunched over a computer trying to work out how many different business support schemes there were coming out of BIS for different sectors. But certainly I think for the creative industries, things like the Enterprise Investment Scheme and the Seed Enterprise Investment Scheme are the front door.

As far as the Technology Strategy Board is concerned, they are setting up a series of catapults. In fact I think this afternoon I am going down to open with David Willetts the space catapult, which I am lucky enough to have in my constituency—it is clearly a name that chimes with the Chairman. But they are doing a digital catapult, which is going to be headquartered, I think, in London. Again, I can't remember the figure off the top of my head, but I think about £100 million is being invested. That will effectively allow people to trial different ways of digital delivery and involve the creative industries.

I am not entirely clear whether there is a problem in terms of American technology companies being helped by the fund. Clearly, our funds are there to help our businesses based in the UK get off the ground and grow, but it may be that where you are experimenting and looking at different ways of digital delivery, you will inevitably involve technology companies from across the world who may be interested in supporting that work.

Q841 Jim Sheridan: My understanding is that all the technological companies are American, and that is where the money is going.

Mr Vaizey: I can check that fact, but—

Jim Sheridan: There does seem to be concern about the disproportionate spend of money in terms of the digital technologies as opposed to direct funding into the creative industries.

Mr Vaizey: I can check that.

Viscount Younger of Leckie: My take on that is, as you will know, that the majority of the funding for the creative industries comes in through DCMS, and I have said already that we are working more closely with DCMS on these matters. From the intellectual-property perspective, clearly much of the funding comes through the IPO. They are not major figures, but it is still significant in terms of what it is going to produce. The Government is providing £150,000 towards the copyright hub, as you probably know, which we see as being a very significant step forward for copyright. Professor Hargreaves estimated that the

hub could add up to £2.2 billion a year to the UK economy by 2020. So perhaps, from our perspective, it is a question of small amounts of money going in for a greater return over the longer period.

Q842 Mr Sutcliffe: This whole issue of funding and finance being high in the evidence that has been given to us by other bodies—I think the concern is that, in the creative industries, because there is a high level of risk, it is difficult to get funding from the normal routes. The banks will not take a risk on some of these projects. How can the Government help, in terms of supporting either individuals or groups of individuals, turn themselves into more permanent companies that obviously lead to greater employment? Have you found any issues in your ministerial role where you think there is a route for Government to help in this area?

Mr Vaizey: I think it is a problem. One of the issues that the Creative Industries Council is looking at is what we call “access to finance”, to look at the ways that we can encourage people to invest in the creative industries. There has been work done, for example, by Demos, which shows that creative industries are not the risk that they are perceived to be. It is certainly, I think—I have picked up, and it is more anecdotal than objective—that we don't have that level of investment that we should have. If you go to your bank and say you want to open a pizza takeaway restaurant, you can walk away with a loan, but if you want to start a design business, it is going to be more difficult. Certainly that is why I was a very strong supporter of the creative industries tax breaks that we have brought in, as well as the R&D tax break. Certainly that is why I think, again, the industry welcomed the Enterprise Investment Scheme and the Seed Enterprise Investment Scheme, although I am aware of the evidence that you have received that some people feel—I think it was the Ingenious representative who said that the scheme is launched and it hasn't been communicated. In terms of what the Access to Finance Group has come up with, it is, first, much better communication about these schemes and how they exist. I have thoughts about how we can take that forward in the future, perhaps working with the Government digital service to communicate to people, because most people who are looking for a loan will type into a search engine saying, “How do I get a loan or a grant to support my business?” Certainly I think badging of these schemes, so that they are coherent and there aren't a dozen different schemes that confuse people, is something we need to look at. So I think communication and clarity are two very important points, then also engagement with investment companies.

Somebody made—again, this is anecdotal, so probably not very helpful—the point to me the other day that they felt that in the big banks they have one technology analyst whereas if you go to America you will have a team of 20, each one specialising in niche areas. Of course, there are specialist investors in these areas, but I think it is important that we continue to engage. I do events pretty regularly, trying to engage with investors and bring creative industries into the same room to talk about it. You have had evidence

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from your witnesses, and we started talking about the value of the creative industries. If you step back and look objectively, the video games industry is going to be one of the global growth industries of this decade. So, we are bringing in, hopefully, a video games tax break. Investors should be getting into that.

I have heard, again anecdotally—a third anecdote—of a very experienced UK games developer who couldn't get funding, went to America and got it the next day. What he said—and again, it was a cultural thing—was that he felt they were investing in his team. The Americans recognise skills and the value of a team, and they were prepared to make that investment.

Q843 Mr Sutcliffe: That is reinforced by information that we received about Canada being a place of investment for video games, and I think that Dundee in Scotland is an area where equities could be lost if we do not try to protect and support that sector. You talked earlier about the film tax credits, which have been very successful and resulted in investment coming into the UK in terms of new studios for some of the bigger companies. Just to be a little parochial for a short while, areas like mine in Bradford—it is the UNESCO City of Film and the National Media Museum is there—are trying to promote the city as a city of culture, media and sport because our problem is the proximity of Leeds next door being the regional centre. What can the Government do or has the Government thought about using creative industries in areas of hubs, really, to support skills training and development of new and emerging communities because of the make-up of the population that we have in Bradford?

Mr Vaizey: That is an excellent point, and one of the huge benefits of creative industries is that they are nationwide. You will find classes in Dundee, in Brighton, in Manchester, Liverpool, Bradford, Bristol—all over the country you will find clusters. A number of LEPs—Local Economic Partnerships—that were set up to replace the RDAs have put creative industries at the heart. I think the most innovative that I have seen, in terms of engagement—they have engaged with me on it—has been Birmingham, which wants to be seen as a digital city, wants to be known to have a cluster of creative industries, and I think innovative LEPs—I am afraid I don't know, Gerry, the position of your LEP—who have creative industries on their doorstep should embrace them as part of the offer, in terms of investment, but also thinking strategically about what kind of infrastructure they need to put in place to support these clusters.

Q844 Mr Sutcliffe: If I can, I will write to you outside the Committee on the issue.

Mr Vaizey: Okay.

Mr Sutcliffe: Thank you.

Q845 Chair: It is widely recognised that this country is exceptionally good at producing very creative people and very innovative digital businesses, for instance. But we have also heard that for a lot of people their ambition is that, once they have established themselves, they will go and work in America and get paid a lot more money, or if they set

up a firm, they will get bought up by a large American multi-national, and for them that is a measure of their success. Is that a cause of frustration that we do not seem to have the ambition to create very successful British individuals and companies, or is that just inevitable and part of the consequence of our being a small player?

Mr Vaizey: Gerry said he is being parochial, I guess it is my turn to be parochial. I think, if I am being honest, it is a sense of frustration. But is that me being parochial? Is it me just being a politician who would like to see obviously successful British companies? I suppose if I was a dry economist, I would say, "Capital investment is a good thing. If the capital is coming from America and creating jobs in the UK, that is fantastic".

We do have I think big, successful companies. I tend to characterise them as the back end rather than the front end. We see big companies, obviously, like Google. We see companies like Apple, of course, but then we don't acknowledge that a lot of the graphics in an Apple iPhone are provided by Imagination Technologies, a company in Hertford, created from nothing, worth between £1 billion and £1.5 billion, or companies like Telecity that provide huge data services. ARM is quite a well-known one as well—so a lot of British high-tech manufacturing. There is a lot of huge success there. The motorsport industry is a £5 billion industry that exports 70% of what it makes. Again, if we are being parochial or patriotic, there is perhaps something satisfactory in the fact that a German driver driving a German Mercedes in a Grand Prix is driving a car that was designed and manufactured in Britain.

So, there are good points, and it is perhaps that our perspective is slightly coloured by the fact that more consumer-facing products tend to be American. But I do think there is a lot of capital in America. It works very hard. It tends to be there to invest in companies at the medium size, and so I suppose the economist in me would say, "That's a good thing, that these companies get the capital to grow and continue to employ people in the UK", and, as a politician, I would like to see more big, shiny British success stories.

Q846 Chair: So we should be pleased and celebrate that Star Wars is going to be made in Britain, but we should not have ambitions for a British company to make Star Wars?

Mr Vaizey: That is a more complicated question. Again, it is about capital. There are five major studios in America who have the capital to make films that cost between \$100 million and \$200 million. We do not have those kinds of studios in the UK, and the only countries that could probably match that capital investment would be India and China. Given that those films are going to be made, it is fantastic that they are coming to be made here. They are coming to be made here partly because of the tax break, which is something that now any major film production would expect in whichever country it was going to. But it is also very important to stress that they are being made here because the Americans actively want to make films here because of our skills base. Whether it is

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costume-making or set design through to visual effects, we are regarded as one of the best if not the best place in the world to make a film.

Viscount Younger of Leckie: Just to add to what Ed was saying, I wanted to make you aware of a fascinating maiden speech that Martha Lane Fox gave in the Lords yesterday, which is relevant to the extent that, although she was not referring specifically to the creative industries, the digital age of course is here and I think there are tremendous opportunities for those with particular skills to stay in Britain and not move to America, and—several quotes I want to give. She said, “Only when we focus on all aspects of digital growth, both infrastructure and skills, will we be a truly digital Britain”. It is quite interesting—and I think I realised this, but she put it starkly: “In Britain we do have strong digital foundations. The internet accounts for 8% of our GDP, the highest of any G20 country, and recent forecasts suggest that 25% of our economic growth will come from the internet sector in the future”, and I could go on. But there are some fascinating figures there, and it just explains that we have a lot going for us in Britain. I could say a lot more on the IP side, which I might later; but an exciting time.

Chair: Since you are figuratively on your feet, we might move on to that.

Q847 Jim Sheridan: Could you explain why the Government is finding it so difficult with the IP portfolio? I think there was a regular turnover of Ministers on this issue, but when the Government says, “We want to free up copyright”, what does that mean to the lay member?

Viscount Younger of Leckie: When you said that people were finding it difficult with IP, what did you mean precisely?

Jim Sheridan: The Government are finding it difficult to come to terms with and grasp what we mean about the whole IP portfolio.

Viscount Younger of Leckie: Yes. From the IP perspective, we have a busy and vigorous programme, and, in fact, just after I came in in January, I signed off on the IPO corporate plan. So, we in the IPO are extremely clear what we are doing in terms of setting out our strategy or objectives, or our aims. We have values, and we have a very clear set of objectives. It is very important indeed that we communicate those objectives, which we arguably need to do slightly better, particularly among the parliamentary theatre, among Peers and MPs, and I have already started to do that.

In terms of what is actually going on on the ground—and this is the most important thing—support from SMEs—all business, but particularly SMEs—is incredibly important, and we all know that 95% of all businesses in the UK are SMEs and they need a lot of support. It is extremely important from the intellectual-property perspective that we give them all the maximum support.

Last year, for example, which you may not know, we helped 18,000 businesses face to face in the IPO. With that, on the back of the *Hargreaves Review*, we are giving a lot more advice to small companies. We have been funding also 200 IP audits for SMEs, so of

course once they have had the audit done, we are pushing them to register their patents. We have also managed to secure well over 200 IP attorneys to give pro bono advice to companies. Then there is training as well. We have just completed training of over 220 business advisers from several partner organisations, such as GrowthAccelerator.

So, there is an awful lot going on, on the ground, for businesses. That obviously covers one aspect of IP. There is obviously a lot more going on in the copyright side, and you will know that I have been extremely heavily involved in the ERR Bill, which is now an Act. This has gone through Parliament, and there is an IP Bill coming up that I am taking the lead on.

Q848 Jim Sheridan: There are a number of people in this industry who have some difficulty understanding what we actually mean by freeing up copyright. You are probably aware that the Committee visited Google last year, which personally I found a rather spooky experience. It was like visiting some sort of religious sect. I have to say that this is an American company that makes millions of pounds in profits from advertising revenue and websites, and the Government gives British IP away for free. Do you think it is fundamentally fair that a company like Google, which is not even paying any tax in the country, is getting this advantage over people?

Viscount Younger of Leckie: Google is one of several search engines, and I am very aware of their power, put it that way. I am also very aware, I think, that they have access, for whatever reason, to higher levels than me in No. 10, I understand.

Q849 Jim Sheridan: Could you expand on that?

Viscount Younger of Leckie: No, because I just heard that. I think we all know.

Q850 Jim Sheridan: So that was a conversation, then, was it?

Viscount Younger of Leckie: Absolutely, yes, which is fine; that is their right to do so. I am making the point that they are a vociferous action group and a big company—to put it bluntly—and they are quite powerful, but there are also other powerful ones. To come back to your basic question, which I think is focusing on copyright, I have come to realise that of course copyright is a highly complex issue. There are no yeses and nos, I think, to copyright, and I see my role in IP as focusing as a priority on growth, which I have said before. That takes account of the rights holders, very importantly; in other words, protection of our very strong creators and innovators in this country.

On the other hand, as *Hargreaves* has reported, it is very important—as Martha Lane Fox alluded to yesterday—that we grasp the digital age, we are not left behind, and that we actually change and this is a great big challenge. Some people perhaps think that copyright should not change. I am afraid that other Governments are looking at copyright. The US and China particularly understand that the copyright system needs to change. We in the UK must also do that and must be aware that we are a global family.

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Q851 Chair: Are you saying that you agree it needs to change?

Viscount Younger of Leckie: Yes, I do. I agree that copyright needs to change. We need to change with the advances in the digital age and with advantages in technology, and that is what we are grasping at the moment. That takes account of both polarised views.

Q852 Chair: It is one thing to say that copyright needs to be updated, so that it covers new technologies, but that does not mean you change where the rights lie and the importance of those rights. Are you just talking about updating law, or are you actually talking about changing the balance?

Viscount Younger of Leckie: Yes. Well, I don't know whether change or updating—I don't know quite how one would define it. I would say change because, at the end of the day, we do need to move forward in the right direction. It is very important indeed that we protect our right holders on the one hand, but not batten down the hatches at the same time. We need to allow the user end and the consumer end to have their say, because there is some growth potential at that end of the spectrum.

Q853 Jim Sheridan: In terms of change, did the Government give any consideration to supporting an equal system of licensing for British IP assets, as opposed to giving them away for free?

Viscount Younger of Leckie: I think you are alluding to the fact that one should have full licensing. I do not believe, frankly, that is the way forward, because you would put too many burdens on individuals and businesses. I think it is entirely fair, where it is seen to be reasonable, that there should be some opening-up, for example, for research. Particularly if we look at our very strong pharmaceutical sector and medical research, it strikes me as being unreasonable to shut down that side, and companies like GlaxoSmithKline would presumably—or may—suffer. Pharmaceuticals, for example, I think is our second or third largest sector in terms of contribution to the GDP, so we need to bear that side in mind while also—as I say again—protecting those who are either writing or creating.

Q854 Jim Sheridan: Finally, is delivering the Hargreaves agenda your biggest challenge?

Viscount Younger of Leckie: It is one of the many challenges that I have within IP. I have already explained that the IPO is my main focus. It is the main part of my job, other than seeing BIS business through the Lords. That is the way I see it, which is perhaps slightly different from my predecessors.

Q855 Jim Sheridan: Minister, would you like to expand on the influence of Google in No. 10?

Mr Vaizey: I do not think Google has any more influence in No. 10 than any other large investor in the UK. We had a meeting in No. 10 recently with Time Warner because Warner Bros were opening Leavesden Studios, which is a £100 million investment. So I think it is absolutely appropriate that you meet companies that are making a contribution to the UK economy. As Lord Younger said, there is a debate about copyright. A report was commissioned

by Ian Hargreaves. It has been well debated, and we know from the previous Government, when we had debates about copyright, orphan works has been a perennial issue that people have tried to grasp. That has been driven by many different organisations. Companies, like the BBC, the British Library and so on would like to see clarity on orphan works. So I think it is important that Government looks at these issues and sees whether there are ways forward.

Q856 Mr Sutcliffe: There have been 22 meetings between Google and No. 10. Do you not think that is quite unnecessary?

Mr Vaizey: You can take meetings in and out of context. I can't comment on those individual meetings at No. 10. I get attacked for meeting Google, but what is not explained is that the meeting with Google takes place with the BPI and rights holders, who basically spend an hour challenging Google on the issues of concern to them. So, I have deliberately brought together—

Q857 Chair: But there is a perception that Google have an access to No. 10 that the rights holders, for instance, do not. Do you think that is accurate?

Mr Vaizey: I do not think that is accurate, no.

Q858 Chair: So you think that the rights holders have just as much opportunity to present their case to, for instance the Policy Unit, to No. 10 as Google does?

Mr Vaizey: I am sure they do, absolutely. Time Warner—the Chancellor made no secret of the fact that he was personally involved in talking to Lucas Film about bringing Star Wars over. So obviously we engage with all companies that want to invest in the UK economy.

Q859 Jim Sheridan: All these meetings at No. 10 and with your own Department are all recorded, are they?

Mr Vaizey: Yes, my meetings are all recorded.

Q860 Jim Sheridan: No. 10 as well?

Mr Vaizey: Yes, as far as I am aware.

Q861 Mr Bradshaw: Why did Viscount Younger acknowledge a moment or two ago that Google had a direct line to No. 10?

Viscount Younger of Leckie: I can't remember saying "direct line"; I just said that—

Mr Bradshaw: Words to that effect, in terms of lobbying; I think you acknowledged—

Viscount Younger of Leckie: I simply said—I think you are probably making too much of it—that I know that Google had been into No. 10. I have no idea on how many occasions.

Q862 Mr Bradshaw: That does not make your job more difficult?

Viscount Younger of Leckie: No, not particularly. As Ed was saying, I think it is absolutely right that if people want to have access to No. 10, No. 10 can decide who they want to see. In my case, as IP Minister, I like to make it my business to see as many

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stakeholders as possible. Indeed, that is what I have been doing, and I will continue to do so. I know that my Secretary of State, Vince Cable, is also seeing, with me or without me, some stakeholders. I think it is right that we should be transparent and open in Government and to have an open door. I think Ed has mentioned others, other than Google, who have possibly or probably been into No. 10. I am not sure it is particularly significant, to be honest.

Q863 Mr Bradshaw: Could I ask you both to respond to something that Andy Heath of UK Music told us in his evidence in December: “The biggest problems for the music industry and the cultural industries in general is the bewildering attitude that we seem to be getting from the Government about its ambivalence towards the benefit of copyright”. He went on to state, “The Government have bought the line that intellectual property is a barrier to growth, and that simply is a lie”, and he said that, in conversations with business people and investors, “This Government hates copyright. They are going to bring in all sorts of laws that are going to make it easier for Google to steal your music that they already steal, so why should we invest?” How do you both respond to those comments?

Viscount Younger of Leckie: I don’t recognise that view of copyright. I said earlier that it is a highly complex issue, and I suspect they come from a particular angle. As I say, I see my role as looking at both sides of some very polarised and strong views. My job is not to take one side or another, and I need to find my way forward. I say again: it is to be able to protect those who are creating or making music, in particular, but also to open up where it is seen reasonable to open up. That to me is a very reasonable way forward, and it is what I would continue to do as a policy. So I don’t recognise that particular view point, and it is obviously a passionate view, which I respect.

Q864 Mr Bradshaw: Mr Vaizey?

Mr Vaizey: I know Andy Heath pretty well, and Andy has as much access to me as he wishes. As I say, obviously on one level, some of the meetings that I have with Google are about the future of technology. They support Tech City, for example, but most of the meetings I have with Google are absolutely on Andy’s agenda. They are these IP enforcement round-tables. We have the Motion Picture Association, we have the BPI, and we have other rights holders challenging Google on the issues of concern to them, which are well known, which are search rankings and the ability to find pirated material through Google Search. That is how I engage with Google, and I don’t think they get an easy ride from rights holders. I made a very conscious decision, as a Minister, that I would bring the two sides together—that includes the ISPs as well, BT and Sky and so on, who also have a big role in this debate—to get these issues out on the table and see how we can work together to reduce piracy.

Viscount Younger of Leckie: Can I just add two things to that? One is that, in terms of fighting on behalf of the music industry and looking at the enforcement side, there was an eightfold increase in

UK convictions for copyright offenders from 2002 to 2009. You may know that the IPO has an intelligence hub and has aided the enforcement community and industry with approximately 400 investigations since it began in 2008. As I said earlier, it is very important that we protect the likes of the group that you mention. Secondly, we are planning, from the intellectual property perspective, an enforcement conference, and we think this will be a very important thing for the UK. We don’t know quite when it will be, but it is likely to be 2014. It will be a global conference to bring players from across the world to London, to spend two days discussing enforcement issues, airing views and a bit of networking. This has never been done before, and we are taking the initiative. So, although it has not happened yet and we do not have a date, we are in discussions about that, and I think that will be a very good step forward.

Q865 Mr Bradshaw: Mr Heath’s views, although perhaps expressed more frankly, were very widespread of the evidence we have heard from virtually all of the rights holders who have come and given evidence before this Committee. Isn’t one of the reasons that they feel as they do that the Government has failed to implement the provisions of the Digital Economy Act?

Mr Vaizey: I think again one has to put it in context. I believe in IP enforcement, and we have sat round this table on regular occasions to discuss ways forward. My view is: what can you do that will have an impact as soon as possible? The industry was always advised, and was advised by the last Government as well, that you could use the Copyright, Designs and Patents Act 1988 to block sites. The industry has used that Act. It took a while, because of the court process, but they have, as far as I am aware, two successful cases under their belt, and it is becoming easier. They deal with one judge. Mr Justice Arnold hears these applications. They have blocked sites like Newspin 2 and Pirate Bay. So, site-blocking has gone through very uncontroversially when you consider the kind of debate that happens in the States. We have worked with the City of London Police on preventing payment mechanisms being put on pirate websites. So again, we work with them to work with credit card providers. We work with the advertising industry where again I think we are regarded—certainly by my American counterpart—as one of the leading nations, if not the leading nation in the world, in trying to ensure that brands do not inadvertently put their advertising up on pirate sites. That involves digital training and the Standards Group coming up with a self-regulatory code and working with the National Fraud Intelligence Bureau to draw up a register of infringing sites so that brands don’t allow their advertising on them. Google has changed its algorithm. I can’t claim credit for that, because there is pressure on them obviously in the United States as well. So we keep on keeping on.

As far as the Digital Economy Act is concerned, and I know that you will have heard a wide degree of evidence, but some people gave some pretty frank views about whether that Act was fit for purpose and, given that it went through in the wash-up, whether it

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was properly scrutinised. We started when we came into Government with an Act that was subject to judicial review by BT and TalkTalk. Again, BT is an ISP that we bring into these enforcement round-tables. That judicial review process went on effectively until this time last year; so, for two years. Although we were confident I think, broadly speaking, of victory, which indeed we achieved, we were not absolutely clear what the judgment would say at the end and whether we would need to amend things. So we had to amend a statutory instrument, which we tabled two or three months after the appeal had concluded, so we weren't hanging about. But we now have a classic Whitehall discussion about whether the statutory instrument is appropriate; whether the Ofcom costs are regarded as a tax or a fee. We are in discussions with the Treasury to ensure that we get it absolutely right, but we intend to proceed as soon as we can come to an agreement with the Treasury about the proper way forward. I would reject any notion that we have delayed on the Digital Economy Act. We did not ask for this judicial review. We fought for judicial review and won the judicial review, but in the meantime I did not just sit on my hands and say, "Well, the Digital Economy Act will have to wait; hands out." I have taken forward initiatives on a whole range of areas in terms of IP enforcement.

Q866 Mr Bradshaw: When do you hope to resolve this problem with the Treasury and get the Digital Economy Act, which you very strongly supported during its passage in the House—

Mr Vaizey: Yes, we did support it. We supported it in the wash-up, but we are aware of the criticisms from stakeholders that the Act did not achieve appropriate scrutiny, and you will also be aware we are in a Coalition with the party that did not support the Digital Economy Act and they have taken out, for example, the—

Mr Bradshaw: That is not quite true. Bits of it did not.

Mr Vaizey: Right, okay.

Q867 Mr Bradshaw: Their culture spokesman at the time supported it very strongly. What I am trying to get at, Mr Vaizey, is can you not see that the creative industries detect that you have lost your enthusiasm for the Digital Economy Act and that is why they have lost trust in you?

Mr Vaizey: I don't think they have lost trust in me. I have read all the evidence that you—

Mr Bradshaw: You collectively as a Government.

Mr Vaizey: Okay. I don't think they have. As I say, I come to this Committee confident in terms of what we are doing to support the creative industry. On the one hand, we are encouraging investment through tax credits and the establishment of the Creative Industries Council to be a forum for policy, and, on the other hand—in fact I think I have an IP enforcement round-table next week—we continue to press ahead on what are, I think, very important initiatives. Site-blocking is happening, and it is happening in a way that is deeply uncontroversial in this country. On advertising we are well ahead of the game, and on payment sites we are also making great

progress. I also think it is important that we recognise that targeting some of these big websites that make money from piracy is a very important part of that equation.

We would like to implement the Digital Economy Act, but we have to get it right. We could not implement it while it was subject to judicial review, because we ran the risk of tabling and passing an SI that would then have had to be amended, so it would have been absolutely self-defeating, but we are moving as fast as we can. I am not going to blame anyone for the fact that the Treasury takes a different view on the fees and whether or not that is a result of the Bill going through very quickly. As you quite rightly say, we supported it in Opposition and we wanted the Bill to be enacted during the wash-up, but that is a technical issue that I have to deal with. I don't think they should lose confidence in what we are doing.

I also think it is very important that the industry itself continues to work together. One of the things that I hope will change and has changed is that you have ISPs like BT—and remember BT did not want this Act and tried to undermine it in the courts or, to put it more objectively, sought a judicial review of its implications—that have now made a massive investment in content by buying Premier League rights. Now, I cannot believe anyone in BT is going to sit idly by while pirate sites put up live-streaming of a Premier League match that they are providing for their customers. The Americans are pressing ahead with a voluntary three-strikes process with the main cable companies and rights holders, and they are certainly looking to implement something like that in the UK.

I think that industry itself has to work together, and one of the reasons I have brought both sides together is to illustrate the point that ISPs have as much interest in protecting IP as rights holders do.

Q868 Mr Bradshaw: When can we expect the first customer notification letters to drop through people's letterboxes?

Mr Vaizey: We are looking at 2015 now.

Mr Bradshaw: Which is significantly later than originally promised?

Mr Vaizey: It is significantly later, yes.

Q869 Mr Bradshaw: Can I ask about one of the other promises around the Digital Economy Act, which was to extend PLR to the lending of e-books and audio books at libraries? What progress has been made on that?

Mr Vaizey: William Sieghart carried out a review for us and I think that recommendation has been made by him as well, and we will look at that in the context of the spending review. We could simply extend it within the current spending envelope of what the PLR has at the moment in terms of what money is available. That would be one option. Another option would be to try to find additional funding for the PLR in order to extend it in a meaningful way.

Q870 Paul Farrelly: Just going back to the broad thrust of the *Hargreaves Report*, there was a quantification that ran into small amounts of billions

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of benefit that these changes would make. Those billions disappeared in a puff of smoke under scrutiny when Professor Hargreaves came to see us, but he did say there is no question but that the direction is positive while many in the industry would argue counter to that. What is the Government's view of the broad thrust of the *Hargreaves Report*? Does it agree that the broad thrust is positive for the economy, or is that yet to be debated?

Viscount Younger of Leckie: The answer is absolutely, I do believe it is broadly positive for the economy. We did touch on the figures earlier, I know, but I am certain that the way it works is that—and this comes under me—it is the framework that counts. It is providing the right framework for creativity and for opening up, as well as protection. I am confident that Hargreaves has set the right platform for certain actions to be taken within the broad spectrum of IP, particularly in copyright.

Q871 Chair: In terms of Hargreaves—I do not know if you saw the evidence on the potential benefits—one of the measures that Government appear to be intending to introduce is the exception for private copying. Hargreaves talked about the £2 billion gain for the economy as a result of that. We tried to discover from him precisely how that figure was reached, but he was not able to tell us. I wonder if you could give us any more information about the benefit of that.

Viscount Younger of Leckie: Absolutely. When it comes to private copying, that figure of £2 billion, which I think has been cited before, is meant at the upper end of the spectrum. I don't particular recognise that figure, by the way. Just on private copying, the way we see it is that we think it is entirely reasonable for individuals to be able to copy some music from, say, an album that they have bought on to a gadget; say it is an iPod. We think it is unreasonable, unlike Europe, for copying to go further than that, and then it prompts the question of how you can enforce that. To that extent, the benefit will be much more focused on the gadget companies. If you take the sales of iPods, for example, I think that is where the business benefit comes from.

Chair: Sales of iPods are not being held back by consumers thinking, "We're not allowed to put things on our iPods, so we are not going to buy one".

Viscount Younger of Leckie: If it was the case that they were held back, in other words nobody was allowed to copy, I believe that there would be a reduction in sales of iPods.

Chair: But that is the case at the moment. It is just that nobody pays any attention to it.

Viscount Younger of Leckie: What I am saying is that at the moment the sales of iPods are going well, and they are going well because individuals are buying CDs and albums and they are copying them. If we were to not allow that, then that would have an adverse impact on the—

Chair: It is not a question of your not allowing it. It is not allowed at the moment, which is an absurdity, and you are going to introduce a private-copying exception that will make legal what everybody is

already doing. I still do not see where the economic benefit comes as a result of that.

Viscount Younger of Leckie: Although I do not have any figures on me, it is definitely the case that it is the business angle rather than the individual angle that is the focus here. There will be an adverse business effect. It is not just iPods, but there are other gadgets, and there are add-ons.

Q872 Chair: You are going to extend a right so that individuals are able now to make private copies for their own use. In every other country where that has happened there has been some recognition that the owners of the rights should have some additional benefit from that, but the Government does not appear to be giving any additional benefit to the rights owners at all from introducing the private-copying exceptions.

Viscount Younger of Leckie: We see ourselves as being different from Europe. I understand in Europe that private copying is allowed more broadly, particularly among the family or family members. We see it as being a matter of protecting the rights holders to allow private copying only for the individual.

Q873 Chair: It is fair to say that the Minister beside you has rightly welcomed the investment in this country coming from major film studios. When this Committee went to talk to those studios I can tell you that 20th Century Fox spent 45 minutes giving all of us, I think, a pretty hard time on the private-copying exception. They see that as deeply damaging to their attempt to modernise technology, to introduce the ultraviolet opportunity, to give people a legitimate right to store their purchase content on the cloud, but you are basically undermining that by just telling them they can do it anyway.

Viscount Younger of Leckie: I think there are two aspects. One is the issue of private copying from, say, an album on to, say, an iPod, and then you have the cloud issue. The assumption is that individuals may have to pay twice. We do not see that as being reasonable, for individuals to pay twice: firstly, for buying an album and, secondly, for paying for cloud services. I think it comes back, if I may say so, to what is seen to be reasonable and, secondly, what one can enforce. The user would be restricted, but I think it is entirely reasonable to allow the individual to pay for the album and then copy, and copy on to the cloud as well.

Chair: You are not worried, therefore, that industry says that is going to completely undermine their attempts to innovate through things like ultraviolet and give people those rights for a small additional payment?

Viscount Younger of Leckie: No. I can see where they are coming from and I can see that they would be vociferous in their views, and I would be delighted to meet them myself to explain, but no, we see this as being a reasonable response.

Paul Farrelly: I think "vociferous" is an understatement.

Viscount Younger of Leckie: Yes, okay.

Q874 Paul Farrelly: We are not lightly persuaded, and they were speaking not only on behalf of Fox but

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on behalf of the whole industry. The thrust of their argument was that *Hargreaves* is behind the advance in technology. This is an issue of future-proofing what we put into law.

Viscount Younger of Leckie: Okay. In terms of the benefit, Chairman, you alluded to a figure of £2 billion, which, as I say, we see as being right up at the very top end. I do not recognise that particular figure. The figure that we have is nearer £300 million, and that is the impact assessment that we have produced, if that is a help.

Q875 Chair: Have you taken account of any negative consequences on the industry in terms of cost as a result of this?

Viscount Younger of Leckie: Yes. This is us taking a reasonable view of both sides. It would be very easy for us just to take the view of one body or another alone, but we have to look at both sides, as I said earlier.

Q876 Paul Farrelly: What is the margin of error in your £300 million, which is down £1.7 billion?

Viscount Younger of Leckie: It is clearly quite a large margin of error if we take £2 billion and I am going down to £300 million, but this is the evidence we have produced. This is the impact assessment, and I have to stick with what assessment is given to me. Obviously I have to scrutinise it, but this is where we are coming from.

Q877 Angie Bray: The industry's point to us was that they do understand that people buy their albums and that they will download it on to their iPod or whatever. They accept that they do it. They do not particularly like the fact they do it, but they accept the fact they do it, and they say that they are not particularly intent on pursuing anybody doing that. I think the message they are saying to us is if you were then to recognise that in law and to legalise it publicly, it would change the kind of message that you are sending out. While they are passive about it at the moment, if you were then actively saying, "Right, we are going to make it legal", that would completely change the game as far as they are concerned.

Viscount Younger of Leckie: That is very much noted. It is an ongoing debate, and I hear what you say, but we obviously have to look very closely at this. We have to look at the impact assessments, and we also have to consult and we know that there are strong views either way. Album sales are going particularly strongly at the moment, I happen to know, and that is a very good thing for the economy as well. If you do impose some changes, that could change the sales of albums.

Q878 Chair: Can I come back to the general question? Both of you have talked about the value of IP to the economy and the importance of the creative industries. Mr Bradshaw quoted Andy Heath who expresses things in colourful terms, but what he said is very widely felt throughout all the creative industries. I will just give you a couple of examples. Busker in their latest newsletter: "Busker remains on red alert regarding Government plans to introduce

legislation which will, in its terms, modernise copyright, fearing that the income of British songwriters and composers will once again be jeopardised, if not irreversibly harmed". BPI write to us, "The positioning of the UK Government in Europe is baffling to us. Weakening the value of creating music and other copyright content is not in the UK's economic interest". Is it that you have just completely failed to get across your message that you are on their side?

Viscount Younger of Leckie: I do not recognise that. I could say that we have to take both sides, but you know during the ERR Bill we had much discussion on copyright. When it comes to exceptions, we think that the exceptions we are looking at, whether it is private copying or parody, text and data-mining—by the way, there is more discussion to come on these exceptions—are entirely reasonable. By having no exceptions at all you would be looking at one side of the argument. By allowing private copying, which we have discussed—

Chair: But you must be concerned that the creative industries, almost to a man and woman, think that they have a Government that is acting against their interests and wants to undermine their rights.

Viscount Younger of Leckie: That is not what I have been hearing directly. They have not said that to me directly. I have met quite a number of the stakeholders, and I am not saying that they have said everything is rosy. There are many issues, which I have alluded to earlier, particularly in copyright, that we are grasping and grappling with, and we will continue to do so, but I have not had any stakeholders come in and talk to me face to face in a particularly vociferous way. I would be delighted if that was to happen, and I shall continue listening to them.

Q879 Mr Bradshaw: Could I suggest, Viscount Younger, you read the evidence that these organisations have presented to this Committee? Your officials will have copies of the records, and I think that would have been a very useful start. You keep talking about listening to both sides. In the end you are going to have to come down and make a judgment about what is in the interests of the British economy and what is in the interests of what we have already heard is our very valuable and big creative industries sector. That is going to be a political choice, and I would suggest that to try to say that you are balancing the interests of Google and the internet anarchists alongside our hugely important creative industries is not taking a responsible position on what is in Britain's national economic interest.

Viscount Younger of Leckie: The answer is yes, of course, I will look at that evidence, but, again, I shall look at the other evidence too. For example, when it comes to education, is it fair that we should batten down the hatches and have a complete blanket on historians who write history books and they are not allowed to be given to schools? One has to look at both sides. I think my aim in looking at growth in Britain is to look at what is seen to be reasonable in terms of opening up but, crucially, protecting those who are creating. You have made that point. I must stick with that view, and I think when it comes to, for

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example, parody, where we have a strong history in the UK, we can't just shut down on parody and pastiche. We have to allow an element of that, because that is part of the British culture and the British psyche.

Chair: You say we have a strong history, so it is working perfectly well?

Viscount Younger of Leckie: Well, it is an exception, which means that for some original creators if we—

Chair: The creative industries essentially say, "Look, this is a system that is generating a huge amount of money for the British economy. It is working pretty well. If it ain't broke, don't fix it"?

Mr Vaizey: Parody is proposed as an exception; that is the point, and we think that is entirely reasonable.

Q880 Paul Farrelly: Just let me offer a parody myself. The sentence, "I don't recognise that figure", is pure *Yes, Minister* in terms of the £2 billion. You have come up with a very helpful £300 million.

Viscount Younger of Leckie: Yes.

Paul Farrelly: Could you let the Committee have the basis of that £300 million calculation when you go back to the officials?

Viscount Younger of Leckie: Yes, of course.

Paul Farrelly: That would be very helpful.

Viscount Younger of Leckie: Sure.

Q881 Chair: Minister, perhaps I could just turn to you for a second. Our favourite subject of Google: you have talked about how you have had lots of meetings with Google, you give them a tough time and they have now tweaked the algorithm. I will just give you one statistic. In August 2012, 63% of the top 10 sites in Google rankings were infringing sites, directing people towards illegal content. The algorithm has been tweaked, you put pressure on them, and the latest figure is that 61% of the top 10 sites are infringing sites. It does not appear to have made much difference.

Mr Vaizey: The point I am making is that I do not doubt at all rights holders' concerns about what can be found through using Google Search, and I bring Google to the table to be challenged by rights holders and see where we can make progress. Certainly they say they have tweaked the algorithm, and they would, if they were in fact here in front of you, defend themselves and say that search rankings have changed. They also—

Chair: 63% to 61%, yes.

Mr Vaizey: I can't comment on those figures. I have not seen them. Those are figures I do not recognise because I have not seen them. I am not claiming credit for changing the algorithm either. I suspect that came from US pressure. We do challenge Google on that, but the other point to mention is auto-complete. My Secretary of State wrote to Google only recently at the behest of the BPI to challenge them on Search and so on, and we can share that correspondence with this Committee. The BPI is probably the foremost campaigner on these issues. They are highly articulate and highly knowledgeable on this issue, and they put points to us that we challenge Google over, so there is no question of us holding back on that issue.

Chair: It is just that Google do not appear to be paying any attention.

Mr Vaizey: I do not want to come here as a Google spokesman. We put these points to Google. They say, "We have changed this. We have changed that". The BPI will come back and say, "Well, that is not good enough; challenge them on this", and we will challenge them on that.

Q882 Mr Bradshaw: You are sounding like a go-between, like a messenger between the creative industries and Google. That is not your job. You are a Government Minister. You are responsible for policy that will defend and further the growth of our creative sector. You are not a go-between or a messenger.

Mr Vaizey: We are trying to implement the Digital Economy Act, okay, and we are working on a whole range of different issues to enforce IP in the digital age, which I have rehearsed before this Committee and I will rehearse again. It includes advertising. It includes site-blocking. It includes removing payment details. Google has made changes, which it says are progress, but we rely on the BPI and others to come to us with further evidence of where Google should be challenged, and we will continue to do that. I absolutely reject the idea that we are a go-between. I represent the creative industries, and I take their concerns very seriously and I think we have made progress, but there will always be further things that the industry will come to me and ask that I do. You can have Geoff Taylor back here and ask him whether he feels that I am doing enough.

Q883 Chair: I will just give you an example. You mentioned auto-complete. We were told the other day that if you put in "coldplay mp3", the top Google recommendation, on auto-complete is mp3skull, which is a pirate site where you can obtain illegal content. Has Google paid any attention to you?

Mr Vaizey: Ben accused me of being a go-between. The point is that, as a Government Minister—and I am sure he would recognise this from his time in Government—you have to balance the evidence. You challenge Google on these points, and Google come back and respond and challenge the evidence that has been put to them by the BPI and others. You have to have a balance.

Q884 Mr Bradshaw: In the end, you have to make a decision. You have to make a choice.

Mr Vaizey: Of course you do, absolutely, and that is why we are having a communications review and we will, no doubt, debate some of these issues as part of that process, but in the meantime you have to balance the evidence, and you have to challenge Google.

Q885 Chair: Are you intending to include in the *Communications White Paper* additional measures to deal with this kind of problem?

Mr Vaizey: We are not specifically planning legislation in this area, no, but I am sure that the Labour Party, if the Labour Party wants to propose it during that process, will—

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Q886 Paul Farrelly: How would you react to the friendly amendments?

Mr Vaizey: I would react as any Government Minister would in terms of whether they would be effective and workable.

Q887 Chair: If you go to an organisation and say, "This is intolerable; you have to change", but then you say, "I am not planning any legislation"—

Mr Vaizey: No, I am not—

Chair: What leverage is there—

Mr Vaizey: I think it is unfair to characterise me as a go-between. I think it is fairer to say that there are two sides to this debate that put evidence before Ministers about what is happening in reality, but the idea that we do not put the BPI's concerns to Google is wrong. We do. The idea that Google has not changed is wrong. I did not want to come to this Committee to be a Google spokesman. They have given evidence to you, and you have challenged them on it. They have changed their algorithm, and they say that has been effective. They challenge, in evidence to this Committee—and they no doubt will challenge it again—the nature of Search for pirate sites.

It is also the case as well that you cannot have this debate in a vacuum. You have to look at how the music industry is changing. There is absolutely no doubt, of course, that the digital economy disrupted the music industry. It moved from a physical product to a digital product. Is the music industry now moving back into profit? Yes, it is. Is it adapting to the digital world? Yes, it is. Is streaming becoming a much more prevalent and effective way of accessing music in a digital environment? Yes, it is. The key fundamentally is: is the music industry becoming healthy and adapting to a digital environment? I think it is. We still have huge success stories in terms of—

Chair: But is the music industry still worried about piracy? Yes, it certainly is.

Mr Vaizey: Of course it is; so is the film industry. That is why I have these round-tables. It seems slightly odd to be damned for working thoroughly over the last three years to bring the two sides together—and, again, we only talk about Google; we have not talked about the ISPs: BT, Virgin, Sky, TalkTalk and others—to hear the concerns of rights holders and to take action. I am not going to be damned for taking action in trying to cut off, effectively, the funding that encourages large-scale industrial piracy sites, and I am not going to be damned by the fact that the music industry use the legislation that we said would be effective for site-blocking and have used it in order to block sites.

Q888 Chair: You are obviously not going to be damned for taking action, but are you promising any more action?

Mr Vaizey: We will obviously continue to look at that, and we will absolutely take ideas put forward by Ben and others if they think there is further action that should be taken.

Chair: The Committee may make some recommendations to you.

Mr Vaizey: I am sure you will.

Q889 Jim Sheridan: Minister, this Committee has seen at first-hand the arrogance of Google, which you have probably seen as well, when we visited America but also when they came here in front of the Committee. It was just sheer arrogance from them. The problem is that Google has just become too big, too powerful and too influential, not just for the UK Government but for the US Government as well, and as legislators can we not do anything to help people who are trapped in the Google bubble?

Mr Vaizey: I think we do. The reason that my return will show lots of meetings with Google is because I bring Google in to meet rights holders to discuss what more we can do to combat piracy. Yes, we can continue to work with them and challenge them, and, at the same time, I have not been shy in challenging rights holders. I have said from the beginning as a Minister that there were two sides to this equation; one was IP enforcement but the other side, which they acknowledge, is businesses adapting to a digital environment and offering different services. Spotify and streaming are now much more prevalent, but this is a time of transition and change, and people will be concerned.

Q890 Jim Sheridan: But what I am saying is any changes that they have brought in have been marginal.

Mr Vaizey: I don't think they are marginal changes. I think we continue a regime of tough IP enforcement.

Q891 Jim Sheridan: People elect us to do a job of work—and this is not party political—we just don't do it when it comes to Google.

Mr Vaizey: I am not going to—

Jim Sheridan: Big organisations have come in front of this Committee before who thought they were too big and powerful.

Mr Vaizey: I am not going to succeed in convincing you, clearly. As I say, I have set up this IP round-table, and I see that as my job as a Minister is to do that work and push forward on it, as well as implementing the Digital Economy Act. Certain things are beyond my control.

Q892 Paul Farrelly: One of the points that was put to us in our last round-table with the industry last week was that there was the discrepancy between the physical and virtual world in terms of penalties; where the industry, in trying to protect its own copyright, sought out a common law—old-fashioned conspiracy to defraud—because the penalty was twice as high as the two years that the current law allows them on digital copyright theft. Is there an argument for equalising the penalties between the virtual and physical world? Is that something you would look at?

Mr Vaizey: I can't say hand on heart that it is an argument that has been put to me yet, but I would obviously look at a proposal such as that. To a certain extent it would not be my Department's decision.

Paul Farrelly: The point has been made that criminal offences for digital copyright theft are maximum two years but in the physical world it is 10 years.

Mr Vaizey: Yes.

Viscount Younger of Leckie: I don't know about equalisation, but it might be helpful to give you some

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statistics in terms of enforcement, which I have had the chance to do, because that is, as I said earlier, a particularly important part of what I do within IP. The UK's legal system convicts pirates and counterfeiters, as you will know. 80% of criminal cases under IP legislation in 2009 led to a guilty verdict. Assets seized from IP criminals were £21 million in 2010–11, which was more than twice the previous year's figure, and last year saw the highest numbers of detentions by HMRC. The Border Force seizure of counterfeit products in air and sea freight over the last three years was worth £70 million. I gather there is a place in Bradford where there are an unbelievable number of counterfeit goods that come in that are being monitored and they are seized, which is good. That is just a small amount of statistics that shows you how seriously we take enforcement and we continue to look at the criminal side as well as the patent infringement side.

Q893 Chair: The point Paul makes, I understand, came about because the extension of penalties to digital online theft was done through the ECA, which only allows a two-year maximum, and that has created the discrepancy against the 10 years, which was brought in by your Secretary of State in a Private Member's Bill.

Viscount Younger of Leckie: Okay.

Chair: Would you, when you take through the IP Bill in the course of this session, look sympathetically at an amendment that might seek to equalise this?

Viscount Younger of Leckie: I am not going to give any guarantees on that, but I will, from this Committee, go and—I am not briefed about that.

Paul Farrelly: I am looking for a guarantee of sympathy.

Viscount Younger of Leckie: You always have my sympathy. I am always sympathetic, in that I like to listen. Let me continue listening, and let me look at the details first. The IP Bill, by the way, you probably know, is focused on some aspects of patents but primarily on the design side, which might have been hooked on to the ERR Bill.

Q894 Chair: I think, if my colleagues have finished on that, we will move on to slightly happier territory. Tax credits, as Jim Sheridan said, have been very widely praised and have been recognised as being extremely effective. Can I ask you, first of all: do you have any ambitions to extend tax credits into other areas of the creative economy, and also, how serious is the obstacle that seems to have cropped up in terms of implementing the video games tax credit?

Mr Vaizey: The Chancellor mentioned in the budget that we are looking at tax credits for the visual-effects industry, which could potentially be wrapped up within the film tax credit. I think consultation on that will come out this week. The video games tax credit we expected to be potentially a more difficult ask, but we have put in, I think, a very strong case to the Commission on state aid issues and I will maintain a dialogue with them, and I hope we will get a decision over the next few months.

Chair: I will not ask you to speculate about whether or not it would be easier if we were not in the

European Union. Perhaps that is beyond the realms of this Committee this morning.

Mr Vaizey: What do you think?

Mr Bradshaw: I have never attended a Conservative meeting, but I suspect that is one of the things they are discussing among themselves at the moment.

Mr Vaizey: You were right, Chairman. This is happier territory.

Q895 Chair: Can I also ask you about the Creative Industries Council that you have set up? Do you feel that is a useful addition to the discussions about the creative economy, and how influential do you see that as being?

Mr Vaizey: Yes, I do. It did not exist before, so, by definition, I think the fact that it exists now means it is a useful addition. It brings together the Secretary of State for Business and the Secretary of State for Culture, so I think that is a good thing. I have seen from the evidence you have received that people want more engagement from other Ministers. I would support that. We do invite other Ministers and I can't at the moment recall which ones have attended, but we have had attendance by the Ministers. I certainly think regular attendance from Treasury and Skills Ministers would be useful.

Q896 Chair: Just to take an example, has Viscount Younger yet been to the Creative Industries Council?

Mr Vaizey: He has only just come on board.

Viscount Younger of Leckie: Absolutely.

Q897 Chair: Did your predecessor go?

Viscount Younger of Leckie: I don't know.

Mr Vaizey: I can't remember. I don't think so.

Q898 Chair: That the Creative Industries Council has not heard from the IP Minister seems a bit strange.

Mr Vaizey: No, but I had Vince Cable at the table. What more can you want? A polyan. I think that is a good thing. That is the first thing. The second thing is I wanted to use this opportunity, because obviously I prepared carefully for this Select Committee as you can tell, to get across to industry the message that it is their council. It can be frustrating when you occasionally hear people saying, "Well, it is not quite doing what we want it to". It is your council. It is there for the creative industries to be an effective conduit to Government and represent the concerns of industry. If you think bits are not being covered, it is your council; make sure they are covered.

We have tried to make clear the issues that we want to look at so that there is a focus and these working groups are coming up with proper recommendations. One is on access to finance, one of the issues you have looked at; one is on skills, which you have taken a lot of evidence on; IP—not necessarily wanting to turn to that subject but IP is one of the issues that we cover; export support for the creative industries; and I think the fifth one, which I alluded to earlier, is more coherence in terms of the creative industries being able to access information about what support there is from Government.

14 May 2013 Mr Edward Vaizey MP and Viscount Younger of Leckie

Q899 Chair: Given the creative industries' importance and given the concern that we have already expressed about the attitude that they see in the Government towards IP, perhaps Viscount Younger could be an early attendee in future meetings.

Mr Vaizey: He will be at the next meeting.

Chair: Very good.

Q900 Mr Bradshaw: Given the importance that you have acknowledged of the creative industries and their symbiotic relationship with our arts and cultural life as a country, is there anything that you can say to reassure us that the Prime Minister and the Chancellor get it?

Mr Vaizey: Yes, I can reassure you they get it.

Mr Bradshaw: What is the evidence of that?

Mr Vaizey: What evidence would you like?

Mr Bradshaw: Has it ever been discussed at Cabinet?

Mr Vaizey: I am not a member of the Cabinet.

Q901 Mr Bradshaw: Have they ever been helpful to you as a Minister in resolving inter-departmental wrangles to your advantage and to the advantage of the creative sectors?

Mr Vaizey: I haven't had to call them in.

Mr Bradshaw: If you can think of anything afterwards, perhaps you could let us know in writing.

Mr Vaizey: We waited 13 years for Tony Blair to make a speech on the arts, but one of the first sector events that the Prime Minister had quite early on was a dinner for leading members of the arts.

Mr Bradshaw: Yes. I am trying to be helpful, Mr Vaizey. I know from experience it is very good to have a supportive Prime Minister and Chancellor when you are in the Culture Department; that is all.

Mr Vaizey: We certainly do.

Mr Bradshaw: You do, but you can't provide any concrete evidence for that?

Mr Vaizey: I am not clear what evidence you want. What we have secured in terms of the tax credits for the creative industries, driven very much by the Chancellor and his engagement with the creative industries and his support for the arts—I think that is a clear policy success that I think came from that.

Q902 Mr Bradshaw: Yes, that is one. Thank you. Do you share the concern that has been expressed as part of this inquiry about the changes to the national curriculum and their impact on arts and culture and, therefore, their knock-on impact on the creative industries?

Mr Vaizey: I have listened to their concerns, and, in fact, in terms of engaging with people, I have a very good relationship with the Secretary of State for Education. He came to meet, for example, the arts lobby group What's Next? to elaborate on his proposals. He has been very supportive, first, of with my proposals to secure the future of music education

by implementing the first national music plan and securing funding for that. He has been very supportive of my cultural education proposals. These have both emerged out of reports by Darren Henley, which were fantastic; so we are going to implement a national cultural education plan. He has been very supportive of me, and I support him in wanting to provide clarity to the curriculum.

Again, it is a philosophical point—it is interesting, and I am sure you found this as well when you were in Government—that people seem to think they do not exist unless the Government mandates that they exist. Michael Gove is not abolishing the arts from schools, and schools are absolutely free to support the arts and teach the arts. That is what we want to do, and you can see a number of initiatives that have come from him, some of them personally like the support for Shakespeare Schools Week that I think he now funds, as well as the changes that he made to how schools are assessed to ensure that the arts is part of that. At the same time it is, I think, mildly paradoxical that what he wanted to do was give teachers more freedom to shape their school and their curriculum rather than dictate every minute and second of teaching time.

Q903 Mr Bradshaw: Are you confident that the changes that the Education Secretary is driving through our schools will not lead to a fall-off in the number of students studying arts and culture in their broader sense?

Mr Vaizey: Yes.

Q904 Paul Farrelly: He was not abolishing the right of schools to teach music or design technology, but he was setting out the framework by which most of them would be measured, and, therefore, as Ministers, you have to look at the effects of the incentives that that rolls out. That was the main concern of many of the witnesses—

Mr Vaizey: I understood that and, as far as I am aware, he has changed that approach in terms of how schools are measured and certainly the fact that arts are taught in school will, as I understand it—again, I am slightly straying from my core brief so the detail is not exact—now be an element of the measurement.

Q905 Paul Farrelly: You are sure that he has redeemed himself entirely?

Mr Vaizey: Yes. I think he is a superb Education Secretary, if I could just put that on the record, and he is a man who is passionate about the arts and culture. For example, to celebrate the 400th anniversary of the King James Bible, he arranged, through his own fundraising efforts, to send a copy of what is arguably the greatest piece of literature in the English language to every secondary school in the country.

Chair: I thank both of you very much for coming this morning.

Written evidence

Written evidence submitted by the Department for Culture, Media and Sport

The Department is pleased to respond to the Select Committee's call for evidence requesting views on support for the creative economy. We look forward to seeing the Committee's findings and responding to their recommendations.

The UK has less than 1% of the world's population, but a creative sector that exports almost £9 billion of services. We have probably the largest creative sector in the world, measured on a per capita basis. The creative industries bring in vital inward investment.

Foreign visitors spend around £4.5 billion a year exploring British culture and heritage. In the seven years up to 2010 London attracted almost twice as many creative industry FDI projects as any other European city.

According to industry figures, the creative industries such as film, music and fashion account for around £1 in every £10 of the UK's service exports. In fact exports from creative industries are now just as valuable as traditional export sectors such as construction, crucial in a time when the UK is determined to rebalance our economy and increase trade abroad.

Industry figures indicate that the UK is Europe's leading exporter of TV programmes and second only to US globally. We are the world's No.1 in sales of TV format shows. Domestically the multichannel sector contributes £4.2 billion in Gross Value Added (GVA) to the UK economy through expenditure in employment, advertising and marketing, distribution and support services, as well as content investment.

In film, the aggregate UK spend of features that commenced principal photography in 2011 was £1.2 billion, the highest figure recorded¹ whilst inward investment films contributed over £1 billion, also the highest total recorded.

Our publishing sector is the second largest in Europe, with combined turnover of £19 billion, employing around 244,000 in almost 9,700 companies. The value of the advertising industry estimated at £15.6 billion with over 16,000 advertising companies employ over 268,000 nationwide.

UK is the world's fourth largest music market, and one of only two net exporters of music globally. Adele was the best selling in the world in 2011—the fourth time in five years that a UK artist has held this position.

How best to develop the legacy from the Olympics and Paralympics of the display of UK talent in the creative industries in both Opening and Closing ceremonies and more generally in the design of the Games

The success of the 2012 London Olympic and Paralympic Games has focused the world's attention on the UK's creativity. UK Trade & Investment (UKTI) plan to build on this by helping UK companies, including those involved in the delivery of the London Games, to access opportunities in key markets which will be hosting major international events in the next few years. The first missions (covering architecture, advertising, branding and design) are planned for February and March 2013, visiting Brazil, South Korea/Taiwan and Qatar.

The creative industries were also showcased in the programme of the British Business Embassy, which ran at Lancaster House during the Olympics. Lancaster House was transformed by contemporary UK designers, photographers, furniture makers and artists to provide a world class venue for the conference series and key industry figures such as Jonathan Ive, Stella McCartney, Sir Peter Bazalgette and Sir Howard Stringer spoke. This concept will be extended, where possible, to future British Business Embassies alongside major international events in the UK.

UKTI is establishing a new creative industries Sector Advisory Group and an executive delivery group to lead work in this area. These groups will include many of the key representatives from the sector who helped to make the London Games a creative success.

Government has created "Great Britain Delivers", a digital showcase to tell the story of the delivery of the Games which will highlight to an international audience UK products, services, expertise and talent which helped stage and deliver the Games

Barriers to growth in the creative industries-such as difficulties in accessing private finance-and the ways in which Government policy should address them

We have established the Creative Industries Council, jointly with the Department for Business, Innovation and Skills (BIS). One of the key issues it is addressing is the sector's ability to access finance. The Government does provide generic help to business, and the creative industries will benefit as much as any other part of the economy from utilising such assistance to the full. For example, the Enterprise Investment Scheme (EIS) is designed to help smaller higher-risk trading companies to raise finance by offering a range of tax reliefs to investors who purchase new shares in those companies.

The Access to Finance working group, headed by Ian Livingstone OBE (Life President of Eidos) presented their report to the CiC earlier in the summer. The report made six recommendations to be taken forward by both government and industry. The report suggested that Government and industry work together to establish

new funding solutions and to champion investment opportunities in this sector. The report identified potential gaps in the understanding of investors of how creative businesses work and recommended that the sector and Government worked together to improve existing business financing interventions and make the most of new ones.

On the supply side the report recommended that sector experts, Higher Education Institutions, research bodies and financiers worked together to improve investor readiness and understanding of the sector. On the demand side the recommendation was that the sector work together to improve investment readiness and understanding of finance among creative industries businesses, enabling them to think beyond the banks, and beyond credit.

The access to finance report reaffirmed a wider Creative Industry Council concern about the use and understanding of data, knowledge and frameworks, recommending that government and the sector work together to improve the data collection and data availability on this sector, with both top down and bottom up measures. This is already being taken forward as outlined below. Finally the report recommended that in order for UK creative businesses to remain competitive and grow globally there was a need for government to help the UK's creative content businesses build assets and scale so that they can leverage existing success and attract a larger share of the international market to the UK.

Whether lack of co-ordination between government departments inhibits this sector

The creative economy, and support for it, crosses a number of departmental lines. This is so both in terms of direct relationships with the various sectors that make up this slice of the UK economy, as well as in terms of policy responsibility. DCMS are the lead department for the creative industries but we work across government to address specific issues. For example, we work with BIS on intellectual property and industrial strategy, and with the Department for Education, BIS, Sector Skills Councils and NESTA to address education and skills issues.

The Creative Industries Council provides an important link between Departments. It is chaired by the Secretaries of State for DCMS and BIS, and ministers and representatives have attended from across government. Nicola Mendelsohn, President of the IPA, has also agreed to share the chairing responsibilities, bringing direct involvement from a senior figure from the creative industries. The Creative Industries Council addresses strategic issues concerning the creative economy, from skills to access to finance to Intellectual Property—and it pulls in those with policy responsibility from across Government to participate and support any specialist groups set up as a consequence. Likewise, BIS launched their New Industrial Strategy in September which include the creative industries. DCMS and business leaders will play a key role in helping to shape this to strategically benefit the sector.

The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government's Response to it

The Hargreaves Review was an independent review of the UK's Intellectual Property framework, to establish if it was as well-equipped as it could be for the digital world. The Review recommended a number of changes that could be made to support growth.

There are real opportunities for the creative industries in recommendations such as the Digital Copyright Exchange, and the Government is pleased that industry is engaging with the process of making Richard Hooper's concept of a Copyright Hub work. Similarly, the provisions for orphan works is a sensible step forward, and is a pragmatic extension to the European Directive.

Most concern expressed by the creative industries has been in the area of copyright exceptions. Government has spent a lot of time ensuring that the views of copyright owners are properly heard and taken into account. We are looking carefully at what they and others have said in response to the consultation and will announce how we intend to proceed shortly.

The impact of the failure, as yet, to implement the Digital Economy Act, which was intended to strengthen copyright enforcement

The implementation of the online infringement of copyright provisions within the Digital Economy Act 2010 (DEA) has taken longer than was originally planned. There are a number of reasons for this, including a judicial challenge launched by BT and TalkTalk which, although it failed, still required the Government to amend the supporting secondary legislation on which implementation of the DEA relies. This has delayed putting the cost-sharing SI before both Houses for debate.

The implementation of the DEA should not be seen in isolation. Government has worked closely with industry and enforcement authorities to ensure there is an effective response to online infringement. For example, we are working with copyright owners, online payment facilitators and the City of London Police to make it more difficult for sites offering other people's creative content illegally to receive payment. Copyright owners are now beginning to make full use of s97A of the Copyright Designs and Patents Act 1988 to obtain injunctions obliging ISPs to block sites of particular concern, such as Pirate Bay. These and other measures

looking at online advertising and search, will have a cumulative effect, and even without the DEA represent a comprehensive response to the problem posed by online infringement.

The impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament)

The Government welcomes this opportunity to clarify the purpose and effect of clause 66 [previously clause 57] of the ERR Bill. The Government already has the ability to make changes to exceptions to copyright (up to the strict limits allowed by European legislation) via the European Communities Act 1972. Clause 66 is a proposed power to allow criminal sanctions to be maintained when changes are made via secondary legislation. This interpretation is now understood by most creative industry representatives.

It is important for copyright owners to have the reassurance that effective and strong enforcement of copyright will not be undermined because of changes in secondary legislation. The clause would allow Government to maintain existing penalties for the most serious cases of copyright infringement. It will protect the interests of copyright owners, not undermine them.

The extent to which taxation supports the growth of the creative economy, including whether it would be desirable to extend the tax reliefs targeted at certain sectors in the 2012 Budget

The Department is working with HM Treasury, HM Revenue & Customs and industry representatives on the detailed design of the corporation tax reliefs for animation, high-end television and video games that will be introduced from April 2013, subject to State aid approval. The HM Treasury consultation on the design of these tax reliefs was published on 18 June 2012 and closed on 10 September 2012 and a Government response document will be published by HM Treasury in December.

As with the existing Film Tax Relief, which has helped raise more than £1 billion in inward investment into British films, the new creative sector reliefs require State aid approval from the European Commission on cultural grounds and so to qualify for one of the new reliefs, a production will need to pass a cultural test. The Department's consultation on cultural tests for British animation, high-end television and video games was published on 1 October 2012 and closed on 29 October 2012. The Government is considering the response to this consultation and discussing the proposals with the European Commission.

The UK excels in innovative high-tech industries like high-end television, animation and video games production and the Government is determined to support them as part of its efforts to grow the economy whilst promoting British cultural content. The Film Tax Relief demonstrates the positive effect that a targeted incentive can have in promoting production within a sector—for example, the value of exports for services within film increasing 43% from 2009 to 2010 and UK production spent in 2011 being higher than ever before at £1.26 billion. Any decision on the introduction or extension of such tax reliefs is a matter for HM Treasury.

Ways to establish a strong skills base to support the creative economy, including the role of further and higher education in this

The Creative Industries Council's Skills group, led by Creative Skillset, produced a report which made 17 recommendations to boost skills and talent in the creative industries. Key recommendations, welcomed by both industry and Government included reform of the ICT syllabus in schools; a promotional campaign to raise the profile of Apprenticeships; and a call to improve the quality of industry internships.

The work of Sector Skills Councils Creative Skillset and Creative and Cultural Skills has been instrumental in identifying the common ground within the creative industries which enable us to identify skills that would be of real value to the creative industries' workforce.

Government has also committed—in light of Ian Livingstone and Alex Hope's Next Gen report—to look at how ICT and computer science is taught at all levels in order to nurture creativity in this area and drive hi-tech growth. The Department for Education announced in June 2012 the disapplication of the existing National Curriculum ICT Programmes of Study, Attainment Targets and statutory assessment arrangements. ICT remains a compulsory subject for pupils from age 5–16, but schools now have more freedom to develop their own ICT curricula that best meet the needs of their pupils. It is hoped many will adopt more rigorous and ambitious approaches to the subject—for example, focusing on aspects of computer science and practical programming. Work to develop new ICT Programmes of Study is being led by key IT sector stakeholders, including representatives from the creative industries, and the Department for Education will hold a public consultation on the proposed new ICT curriculum in early 2013.

The Department for Education has more recently announced prestigious £20,000 scholarships for top graduates to train as Computer Science specialist teachers and introduced new Computer Science initial teacher training courses to replace existing ones in ICT. It is also part-funding the British Computer Society Network of Excellence that will upskill current teachers as experts in Computer Science through partnering schools with university computer science departments.

The importance of “clusters” and “hubs” in facilitating innovation and growth in the creative sector

The Nesta analysis of co-location between creative sectors (Creative clusters and innovation (2010)) found that there were two groups of creative sectors that tended to be co-located. One group comprised of software, games and electronic publishing; the other group music, film radio and TV. It also found co-location between creative sectors and other highly innovative parts of the economy, such as high tech manufacturing. These interactions delivered a number of beneficial spillovers, such as knowledge transfer, where new ideas developed in the creative industries are applied in other sectors; and product development, where creative products increase demand for complementary products in other sectors and network—where creative companies attract other sectors.

The work done on East London Tech City is proof of Government’s commitment to support existing clusters rather than trying to instigate them. Its ambition is to build on the existing cluster of technology companies in East London to create a world-leading technology centre by providing it with the right physical and (increasingly) technological infrastructure.

Whether there is too much focus on hubs at the expense of encouraging a greater geographical spread of companies through effective universal communication

Academic studies on creative clusters or hubs suggest that geographical proximity is a necessary but not sufficient prerequisite for the existence of the hub or cluster. Some sort of network or ecosystem is also required to ensure communication and collaboration between companies and sectors within the cluster.

Universal communication is at the very heart of Government support to all businesses and the Government is committed to providing, by 2015:

- Universal broadband at a minimum speed of 2mbps, and
- Access to superfast broadband (of >24 mbps) for 90% of the population.

In addition to these commitments, the Secretary of State for Culture, media and sport announced in September a £150 million investment (the Urban Broadband Fund) in “super-connected cities” across the UK, with the aim of supporting economic growth and to raise the attractiveness of UK cities globally. It will encourage new businesses to flourish in the key creative industries that require super-connectivity and enable home-grown businesses to grow and compete on the international stage.

BDUK is working in partnership with Go ON UK to promote the benefits that the network will bring for local people and businesses. We are working closely with Martha Lane Fox, the UK Digital Champion, to encourage local projects to develop Go ON campaigns that focus exclusively on the benefits the network will enable rather than on speed, technology or infrastructure.

The work of the Creative Industries Council and other public bodies responsible for supporting the sector

The Creative industries Council has delivered key reports on Skills and Access to finance, as noted above. We believe that the work of the Council has benefitted greatly from the varied membership of leaders in the creative industries and it is encouraging to note the willingness of all those involved to work collectively.

The Council will continue to play a major role in supporting the creative industries. It is well placed to provide a link between industry and government and across various public bodies, being jointly chaired by the Secretaries of State for Culture Media and Sport and for Business, Innovation and Skills and Nicola Mendelsohn, Chair of the IPA.

November 2012

Supplementary written evidence submitted by the Department for Culture, Media and Sport

Thank you for giving me the opportunity to give evidence last month as part of your inquiry into support for the creative industries. You will recall at the session that I promised to come back to the Committee on a number of issues raised. I know that Viscount Younger has written to you in a similar vein on the issues addressed to him at the session.

Firstly, I promised to clarify the figures for the creative industries’ contribution to the UK economy. The latest statistics available (from 2009) identify the creative industries as being worth £36.3 billion GVA to the UK economy, representing 2.9% of the total UK GVA. More recent employment statistics (from 2010) show that 1.5 million people were in creative employment (either in the creative industries or in a creative role in another industry), representing 5.14% of overall UK employment, and in 2011 the creative industries accounted for £8.9 billion in exports.

I also offered to write to you with details of lessons learned from the contracting process for last year’s Olympic & Paralympic Games. It is worth highlighting the CompeteFor network set up for the Games to ensure the transparency and availability of London 2012 business opportunities, maximise the number and diversity of businesses contributing to the London 2012 programme, and create a legacy of increased capacity and expertise. Over 160,000 businesses have now registered on the website, and more than 12,000 business

opportunities have been made available. Approximately 75% of contracts awarded to CompeteFor suppliers have gone to SMEs with contracts awarded right across the UK (around two thirds of contracts were awarded to CompeteFor suppliers located outside of London).

Following its successful use by the London 2012 authorities and their supply chains as part of the London 2012 Games, CompeteFor continues to be used in the supply chain to transform the Queen Elizabeth Olympic Park, and by other public sector buying organisations, such as Crossrail, as part of their procurement process. In turn, smaller sub-contractors of these larger organisations use CompeteFor to make their business opportunities widely available. It is also worth mentioning here the report produced in July 2012 by Sir John Armitth identifying the benefits to UK companies of hosting the Games, and how these opportunities could be maximised in the future.¹

At the evidence session I promised to get the Cabinet Office to outline ways in which they were encouraging Government procurement from SMEs. The Government has an aspiration that by 2015 25% of government procurement by value should go to SMEs. Over the past two years the Cabinet Office has been implementing a wide range of measures to open up the way Government does business to make sure that small companies, charities and voluntary organisations are in the best possible position to compete for contracts. As a result, direct spend with SMEs across Government has steadily increased since 2010. All departments have been challenged by the PM to develop action plans with stretching targets to deliver an increase in their spend with SMEs and deliver their contribution to the 25% aspiration. These plans have been scrutinised by Cabinet Office ministers and results of this scrutiny have been reported to the PM. In addition to the appointment of SME Champions at official level, all departments have confirmed the appointment of a ministerial SME Champion to drive this important agenda forward. The use of Pre Qualification Questionnaires (PQQ) has been eliminated in 15 departments for procurements below the EU threshold of approximately £100,000. Public procurement has been made more transparent and accessible by publishing tenders and contracts through the “Contracts Finder” website; by introducing a new eSourcing solution, the Dynamic Marketplace, on which SMEs are able to provide quick quotes for low value contracts (below £100,000), and by piloting a new online service for procurers to invite the SME market to respond, in advance of a formal procurement, to emerging opportunities to deliver government business more efficiently. Finally the Cabinet Office has produced a series of videos to help SMEs and voluntary organisations pitch for and win government.

At the evidence session, concern was expressed that funding from the Technology Strategy Board (TSB) was primarily going to large US technological companies at the expense of SMEs in the creative industries. Figures provided by the TSB, however, demonstrate that this is not the case. From 2007 up to December 2012, TSB granted over £30 million in funding for over 300 creative industries related projects. TSB estimate the of these 300 projects, only around 25 of these have included large companies, equating to approximately £2.3 million in funding to these companies out of the total £30 million. In the field of the creative industries, the TSB makes grants predominantly to SMEs, who, by their nature tend to be UK owned and developed businesses. Larger companies who may have non-UK ownership may also be recipients of grants, provided that they are UK employers and that they run fully-fledged R&D facilities in the UK. Companies who only have sales offices here are not, however, regarded as eligible for funding from Technology Strategy Board, since all of the funding is targeted at research, development and innovation.

Finally, I can confirm that Viscount Younger did attend the meeting of the Creative Industries Council on 5 June for a discussion on IP issues.

June 2013

Written evidence submitted by Pinewood Shepperton plc

SUMMARY

Pinewood Shepperton plc welcomes the opportunity to contribute to this consultation as we believe the growth potential for the UK film, television and screen-based industries is substantial and can play a significant part in driving growth in the wider creative economy.

- A. *Barriers to growth* fall into three main categories—infrastructure, skills and finance. Government has a key role to play in terms of fostering a strategic approach to the sector and ensuring “joined-up” activity across a range of relevant departments (for example HM Treasury; the Department for Culture, Media and Sport; Business, Innovation and Skills; the Department for Communities and Local Government; and the Department for Education) and agencies (such as UK Trade and Industry and the British Film Institute) with close linkages to the relevant industry bodies and key private sector players.
- B. *Tax incentives*—the Film Tax Relief has played a key role in attracting large, internationally mobile film productions to the UK. We therefore strongly support its continuation, as well as the proposed extension of tax relief to other creative sectors such as animation, high-end television and video games which would increase the level of production, and therefore grow the creative economy in the UK.

¹ www.gov.uk/government/uploads/system/uploads/attachment_data/file/77430/John_Armitth_Report.pdf

- C. *Skills agenda*—we welcome the government’s focus on quality and demand-led training provision, including employer-based apprenticeships that provide routeways to careers in the sector. Greater flexibility in further and higher education provision is required to respond to the rapidly changing needs of the industry, underpinned by intelligence gathered from Creative Skillset in conjunction with sector specialists.
- D. *Clusters and hubs* are critical to facilitating the innovation and growth of the creative economy and, more specifically, the screen-based industries. Pinewood is at the heart of the “London” production cluster. We would strongly contest any proposition that there is “too much focus on hubs at the expense of encouraging a greater geographical spread of companies through effective universal communication”.

INTRODUCTION

This evidence concerns the importance of the film, television and screen-based industries as key elements of the wider creative economy. The core UK film industry² alone supports a total of 117,400 FTE jobs, generating over £4.6 billion of GDP.³

Pinewood Shepperton plc is a leading provider of studio and related services to the global film, television and screen-based industries. Our services support film production, filmed television and studio television recording, digital content services and facilities for media-related businesses. Both Pinewood and Shepperton studios attract a wide range of other screen-based activities, including advertising commercials, video games, animation and music videos.

Pinewood Studios is the most important “hub” within the UK film industry. It comprises over 100,000 sq m of floor space including, as well as studio and other production space and accommodation for some 180 tenant businesses.

Pinewood and Shepperton Studios are recognised globally as “premier” brands in the film and screen-based industries. Between 2010 and 2012, 42 blockbuster films (over \$100 million budget) were produced globally and Pinewood and Shepperton Studios were used either entirely or in part to film 24 of them. In 2011, Pinewood Studios was used, in part, for the production of fourteen feature films including six with estimated budgets in excess of \$100 million and with combined box office receipts to date in excess of \$3.8 billion.

This response focuses on the following four issues that the Committee wishes to address:

- (i) barriers to growth in the creative industries;
- (ii) the extent to which taxation supports the growth of the creative economy;
- (iii) ways to establish a strong skills base to support the creative economy; and
- (iv) the importance of “clusters” and “hubs” in facilitating innovation and growth in the creative sector

SUBMISSION

A. Barriers to growth in the creative industries—such as difficulties in accessing private finance and the ways in which Government policy should address them. Whether lack of coordination between government departments inhibits this sector

A1. The creative, film and screen-based industries are global in nature and importance. Over the period 2011–16 total consumer spending on television, film and video games is forecast to increase by 5.3% per annum. The global market was worth around \$355 billion in 2011 and is expected to reach \$467 billion by 2016. In terms of the film market, global box office receipts amounted to \$32.6 billion in 2011, an increase of 65% on levels in 2002. Films wholly or partly produced in the UK accounted for 17% of total box office receipts in 2011, up from 14% in 2010.

A2. The economic benefits associated with the screen-based industries have led to increasingly fierce competition to attract large internationally mobile film and high-end television⁴ productions, as well as post-production activity. New studio complexes are being developed globally, including in Australia, South Africa and North America, and the use of fiscal incentives to attract investment is widespread.

A3. The growth potential for the UK film, television and screen-based industries is substantial. However, there are major barriers to achieving this growth, which the government can help to address. These barriers fall into three main categories—infrastructure, skills and finance.

A4. Ensuring that the infrastructure is in place to accommodate growth is essential. For example, in our industry the lack of studio space in the UK is already resulting in the loss of international inward investment. We are aware of 10 major films that had wanted to shoot in the UK but have been unable to do so in full or part due to capacity constraints. Without new infrastructure and the growth of core assets the sector will not be

² The core UK film industry includes companies and individuals involved in all film production in the UK, but only includes the activities in the distribution and exhibition sector associated with UK-made films.

³ Source: Oxford Economics (September 2012), *The Economic Impact of the UK Film Industry*.

⁴ High-end television is defined as high quality television drama costing £1m per hour of programme running time

able to expand to meet growing global demand and to address the significant and increasing global competition. Furthermore, the UK's competitive position will be eroded. Consequently, the government must help to enable the expansion of infrastructure capacity and remove any unnecessary barriers and/or delays that may be created through, for example, the planning system.

A5. The availability of a pool of skilled labour is also critical to the future success of the UK creative economy. Many of those employed in the production sector are highly skilled and qualified. However, on-going training is required to respond to the growing and changing needs of the industry, such as those due to rapid technological changes. We strongly support interventions that further develop the creative industries skills base and discuss this issue further in C below.

A6. Access to funding is also vital. We welcome the extension of Film Tax Relief, which supports economic growth (see B below) and the proposed reliefs for animation, high-end television and video games. In addition, funding for mid-budget films and independent films which rely more on private capital, film funds, government grants and lottery funding is also important to support UK feature film development and production. In recognition of this, we support the recent proposals set out by the British Film Institute in its five year strategic plan to increase funding for the new Film Fund. It focuses on: providing major production awards; introduction of the new International Fund which will include increased funding for the British Film Commission; and proposals to attract new equity partners to British independent films through the promotion of the commercial opportunities in UK film to private and corporate investors. As a sign of our commitment we established a film production fund, Pinewood Films, in 2011 to invest in smaller budget British independent films. This has already resulted in involvement in four films⁵ with more to follow shortly.

A7. In addition, if the growth potential of the many emerging forms of content distribution and consumption (such as video-on-demand) is to be realised, successfully implementing measures to combat audio-visual copyright theft and infringement are essential. Succeeding in this area will require early and robust legislation and enforcement, as well as a co-ordinated joint effort between content producers, distributors and the providers of TV and online viewing platforms.

A8. In addressing these barriers, it is clear that the Government will have a key role to play. It will need in particular to foster a strategic approach and ensure "joined-up" activity across a range of relevant departments (for example HM Treasury; the Department for Culture, Media and Sport; Business, Innovation and Skills; the Department for Communities and Local Government and the Department for Education) and agencies (such as UK Trade and Investment and the British Film Institute) and continue to develop close linkages with the relevant industry bodies and key private sector players.

B. The extent to which taxation supports the growth of the creative economy, including whether it would be desirable to extend the tax reliefs targeted at certain sectors in the 2012 Budget

B1. Since its introduction in 2006, Film Tax Relief has played a key role in enabling us to attract large, internationally mobile productions from the USA to the UK. Since the tax credit was introduced, the level of inward investment has increased, resulting in a significant rise in revenue and market share for the UK, especially from the biggest "tent pole" productions⁶ coming from the US. In the absence of tax incentives, it is estimated⁷ that UK film production would be around 71% smaller, reducing GDP by around £1.4 billion a year and employment by 55,200 jobs. Exchequer revenues would be £430 million a year lower. Since the Film Tax Relief costs HM Treasury around £114 million a year, this means it generates about £12 in GDP for every £1 "invested".

B2. Given the value of film production to the economy, global competition to attract production and post-production activity is increasingly fierce. The availability and accessibility of locations, the costs of labour and renting studios and sets and the relative skills of the film production workforce are all important factors. However the use of the tax system to support film production has become increasingly widespread, and the availability of such fiscal incentives is an important consideration. As a result of previous investment, Pinewood and the UK offer the high quality infrastructure and pool of talent that US studios demand. However, with new studio complexes coming forward in South Africa and other locations, continued support for tax relief will be crucially important in "levelling the terms" on which the UK can compete internationally and ensuring that it remains at the forefront of global film production.

B3. We would strongly support the proposed extension of tax relief to other creative sectors such as animation, high-end television and video games and in particular the aim of the policy which seeks to "create the necessary critical mass of infrastructure and skills to enable and support production in the UK both today and in the longer term".⁸ The UK would benefit from these incentives in three ways:

- (i) increased spend on content currently produced in the UK—the tax credit will allow producers to increase spend on production in the UK, enhancing the quality of output;

⁵ "A Fantastic Fear Of Everything", "Last Passenger", "Belle" and "Dom Hemingway".

⁶ "Tentpole" productions hold up the smaller less commercial movies made by studios. They refer to the most promising projects and generally receive the most attention and highest production and marketing budgets.

⁷ Oxford Economics, 2012

⁸ HM Treasury, Consultation on creative sector tax relief, June 2012

- (ii) prevention of UK production moving overseas—incentives are already offered by countries including France and Canada. A similar scheme will allow the UK to compete globally, thereby retaining production in the UK; and
- (iii) increased investment from overseas—through levelling the field with other countries, levels of new inward investment should increase as the tax credit allows producers to exploit the quality of infrastructure and talent available in the UK.

B4. Such an extension of tax relief would increase the level of production and therefore demand for studio facilities in the UK. For example, it has been estimated that a tax incentive targeted at scripted television productions budgeted at £1 million per hour or more would attract over £350 million of additional spend in the UK per year.

C. Ways to establish a strong skills base to support the creative economy, including the role of further and higher education in this

C1. As well as being a key criterion for producers when they are deciding where to shoot a particular film or television programme, the availability of world class skills is vital more generally to the UK's creative industries' future competitive advantage. Pinewood and Shepperton Studios plays a key role with regard to both the demand for, and supply of, such skills—both through “hosting” productions that demand these skills and through actively supporting the development of training within the industry.

C2. Production of a film or major television programme will often require the skills of hundreds of people across a wide range of different specialisms. The skills demanded will vary across the different phases—including pre production (proposal development, script development, finance, casting), production (production design, set and costume design, studio and location filming, sound recording), immediate post production (editing, content formatting, archiving), distribution and exhibition—and will often have relevance to the wider creative economy (and, indeed other sectors).

C3. The sector's workforce contains a high and increasing proportion of highly qualified and skilled people. The 2010 Skillset Creative Media Workforce Survey estimated that 70% of the film production workforce in the UK held a degree and a further 6% had technical or vocational qualifications. The proportion of graduates has increased significantly—from 45% in 2005. However, as well as degree level or above skills, the industry also relies on vocational and craft skills. The recent Film Policy Review highlighted these as a key area of focus, recommending the continued creation of apprenticeships and internships.

C4. Those working in the sector recognise and value the need for continued improvements in skills. The Skillset Survey indicated that 54% of respondents identified that they had personal learning or skills development needs and that 45% had received learning or skills development in the previous year. Film and TV production therefore supports a significant level of workforce training activity.

C5. The nature of the industry with its rapidly-evolving needs—given, for example, high levels of technological innovation—means that skills development must continue to be a key priority. Businesses have important roles to play, for example through:

- working closely with Creative Skillset⁹ and other organisations to identify skills requirements and ensure adequate lead time to design new curriculum and standards;
- direct involvement in the delivery of training;
- offering apprenticeship schemes to employees;
- working closely with key education and training facilities and providers to offer “hands on” experience and industry expertise; and
- hosting events aimed at promoting training, for example, helping young people break into the film industry.

Government should seek means to further encourage businesses to engage in such activities and should also support the development of relevant further and higher education demand-led provision (including employer-based apprenticeships that provide routeways to careers in the sector).

C6. Pinewood Shepperton plc recognises the importance of this obligation and has a strong track record of promoting training and education. We have a close working relationship with Creative Skillset, as well as other organisations such as the National Film and Television School (NFTS) and Amersham and Wycombe College. Pinewood offers its own apprenticeship programme to employees across a range of occupations such as sound maintenance, drapes and media and digital. It has also hosted a range of events aimed at promoting training. For example, First Light recently put on an intensive one day workshop for 17–25 year olds offering practical advice on breaking into the film industry while the studios also regularly hosts the Pinewood Young Filmmakers' Group.

⁹ The industry body which supports skills and training in the UK creative industries

D. The importance of “clusters” and “hubs” in facilitating innovation and growth in the creative sector. Whether there is too much focus on hubs at the expense of encouraging a greater geographical spread of companies through effective universal communication.

D1. We believe that clusters and hubs are critical to facilitating the innovation and growth of the creative economy and, more specifically, screen-based industries. We would therefore strongly contest any proposition that there is “too much focus on hubs at the expense of encouraging a greater geographical spread of companies through effective universal communication”.

D2. Research¹⁰ shows that there are major advantages associated with clustering for the creative industries, including the ability to share ideas and collaborate with like-minded people, develop new products and services, and to identify, respond to and create new market opportunities. It also helps to reduce risk in a high risk industry by providing in effect a “one stop shop” that offers real practical advantages in terms of having accessible sources of services and expertise.

D3. These advantages in turn lead to wider economic benefits including increased competitiveness, higher productivity and profitability, increased innovation, employment growth, and new business creation (agglomeration effects). The key distinguishing feature of a successful cluster is interconnectivity between individuals and businesses through supply chains, informal networks, recruitment practices, or formal collaboration processes. Notwithstanding the growth of new information and communications technologies, geographical proximity remains a key factor in supporting the development of such linkages.

D4. There are two scales of agglomeration in the UK film industry—regional (cluster) and local (hubs). London and adjoining areas have established themselves as a global centre or cluster for film and screen-based industries. The area has a significant depth of skilled crew and specialists, including, for example, in visual effects and post production.

D5. Pinewood, and its constituent facilities, is at the heart of this Global centre. Without Pinewood other facilities within the wider cluster would underperform or fail. It has developed a unique “hub” comprising its studio and post-production facilities plus accommodation for some 180 tenant companies on its Pinewood site with over 750 employees. Almost 70% of these businesses are directly involved in production activity with the remainder (30%) providing support goods and services to the film, media and screen-based industries. Recent consultation¹¹ and survey work has highlighted the importance of this “hub” in terms of offering a “one stop shop” to Studios and production companies.

D6. This distinguishes Pinewood from any of its UK competition and most of its international competitors. The hub of facilities and services provides a cost effective location for international film and TV production. It also acts as a focus for innovation. A recent example involved Glen Freemantle (an independent Sound Designer) working with Pinewood sound mixers and technology to create the Oscar winning *Slumdog Millionaire* sound track. This, in turn, created revenues to invest in the UK’s first Dolby Atmos theatre, giving clients access to the next generation of sound mixing—thus further enhancing the UK’s competitive edge.

D7. From the original growth of Hollywood onwards, all the evidence suggests that clusters and hubs are essential in facilitating growth and promoting innovation in the film, television and screen-based industries. The UK is the only real international destination for English language filming outside of Hollywood. The UK cluster is focused on London and adjacent areas. Pinewood is the core and essential component of this cluster and is recognised as a unique hub of international significance. There are significant opportunities to further enhance the hub (and, thereby, the cluster and its contribution to the UK economy) through the stimulation of greater networking, knowledge transfer and more effective joint marketing and promotional activity as well as through expansion of the site. We believe that an expanded Pinewood is the most logical and cost effective way to meaningfully grow the UK’s screen based economy.

November 2012

Written evidence submitted by the Design Council

ABOUT THIS PAPER

This paper is a written evidence contribution to the Select Committee’s inquiry on support for the creative economy. The Design Council is pleased to have been invited to give oral evidence to the Committee and can expand on the points covered below at that time.

In this paper we set out:

- The role of the UK’s design industry as a key engine in our creative industries;
- The value that the design industry adds to the national economy; and
- Our response to your particular areas of interest for this inquiry:
 - Building on the Olympic legacy to showcase our creative industries to the world.

¹⁰ Creative Clusters and the Changing Economy: A Review for Pinewood Studios, the Work Foundation (2011), P.17

¹¹ All of the major US Studio Executives interviewed to inform the recent market analysis underpinning the development of the Pinewood Studios Development Framework commented on the benefits of Pinewood offering a “One Stop Shop”.

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- Barriers to growth in the creative industries and, in particular, the design industry.
 - The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth.
 - Establishing a strong skills base to support the creative economy.
 - The work of the Creative Industries Council and other public bodies responsible for the sector.

ABOUT THE DESIGN COUNCIL

The Design Council is an enterprising charity that enables people to use design to stimulate innovation in business, tackle complex social issues, drive public service efficiency and improve the built environment. The Design Council has extensive experience of working in partnership with central and local government and running open innovation challenges and mentoring programmes for business, universities and service providers and offering design support for developers and infrastructure providers. These activities are market making for the design sector, creating opportunities where there are significant barriers to entry.

The Design Council is supported by the Department for Business, Innovation and Skills and the Department for Communities and Local Government and generates income through programmes, services and private funding partnerships.

WHAT IS DESIGN?

In his well-known *Review of Creativity in Business*,¹² Sir George Cox provided a definition of design, arguing:

“Design is what links creativity and innovation. It shapes ideas to become practical and attractive propositions for users or customers. Design may be described as creativity deployed to a specific end.”

Design professions in the UK are diverse and deployed in far-reaching contexts; subsectors such as graphic and product design are important creative industry players and design skills underpin all other creative industry sectors. Design also includes skills and disciplines which are vital to the engineering and built environment sectors, covered by professions such as automotive design and architecture. Design skills and thinking have significant, although largely untapped, potential to drive innovation in the wider economy in manufacturing, healthcare and the commercialisation of science and technology research, for example.

The design process is a highly defined series of actions and staged gateways that guides and informs research, development and production in sectors such as manufacturing and service businesses. These approaches typically include both technical design (such as engineering for manufacture) and non-technical design (such as experience and identity).

THE ROLE OF THE UK’S DESIGN INDUSTRY AS A KEY ENGINE IN OUR CREATIVE INDUSTRIES

Shape and size of the UK design industry

- Design is a diverse sector encompassing a wide range of professions and activities, including interaction design, system design, automotive design, sustainable design, retail design, product design, service design, graphic design as well as architecture and urban design disciplines.
- Designers work independently in design agencies and consultancies which are typically small or micro businesses, as well as in-house in large firms.
- The UK’s design industry is the largest in Europe and one of the strongest globally.
- Most UK design consultancies sell services nationally but a high proportion of leading design firms export their services internationally. Some of the top industrial design and architecture practices report few or no UK clients.
- Latest estimates of the value design brings to the economy stand at approximately 2.2% of GDP or £33.5 billion spending annually, (Imperial College London).¹³
- Our research¹⁴ also shows that design is a resilient sector: the industry grew 29% during a period of recession (2005–10).

Employment

- The latest estimate of employment in the design industry is 350,000 (Imperial College London 2011).¹⁵

¹² http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/coxreview_index.htm

¹³ www.ipo.gov.uk/ipresearch-designsreport1-201109.pdf

¹⁴ www.designcouncil.org.uk/Documents/Documents/Publications/Research/DesignIndustryResearch2010/DesignIndustryInsights2010_Design_Council.pdf

¹⁵ www.ipo.gov.uk/ipresearch-designsreport1-201109.pdf

- Self-employment within the design sector is high; it is as much as 48% for product, clothing and related designs.
- Around four designers are employed outside the design sector for every one employee inside. Manufacturing, for example, employs around 120,000 design sector workers.

Impact of design on wider economy

- Design professions are central to the strength of the UK's creative and engineering industries. They also support innovation in many other sectors.
- Beyond the creative industries in sectors such as manufacturing and science and technology, design approaches support new product and service development, open new markets, help to better understand users and investor needs and aid long-term planning.
- New Government research¹⁶ on the design industry has found that design is highly export-facing. Around 35% of UK exports come from industries that employ higher-than-average concentrations of designers, and the UK exports almost 50% more design than it imports.
- The UK's leading engineering/manufacturing sectors of high-tech, aerospace, energy, automotive, chemical and food production rely on engineering design, design skills and other design disciplines to develop ideas pre-production and to successfully take products to market.
- Particularly successful firms such as Jaguar Land Rover embed design throughout their product and service development, as well as marketing and selling strategies, and design thinking is integrated at the highest strategic level into boardrooms in some of the world's most successful companies, as the well-cited example of Apple shows.

OUR RESPONSE TO YOUR PARTICULAR AREAS OF INTEREST FOR THIS INQUIRY

Building on the Olympic legacy to showcase our creative industries to the world

- Design was a key part of the UK's Olympic success. It was placed at the forefront of the LOCOG bid and embedded throughout delivery. The UK was the first country to have a clear design strategy for the Olympic and Paralympic Games and the design-led approach provided unprecedented showcasing for the UK's creative industries, demonstrating their wide-ranging application. For example:
 - The Olympic Torch was designed by London-based studio BarberOsgerby through a competitive tender run by the Design Council and LOCOG.
 - The Design Council Cabe's Design Review process advised the ODA and LOCOG on the on the quality, sustainability and legacy of London 2012 proposals. This led to innovative life-changing architecture in the Olympic Park venues.
- Design support can ensure that infrastructure projects respond to context, address sustainability and make a positive contribution to the local community and environment. The design-led strategy of the Olympics provides an excellent model for other large UK infrastructure projects such as broadband rollout and High Speed 2 (HS2).
- More broadly, the success of the Olympics and integral role of the creative industries within this has created an opportunity to attract trade and inward investment, which should be built upon. For example, there is potential for UK creative sectors to supply other significant international events such as Brazil 2016.
- However, there were some limitations for design suppliers to the games around publicising their involvement and we support further recognition of the creative industry contribution to the event.

RECOMMENDATIONS

As part of the Games legacy, we firmly advocate continued showcasing for the contribution of UK design and creative industries to the event. There is a role for Government and Parliament to recognise and highlight the creative industry contribution, in a way that individual firms cannot.

The lesson of the Olympics should also be translated into other major complex projects, by embedding design at early stage. This can help to ensure success by enabling major infrastructure projects and events to respond to local communities and needs, address sustainability issues and create business opportunities for UK design and other creative industry sectors.

¹⁶ www.ipso.gov.uk/ipresearch-ukdesign-201207.pdf

Barriers to growth in the creative industries—such as difficulties in accessing private finance—and the ways in which Government policy should address them. Whether lack of co-ordination between government departments inhibits this sector

Growth of design businesses

- The UK is home to some of the world's most successful design-led companies. The adage that if you are unable to compete on cost all you have is design has been exemplified through powerful case-studies over the last decade, including Burberry, Dyson and JCB.
- There is significant entrepreneurial energy in the design sector, which comprises a large number of start-ups, and the majority of design business in the UK are small or micro businesses. Challenges to growth for smaller design business often relate to a need for business skills as well as expanding reach and tapping into new markets rather than scaling up in size.
- Where creative business do aim to grow, they commonly face specific skills shortages. In addition to creative and technical skills, larger businesses have a greater need for accountancy, HR and management skills, which are currently lacking in the sector. The 2012 CIC Skills Group report,¹⁷ for example, identified that much more needs to be done to provide the higher-level business skills necessary for growth. The report also found that creative entrepreneurs face particular challenges in securing finance for growth, which is also linked to a lack of business acumen in the sector.

Expanding into new markets

- Demand for design skills is also significantly under developed in the wider economy. In an increasingly design-savvy world, the UK's world-leading design services are largely under-exploited by both UK business and by Government.
- This was identified in the *Cox Review of Creativity in Business*¹⁸ (2005) which observed, for many SMEs design rarely reaches beyond the standard websites and logo. Whilst important, these represent only a fraction of the strategic potential of design, which can drive product development, facilitate user insights and increase revenues. There is still a need to build market demand in this area, the *Innovation and Research Strategy for Growth*¹⁹ (2011) recognised that there are still parts of the economy where design awareness remains low, including amongst SMEs, scientists seeking to commercialise new ideas and the public sector.
- For business, design has significant potential. A recent independent evaluation²⁰ of the Design Council's design Leadership programme for business demonstrates that for every £1 invested in design, businesses can expect a return of over £5 in increased exports. The evaluation also demonstrates that design increases turnover: for every £1 invested in design, businesses can expect over £20 in increased revenues. It also shows that design is linked to profit: for every £1 invested in design, businesses can expect over £4 increase in net operating profit.
- There is also significant untapped potential in Government to make greater use of design skills which can enable new approaches to civil service training and the development of more efficient, cost-effective and user-centred services.
- One example is the Design Council's Public Services by Design programme, funded by BIS, where it is estimated that £26 of efficiency savings have been made for every £1 invested. The programme has supported over 30 public sector organisations on service delivery in the areas of homelessness, health and well-being and business services.

¹⁷ http://cicskills.creativeskillset.org/data/the_creative_industries_council_skillset_skills_group_report

¹⁸ http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/media/A/7/Cox_review-foreword-definition-terms-exec-summary.pdf

¹⁹ www.bis.gov.uk/assets/biscore/innovation/docs/i/11-1387-innovation-and-research-strategy-for-growth

²⁰ www.designcouncil.org.uk/our-work/Insight/Research/Designing-Demand-Executive-Summary/

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- The problem is two sided. Business and Government awareness of the potential of design remains low and the fragmented nature of the design sector as well as a lack of awareness of potential markets means that many design companies do not view business and Government as areas for growth.
 - There is also evidence that business investment in ‘intangible assets’, which include design, marketing and R&D, is suffering during the recession. Worryingly, the latest NESTA Innovation Index, published in July 2012, shows that between 2007 and 2009 there was a decline in investment in innovation as a whole in the UK. The Index also shows a fall in design investment; the UK invested £15.5 billion in design in 2009, down from £22.1 billion in 2007.

Co-ordination between government departments

- Another potential but significant barrier to growth in the medium–long term is the disconnect emerging between Government growth policy and reforms to our education and schools system.
- We welcome recent initiatives to embed design in civil service training and coaching programmes such as the recent CLG policy summer school and UKTI annual conference where the Design Council delivered workshops and training modules. The recent Cabinet Office Design Summit also highlighted the role and potential of design at the strategy level in the civil service. There is more that can be done in this area to support a cross-Government approach to design at the strategic level.

RECOMMENDATION

Further support is needed for building business skills capacity in the creative sectors, through excellent initiatives such as the National Skills Academy for Design.

An active Government programme should be developed to support a culture shift in business perceptions of the value and potential of investment in design.

Government should turn isolated examples of design thinking and approaches into a practical programme for harnessing the power of design across a wide range of policy and delivery issues.

The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth

- Intellectual property laws provide vital protection to design industries, but as the Hargreaves Review of Intellectual Property and Growth (2011) recognised, the legal framework which has been used by businesses to protect their designs is fraught with complexities. The Design Council welcomes work undertaken by the Intellectual Property Office to streamline the current system and will continue to contribute to securing an effective approach.
- The vast majority of design businesses are small or micro businesses and reductions in unnecessary regulation can remove barriers to growth for these and other SMEs. Effective regulation can also provide certainty in securing markets.

RECOMMENDATION

Regulation for the creative industries must continue to be developed to involve and secure endorsement from the sectors affected and key industry intermediary bodies.

Ways to establish a strong skills base to support the creative economy, including the role of further and higher education in this

Schools

- The teaching of design in schools underpins the supply to FE and HE and is a crucial pipeline into the professional design sector.
- The design skills base is threatened, however, by recent changes in school education. These include: the introduction of the English Baccalaureate, University Technical Colleges and Studio Schools; downgrading of vocational qualifications; and the potential removal of Design & Technology from the Secondary National Curriculum.
- Design teaching is vital in ensuring the next generation of design literate commissioners and consumers and in bringing the skills of creativity, enterprise and innovation to the private and public sectors.

FE/HE

- The design sector in the UK is supported by an internationally regarded education and institutional infrastructure, including organisations such as the Royal College of Art, Glasgow School of Art, V&A and Design Museum.

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- However, business skills are not sufficiently taught alongside artistic and technical skills at FE/HE level. These skills are best delivered by professionals from the relevant fields such as finance, law and business studies, which is the approach of initiatives such as the *Own-it*²¹ scheme. These skills should also be embedded into teaching, through live projects/internships/work experience and understood in terms of creative practice—if provided in isolation they can seem irrelevant. Business skills as a component of design courses need to be backed up with sign-posting to additional or refresher information, again through online digital learning.

Continuing Professional Development

- Sector skills bodies play a vital role in enabling the 95% of SMEs which comprise the creative sectors to access Government support for training through initiatives such as the Employer Ownership Pilots, enabling schemes which are typically directed at large employers to be accessed. In recent years there have been a number of changes in approach to skills and Sector Skills Councils have been instrumental in delivering a stable and coherent approach.
- Identifying relevant training opportunities would be greatly facilitated by access to coherent, comparable information on available training, including course frameworks, accreditation and content. There is a need for clear pathways to accreditation. Sector skills bodies, with specialist knowledge of the creative industries, play an important role in enabling this.
- We welcome Government support for a National Skills Academy for Design and are delighted to be involved in the delivery of this initiative which will galvanize the effective delivery of skills support for the design sector by strengthening links between the design industry and education training providers.

RECOMMENDATION

Government has a vital role to play in supporting the design skills base through the education system and we firmly advocate the inclusion of Design & Technology as a Foundation Subject in the National Curriculum to Key Stage 3. We also advocate the inclusion of a “sixth pillar” in the Ebacc to include creative and cultural subjects, such as design and technology and art and design.

The work of the Creative Industries Council and other public bodies responsible for the sector

- We welcomed the establishment of the Creative Industries Council in 2011 to provide a stronger channel for communication between Government and the creative industries and to address specific growth barriers in the sector.
- We also firmly support the cross-departmental approach and Ministerial endorsement of the CIC, however it could be given far greater sway in Government with more regular meetings, more detailed considerations of specific issues facing different creative industry subsectors and greater profile for valuable inquiries such as the Skills Subgroup report.
- The remit of the CIC could also be expanded to include other departments such as the Treasury because of the significant economic contribution of the creative industries.
- At present the Design Council represents design at the CIC but given the size and significance of the design sector for all other creative industry subsectors we would also welcome wider design representation.
- Government also has a key role in continuing to support and enable other intermediary organisations such as the Technology Strategy Board, UK Trade and Investment, British Council and Design Council to collaborate and work coherently for economic and social benefit.

RECOMMENDATIONS

Government should give greater weight and exposure to the work of the CIC.

Government should continue to facilitate collaboration between intermediary organisations.

November 2012

²¹ www.own-it.org/directory

Supplementary written evidence submitted by the Design Council

ABOUT THIS PAPER

The Design Council provided written and oral evidence to the Culture, Media and Sport Select Committee inquiry on Support for the Creative Industries in November 2012.

This paper sets out further recommendations to the Committee and provides a selection of Design Council case studies for the written report.

ABOUT THE DESIGN COUNCIL

The Design Council is an enterprising charity that enables people to use design to stimulate innovation in business, tackle complex social issues, drive public service efficiency and improve the built environment. The Design Council has extensive experience of working in partnership with central and local government and running open innovation challenges and mentoring programmes for business, universities and service providers and offering design support for developers and infrastructure providers. These activities are market making for the design sector, creating opportunities where there are significant barriers to entry.

The Design Council is supported by the Department for Business, Innovation and Skills and the Department for Communities and Local Government and generates income through programmes, services and private funding partnerships.

OVERVIEW OF DESIGN COUNCIL EVIDENCE

In previous oral and written submissions to the Committee, the Design Council provided evidence on the economic impact of the UK's world-leading design sector, which also provides the skills set underpinning all other UK creative industry sub-sectors. Our evidence also highlighted the significant, although largely untapped, potential for design to drive innovation and growth in the wider economy, in sectors including manufacturing, healthcare and the commercialisation of science and technology research. We also emphasised the potential of design for government, where it can help to deliver user-centred policy and services which add value and reduce cost.

The Design Council works closely with the UK design sector; specifically by building the market for design services and showcasing UK design skills through activities such as the design of the Olympic Torch by BarberOsgerby, which was commissioned through a competitive tender run by the Design Council and LOCOG. The main thrust of our work is bringing design to areas where it can have real social and economic impact, including front-line public services, healthcare and planning as well as product development and investor and client relations for small businesses and university spin-outs.

To support the UK design sector, government must understand, enable and deploy design in its widest applications, through support for businesses to access design services and by drawing on design in public policy and service development.

Below, we set out specific recommendations on design for the Committee. We also present a selection of Design Council case studies which demonstrate the social and economic potential of design skills and techniques. Further evidence on the case studies can be provided to the Committee should they be included in the final report.

RECOMMENDATIONS

1. *The government should showcase the designers and design agencies involved in the success of the London 2012 Olympic and Paralympic Games.* Design and other creative industries made a vital contribution to the UK's Olympic success, and the event provided excellent international showcasing of UK creative industry strength, with export potential for future large-scale international events. However, the marketing ban around the Olympics means that much of this contribution is yet to be publicised. The Design Council is in discussion with the Department for Culture, Media and Sport about a ceremony to profile the contribution of design to the games, and the department and LOCOG have an important role in identifying supplier information.

2. *Findings of the Creative Industries Council should be taken on board by government and there should be wider representation of government departments on the Council*—notably Treasury representation in recognition of the significant economic contribution of the creative industries.

3. *The government should draw upon design support, through intermediary bodies such as the Design Council, in the delivery of large-scale planning and infrastructure projects.* Independent design support can enhance the credibility and quality of large-scale projects by providing impartial guidance and helping to secure fresh insights which maximise the benefits of an integrated design approach for all stakeholders. This is vital to ensure major programmes respond to local community needs, address sustainability issues and create business opportunities.

4. *Design capabilities should be a normal part of civil service training across the board.* Design thinking and methods have much to offer the civil service, including the development of alternative solutions to policy challenges, more efficient user-centred policies and services and more effective procurement, including the

commissioning of design services. This is increasingly recognised in the private sector, where some of the world's leading companies deploy designing thinking in both product development and management systems and human capital. The Design Council delivers development workshops for central government departments and senior civil servants, for example as part of the Civil Service Learning programme in February 2013.

5. *More use should be made of open innovation Design Challenges and design coaching programmes in addressing "knotty" policy issues.* The Design Council has delivered ten open innovation Challenges with government departments and private companies, developing products and services to tackle complex social problems in areas of youth employment, health, dementia and crime. To date, more than 30 innovative products and services have been brought to market. In addition, through the Design Leadership programme for the public sector which is supported by the Department for Business, Innovation and Skills, the Design Council has also provided coaching to over 30 public sector bodies on service delivery in the areas of homelessness, health and well-being and business services.

6. *Government should strengthen support for targeted design coaching programmes which drive business growth and strategic planning using design, particularly for SMEs.* These include the Design Council's Design Leadership programme for business, which is supported by the Department for Business, Innovation and Skills and has provided mentoring to over 650 businesses over the last five years. An independent evaluation of the programme in 2012 showed that for every £1 businesses invest in design, businesses can expect over £20 in increased revenues, over £4 increase in net operating profit and over £5 in increased exports.²²

7. *The design skills base should be supported through the inclusion of design as a Foundation Subject in the National Curriculum to Key Stage 3.* A "sixth pillar" should be added to the English Baccalaureate (Ebacc) to include creative and cultural subjects, such as design and technology and art and design. Subjects which are perceived to be purely academic are also separated from those which are perceived to be practical in University Technical Colleges (UTC)—design as a discipline deploys both technical and academic skills. For UTCs to be strengthened there is also a need for more effective industry and university engagement.

8. *The government should continue to support initiatives such as the National Skills Academy for Design.* The Design Council is involved in the delivery of the Academy with Creative & Cultural Skills and it will galvanize the effective delivery of skills support for the design sector by strengthening links between the design industry and education training providers.

CASE STUDIES

Small and medium sized enterprises

- Naylor Industries, Yorkshire: The Design Council Design Leadership programme for business helped this manufacturing SME to diversify clay production from pipes to flowerpots. Sales of the flowerpot product line grew from £500,000 to £5 million in three years representing 15–20% of the UK terracotta pots market. Naylor turned over £36 million in 2011–12.

Health and social Care

- Living Well With Dementia: The Design Council ran an "open innovation challenge" with the Department of Health which resulted in five new initiatives for dementia patients. Ode, for example, is a fragrance-release system designed to stimulate appetite among dementia patients and is on trial in 50 Care Homes around the country.

Local authorities

- London Borough of Lewisham: The Design Council Design Leadership programme for the public sector helped the Council to redesign its emergency housing services in the face of increased demand, reducing budgets and a need for greater personalisation of services. The intervention resulted in savings for the council of £368,000, from an investment in design of £7,000. Staff morale and absentee rates also improved.

Science and technology research

- University of Nottingham: The Technology Transfer Office underwent the Design Council Leadership programme for science. They needed to find new applications for a product that measures heart rate and communicate this better to investors. This has generated up to £50,000 of additional investment secured by better demonstrating different product applications for new platform technology. More about the programme is available here.²³

²² Designing Demand National evaluation 2007–12, Eden Partners (2012) (www.designcouncil.org.uk/Documents/Documents/OurWork/Designing%20Demand/Designing%20Demand_Executive_Summary_Final.pdf)

²³ www.designcouncil.org.uk/Documents/Documents/OurWork/Support/InnovateForUniversities/Science%20Technology%20A4%20ft_final.pdf

Planning and infrastructure

- Olympic Park: The Design Council Cabe team advised on the planning and development for this major infrastructure and planning programme. This has ensured the delivery of quality through the proposed buildings, use of materials, clarity of access, inclusiveness and accessibility.

Written evidence submitted by Arts Council England

1. Arts Council England's mission is "great art for everyone". We work to achieve this by championing, developing and investing in arts and cultural experiences that enrich people's lives. Between 2011 and 2015, we will invest £1.4 billion of public money from government and an estimated £1 billion from the National Lottery.

2. As the national development agency for the arts, museums and libraries, we support a range of activities from theatre to music, reading to dance, photography to digital art, carnival to crafts. We support and invest in high quality arts practice and the best emerging practitioners whom we believe are essential for underpinning a dynamic creative economy.

3. Cultural organisations operate in a mixed economy where private capital and earned income is crucial alongside any public funding. Our sector is made up predominantly of small and medium enterprises, 92% employing less than 10 people.²⁴ We help them to access finance, draw in private investment and expert advice, as well as develop cutting edge technology and artistic work. For every £1 we invest, arts organisations generate £2 from elsewhere.

4. The culture sector is an important driver for the creative economy, with 66,910 businesses contributing £28 billion each year to the UK economy. This is the largest cultural economy in the world as a share of Gross domestic product (GDP). It is more productive than the UK as a whole, with a contribution to Gross value added (GVA) per head of £34,110 each year, compared to £31,800 in the wider economy. The contribution of the music, visual and performing arts sectors alone exceeds £4 billion.²⁵ It is the largest employer across all creative industries, with the largest number of businesses: 1.46% of all UK enterprises.²⁶

5. The arts, museums and galleries are an important part of the UK's offer to tourists. London musical theatre and classical music sales to tourists are estimated at £67 million each year.²⁷ A survey of 25,000 overseas residents showed that on a visit to Britain 49% of visitors would be very likely to go to a live music concert or event, and 38% said that they would go to the theatre, opera or ballet.²⁸ In some places museums are the main tourist offer, and English museum expertise is in high demand in Brazil, Russia, India And China (BRIC) and other foreign markets.

6. The wider creative economy is fuelled by the publicly subsidised arts sector with a rich vein of talent, skills, and ideas. 86% of the film workforce crossover into other audio/visual production, including music and theatre.²⁹ The Arts Council supports the creative industries by developing public and private sector partnerships to invest in innovation, growth and regeneration across England. We invest in cultural education, jobs and training. Moreover we help promote the UK on a global stage: attracting talent, investment and tourism, exporting the best of our arts and culture to the world and engaging in cultural diplomacy.

7. There are real and exciting opportunities for the UK's creative industries. To realise them we must ensure creative enterprises are able to access finance; our education system delivers the skilled employees they require; and public funds continue to allow the space for artistic risk as well as entry routes into the sector.

HOW BEST TO DEVELOP THE LEGACY FROM THE OLYMPICS AND PARALYMPICS OF THE DISPLAY OF UK TALENT IN THE CREATIVE INDUSTRIES

8. The success of the opening and closing ceremonies of the Olympics and Paralympics were made possible by over a decade of sustained investment in our cultural landscape, and helped to showcase Britain's creative industries.

9. It is striking that the Olympic artistic team all had their talent nurtured in the subsidised arts. Stephen Daldry apprenticed at The Crucible in Sheffield before going on to Artistic Director of the Royal Court. Jenny Sealey and Bradley Hemmings, creators of the Paralympic ceremony, are directors of arts organisations that shift perceptions of disabled artists. Danny Boyle worked with David Hare at Joint Stock and then with Max Stafford Clark at the Royal Court.

²⁴ Creative & Cultural Skills: Sector Skills Assessment for the creative and cultural industries, 2010, http://blueprintfiles.s3.amazonaws.com/1321190183-CCSkills_UK_SSA_2010-11.pdf

²⁵ Ibid

²⁶ Creative Industries Economic Estimates, DCMS, 2011, www.culture.gov.uk/images/research/Creative-Industries-Economic-Estimates-Report-2011-update.pdf

²⁷ The Economic Contribution of Three Conservatoires, London School of Economics, 2012, www.2lse.ac.uk/geographyAndEnvironment/research/london/pdf/LSE-London-Conservatoires-Report-FINAL-July-2012.pdf

²⁸ Anholt-GMI Nations Brand survey 2010

²⁹ Skillset/UK Film Council Feature Film Production Workforce Survey, 2008, <http://publications.skillset.org/index.php?id=9&page=12>

10. The Olympics and Paralympics gave us an opportunity to show the world class dance, opera, orchestras and theatre that exists across the country. Our art galleries and museums, located in most of our major cities, have internationally important work. A rich network of pioneering and creative companies support writers, artists, and digital innovators. This nurtures Brand Britain, opening up new markets in cultural exports and attracting tourism.

11. The Arts Council's investment into the Cultural Olympiad and London Festival included 477 branded projects—totalling an investment of £39 million. LOCOG estimate 19.8 million people participated in the Cultural Olympiad, 80% of whom attended free events. They further estimate that 10 million people have been inspired to take part in further cultural activity.³⁰ The Arts Council is currently evaluating its impact, but initial figures show that in the West Midlands alone the Cultural Olympiad generated £80 million of gross economic activity and a Return on investment (ROI) of £11.1 million for public money.

12. The ceremonies provided an important moment where we found a contemporary way to express and share who we are as a nation, showing how art can bring us together, explore our collective identity and make our lives better. 68% of those who watched the opening ceremony thought it made them “proud to be British”.³¹

ACCESS TO FINANCE AND CROSS-GOVERNMENT SUPPORT AS A BARRIER TO GROWTH IN THE CREATIVE INDUSTRIES

Finance and funding in the creative and cultural sector

13. Some sub-sectors within the creative industries suffer difficulties in obtaining loan or equity finance. These businesses often hold relatively fewer assets to be used as security in obtaining finance. Many non-specialist lenders perceive risk to be higher in the creative sector,³² preferring larger scale investments and higher returns.

14. Creative businesses are typically sole traders or small enterprises, driving skills and innovation which crossover into the wider economy. More flexible funding and microfinance options are essential. The work of the Creative Industries Council in developing wider access to mainstream finance options for small enterprises should be supported across government.

15. Arts and cultural organisations operate in a mixed economy and a substantial portion of their turnover is earned. For every £1 we invest, arts organisations generate £2 from elsewhere. In the theatre sector, earned income makes up 59% of turnover. Many cultural organisations will generate this earned income levered by Arts Council and Local Authority subsidy. Investment by the Arts Council and local authorities will also generate business for other businesses throughout supply chains, and we have commissioned a report that will quantify the contribution of arts and culture to the economy.

16. Currently household budgets, local authority finances, and central government spending are all under pressure at the same time. We are concerned about the disproportionate impact small changes to local authority and central government subsidy for parts of the creative and cultural sector might have on their ability to lever investment and income from other sources. Given much subsidy supports talent development, it is possible some impacts might be long term.

17. Cultural organisations seek finance not only from lenders but also philanthropists and corporate donations. The £95 million investment in Catalyst by Arts Council and DCMS aims to help cultural organisations diversify their income streams and become more resilient.

18. Arts & Business figures show corporate donations are under pressure, falling for a fourth consecutive year in 2010–11, although this fall was offset by donations from individuals, trusts and foundations.³³ However heritage and museums bring in just over half of these donations. Over 50% of accredited museums in England are now governed independently from national or local government, raising and leveraging in funds from a wide variety of sources in common with other creative businesses.

How the Arts Council supports the creative sector to access finance

19. We have invested £1 billion of National Lottery funding over the last decade to transform the physical infrastructure of the cultural sector. The Southbank Centre's redevelopment in 2007 saw a 48% increase in visitors to the site. It almost doubled SBC's generated income to £23.7 million and attracted commercial franchises onto its forecourts, with strong performances from such outlets.

20. Our £2 million investment in Acme Studios in 2004 allowed them to invest in an £8 million project to create four major permanent studios. 49 purpose-built affordable artists' studios were developed at Matchmakers Wharf, London; and a major mixed-use project developed in partnership with Telford Homes

³⁰ www.london2012.com/media-centre/article=interim-results-london-2012-festival-shows-scale-and-reach-games-culture-offer-1428878.html

³¹ Yougov survey, 2–3 August 2012

³² BIS/DCMS *Access to Finance for Creative Industry Businesses*, May 2011

³³ www.artsandbusiness.org.uk/Central/Research/Investment-and-funding.aspx

Plc. With our grant, they purchased a 999-year lease on the studios, and the forecast income means that Acme expects to be self-sustaining by 2015.

21. The Royal Shakespeare Company's (RSC) *Matilda* shows how high risk, subsidised art can flower into a critically and commercial hit with British theatre-goers and tourists, and is about to become a valuable cultural export. Our subsidy enabled artistic director Michael Boyd to spend seven years to create the work and take the risk on two brilliant writers, new to musicals. Today, total matured and advance gross sales now exceeds £24 million, with the advance standing at £4.5 million, and the RSC has a partner in the US to launch the show on Broadway next year.

22. In addition to supporting cultural organisations the Arts Council is also designing a number of funds to support other parts of the creative industries. We recently launched the Creative Industry Finance pilot programme, offering business development support and access to finance for creative industry enterprises. Businesses that have benefitted from support and received funds include a textile designer, a fashion house and an arts publishing company.

23. The Arts Council retains an interest in traditionally commercial aspects of the creative sector. For example, the popular music industry is going through huge change, with reduced budgets to support new talent and shorter windows for new acts to become commercially successful. Some countries already use public funding to ensure talent is supported in their popular music industry, including Canada's FACTOR (Foundation to Assist Canadian Talent on Records).³⁴ We are working with the industry to examine the need for a fund to support emerging acts in a similar way.

Cross Government Co-operation

Visas and migration

24. Despite changes to the regulations around Tier 1 visas for exceptionally talented artists, the UK's immigration arrangements remain restrictive. The complicated and lengthy process for applying for a tier 2 or 5 visa, and the lack of clarity on how this applies to individuals with cultural talents, is a deterrent to creative talent migrating to our country, meaning they do not bring with them the innovation and skills essential to growth. Migrants made a "net fiscal contribution of £2.5 billion" to the UK in 2007.³⁵ We believe there should be a greater emphasis on creative skills in developing the framework for immigration and ensuring there is flexibility in the provision of short term visas for artists and producers of creative content.

25. Uncertainty resulting from UKBA's approach to regulation may also make it more difficult for HE institutions to attract foreign students in the future, potentially impacting on their ability to provide high-quality tuition to students from the UK.

THE IMPACT ON THE CREATIVE INDUSTRIES OF DIGITAL AND CREATIVE MEDIA, AND THE RECENT HARGREAVES REPORT

26. Intellectual Property and the implementation of the Hargreaves Review remain a concern for the creative sector. The Arts Council welcomes Hargreaves' recognition of the importance of unlocking orphan works and "permitting parody". We would like to ensure that works like Christian Marclay's *The Clock*,³⁶ a 24-hour montage of thousands of time-related scenes from movies and TV shows, and winner of the Golden Lion at the Venice Biennale, are encouraged rather than inhibited.

27. The Arts Council has a strong track record of supporting pioneering digital arts practice and innovations. The focus of our Creative media policy is to support an increase in the quality, volume and reach of digital content and experiences for economic growth as well as artistic and audience development.

The Space

28. The Space is a free digital, pop-up arts service, developed by Arts Council England in partnership with the BBC, that helps to transform the way people connect with, and experience, arts and culture. With over 700,000 hits this small pilot is already showing with great imagination how we can sweat the digital arts assets of our portfolio.

29. The Space has had a multiplier effect on audiences. A capacity audience of 500 saw the UK premiere of Stockhausen's *Helicopter String Quartet*: a further 13,000 people globally have watched it on The Space to date. The Space will continue in pilot form until March 2013, and has a huge potential to make more of the arts available in new ways to new audiences.

Research & Development

30. In July 2012 we announced a new partnership to invest £6 million into the Digital R&D fund for arts over the next three years, with National Endowment for Science, Technology and the Arts (NESTA) and Arts

³⁴ www.factor.ca/AboutUs.aspx

³⁵ Home Office and Department for Work and Pensions, *The Economic and Fiscal Impact of Immigration*, October 2007

³⁶ www.youtube.com/watch?v=xp4EUryS6ac

and Humanities Research Council (AHRC) contributing a further £1 million each, following a successful pilot in 2011. The fund will support research and development projects that use digital technology to enhance arts audience reach and/or explore new business models.

TAXATION AND THE CREATIVE ECONOMY

31. The recent announcement of a series of tax reliefs for the film, animation and high-end television sectors is welcome.³⁷ Nevertheless, we still lag behind other countries in fiscal support for the wider creative and cultural industries. In Germany “public cultural operations” are exempt from VAT and corporate tax, and since 2000, Austria have offered generous tax deductions for artists and authors. In Ireland, artists are exempt from income tax.³⁸

32. Without similar arrangements the UK risks losing its competitive advantage and driving investment overseas. Our response to the Heseltine review suggested extending the tax reliefs offered to animation, film and high-end television to a broader range of cultural sectors to maintain international competitiveness across the creative industries. The film tax credit has helped generate over £1 billion of film production investment in the last year.

ESTABLISHING A STRONG SKILLS BASE TO SUPPORT THE CREATIVE ECONOMY

33. Talent plays an important part in growth for the creative industries. It begins with the cultural education of Britain’s schoolchildren, through Further Education (FE), Higher Education (HE) and into the workplace. Early engagement with arts and culture is vital in sparking the creativity of young people and allowing opportunities for them to progress and develop their interest and skills. The arts fuel curiosity and critical capacity, and inspire future audiences as well as the next generation of artists.

Primary and Secondary Schools

34. At Key Stages 1, 2 and 3 we must allow for engagement and progression across the whole range of art forms. Drama and dance can bring our cultural heritage to life. Meanwhile art & design and music should be recognised as subjects comparable and compatible with subjects like science and mathematics.

35. We believe in a sixth strand to the English Baccalaureate for creative subjects at Key Stage 4. Otherwise new rigorous and comparable qualifications must be made available in art & design, music, performing arts and dance. Employers and schools need to be assured high quality, industry relevant, qualifications exist in the “spare” 20% of curriculum time, alongside the core subjects. If students are unable or discouraged from studying these subjects at Key Stage 4, potential applicants for creative subjects at FE and or HE level will be further limited.

36. The Arts Council is the fundholder for over £170 million between 2012–15 of Department for Education investment in Music Education, for the network of 123 Music Education Hubs and In Harmony. The aim is to ensure all young people have access to high quality musical experiences, including free instrumental tuition, ensembles and singing. Most activity takes place in schools, with opportunities to progress to conservatoires and vocational training.

Progression Routes

37. Entry routes should be open to all and help build the range of skills needed to make a successful contribution to the economy. Apprenticeships should provide a viable entry route into employment in the arts and cultural sector, with comparable prestige to higher education. They should also help employers build a workforce with the right skills.

38. Many creative businesses struggle to find the time and resources to offer paid internships and work placements or to take on an apprentice. We have launched the Creative Employment Programme, investing £15 million to provide match funding for 6500 apprenticeships and internships for people aged 16–24. It will encourage greater collaboration and innovation by employers to generate new jobs in the arts and culture sector, support the next generation of arts entrepreneurs and freelancers, and directly address skills gaps and shortages. We have been working with the National Skills Academy for Creative and Cultural (NSA) for the past four years and invest in them as a National Portfolio Organisation.

39. We have invested over £8 million in High House Production Park in Thurrock as a national centre of excellence for technical skills, crafts and production, in partnership with the National Skills Academy (NSA), Royal Opera House, and local organisations. It addresses a long-term need for skilled professionals in the performing arts and live music sector and will create an internationally recognised hub for creative industries complete with state-of-the-art facilities available to local residents. We envisage the Park will act as a magnet for creative companies and a catalyst for regeneration.

³⁷ www.hm-treasury.gov.uk/consult_creative_sector_tax_reliefs.htm; HM Treasury *Consultation on creative sector tax reliefs*, June 2012

³⁸ Arjo Klammer, Lyudmilla Petrova and Anna Mignosa, *Financing the Arts and Culture in the EU*, European Parliament, November 2006; www.citizensinformation.ie/en/money_and_tax/tax/income_tax/artists_exemption_from_income_tax.html

Higher Education

40. A recent report by the Higher Education Commission raised serious concerns that undergraduate debt, inability to obtain further loans and credit will have a major impact on the access to postgraduate studies.³⁹ There could be a cumulative effect from 2015, when students who are already carrying a large debt load might turn away from post graduate studies.

41. The Arts Council believes that the recent focus in Government support towards Science Technology Engineering and Mathematics (STEM) subjects at HE level should be widened to include Art & Design (STEAM). Creative professions where the UK has a strong presence, such as Architecture, require a degree of proficiency in Art & Design. Similarly, the Engineering Professors Council are clear that, “Art & Design, the humanities and performing arts and languages are also important formative components for many professional engineering disciplines.”⁴⁰

42. The UK’s conservatoires are an important part of cultural education at an HE level, enjoying a considerable international reputation. It is currently estimated that there are 6,900 conservatoire students in the UK—0.27% of students in our higher education system. However Conservatoires carry high overheads, with the cost of tuition between £14,000 to £16,000 per year. There are concerns that if Higher Education Funding Council for England (HEFCE’s) exceptional funding remains capped at its current level, real-terms reduction in income would begin to have a negative impact on the quality of tuition that can be provided.

THE IMPORTANCE OF “CLUSTERS” AND “HUBS” IN FACILITATING INNOVATION AND GROWTH IN THE CREATIVE SECTOR

43. Clusters or hubs are frequently based in areas of significant Arts Council investment. In turn our funding also supports organisations that help to drive innovation within the creative industries, such as Brighton Digital Media Festival, Watershed in Bristol and Cornerhouse in Manchester, through our National Portfolio and Grants for the Arts.

44. The organisations we invest in contribute to their local economies. Yorkshire Sculpture Park, who are one of our Non Profit Organisation’s, are directly responsible for 108 full time jobs, spends £1.98 million in the locality, and brought more than £4.96 million in visitors’ spend to the area in 2011.

45. We actively support work within hubs to create opportunities for future growth. For example we are part of the Creative City initiative with Birmingham City Council and other local partners, which will develop the city’s cultural and creative infrastructure as well as skills.

46. We have contributed to the culture-led regeneration in Newcastle and Gateshead. More recently in Margate we delivered the Turner Contemporary, and a wide range of activity in partnership with English Heritage, Thanet District Council and Kent CC. This included bringing historic buildings back into use with Margate Arts Creativity and Heritage. This has been so successful the Old Town is now fully occupied and the project is now moving on to other locations in the town. Our investment in Margate has helped to deliver strong links with the creative sector, including the “GEEK Margate” gaming event.

47. We are working with the AHRC, who recently awarded £16 million to support four Creative Industries Knowledge Exchange hubs to help unlock investment, broker partnerships, and deepen understanding about the sector.

48. But not all creative industries’ operate in large hubs or clusters. Our Creative People and Places (CPP) fund shows investment in areas of low engagement in the arts or the creative sector can attract local investment and have a significant impact on the creative economy of the local area. For example, a CPP project in South Lincolnshire attracted £120,000 in support from a local haulage company.

49. Our Grants for Arts scheme, through which we invest a significant amount of lottery funding, frequently supports start-ups, new enterprises and individuals at the start of their career, providing them with the seed money to fuel future growth in the creative industries.

THE WORK OF PUBLIC BODIES RESPONSIBLE FOR SUPPORTING THE SECTOR

50. We are committed to our work as part of the Creative Industries Council (CIC). It is important that the CIC takes account the many subsectors of the creative industries and not treat them as a single group. This can include producers or presenters of culture closely related to the more recognisable commercial creative sector. Such “cultural enterprises” are places where talent is developed and experiments can be made, and need further recognition by the CIC to help maximise available opportunities.

51. To help public bodies shape funding intelligently to promote growth, the impact of arts and culture on the creative industries should be properly evaluated, and exports for cultural goods and services properly measured.

52. Libraries have a role to play in supporting the creative industries and wider business sector. Manchester and Newcastle libraries operate a Business Information Service helping with business plans, market research,

³⁹ www.policyconnect.org.uk/hec/sites/po11-006/files/he_commission_-_postgraduate_education_2012.pdf

⁴⁰ Engineering Professors Council response to Science and Technology Select Committee Inquiry into Engineering Skills, 2011

searches for trademarks, and intellectual property. As the development body for libraries, we are exploring libraries' roles as catalysts to local economic growth through extending the approach to other library services across England.

53. Creative England is vital in driving growth in the sector, and we will work with them on strengthening the significant and fundamental connections between the cultural sector and creative industries. In particular improving access to finance, supporting talent, and creating mutually reinforcing and supportive career paths.

November 2012

Written evidence submitted by Enders Analysis

OVERVIEW

This submission responds to an invitation by MP John Whittingdale Chairman of the Culture, Media and Sport Committee regarding evidence for the inquiry on "Support for the creative economy", in the wake of the very successful opening and closing ceremonies of the Olympics and Paralympics 2012.

I am Claire Enders founder and CEO of Enders Analysis Limited, a leading UK independent research company. Enders Analysis serves publications, presentations and consultancy on the media and telecommunications sectors to subscribers, which include companies and investors in our coverage sectors, as well as regulators and government departments. A full list of reports is available at www.endersanalysis.com and Annex 1 of this report contains a list of subscribers.⁴¹

The views expressed in this report are mine alone but may overlap with those expressed by companies that are subscribers. This report has been prepared with the assistance of my team.

Before responding to certain items on the Committee's agenda, I would like to make a few general remarks. The first is to indicate my economic position as a rights owner. The reports produced by my company constitute my intellectual property and I have no respect for actions of piracy that undermine its value.

Secondly I believe mass market levels of piracy of music and video content in the UK, which takes place year in and year out, is the most significant threat to the long-term survival of the creative economy. It is not so much that piracy represents foregone sales, whose precise value is hard to pinpoint, but more that the Government has, in my opinion a duty to provide a strong signal to the people that theft of the products of the creative economy is not acceptable. It limits revenues and commercial opportunities for companies and thus the jobs the sector can create. It has been a decade since I first started to work for an industry-led anti-piracy regime,⁴² whose delay is detrimental to the creative economy.

Thirdly as a rights owner, I am prepared to *voluntarily* act to secure public policy outcomes. I routinely supply my reports and analyst time to educational establishments without charge,⁴³ but would take it amiss if I was instructed by the Government to make the content "generally available" to such establishments, especially given the current absence of an anti-piracy regime.

Fourthly, I support public policy interventions for the wider benefit of our society when there is convincing evidence of market failure (eg plurality in the provision of news), despite the cost to individual companies. This inquiry has under consideration public policy interventions that are said to be aimed at fostering web-based entrepreneurship, but whose costs the creative economy is expected to assume. These are the issues I have flagged below.

THE VALUE OF THE CREATIVE ECONOMY

By creative economy, I have in mind not only the film, music, television, design and games sectors, which this Committee has under examination in its current inquiry, but also print media, theatre, dance, fashion, the visual arts and so on. These sectors were also showcased most effectively in the opening and closing ceremonies of the Olympics and Paralympics 2012.

The UK's creative economy is both large and dense thanks to the combination of 62 million relatively well-off consumers served by a myriad of suppliers, both large commercial enterprises and SMEs, as well as the BBC, supporting many jobs.⁴⁴ The products of the creative economy also contribute to our exports. They shape the image of the UK abroad, thus contributing indirectly to attracting visitors to the UK, supporting our successful tourism industry.

Although the Committee's agenda does not mention the tax regime for philanthropy, I would like to take this opportunity to remind you that the generous support of individuals and companies is an absolutely fundamental pillar of the creative economy. In this regard, I recommend the Committee safeguard the regime and prevent its deterioration. The Coalition was wise to retreat from the dissuasive limit to individual gifting it had initially included in Budget 2012.

⁴¹ Not printed.

⁴² *Piracy—Will it kill the music industry?* [2003–12]

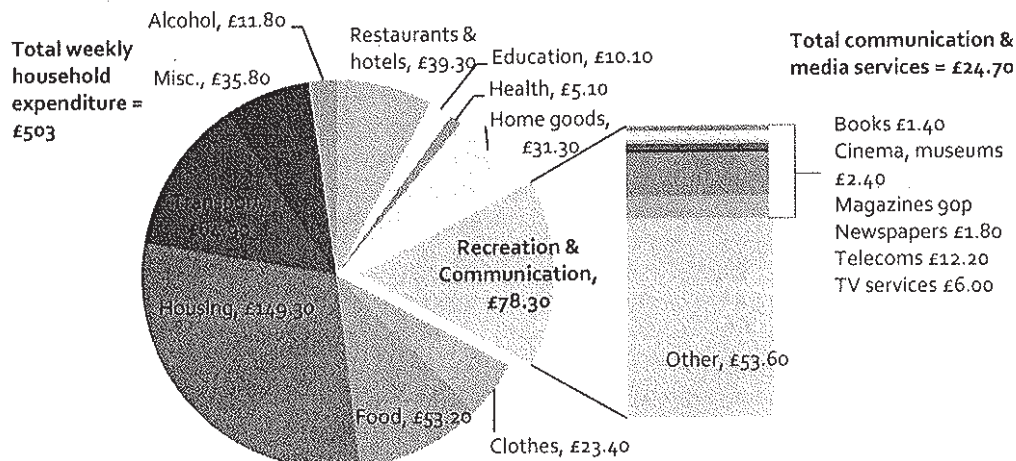
⁴³ Perth College—Speakers for Schools, Creative Industries 12 November 2012.

⁴⁴ www.culture.gov.uk/what_we_do/research_and_statistics/4848.aspx

THE CHALLENGES FACING THE CREATIVE ECONOMY

The most immediate challenge facing the creative economy is the weak state of consumer demand. The decline in real income in 2011 and into 2012 has forced households to devote a larger share of household budgets to necessities, at the expense of recreation and culture: £85.30 of weekly spend of £500.40 (17%) was spent on this category in 2008, compared to £78.30 of £503 in 2010 (15.6%). That means that companies in the creative economy must be smarter and focus on delivering products that consumers will buy despite their straitened wallets.

2010 average weekly household total and communications services expenditure (£)



Note: Housing includes mortgages, council tax and purchase and alteration of house
 [Source: Enders Analysis estimates based on ONS Family Expenditure Survey]

Of particular concern to me is the situation of young people today due to relatively high unemployment rates: 18.5% of 16–24 year-olds are currently unemployed vs 8.2% for the working age population. Young people often constitute the “heartland audience” for the creative economy, such as cinema for example, and at the same time also rely on the creative economy to create the jobs that will mesh their cultural interests with a means of earning a wage.

It is another irony of the digital age that piracy’s heartland audience is young people. They have more time to enjoy the products of the creative economy but cannot fully fund their consumption. Piracy is a habit formed with the support of the peer group, which then lingers on into adulthood. It has shaped the past decade’s music consumption durably, to the detriment of the creative economy.

Despite the high level of unemployment amongst young people, employers often cite difficulty in finding qualified workers to support the creation of digital products, notably programmers. I think this is a problem that is due more to the aspirations of young people today than a failure of educational policy.

The UK’s world-class educational system, spanning both publicly-funded and privately-funded establishments, has sufficient flexibility to respond to new demands as they arise in the marketplace. Many educational establishments already have programmes dedicated to the creative industries to assist students in finding jobs. Support for these programmes is critical to the creative economy.

In terms of the conditions facing businesses supplying the creative economy, access to finance is a constraint. There are two levels of constraint in this area:

- Access to investment capital to fund start-ups.
- Access by SMEs to working capital at reasonable rates of interest.

Access to investor funding for ambitious digital business models is a very competitive sector, with many aspirant entrepreneurs fighting for the attention of angel investors and investment bankers, in the context of a tax regime which I understand to be supportive of start-ups. I am not confident there is market failure requiring a public policy intervention, eg a state-owned bank dedicated to funding start-ups in the creative economy. It’s a healthy aspect of the creative economy that business ideas must compete for investors.

SME access to working capital at reasonable rates of interest has been a severe and ongoing constraint since the onset of the credit crisis in the UK in 2008, as evidenced by the regular surveys of lending activity from the Bank of England.⁴⁵ The Funding for Lending Scheme may alleviate these conditions in 2014.

⁴⁵ www.bankofengland.co.uk/publications/Documents/other/monetary/TrendsOctober12.pdf

HARGREAVES REVIEW AND THE COPYRIGHT HUB

Building on the Gowers Review of Intellectual Property Regime (2006) and Digital Britain (2009), the Review by Professor Hargreaves has provided the basis for the Coalition's policy on copyright in the digital age. Proposals include the creation of an industry-led Copyright Hub, as well as the proposed clauses in the Enterprise and Regulatory Reform Act that will allow exceptions to be introduced by the responsible Secretary of State without primary legislation. I understand their generic purpose as being to foster the establishment of e-businesses that use the Copyright Hub or exploit exceptions to the copyright regime in order to establish new business models.

I must confess to being perplexed by the starting point and core conclusion of Hargreaves, namely that UK economic growth is being held back by the absence of a "fit-for-purpose" copyright regime to suit the needs of the digital age.

In my long experience of the UK's creative economy, I have reached the opposite conclusion: our copyright regime is its pillar. However, its support for web-based entrepreneurship is visibly being undermined by mass market levels of piracy of music and video content, and more recently ebooks. Piracy of music content is routinely cited by digital music start-ups as being their most significant challenge.

I am not convinced that access to orphan works would foster a cornucopia of new web-based businesses. The evidence presented by the IPO on behalf of Hargreaves for example does not demonstrate that insufficient access to orphan works is an issue for VOD business models. Recently-produced content understandably dominates consumption and the offers of commercial suppliers, and few potential licensees see a business model in the 'long tail' of consumption. There are few orphan works in the music and film sectors, but many more in the area of printed content, outside this Committee's inquiry.

I am also not convinced that content owners operate a policy of hampering new web-based entrepreneurs. In my 30-year experience of the recorded music industry, I have observed a dramatic shift on the part of majors and independent labels in favour of licensing new and innovative music services, serving both the UK and any other contestable market. This pro-active licensing policy is today a publicly stated position.⁴⁶ For the recorded music industry, such partnerships with services are vital to distribute music in digital format to the widest number of customers.

Of course this wasn't true 15 years ago when the majors in particular still believed that their digital music services would populate the market, before these were found to be inconsistent with competition law. Far from being reluctant to license, labels embrace it!

I am also not convinced that the UK's distinct copyright regime is a handicap to web entrepreneurs in the UK. Google operates exactly the same business model in the UK as in the US, namely, serving search to users on a scale that drives the purchase of keywords by advertisers. Google appears to have not been worried in the least for mundane acts such as caching copies of websites on its servers by the businesses that buy search terms. (I understand that newspaper publishers in the UK have not "opted out" of having their pages indexed by Google for fear that they would lose vital traffic, while the German newspaper publishers are negotiating for compensation.)

Instead, the main reason why the US has been a hotbed of innovation is down to the size of its market, which supports levels of R&D and innovation that are more than 10 times the level in absolute terms than in the UK.⁴⁷ The US has five times the population and number of internet users than in the UK, and the US can support a denser tissue of web-based entrepreneurs because scale is such a key success factor for e-businesses. Nevertheless, the UK has the highest spend per capita on the internet than any other major economy.

In Europe, London is a start-up hub together with Berlin and Paris. Facebook has opened its first engineering office outside of the US in London this summer, and various digital media start-ups have their origin in the UK and successfully expanded overseas.

Comparing the copyright regime of the UK with that of continental European countries, the UK is almost alone in not remunerating rights owners for private copying. This certainly prevents rights holders from enjoying an ancillary revenue stream, to the detriment of the creative economy.

Under the EU Copyright Directive, there is no obligation to introduce such a private copying exception, but if it exists, then it must be remunerated. Whilst this may appear to be a legalistic position, I believe it is a form of expropriation to introduce copyright exceptions that eliminate commercially significant potential revenue streams for rights holders.

At the same time, I fully appreciate the value to consumers of an exception for private copying. Where the creative economy in the UK has never enjoyed revenues from private copying, it makes it easier to argue that an exception would not be detrimental to current revenues.

⁴⁶ Rob Wells, SVP Digital, Universal Music Group International "It's in everyone's interests to offer today's digital consumers the widest possible choice of innovative, fully licensed music services." www.catchmedia.com/about/press-and-pr/

⁴⁷ \$403 billion on R&D in the US vs £26 billion in the UK (\$42 billion) in 2009 www.oecd.org/sti/innovationinsciencetechnologyandindustry/researchanddevelopmentstatisticsrds.htm

It may also be detrimental to the creative economy to remove the oversight role of Parliament in deciding copyright exceptions, but I cannot offer an informed view.

More evidence needs to be marshalled to support the claim that the UK's economy will grow as a result of the creation of Copyright Hub. So far, it appears to have been established as a matter of public policy that rights owners will fund the Hub, even though the costs of the Hub have not been specified as yet by Richard Hooper and his team at the IPO. This is a necessary first step, to be followed by a cost-benefit analysis: the additional financial burdens on rights holders to fund a Hub and populate it with rights may well outweigh the potential benefits to licensees and the wider economy, once these are properly assessed.

PIRACY AND THE DEA

There has been some delay to the launch of the UK's anti-piracy regime, although progress has been made since the DEA was passed. Under Ofcom's guidance, outstanding and sizeable differences of view between ISPs and rights owners regarding the "true" costs to ISPs of sending letters to broadband subscribers have now been settled.

In addition, rights owners are also required to cover Ofcom's costs of operating the regime.⁴⁸ In the "Online Infringement of Copyright: Implementation of the Online Infringement of Copyright (Initial Obligations) (Sharing of Costs) Order 2012", Ofcom has clarified these costs as follows (estimates for the period from Q3 2012):

<i>2010–11</i>	<i>2011–12</i>	<i>2012–13</i>	<i>2013–14</i>	<i>2014–15</i>
£1.8m	£0.7m	£1.6m	£3.2m	£3.2m

This has given rights owners the first visibility on the substantial costs of the future anti-piracy regime. The total is likely to be higher once their legal and other internal costs of participating in the regime are accounted for.

I note that other governments are prepared to fund anti-piracy regimes to support the creative economy. Hadopi in France is an example of a 'three strikes' regime that has been dissuasive of music and video piracy, and is fully funded by the French government.

UK Government funding of Ofcom's costs of operating the anti-piracy regime would constitute a measure of support to the creative economy and a signal that the UK Government backs anti-piracy activity.

There is a longstanding theme in UK Government policy which prefers industry-funded initiatives over new quangos. However, there are downsides in this instance, and that includes the considerable time and effort needed to convince companies to fund an 'industry-led' regime.

The Copyright Hub and the anti-piracy regime are public goods for the digital age, much like the information superhighways that broadband networks deliver. An anti-piracy regime in particular builds a culture based on respect for creation and the rights of creators to exploit their own work. That is the bedrock of the creative economy.

One issue that I would like to comment upon is "repertoire imbalance", which Richard Hooper and Dr Ros Lynch have identified as influencing public opinion and politicians on piracy.⁴⁹ This imbalance arises mainly as a result of the practise of the audiovisual sector to license on the basis of a "media chronology", first for theatrical exhibition in cinemas, then for sale/rental, and so on. Inevitably, first release film content is unavailable online, except in a pirated version, noting that cinema exhibitors would lose their business model if this window were to be closed. However, DVDs go on sale at retail at the same time as digital formats appear for sale on iTunes, thus removing this repertoire imbalance.

Whilst it has been said that repertoire imbalance is a trigger for piracy, I would note that recorded music does not have a media chronology (aside from a very short window for commercial radio airplay designed to build chart position and buzz), and still remains beset by piracy. In other words, I would be reluctant to causally link piracy to "repertoire imbalance".

In my view, the core driver of piracy is very basic and simple: it's free, and there is no societal sanction to pirates or anti-piracy regime that could interfere with the illegal downloading of content.

⁴⁸ "Copyright Owners should bear all of the costs incurred by Ofcom, the majority of costs incurred by the appeals body, and 75% of the costs efficiently and reasonably incurred by Qualifying ISPs in carrying out their obligations." <http://stakeholders.ofcom.org.uk/consultations/infringementimplementation/summary>

⁴⁹ "If you cannot find a particular film or a particular piece of music legally on the internet, you may be tempted to find an illegal copy and use that. Repertoire imbalance as it is called between the physical world (eg DVDs) and the digital world (eg downloads) can be used as another 'excuse' to 'Justify' copyright infringement. Like in other corners of the copyright world, this may be more perception than reality but perception can and does influence public opinion and politicians. The creative industries have to take perception seriously."

TAX REGIME FOR THE CREATIVE ECONOMY AND ITS SECTORS

Budget 2012 provided tax breaks as of April 2013 for a new category of enterprises producing video games, animation and the high-end TV production sector in the UK. Mr Wilson, director of the video games trade body Tiga, has predicted that tax relief for the video games sector should generate and safeguard 4,661 direct and indirect jobs, offer £188 million in investment expenditure by studios, increase the games development sector's contribution to UK GDP by £283 million and generate £172 million for the Treasury.⁵⁰

I am not a specialist on taxation. My only comment is that investments in video games, animation or the high-end TV production sector take several years to recover as their exploitation proceeds and I would warn against removing these tax breaks in the future. The UK independent film and TV show production sector has benefitted a great deal under the tax credits regime, giving us a world-class film and TV show production sector, alongside the BBC's commissioning.

November 2012

Written evidence submitted by Pact

EXECUTIVE SUMMARY

The sectors within the creative economy have many similarities but also many differences

- The creative industries are an important group within the UK economy, adding 2.89% of gross value added (GVA) in 2009.
- The term encompasses many different industries from architecture to fashion, and incorporating the industries within the media sector including film, television, radio and video games.
- There are many similarities between these sectors, which are linked by their focus on producing creative ideas.
- However there are also many differences and the issues affecting sectors which own the IP rights to their ideas have different needs than service-based industries.

It is important that we continue the legacy of the successful London 2012 Olympic and Paralympic games by continuing to promote British creative excellence

- British television and film is successful around the world and the opening and closing ceremonies of the Olympic and Paralympic games were a great showcase for the sector.
- Pact understands the importance of international trade for the future development of the sector and supports its members in accessing foreign markets.
- We welcome the Government's recent adoption of a co-production treaty for audiovisual works, which will enable closer collaboration announcement of closer collaboration between the television and film industries of Britain and Brazil.

International exploitation will continue to play an important role in future growth in the sector

- International revenues in the independent production sector have grown rapidly and we expect this trend to continue in the coming years.
- Pact welcomes the support afforded by the Government to support access to market in this sector.
- We urge the Government to give greater prominence to the creative industries in official trade missions overseas, given the importance of this sector to the British economy.

The copyright framework is effective and should be protected

- The success of the independent television production sector shows the effectiveness of the copyright regime in the UK.
- While we support the recommendations on access to orphan works in the Hargreaves Review of Intellectual Property and Growth, we do not support the hypothesis that the copyright regime in the UK is not effective.
- Furthermore, we are concerned about the introduction of a Digital Copyright Exchange.
- Should the Government wish to extend copyright exemptions, there would need to be a compensatory mechanism for rights holders, such as the European blank tape levy (to which the UK currently opts-out).
- We would support the introduction of a voluntary system for rights holders to advertise their rights should they choose to do so, but this must not form a system of collective licensing.
- The UK must promote the adoption of international AV numbering system such as ISAN, as identified in the Hooper Report on copyright works.

⁵⁰ www.bbc.co.uk/news/technology-17464478

- We call on the Government to take the necessary steps to ensure that the Digital Economy Act is implemented as soon as possible following delays as a result of legal review.
- We are concerned about the Government's proposals to grant powers which would enable the Secretary of State to make amendments to copyright legislation without sufficient Parliamentary scrutiny.
- We therefore urge the Government to review its proposals under Clause 56 of the Enterprise and Regulatory Reform Bill.

The creative sector tax reliefs will attract more content production to the UK

- We support the Government's intention to introduce tax reliefs for animation, high-end television and video games.
- Provided that it receives the necessary state aid approval, this will provide valuable support to the British creative economy.
- The reliefs will strengthen the UK television production sector and enable British producers to be more competitive internationally—particularly against countries with existing tax credit systems.

Children's programming is under threat from declining investment

- Pact is concerned about the continuing decline of investment in children's programming by UK broadcasters.
- We have urged the Government, as part of its Communications Review, to consider ways in which this important area of programming can be protected from future decline.
- The Committee might wish to consider whether it would be appropriate to extend the system of tax reliefs to support this difficult but important area of television production.

The new creative sector tax reliefs will boost funding for training in the sector

- Investment in skills and training is important for the future of the television production sector.
- Pact and our members will work closely with Creative Skillset to consider how best to use the benefits of the creative sector tax reliefs to support training and skills in the sector.

Broadband enables creative companies around the world to work together

- It is no longer necessary for companies to be based in close geographic proximity in order to do business together.
- Provided that commissioning and tendering processes are fair and transparent, geographic location should not be a significant factor in a company's ability to do business in the creative economy.
- Provided that everyone has adequate access to broadband services, British creative companies can build partnerships and share expertise with companies around the world.
- Pact is working with the Creative Industries Council and Creative Skillset to support the introduction of virtual boards to enable SME boards to seek input from experts on relevant issues.

Pact is a member of the Creative Industries Council

- Pact is an active member of the Creative Industries Council.
- It is a useful forum in which leaders in the creative industries can meet with political leaders to discuss issues and input into the policy-making process.
- However it is important that the Government takes into consideration the significant differences in the business needs of companies in the creative economy, which can vary significantly.

INTRODUCTION

1. Pact is the trade association which represents the commercial interests of the independent production sector.

2. The UK independent television sector is one of the biggest in the world. Despite the difficult economic climate, independent television sector revenues have grown from £1.3 billion in 2005 to nearly £2.4 billion in 2011.⁵¹

3. The sector is creatively, economically and internationally successful, and it produces and distributes approximately half of all new UK television programmes⁵² as well as content in digital media and feature film.

⁵¹ Pact Census Independent Production Sector Financial Census and Survey 2012, by Oliver & Ohlbaum Associates Limited, August 2012

⁵² Ofcom, Communications Market Report 2010: independents produced more than 50% of qualifying network programming by hours and 46% by value

4. The independent television production sector employs more people than the television divisions of the BBC, ITV, Channel 4 and Five combined.⁵³

5. Pact welcomes the opportunity to respond to the Culture, Media and Sport Select Committee's timely inquiry on support for the creative economy.

The creative industries are extremely important to the British economy

1.1 The DCMS definition of creative industries are "those industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of economic property".⁵⁴

1.2 The British creative industries—from art to architecture, fashion to film, are extremely important to the British economy. In 2009, they contributed 2.89% of gross value added (GVA)⁵⁵ and the Government has repeatedly cited the creative industries as one of the most important areas in boosting Britain's return to economic growth.

1.3 The creative industries are often linked together as they have many similarities in that they are all sectors in which creative, innovative ideas are developed and exploited commercially.

1.4 Many companies in the creative sector are SMEs and many face similar issues, such as securing access to finance. This is a particular issue in this sector as they are high-risk industries where big hits can deliver a large return, but other projects are often less successful.

1.5 However there are also many differences between companies in the creative sector. For those who own their intellectual property rights, such as television and film production, copyright protections are paramount to success. Whereas other more service-based industries such as advertising or architecture have different needs.

1.6 It is therefore important that, when developing its approach to the creative economy, the Government understands and takes into consideration the different needs of people working in the creative sector.

How best to develop the legacy from the Olympics and Paralympics of the display of UK talent in the creative industries in both Opening and Closing ceremonies and more generally in the design of the Games

1.7 The London 2012 Olympic and Paralympic Games were a great showcase for British creative talent.

1.8 Pact was privileged to participate in events of the Cultural Olympiad which complemented the events of the Opening and Closing ceremonies of both games.

1.9 The British television and film industries are world-renowned and receive enormous commercial success and creative recognition in foreign markets.

1.10 Pact supports its members by facilitating their access to international markets and organising attendance at important sector trade fairs such as MipCom in Cannes and the Rio Content Market in Brazil.

1.11 The Government provides valuable financial support to independent producers to help them access markets in the form of grants issued by UKTI. These Tradeshow Access Programme (TAP) grants are awarded to SMEs who have been exporting for less than 10 years and they enable many independent producers to meet with international buyers and promote their content overseas in order to grow their businesses.

1.12 In the past decade, the independent sector has grown from a cottage industry into one with sector revenues of £2.4 billion in 2011—up from £1.6 billion in 2004. This has been driven in large part by consistent growth in international revenues, which grew 9% in the past year and now account for revenues of £1.5 billion.⁵⁶

1.13 Brazil is a particularly important market for British independent producers. The Brazilian television market is The Brazilian TV sector is experiencing rapid growth, with digital television take-up increasing 20% in 2010 to 59% of all households⁵⁷ and sector revenues rising to £10.6 million in the same year.⁵⁸ Television sector revenues and revenues per head are now greater in Brazil than in any of the other BRIC countries.

1.14 Pact strongly welcomes the British Government and the BFI's work to agree on a formal co-production treaty for audiovisual works with Brazil. This new treaty, which was signed in September 2012, is great news for independent producers.

1.15 It cements the developmental work between Pact and our Brazilian counterpart, ABPITV (Brazilian Independent TV Producers Association) with whom we signed a cooperation agreement at the Rio Content Market earlier this year. The purpose of this agreement was to develop closer links between the Brazilian and

⁵³ Employment Census 2006, Skillset

⁵⁴ DCMS Creative Industries Economic Estimates, December 2011

⁵⁵ Ibid

⁵⁶ Pact Census 2012

⁵⁷ Ofcom International Communications Market Review (ICMR) 2011, 14 December 2011, p. 112

⁵⁸ Ofcom ICMR 2011, p. 123

British production sectors for the mutual benefit of both countries and we are very pleased to see that the momentum from this agreement has led to the development of a formal co-production treaty.

1.16 This close ties established between the UK and the next Olympic host country, Brazil, will continue to be an important area of focus for independent producers in years to come.

Barriers to growth in the creative industries—such as difficulties in accessing private finance—and the ways in which Government policy should address them. Whether lack of co-ordination between government departments inhibits this sector

1.17 For several years now, growth in the independent television production sector has been driven primarily from international revenues, including the sale of television programmes and programme formats into other territories.

1.18 At £776 million, international revenues grew by 31% in 2011 and now account for 32% of total sector revenues.⁵⁹

1.19 The main barrier to television exports is not being able to identify and secure meetings with the key commissioners in that territory. This requires an in-depth knowledge of the relevant market and the ability to travel to meet with the commissioning broadcasters as television deals are most often negotiated face-to-face. For SMEs with limited financial resources, this can be a barrier to accessing new markets.

1.20 Pact strongly welcomes the support offered by UKTI to support independent producers in accessing international markets. This funding has played a significant part in enabling producers who might not otherwise have the resources available to grasp opportunities to develop their export strategies.

1.21 However, we consider that this financial support could be more effectively administered than it is at present if the Government was to appoint trade associations and other private sector bodies with a good understanding of the relevant markets to administer the grants, rather than third-party events management companies who lack the sectoral expertise and industry contacts.

1.22 Another way in which the Government could do more to promote creative sector exports is by more regularly inviting representatives from the creative industries to accompany Ministers on official trade missions.

1.23 In our experience, there is very seldom representation for the creative sector on these visits, which tend to focus on more traditional business sectors such as manufacturing, engineering and finance.

The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government's response to it

(i) The Hargreaves Report

1.24 By and large, Pact considers that the UK copyright regime is operating effectively. This is demonstrated by the strong growth in the independent production sector. Without adequate legislative protections, independent producers would not be able to exploit their intellectual property rights and continue to invest in high-quality original UK content.

1.25 Given this, Pact was surprised by the Government's decision in late 2010 to commission an independent report into how the IP system could be improved to help the UK economy grow.

1.26 Pact actively engaged with Professor Hargreaves' review which asked a range of questions on the potential barriers to growth in the IP system and how to overcome them and on how the IP framework could better enable business models appropriate to the digital age.⁶⁰

1.27 However we were concerned that the Government did not consult with industry prior to launching this review. Had this happened, it is likely that the tone of the consultation document—which appeared to start from the position that there was a problem with the UK copyright framework—would have been different.

1.28 In future consultations, Pact strongly believes that the Government should seek informal views from interested parties in order to develop a sound understanding of a range of views on the topic under consideration in advance of setting up an inquiry or review into a particular issue.

1.29 Pact's full response to the Hargreaves review on intellectual property is available on the relevant section of the IPO website.⁶¹

(ii) The IPO copyright consultation

1.30 In its response, the Government broadly accepted Professor Hargreave's recommendations. The IPO then ran a consultation on how to take the proposals forward.

⁵⁹ Pact Census 2012

⁶⁰ Call for Evidence: Independent Review of Intellectual Property and Growth, December 2010: www.ipo.gov.uk/ipreview-c4e.pdf

⁶¹ www.ipo.gov.uk/ipreview-c4e-sub-pact.pdf

1.31 Pact engaged fully with this process, by submitting written evidence and attending the seminars held by the IPO. For ease of reference, a summary of Pact's position on the key issues identified during this process are outlined below.

(a) Orphan works

1.32 Pact supports the use of orphan works, provided that adequate protections are in place should the rights holder be identified at a later date. This includes the need for the rights user to conduct a diligent search to try to identify the rights owner prior to using the work, and for funds to be placed in escrow for a period of time in order to provide compensation to the rights owner should they emerge once the rights have been used.

1.33 We consider that, provided that these measures are taken to protect the rights owner, the remedies for the use of orphan works should be civil, not criminal.

(b) Extended collective licensing

1.34 We believe that rights holders must be able to control access to their rights in order to be able to fully exploit opportunities to generate a return on their investments. A system of extended collective licensing would distort the market value of rights and would not take into account the many reasons why rights may be out of commerce.

(c) Copyright exceptions

1.35 Pact does not consider that there is a need for a statutory exception for private copying.

1.36 Industry solutions, such as UltraViolet⁶², which enable consumers to develop digital libraries of content which they have purchased and view it on a range of different devices already exist and will continue to be developed in the future.

1.37 However until these services have been fully developed and marketed to consumers it is important that the industry is afforded adequate legal protections against copyright infringement in order to protect their intellectual property rights.

1.38 If the Government wishes to go further that the existing copyright exceptions, there would need to be an alternative mechanism through which rights holders could be compensated for the use of their work. For example, the British Government could adopt the European blank tape levy system, whereby a national levy is introduced on recording equipment and/or blank recording as a copyright royalty to provide a means of compensating rights holders.

(iii) The Hooper review

1.39 In parallel to the IPO consultation on copyright, the Government commissioned Richard Hooper to run a review on the proposals put forward by Professor Hargreaves to introduce a Digital Copyright Exchange.

1.40 Whilst Pact is strongly against the introduction of any form of compulsory licensing for audiovisual works, we see the merit in introducing a voluntary system whereby rights holders could advertise their rights should they choose to do so. It is vital, however, that this does not form a system of collective licensing.

1.41 Pact supports the recommendation in the Hooper report that the audio-visual industry must adopt standard identifiers to facilitate the identification of audiovisual works.

1.42 In the audiovisual industry there are two systems of identifiers for audiovisual works—the International Standard Audio-visual Number (ISAN) and the Entertainment ID Registry (EIDR). Both of these identifies work in much the same way as the International Standard Book Number (ISBN) numbering system for written works.

1.43 In his report, Hooper recommended that ISAN and EIDR should be interoperable standards so that producers, broadcasters and other audiovisual rights holders can choose the system that best meets their business needs.

1.44 Pact considers the adoption of identifiers for audiovisual works to be a top priority for the sector in order to ensure that adequate data is available to identify the legitimate owner of copyrighted material.

1.45 Pact believes that the objective of the Government's policy on copyright should be to manage the delicate balance between encouraging access to content so that it can be used in innovative new ways with the need to protect the property rights of those who have invested in creation and development of existing material.

1.46 An effective IP regime balances these important, sometimes competing, aims on an even-handed basis, ensuring the maximum economic surplus for UK consumers and businesses. This should be the objective of the Government's IP policy.

1.47 We are concerned that, given the significant number of reviews on this issue in recent months, this balance is not in equilibrium at the moment. In order for IP-owning sectors within the creative industries to

⁶² www.uvu.com/

continue to flourish, it is important that adequate copyright protections continue to be afforded so that these businesses are able to exploit their IP rights to enable them to grow.

The impact of the failure, as yet, to implement the Digital Economy Act which was intended to strengthen copyright enforcement

1.48 Pact strongly supports the measures to address copyright infringement which were introduced in the Digital Economy Act. We believe that the notification process introduced in the Act is an effective measure to address the issue of illegal peer-to-peer file sharing.

1.49 However, the success of this legislation remains uncertain. It has been two years since the Digital Economy Act was passed and the measures introduced in the Act to tackle copyright infringement have been severely delayed due to a lengthy legal challenge.

1.50 Now that the Court of Appeal has upheld the High Court's ruling in support of the Act, we hope that the Government will be able to implement these measures as soon as possible.

The impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament)

1.51 Pact shares the concern of many copyright-owning sectors within the creative industries about the potential 'Henry VIII' powers which are proposed to be awarded to the Secretary of State under Article 56 of the Enterprise and Regulatory Reform Bill which proposes to confer powers for the Minister to be able to add or remove exceptions to copyright with limited Parliamentary scrutiny.

1.52 Pact is extremely concerned about the potential implications of this clause which could make the future protection of the independent production sectors most valuable assets—intellectual property rights—subject to change at the discretion of whoever happens to whoever happens to be Secretary of State at that time.

The extent to which taxation supports the growth of the creative economy, including whether it would be desirable to extend the tax reliefs targeted at certain sectors in the 2012 Budget

1.53 Pact strongly supports the Government's proposals to introduce new creative sector tax reliefs for high-end television, animation and video games.

1.54 The introduction of these new reliefs in April 2013, subject to state aid approval, will provide valuable economic support to the independent production sector and the inward investment to the UK will provide an important boost to the British economy.

1.55 The new reliefs will also strengthen the UK television production sector and enable British producers to be more competitive internationally, particularly against countries such as France, Ireland and Canada where generous tax relief for television and film production already exist.

1.56 Pact is extremely concerned about the continuing decline in investment in children's programming by British public sector broadcasters. In 2011, the PSBs channels invested £102 million in children's content. Five years earlier, this figure was £132 million.⁶³

1.57 We have urged the Government, as part of its Communications Review, to consider ways in which this important area of programming can be protected from future decline.

1.58 As part of this inquiry, the Committee might wish to consider whether it would be appropriate to extend the system of tax reliefs for the creative sector to support children's programming as well as animation in order to secure the long-term viability of UK children's television production, which continues to play an important role in children's lives, as identified in a recent Ofcom report.⁶⁴

Ways to establish a strong skills base to support the creative economy, including the role of further and higher education in this

1.59 Pact supports the Government's intention that certain measures should be introduced to enhance the skills and talent base in the production sectors which stand to benefit from the new tax reliefs to support future growth in the sector.

1.60 Pact and our members will work closely with Creative Skillset over the coming months to consider how the benefits of the creative sector tax reliefs might best be used to support the development of training and skills in the sector.

1.61 A strong skills base is vital to the continued success of the independent production sector in the future and as such independent producers take the issue of skills and training very seriously.

⁶³ Ofcom PSB Report 2012

⁶⁴ Ofcom's Children and parents: media use and attitudes report 2012

The importance of “clusters” and “hubs” in facilitating innovation and growth in the creative sector. Whether there is too much focus on hubs at the expense of encouraging a greater geographical spread of companies through effective universal communication

1.62 Given the rapid improvements in broadband communication, the need for close proximity between buyers and suppliers in the television industry has been significantly diminished.

1.63 While we welcome the BBC’s investment in production hubs outside of London such as Media City in Salford and Pacific Quay in Glasgow, which boost investment and opportunity in these areas, it is not longer necessary for creative industries to be clusters around central hubs.

1.64 Rather we consider that, provided that the commissioning processes employed by the broadcasters are fair and transparent, producers should be able to base themselves across the country and compete fairly for commissions regardless of where they are based.

1.65 It is true that in television production, face-to-face meetings are still important in securing a commission, but communication via video conferencing can help to address any potential issues. It is also important that broadcasters should continue to offer regular commissioning days in locations around the country so that producers can remain informed about forthcoming opportunities and recent commissions.

1.66 In our view, given the improvements in technology, there is too much focus on creating and maintain creative hubs at the expense of ensuring that opportunities are fair and transparent so that they can be accessed by companies regardless of where they are based.

1.67 One of the ways in which Pact is facilitating the development of effective communication between companies with mutual interests, regardless of where they are based, is by working with the Creative Industries Council and Creative Skillset to support the introduction of virtual boards.

1.68 The aim of this project is to create a network of people within the creative industries who can work together, either on an ad-hoc basis or by forming more formal links, to share experiences and provide guidance to each other as necessary. This service could be particularly valuable to SMEs in the creative sector who may not have the resources to employ permanent non-executive board members, but who could gain valuable insights from liaising with experienced business executives on particular issues. It could be that the person best qualified to provide advice on a particular issue is based at the other side of the world, but provided that both parties have adequate broadband access, with the use of virtual boards, this would not matter.

The work of the Creative Industries Council and other public bodies responsible for supporting the sector

1.69 As outlined above, Pact works closely with the Creative Industries Council and other relevant bodies such as Creative Skillset to develop initiatives within the sector.

1.70 Pact’s Chief Executive, John McVay, is a member of the Creative Industries Council which is a useful forum in which leaders in the creative sector can meet with Government Ministers to discuss issues of relevant and input into the policy-making process. This provides a valuable opportunity for industry representatives to voice their concerns directly to political decision-makers.

1.71 However whilst we strongly welcome and support this initiative, it is important to note, as mentioned at this start of this response, that although there are many similarities between companies in the creative sector, there are also many differences. Different sectors within the creative economies have very different business models, both domestically and internationally. Some sectors, such as independent film, television and new media production, are copyright owning businesses whereas other industries, such as advertising, are service-based.

1.72 This means that on certain issues, different sectors can have very different—and sometimes competing—needs on the same issue.

1.73 It is therefore vitally important that, in forums such as the Creative Industries Council, the views from a wide cross-section of businesses are taken into consideration by the Government as part of its analysis.

October 2012

Supplementary written evidence submitted by PACT

Thank you for inviting me to give evidence to your Committee as part of its inquiry into support for the creative economy.

I mentioned a couple of areas in my evidence in which independent producers are supporting training and skills which I thought it might be useful to elaborate on this in more detail in writing.

THE INDIE TRAINING FUND

The Indie Training Fund (ITF) is charity which supports and delivers training specifically designed for the UK independent TV and digital media production industry, both staff & freelancers.

It was established in 1993 by the independent production sector. The ITF was initially administered by Pact, but it is now a separate non-profit organisation funded solely by voluntary contributions from its member companies.

Members of the Indies Training Fund include All3Media UK, Baby Cow, Endemol UK, Feelgood Fiction, Flame TV, Fremantle UK, Hartwood, Icon Films, IMG Media UK, Hat Trick, Leopard, Lion, Matchlight, Modern TV, Nine Lives Media, Oxford Film & TV, Shine Group, So TV, Raise the Roof, Red, Tern, True North, Wildfire, Windfall & Zodiak Media UK.

Guided by its an advisory group of member practitioners, the ITF provides subsidised low-cost day and half-day professional training courses in London and around the UK in areas such as production, creative development, cross-platform, diversity, business, financial, legal and people management skills. The ITF also offers advisory services to the sector.

The ITF is a major contributor (with broadcasters) to Creative Skillset's TV Skills Fund which facilitates and subsidises training for freelancers across our sector.

APPRENTICESHIPS

During the Committee meeting, Mr Jim Sheridan asked me if I knew how many apprenticeships there are in the creative sector.

Creative Skillset, which collects information on skills and training in the creative industries, reports that since 2008, 3,042 apprentices have taken part in the Creative Skillset and the Creative and Culture Skills (CCSkills) Apprenticeship Frameworks. This number does not include apprenticeships who work for creative companies in jobs other than creative roles, such as office administration.

Relatively few creative businesses offer apprenticeships—less than 1% in 2009. However, with the action which Creative Skillset and others are taking to address this, we anticipate that this number should rise in the coming years.

Below is a list of a number of apprenticeships administered by Creative Skillset since 2008.

APPRENTICESHIP STARTS IN CREATIVE SKILLSET FOOTPRINT WITH CREATIVE SKILLSET FRAMEWORKS 2008–09—CURRENT DATE

<i>ENGLAND</i>	<i>Total starts to date</i>
Advertising HLA to start recruitment from Jan 2013	0
Photo Imaging	50
Fashion & Textiles	260
Fashion & Textiles HLA to start recruitment from Jan 2013	0
Craft and Technical (film & TV)	15
Creative & Digital Media Advanced (CDM) (L3)	770
CDM HLA in development—recruitment to start in March 2013	0
SCOTLAND	Total starts to date
400 apprenticeships, mainly in fashion and textiles/heritage textiles with 18 in creative and digital media	400
WALES (SINCE 2010–11)	Total starts to date
All creative and digital media	32
NORTHERN IRELAND (since 2011–12)	Total starts to date
All creative and digital media	15
GRAND TOTAL (Creative Skillset Frameworks combined across the Nation)	1,542 starts

THE INDIE DIVERSITY SCHEME

Another way in which independent producers are supporting training in the sector, particularly with regards to diversity, is by working together and with Creative Access to launch an Indie Diversity Scheme.

Recruitment is currently underway for entry-level candidates to begin placements at leading UK indies including Shine Group, All3Media, Endemol, Keo Films, Zodiak and Hat Trick early in the new year.

As part of this scheme, successful candidates will be offered training in skills such as production and script-writing and they will each be allocated a mentor to support them in their career development.

I would be happy to keep your Committee updated as to the progress of this scheme as it develops if this would be of interest.

CHILDREN'S PROGRAMMING

Finally, I mentioned before the Committee the need for additional support for children's programming.

I would like to make a correction to the uncorrected transcript of the session in which I gave evidence and note that Channel 3 continue to have a dedicated children's channel, CITV, which broadcasts content for pre-school and older-aged children. Channel 5 has never had a dedicated children's channel, but rather it broadcasts children's content every morning on the main Channel 5 PSB channel.

We welcome the continued investment by ITV and Channel 5 in children's content. However, I am extremely concerned about the rapid decline in investment in children's programming by the PSBs in recent years. In 2006, the combined spend of the commercial PSBs on children's programming was £46 million. In 2011, this had fallen to just £3 million.

Last year, the BBC (at £99 million) accounted for 97% of total PSB network spend on children's content. While we welcome the BBC's significant investment in this genre, we are concerned that it has become a monopoly buyer in the children's TV market.

Furthermore, we understand that the BBC is under increasing pressure to cut costs in every area as a result of the most recent licence-fee settlement. A reduction in BBC spend on children's programming would have a catastrophic effect on UK indigenous children's television output, thus preventing younger audiences from accessing the same range and diversity of output as older television viewers.

As I mentioned in my evidence to your Committee, Ofcom does not have the powers to require the PSBs to invest in children's content. For this reason, I outlined the potential benefits of extending the proposed tax credit for animation to include all children's programming, thus securing long-term investment for this important genre in years to come.

If I can be of any further assistance in providing further information about any of the issues raised in my evidence, please do not hesitate to contact me.

December 2012

Written evidence submitted by BPI (British Recorded Music Industry) Ltd

1. BPI (British Recorded Music Industry) Ltd. is the representative voice for the recorded music industry. Our membership comprises over 350 independent labels and the three major record labels—Universal Music, Sony Music and Warner Music. Together, these account for more than 85% of the sound recordings sold in the UK every year.

THE BRITISH RECORDED MUSIC INDUSTRY AND THE ECONOMY

2. The British music industry is world leading and is the second biggest exporter of recorded music in the world, after the USA, with a 12% global share. Economically, UK investment in artistic originals in music in 2009 was valued at £1,331 million GVA to the UK economy (IPO 2012⁶⁵). Following in the footsteps of an exceptional heritage of global superstar artists, British performers punch above their weight:

- Adele's album *21* was the biggest selling album in the world in 2011;
- the top-selling global artist album also came from a British act in four of the last five years;⁶⁶ and
- in 2011, for the fourth year running, British artists accounted for around one in 10 of every artist album sold in the US, with cumulative share of sales totalling 11.7% (up from 9.8% the previous year).

3. The trade in invisible services for music is a significant net benefit to the UK economy. Taking income abroad and payment made overseas from UK record companies for public performance royalties, synchronisation, licensing for use on sound carriers and digital income, the trade surplus for the industry in 2009 was £137.7 million, the highest annual total since 2001.

4. Worldwide, the creative sector is a growth market, and the UK should be in a strong position to capitalise on this growth. The 2008 *United Nations Conference on Trade and Development* (UNCTAD) found that, between 2000 and 2005, trade in creative goods and services increased at an average annual rate of 8.7%. This is higher than worldwide growth in GDP in the period. In respect of music, British companies already enjoy a share of global trade that is three times the UK's share of world trade in goods, and 50% higher than the UK's overall share of trade in services.

5. However, despite the exceptional creative achievements of UK artists and the expertise of UK labels in marketing their music abroad, the UK recorded music sector faces difficult times as increasing illegal downloading has deprived the industry of revenue which is essential to ongoing investment. Revenues of UK record labels have fallen by 32% since 2004 from £1,220.4 million to £823.8 million in 2011.

⁶⁵ www.ipo.gov.uk/about/press/press-release/press-release-2012/press-release-20120608.htm

⁶⁶ Amy Winehouse—Back to Black, 2007; Coldplay—Viva la Vida, 2008; Susan Boyle—I Dreamed a Dream, 2009.

6. *Without doubt the single biggest barrier to growth in the music industry is widespread piracy and lack of practical, low cost, timely enforcement measures in the UK to protect content.* Digital Economy Act implementation is part of that, but there is a bigger part for the Government to play in ensuring businesses can compete in an online market that supports business models for investing in content. This is not just a creative industries issue—technology companies that rely on selling content for their revenues cannot compete with free, illegal content distributed online.

The UK Government should develop a strategy that ensures that: legitimate businesses are united in acting against piracy; there is adequate education of the impact of piracy on jobs and growth; and legal enforcement is proportionate, cost-effective, flexible enough to deal with technological change and swift enough to be useable by rights owners.

THE INDEPENDENT HARGREAVES REVIEW OF INTELLECTUAL PROPERTY AND GROWTH

7. The Hargreaves Review started from a premise that is still unproven—that copyright was a barrier to growth in technology sectors and that overall this would be of net benefit to the UK Economy. On the back of this flimsy analysis, the Government is proposing significant change that will affect the livelihoods of millions of individual UK based creators, and thousands of SMEs.

8. The economic case for exceptions has not been convincingly made by Government in its consultation on the Hargreaves Review. Government assumes that transfers of value from creators creates economic growth, even where those transfers go offshore—to US tech firms—or are merely captured in consumer surplus or lower costs for public or private sector institutions. The Government is trading jobs and growth in the world class UK creative sector in favour of sectors where the UK is not as strong.

9. The record industry has worked hard to create new business models for the digital age and as a consequence *the UK has over 70 legal digital music services, more than any other country in the world.* Empirically the barriers to licensing digital music services in the UK are low—otherwise the UK would not be able to boast this record on services. Hargreaves, and the IPO, assumes that there is a problem with licensing of digital music services but this is a complete contradiction of the facts.

10. The Copyright Consultation document showed that the IPO does not have a good understanding of the UK licensed music market, and it made assertions about sales prices and revenues that did not reflect what is actually happening in retail markets. BPI would refer the committee to BPI's response to the Copyright Consultation and to the Oxford Economics Report on the Impact Assessments for the consultation for a full exposition of the problems with the consultation.

11. That said, BPI takes a pragmatic view of discussion of access to copyright, and has engaged fully with the work on the Digital Copyright Exchange. If licensing of copyright material is a problem, the solution is to make that process simpler and easier, and the Digital Copyright Exchange is the right focus for Government, not taking whole areas from the protection of copyright.

12. The main points BPI has made on the consultation are:

Private Copying Exception: BPI supports the introduction of a limited private copying exception to enable consumers legally to transfer music they have legitimately purchased on CD (or another physical format) onto their mp3 player or other hardware device for their personal, non-commercial enjoyment, provided that this is done in accordance with EU law;

Research and private study: BPI is opposed to all attempts to make music a compulsory free input into research and education. If music is to be used in any educational setting, it should be licensed and paid for. This is particularly important given the difficulties of defining appropriate limits around research and private study and the potential abuse of any such exception to obtain private benefits from obtaining free copies of music;

Parody Exception: BPI does not believe that the consultation has presented objective, credible evidence that a parody exception is justified or necessary. If Government decides to proceed with a parody exception that allows new original content to be generated it must be on the strict condition that the moral and economic rights of the original creator are fully respected; and

Education licensing: As with research and private study, BPI is opposed to all attempts by the Government to force creators to give music as a free input. BPI notes that legitimate educational establishments are covered by a very successful and low cost arrangement overseen by the Educational Recording Agency licensing scheme and that this is flexible for modern classroom needs.

13. BPI believes that the upside benefits of all of these measures are substantially overstated in the Hargreaves Review and the Copyright Consultation accepted all of the Hargreaves' assumptions without question. In particular, BPI is concerned that the measures on the private copying exception were backed up by weak and contradictory evidence and that the damage to investment in successful UK music content has not been properly quantified by the Government.

14. As a consequence, despite BPI's wish to find a solution to the private copying issue it is unable to support the options put forward in the consultation on private copying. If the exception applies to "cloud services", which BPI strongly opposes, this will interfere with an emerging digital licensing market which is

already worth substantial amounts in revenue to UK music businesses and has the potential for significant revenue growth in the future. BPI also note that licensing solutions such as the Amazon Cloud and iMatch services are legitimising private copying through market solutions.

15. Extending a private copying exception into the cloud is not necessary to ensure that consumers can benefit from cloud services. All it will achieve is to give a windfall to technology companies that are then able to offer music services to consumers and monetise them without paying anything to the creators of the music concerned. The Government should not be interfering in business arrangements to transfer value away from creators in this way. Particularly if it transfers that value to companies that are not UK based, and provide little to the UK economy in jobs or in tax revenues.

BPI believes the growth figures in the impact assessments for the Copyright Consultation should be verified by the Office for Budget Responsibility as an independent source of expertise in growth forecasting. BPI would also like the Government to produce empirical evidence that the exceptions, as introduced in other countries, have created similar levels of growth to those predicted by the Hargreaves Review.

BPI opposes any moves to interfere with its members' legitimate exploitation of their rights through licensing deals with cloud services. As such BPI is opposed to a private copying exception that extends to the cloud.

Piracy

16. Internet piracy remains a huge problem for the future development of the UK digital content market. Research from Harris Interactive shows that the retail value of single tracks downloaded from unauthorised sources in the UK is £984,000,000 annually. We recognise, of course, that every track downloaded illegally would not be substituted with a legally purchased track. Taking this into account, Jupiter Research estimates the lost revenue of the recorded music industry in 2011 to illegal music downloading to be £236 million, at retail value.

17. This level of piracy affects investment in the industry but also represents a significant loss to the exchequer from tax revenue foregone and to the economy in jobs and output. Tera Consultants investigated the wider economic impact of piracy, concluding that 30,400 direct and indirect jobs in the UK are lost due to piracy.⁶⁷ Every year delay in implementation is hitting legal revenues and investment in UK jobs.

18. Whilst the implementation of the Digital Economy Act would be a great step forward in protecting those rights, our international competitors are pulling ahead of us. For instance:

- In the United States in 2008, the new position of Intellectual Property Enforcement Coordinator was created and placed in the Executive Office of the President, to coordinate the enforcement work of all federal Government agencies.
- France established *HADOPI*, a body to police copyright on behalf of rights holders which is fully funded and supported by the French Government. The agency was promoted by a €3 million Government-funded advertising campaign.

19. BPI strongly welcomes the Government's efforts to press ahead quickly with implementation of the Digital Economy Act, but has made clear that that the costs that the creative industries face in order to protect their rights are a significant burden on business—a burden that is created by activity that is infringing rights in law. This is in contrast to similar measures taken in other countries, which do not impose similar costs on rights holders. As such the Act represents a competitive disadvantage for encouraging investment in and production of original creative content in the UK.

20. Ongoing delays to the implementation of the Digital Economy Act have allowed piracy to continue unchecked. Revenues in the UK music industry have been falling as have prices of retail content in competition with free, perfect copies of UK music tracks shared illegally online. Online piracy is a big business, but one which gives nothing back to artists, creators and investors in content.

21. BPI is still very concerned about three aspects of the Digital Economy Act:

- the absolute levels of cost; which are very high and will act as a serious barrier to rights holders wishing to use the process. In particular of Ofcom's costs, where there is no transparency for rights holders for very high costs Ofcom is charging for its administration of the system;
- speed of implementation; where delays are of significant financial detriment to the UK's content industries and the DEA keeps getting held up by internal Government processes; and
- lack of Government financial support; either for the DEA itself, which is in contrast to all of our competitors, or for education around the importance of copyright for creation of new content and providing reward for creators.

22. Added to this is the problem that the only enforcement mechanism open to rights holders to block illegal websites, the powers under section 97A of the Copyright, Designs and Patents Act, are expensive and cumbersome. BPI took a successful action in the High Court against one of the most obviously infringing sites, The Pirate Bay, but this took many months and many hundreds of thousands of pounds to undertake.

⁶⁷ [www.iccwbo.org/uploadedFiles/BASCAP/Pages/Building%20a%20Digital%20Economy%20-%20TERA\(1\).pdf](http://www.iccwbo.org/uploadedFiles/BASCAP/Pages/Building%20a%20Digital%20Economy%20-%20TERA(1).pdf)

23. The Government should bring forward proposals to ensure that swift action can be taken against foreign websites that earn large amounts of money by providing vast amounts of infringing content. The current process does not work for rights holders, and the damage is done to artists and UK businesses long before a successful High Court action can be completed. An expedited, low cost court process that maintains court scrutiny of evidence but can deal swiftly with offending websites is an essential part of the battle for legitimate business against online infringement of copyright.

24. There is also a forward looking issue that the Digital Economy Act is only one measure needed to deal with a highly dynamic market. Alongside the Digital Economy Act, the BPI believes that the UK Government should introduce flexible measures to tackle online and mobile infringement of copyright in the upcoming White Paper. A new duty on the regulator could allow more flexibility in responding to piracy as technology changes. Ofcom could keep levels of piracy under review and take any action as necessary to ensure a fair, proportionate, response to ensure that there is effective action against piracy and support for investment in UK creative content.

25. Such a duty would complement Ofcom's Duties to further the interests of citizens and consumers, in this instance by ensuring that there are dynamic legal content markets and consumers are protected from unlawful services and being guided to them. It would also complement Ofcom's duty to further investment in infrastructure—as money from increased demand for innovative new legal services would be used to support infrastructure investment and growth in UK technology investment.

BPI has called for an expedited site blocking process, using the applications court, so that actions against illegal foreign websites can be low cost, swift and effective in defending the rights of UK creators and businesses.

BPI has called for the Communications White Paper to include proposals for Ofcom to have a duty to reduce online and mobile copyright infringement in the UK. This general duty should be accompanied by specific powers to require entities to take reasonable measures specified by Ofcom to achieve this objective.

In addition to this, BPI would ask the Committee to support the endeavours of the creative industries in coming to voluntary agreements to ensure that internet intermediaries such as payment providers, Internet advertisers and hosting companies do not support illegal sites and to ensure that search engines direct UK consumers to legal sites ahead of known illegal ones. Agreement on these measures would bring much needed stability to investment in the sector.

TAX INCENTIVES

26. BPI welcomes the Select Committee suggestion that it should look at incentives in the tax system to support investment in new content. The BPI has proposed a measure that would support investment in Artists and Repertoire (A&R) spend, the R&D of the record industry, which is the fundamental driver of growth across the music industry.

27. Investment in new creative content will be one of the main drivers of growth in a digital age. Supporting investment in new UK music through A&R expenditure would help ensure that the UK remains one of the world leaders in music. A tax incentive for investment in A&R would:

- help ensure the growth of the industry and maintain its strength in the global market;
- encourage investment by reducing the risk; and
- help the industry to maintain its investment and future revenues in the face of the impact of illegal downloading on industry revenues.

28. Expenditure on A&R (Artists and Repertoire) represents the recorded music industry's research and development expenditure and its investment in the future. In the UK market each year's new releases make up over half of album sales. A&R is the driver of revenues and the source of growth in the music market. The reality is that it requires significant investment in promotion to break through. When A&R investment is combined with the marketing and promotion expenditure, the amount of money spent in bringing music to the attention of consumers represents over 40% of industry revenue from recorded music, or £370 million in 2009.

29. Artist advances are the most significant part of A&R expenditure, almost half over the years 2008–09. It is the advance that gives the certainty to an artist that they can concentrate on recording through providing them with an income. *The risk is spread across a large range of acts and these high risk investments help drive growth across the entire music business, and in related industries.*

BPI has proposed a tax incentive on Artist and Repertoire investment above a threshold of 20%, with revenues allocated to A&R above that threshold attracting preferential rates of taxation. This would incentivise A&R investment above historical levels in the music industry, whilst not rewarding companies for investment they would have undertaken in any event. This could be monitored for impact over time.

THE INTELLECTUAL PROPERTY OFFICE AND THE CREATIVE INDUSTRIES COUNCIL

30. The measures on enforcement of copyright need to be backed up by an Intellectual Property Office that is properly resourced and focused on defending the rights of UK creators. The IPO has spent a lot of energy

looking at how the rights of UK companies can be reduced, the BPI would also ask the committee to look at the energy the IPO puts into its role in enforcing copyright.

31. On this issue, BPI has called for a clearer set of duties for the IPO in enforcing copyright. BPI would also like to see a greater role for DCMS in overseeing the copyright aspects of the IPO's work. The expertise of DCMS in the creative industries should be an important part of the development of policy on copyright, and the current process of consulting late in the stages of policy is not giving enough weight to the important economic concerns of impact on the world class UK creative industry.

32. The IPO has been extremely willing to work on education around the importance of copyright but it does so with very little resource. The US, France and South Korea amongst others have grasped the importance of Government driving the education around copyright. A greater understanding of the importance of copyright is an essential part of the mix of measures in ensuring legal content markets can thrive.

33. The Creative Industries Council is one forum where Ministers from the two main Departments can meet to discuss the sector. For this to be useful, Secretaries of State must remain engaged, and it must focus on progress made on the protection of Intellectual Property in a digital environment.

BPI would like the IPO to have a clear statutory duty to protect and promote the interests of UK intellectual property in the UK and overseas and a duty to co-ordinate effective enforcement of UK rights domestically and internationally. The Intellectual Property Office should also have a duty to educate consumers on the value of intellectual property and the importance of respecting intellectual property rights.

October 2012

Written evidence submitted by UK Music

UK Music is an umbrella organisation representing the collective interests of the UK's commercial music industry—from songwriters and composers, artists and musicians, to studio producers, music managers, music publishers, major and independent record labels, collective licensing bodies and, now, the live music sector.

A list of our members is attached as an annex.

EXECUTIVE SUMMARY

- We start by highlighting the contribution that UK-originated music makes to the UK's culture and economy. We refer to this indigenous talent as a natural resource; indeed a national asset.
- We go on to show that the music industry has more to offer in the future and, alongside other copyright industries, can play a significant role in rebalancing the economy. Our ambition is for the UK to become a global copyright centre.
- This potential is conditional, however. The most critical factors to achieving our potential are: a strong copyright regime; an investment-friendly fiscal environment; and a workforce with a good mix of skills. The most important of these is copyright.
- The CMS Select Committee asks very pertinent and timely questions about the extent to which government policy is helping or hindering the creative industries in their ambitions for growth. We give our assessment under each of the three main headings: copyright, investment, and skills.
- Our broad conclusion is that the impact of government policy on copyright is likely to be damaging; the impact on investment is looking to be negligible; and the jury is still out on whether the impact on skills will be positive or negative.
- This lacklustre scorecard need not be the legacy of the Coalition Government. There is still time for Government to change direction, so that its policies have a positive impact right across the board, helping the sector reach its full potential for growth.
- Finally, we urge that a more fundamental issue be addressed. We regularly encounter a viewpoint that intellectual property *per se* is a barrier to innovation, a legal bureaucracy, and simply incompatible with the digital age. If this blinkered and wrongheaded attitude prevails, the UK will undoubtedly lose the competitive advantage it currently enjoys from its copyright industries.

FULL RESPONSE

1. The 2012 Olympics was testament that any display of the best that Britain has to offer will feature music as a headline act.

2. With a turnover of nearly £4 billion,⁶⁸ our sector sustains in excess of 100,000⁶⁹ jobs. The UK is the second only to the United States as a producer of global repertoire. We are one of only three countries in the world who can claim to be a net *exporter* of music in the world. This is in addition to being one of the world's largest markets for the *consumption* of music. The upshot is that even though we buy more music per head

⁶⁸ Adding UP the UK Music Industry for 2010, by Will Page and Chris Carey, published in Economic Insight issue 20 by *PRS for Music*, August 2011

⁶⁹ Music Impact and Footprint, published by Creative & Cultural Skills, 2008–09

than almost any other population in the world, we also ship more of our music abroad than almost every other country in the world.

3. Adjacent to this is the very significant value that music adds to other sectors. For example, UK Music research in 2010 showed that live music in the UK attracted more than 7.7 million visits from music tourists who spent £1.4 billion during the course of their trip, boosting the economy by nearly £865 million and sustaining the equivalent of at least 19,700 full time jobs. And, of course, music continues to be a driver of growth and innovation in the digital technology sector.

4. At the heart of our industry is the creative genius of the British people. A new wave of composers, songwriters, musicians and producers have emerged every year for the past six decades, producing music that is loved and desired by people all over the world. This natural resource is discovered, nurtured and supported by music publishers, managers and record labels who invest significant amounts of expertise and money in bringing the expression of this creativity to the consumer in the form of the finished product. So long as we can continue to nurture and invest in the indigenous talent in our population, we will continue to create a product for which there will always be a demand.

5. The music industry has withstood more than a decade of severe disruption and rationalisation in response to technological developments. While we continue to face very significant challenges and pressures today, the resilience of our sector attests to our ability to create, innovate and adapt. The sector has diversified its revenue streams [such diversification now accounts for 20% of record industry trade turnover⁷⁰], increased B2B income, and invested heavily in the underlying infrastructure that supports new business models, all of which have helped to rebalance the decline in revenue from the sale of recorded music direct to consumers.

6. We have reason to be optimistic about the future. The appetite for UK-originated music around the world shows no sign of diminishing. Latest BPI figures show that British artists accounted for 12.6% of all artist albums sold around the world. British artists are responsible for the best selling album in the world in four of the past five years.⁷¹

7. British music is incredibly popular around the world; revenue earned from its use has doubled since 2002, according to *PRS for Music* which represents 90,000 songwriters, composers and music publishers and collects royalties from 150 territories around the world. During 2011, UK songwriters and composers earned £187.7 million globally.⁷² Growth of £100 million in international royalties since 2002 is attributed to both the widespread consumption of British music, and improved licensing of its use around the world.

8. Likewise, PPL, the collective licensing body that collects and distributes royalties on behalf of performers and record labels, has seen strong growth in international revenues in the last decade and anticipates further growth in the future. The UK's music collective licensing bodies are continuously striving to build the infrastructure needed to secure the value arising from use of British music abroad and return it the UK. PPL concluded new international collection agreements with four new countries over the past year (Croatia, Estonia, Greece and Latvia) and secured revenue for the first time from two other countries (Bulgaria and Serbia).

9. Obviously, the way that people are accessing and enjoying music will keep changing as technology advances, and more and more of the world's people join the digital market. Being able to participate fully and fairly in that digital marketplace is therefore vital—utterly fundamental—to our sector's future.

10. Establishing and growing a legitimate digital market for music has been very challenging in light of significant factors, such as digital infringement on an industrial scale. Parallel to this was a culture, particularly prevalent in the earlier days of the digital market, whereby new digital services would launch a music service first and only agree to engage in licensing discussions with copyright owners further down the road when it suited their business strategies. Meanwhile, very large digital intermediaries have been able to use their dominance, and the music industry's woes, to negotiate very advantageous terms indeed.

11. Despite such challenges, the digital marketplace continues to develop apace. The UK music industry has licensed more digital services than any other country in the world. Consumers have many choices as to how they enjoy their music, including even whether to pay because licensed services can choose to charge per play, or for subscription, or can offer free services supported by advertising revenue. Revenue from digital music (downloads and subscriptions) overtook income from sales of physical CDs and records for the first time in 2012. Digital's share of total record industry turnover now stands at around 27%.⁷³

12. As digital services continue to diversify and as developments such as the "cloud" gain traction, the potential for digital revenues to continue to grow is very real. Our ambition is to position the UK as a global centre for copyright, with the world's digital businesses coming to UK to acquire the copyright licences they need from the UK's collective licensing bodies and hubs. Our message is that we are open for business.

13. Our ambitions are very high but they are achievable. We already have a global reputation for creativity. The UK's music collective licensing bodies are streets ahead in terms of building the underlying infrastructure

⁷⁰ BPI press notice from 4 October 2012: "Diversifying Income Streams Boost 2011 Record Label Revenues"

⁷¹ See AGM speech by BPI Chairman Tony Wadsworth CBE, 4 July 2012

⁷² See PRS pres notice of 29 October 2012: International income from British music doubles in the last decade

⁷³ See the BPI's statistical handbook for 2011.

needed to process the billions of separate music usages in the digital market. The UK's geographical position is highly advantageous, and of course our English language gives us a natural edge.

COPYRIGHT

14. Our ambition to become a global centre for copyright is dependent on a number of critical factors. A strong copyright regime is the most important factor affecting our growth potential, because it underpins the functioning of the entire market for creative content.

15. Copyright is the “currency of creativity”. It gives creators six exclusive economic rights over their work, *precisely so they can earn an income from their work*. One of these six economic rights is the right to copy the work. Another is the right to communicate the work (to a third party).

16. Anybody else who tries to do any one of the six things without the permission of the copyright holder would be acting unlawfully. This provides the basis for commerce. Legitimate businesses and organisations that make use of music don't want to break the law. So they ask copyright holders for permission. Copyright holders grant permission in exchange for a licence fee. The longevity and enduring success of this model in the digital age offers proof of its ability to sustain investment and reward in creative innovation.

17. Government is soon to publish draft legislation to introduce new exceptions to copyright. These exceptions will have a very direct impact on the marketplace. They will take away existing licensing income and undermine future opportunities to license where music creates value for businesses. Consider, for example, a private copying exception.

18. Consumers should be able to copy and back-up the music on their own CDs. Nobody wants to stop consumers from doing this and nobody has ever tried to prosecute a consumer for doing this.

19. The controversy on private copying music arises from a historical disagreement as to how this additional value can be monetised in the commercial supply chain. This is a business-to-business debate that has yet to be resolved.

20. There is a risk that exciting and innovative new “cloud” services, like Apple's iMatch or Amazon's cloud service will be needlessly dragged into the old debate on private copying.

21. Cloud services like Apple's and Amazon's have already been launched and are licensed by copyright holders. Copyright holders are now in negotiation with a number of other businesses offering or looking to develop “cloud” services. This is an example of the digital market developing correctly, with all parts of the value chain involved.

22. Government is proposing a new private copying exception to copyright, drawn so widely so that it would extend to *music in cloud services*. Such an exception would be damaging. It would create uncertainty as to whether a cloud service *requires* permission from copyright owners, and encourage the commercial providers of cloud services to challenge their need to get a licence from copyright holders for certain uses that are currently licensed. It would destabilise the simple formula that underpins the commercialisation of copyright (permission to use music in exchange for a licence fee). *There is already evidence of this happening*.

23. There is a lot at stake. The Government's trade and investment body, UKTI, reports that the UK Cloud Computing annual market value is predicted to grow by 150% over the next two years, from £2.4 billion to £6.1 billion by 2014. Business analysts have predicted that the UK will be a leading market for cloud computing, second only to that of the United States. An exception for private copying risks excluding the UK's creative industries from participating fairly in this market.

24. Other exceptions—for example, for educational use, public performance licences for certain events, and for parody, are also being pursued, and would again directly interfere in the music industry's ability to generate revenue through licensing. We are puzzled and alarmed as to why the Government appears intent on proceeding down this route. Licensing, rather than exceptions, should always be the presumption for permitting uses of music or any creative work. In turn, music copyright owners are committed to simplifying the licensing process for users; and UK Music will be reporting to the Secretary of State next year on our progress.

25. We fear that the root of proposals for a new swathe of copyright exceptions lies in a viewpoint that intellectual property *per se* is a barrier to innovation, a legal bureaucracy, and simply incompatible with the digital age. This viewpoint is not new; nor is it unique to the UK (eg Sweden's Pirate Party). *But it is an ideology fundamental at odds with a market economy*.

Examples:

“Can it be true that laws designed more than three centuries ago with the express purpose of creating economic incentives for innovation by protecting creators' rights are today obstructing innovation and growth? The short answer is: yes.” (Ian Hargreaves in the foreword to his review of intellectual property and growth, May 2011)

Openness and Open Business Models: “Within this theme we explore open business models which aim to replicate the success of the open source software model, with publishing, design, music and film all considered. In addition, we plan to develop and build a non-proprietary open user platform.”

(Research Programme as set out by the Centre for Copyright and New Business Models: a consortium of seven universities, funded by the UK's research councils.)

"3D printing poses several challenges to our intellectual property system. Those businesses producing customised objects for consumers via 3D printing need to be able to access the designs for a wide variety of components quickly and cheaply. The current legal system means they would need to engage in costly rights negotiations with a variety of other businesses each time they wanted to produce an object, seriously curtailing the ability of 3D-printing businesses to function. Policy needs to explore different ways of organising the intellectual property systems to get around this, ensuring legal bureaucracy does not stand in the way of this exciting technology." (Three Dimensional Policy: Why Britain needs a policy framework for 3D, published by the Big Innovation Centre, October 2012.)

26. The legitimate digital marketplace for music *is* growing, on the basis of licensed services, underpinned by the copyright framework, despite all the challenges highlighted earlier. This fact should prompt a new and invigorated appreciation for IP and the role it can play in future economic growth. Instead (or *at least alongside of*) reports and studies devoted to the theory that IP is an inhibitor to innovation, Government, IPO think tanks and academic institutions should be studying the ways in which copyright contributes to economic growth and the role copyright can play in driving future growth. That such scant data exists seems negligent.

27. UK Music is currently undertaking new research into the contribution that the music industry makes to the economy in terms of GVA, employment, and exports, as well as an assessment of its indirect effects. This work will be published in 2013. We are liaising with statisticians in DCMS, ONS, and other publicly funded bodies with the hope that data available to Government on the role that the creative industries play in the economy can be improved.

28. The UK will undoubtedly lose the competitive advantage it currently enjoys from its copyright industries unless Government and society at large embrace IP for what it is—the means by which populations and economies can realise the value of their creativity and ingeniousness. We urge the CMS Select Committee to recommend that Government change its policy on copyright as a matter of urgency.

An investment-friendly fiscal environment

29. There is an obvious and direct relationship between the confidence of those investing in artist and writers, in recordings, in digital music services, in licensing infrastructure—and levels of digital infringement. Infringement clearly distorts the functioning of a market based economy and deprives all those who invest their time, energy, talent or financial resources, from ever realising a fair return on that investment.

30. The development of the digital market in the UK will continue to be hampered by the reluctance of potential investors and financiers who question whether they can ever secure a fair return on their investment in face of widespread copyright infringement.

31. The Digital Economy Act is yet to be implemented. Provisions for site-blocking were dropped. Government-backed discussions with stakeholders on voluntary solutions to disrupt infringing sites are welcome, though we have yet to see whether they will have any impact.

32. Music companies invest considerable amounts in developing new talent. Successful acts and writers are rarely—if ever—discovered fully formed. They will have benefitted from the expertise, encouragement and financial support of record labels, managers and/or publishers. The up-front investment required is often considerable, and yet access to finance has proved to be problematic for the sector. Likewise, collecting and licensing societies must invest significantly upfront in the infrastructure needed to process music uses in digital services.

33. Our sector has long reported difficulties in accessing finance to aid growth; however in recent years, these difficulties have intensified and now pose a serious threat to our future. Debt finance is largely impossible to secure, particularly for very small music businesses. The gap in understanding between creative business sectors and financial institutions remains persistent. We welcomed efforts to improvement the way that the Enterprise Investment Scheme works, and the creation of a new SEIS scheme, but there is little sense that these have made a difference. We urge Government to help lubricate the flow of finance, which is a vital element to creating the Silicon Valley-style enterprise culture it seeks. This will help create the right conditions for growth not only for the creative content sector, but for the digital technology sector and all high value sectors of the economy.

34. 26. UK Music welcomes the development of creative sector tax credits. The existing film tax credit, as well as forthcoming tax credits for high-end television, computer games and animation has been embraced by those sectors directly involved. However, an explicit tax relief targeted directly at the UK music industry does not exist, establishing an imbalance amongst producers of creative content. UK Music would therefore ask the Select Committee to recommend that Government initiate a policy appraisal to consider the economic gains of extending creative sector tax reliefs to include a creative sector tax relief focused on Artists and Repertoire (A&R), the music industry's research and development expenditure for future investment. Such an idea was developed further in our submission to the Government consultation on creative sector tax credits in September 2012.

WITHHOLDING TAX

UK resident music publishers—claiming tax relief or exemption for foreign income in the form of royalties (including advances against royalties).

35. Our members are directed by HMRC to claim relief or exemption either by filling in a claim form from the relevant country's tax authority or to apply for a certificate of residence. In either case the process of certification by the Revenue is too cumbersome and is taking too long to complete, particularly as regards regular repeat business conducted by our members with their sub publishers in foreign territories. Members report long delays in processing forms, loss of forms, forms being incorrectly returned by HMRC and poor communication.

36. The response times from HMRC range from four weeks to four months and more. Can this process be speeded up so that three weeks is a maximum time for response? Would not the use of a simple pin code be a way to speed up the certification process?

DOUBLE TAXATION TREATIES—A CONSISTENT GLOBAL APPROACH

37. There are territorial inconsistencies in the approach to relief and exemption which do not seem justified. For example Spain, a country in the EU, insists on imposing withholding tax on royalties. How can this be justified? By extension the imposition of locally/nationally applied withholding taxes may impede the continued development of multi-territorial online licensing of music. The bi-lateral territorial structure of double taxation treaties conflicts with the development of licences and royalty distribution on a multi-territory basis in the single market. More focus on transparency processes across EU states would help repatriation of income to the UK faster and with less compliance cost.

EU INTEREST AND ROYALTIES DIRECTIVE

38. In the context of the above points on withholding tax, it would be helpful if the Directive were amended to provide that the Directive should apply to all companies and not just to associated companies (as this seems to favour larger enterprises) and further that the benefit of the directive should extend to collection societies representing publishers and their composers.

National Insurance and self-employed musicians

- The Musician's Union has been advised by HMRC that, based on an Upper Tier Tribunal appeal hearing in the case of *ITV Services Ltd v HMRC*, they now consider self-employed musicians fall within the regulations for Class 1 National Insurance ("NI") contributions.
- Previously, HMRC's Guidelines On The Special NIC Rules For Entertainers (issued in April 2005) provided a specific exemption for session musicians. HMRC are currently reviewing these guidelines in light of the Tribunal decision.
- This decision widened the scope of the Social Security (Categorisation of Earners) Regulations, and could mean that musicians are now caught within these regulations, depending on the terms of their contract of engagement.
- Where performing musicians' fees are computed by reference to time (eg for a recording session or live gig) this may now mean the employer has to deduct from the fee and pay HMRC 12% Class 1 NI (the employees contribution). Additionally, the employer may also be liable to pay the 13.8% employers NI contribution.
- This is potentially a huge problem both for musicians and for employers, and the MU report that it could lead to the closure of up to 13 orchestras. In addition, MU warn that overseas producers bringing inward investment into the UK's creative economy by way of recording soundtracks for films such as the *Hobbit* and *Prometheus* may take this work elsewhere as a result of having to pay employers' NI.
- Complete compliance with this ruling is completely unworkable and would, for example, require a pub landlord who books a musician to perform in the pub, to deduct National Insurance and to know whether to pay an employer's contribution. This would wipe away any progress made by the Live Music Act to encourage live music in small venues.

Skills

39. UK Music is concerned about the proposals currently being consulted upon by the Department for Education to replace core subject GCSEs with English Baccalaureate Certificates. We are concerned by the evidence that the number of pupils studying music at GCSE has fallen since the English Baccalaureate was introduced in 2010 and that excellent music teachers and music departments are being sidelined.

40. The introduction of the English Baccalaureate Certificates reinforces the government's view of academic study as the "gold standard" for all and will deny young people a well-rounded education and harm the creative industries. The push for students to concentrate only on traditional academic subjects ignores the creative and

cultural sectors as core growth industries. By ignoring these sectors, it seems the DfE is working in isolation from the skills and growth strategies at DCMS and BIS on skills.

41. The success of the Olympics and the Paralympics this summer underlined the importance of music to the very substance of Great Britain and it showcased the UK Music industry as a world leader. We want the education system to promote the creative curriculum alongside the more traditional academic subjects, to help develop more adaptive and creative young people and address skills shortages that threaten the growth of our sector.

42. Intellectual property and copyright education should be embedded in the national curriculum. Raising awareness of IP issues at a young age in schools could help society understand the role that IP plays in the economy and culture, and would help students understand the value of their own creativity.

43. There is a lack of apprenticeships in the creative industries and indeed in the music industry. The simplification of the Apprenticeship Grant for Employers was a welcome step, however it is crucial that Government works with employers to remove barriers to taking on apprentices. As the industry is dominated by SMEs and sole-traders it is essential that Government ensures the costs of taking on an apprentice are not prohibitive. UK Music is exploring the possibility of developing an industry-wide apprenticeship scheme.

Annex

UK Music's membership is comprised of:

- Association of Independent Music (AIM) representing over 850 small and medium sized independent music companies.
- British Academy of Songwriters, Composers and Authors (BASCA)—with over 2,000 members BASCA is the professional association for music writers and exists to support and protect the artistic, professional, commercial and copyright interests of songwriters, lyricists and composers of all genres of music and to celebrate and encourage excellence in British music writing.
- The BPI representing more than 350 music companies, from major labels to the smallest independents, accounting for more than 85% of all recorded music sold in the UK.
- Music Managers Forum representing 425 managers throughout the music industry.
- Music Producers Guild representing and promoting the interests of all those involved in the production of recorded music—including producers, engineers, mixers, re-mixers, programmers and mastering engineers.
- Music Publishers Association, with more than 260 major and independent music publishers representing close to 4,000 catalogues across all genres of music.
- Musicians Union representing 32,000 musicians.
- PPL licensing for 46,000 performers and 5,750 record companies.
- PRS for Music is responsible for the collective licensing of rights in the musical works of 90,000 composers, songwriters and publishers and an international repertoire of 10 million songs.
- UK Live Music Group, representing the main trade associations and representative bodies of the live music sector.

November 2012

Supplementary written evidence submitted by UK Music

A PRIVATE COPYING EXCEPTION—WHAT'S THE BIG DEAL?

UK MUSIC EXPLAINS

PRIVATE COPYING AND “THE CLOUD”

1. Consumers should be able to copy and back-up the music they have purchased for their own use. Nobody wants to stop consumers from doing this and nobody has ever tried to prosecute a consumer for doing this. This is a business-to-business issue.

2. The controversy on “private copying” music arises from a historical disagreement as to how this additional value can be monetised in the commercial supply chain. This is a business-to-business debate that has yet to be resolved.

3. There is a risk that exciting and innovative new “cloud” services will be needlessly dragged into the old debate on private copying.

4. Cloud services are predicted to really take off. If these cloud services become as popular and commonplace with consumers as they are predicted to become by business analysts, the underlying business relationships between all the commercial parties in the supply chain will have wide impacts.

5. There is a lot at stake. The Government's trade and investment body, UKTI, reports that the UK Cloud Computing annual market value is predicted to grow by 150% over the next two years, from £2.4 billion to £6.1 billion by 2014. Business analysts have predicted that the UK will be a leading market for cloud computing, second only to that of the United States.

6. The crucial question is how can the UK maximise the economic potential of this market? The UK's creative industries have a competitive advantage; for example, the UK is a net exporter of music. Ensuring that the UK's creative industries are part of the "cloud value chain" will be important to ensure that the UK economy benefits from the market. Otherwise, there is a danger is that all of the value will be captured by tech companies with HQs based in competitor nations.

7. Government's proposed legislation on private copying could intrude into this potentially huge commercial market, and distort the relationship between the different commercial parties in the supply chain. That is why the proposed legislation is controversial.

8. To understand how the Government's proposals will distort this market, it is important to understand how copyright industries generate an income from licensing.

9. Copyright gives creators six exclusive economic rights over their work, *precisely so they can earn an income from their work*. One of these six economic rights is the right to copy the work. Another is the communication of the work (to a third party).

10. Anybody else who tries to do any one of the six things without the permission of the copyright holder would be acting unlawfully.

11. This provides the basis for commerce. Legitimate businesses and organisations that make use of music don't want to break the law. So they ask copyright holders for permission. Copyright holders grant permission in the form of licence, in exchange for a licence fee.

12. This simple formula—pay a licence in exchange for permission to use creative content in a way that would otherwise be prohibited—is the dominant business model in the creative industries, and in all IP based industries. For example, Apple has a patent over the connector to their devices, so any other company that manufactures an accessory that connect to an iPhone or iPod pays a licence fee to Apple. The longevity and enduring success of this model in the digital age offers proof of its ability to sustain investment and reward in creative innovation.

13. Cloud services like Apple's iMatch and Samsung's Music Hub have already been launched and are licensed by copyright holders. Such cloud providers are investing in high quality services which differentiate them from their competitors, and music is an integral feature of such services. Copyright holders are now in negotiation with a number of other businesses offering or looking to develop "cloud" services.

14. This is an example of the digital market developing correctly, with all parts of the value chain involved.

15. It is nonsense—and a red herring—to assert that B2B licensing relationships means that the consumer is paying twice for the same thing. There have been no consumer campaigns against Apple for charging a patent fee to the manufacturers of iPod speaker docks. Consumers don't think they have paid Apple twice—once for the iPod, and once again when they bought the speaker dock.

16. Likewise, consumers who have subscribed to Apple's iMatch cloud service have not mounted any campaign against Apple for securing a licence for use of music copyrights for that service.

17. Government are proposing a new private copying exception to copyright, drawn so widely so that it would extend to music in cloud services.

18. Such an exception would be disastrous. It would create uncertainty and confusion as to whether a cloud service *requires* permission from copyright owners. It would encourage the commercial providers of cloud services to challenge their need to get a licence from copyright holders. It would destabilise the simple formula that underpins the commercialisation of copyright (permission to use music in exchange for a licence fee). *There is already evidence of this happening.*

19. Concerns have also been voiced by some cloud providers themselves, who fear that opportunistic businesses will take advantage of this confusion by refusing to get a licence from any copyright holders for any service, until forced to by a court, while in the meantime, undercutting their competitors who are already licensed and who have already invested in a high quality user experience.

20. Music is being used by technology companies to build hugely profitable businesses. We are happy and to work in partnership with innovative tech companies who wish to use music and other creative content to launch new services, devices and applications. The key works are *in partnership*.

21. And copyright holders are entering into licensing relationships with an ever greater array of innovative digital businesses, while consumers are being offered an ever greater array of products and services. We hope this illustrates why a Government intervention in this marketplace, in the form of a wide copyright exception extending to cloud services, would be so detrimental.

PRIVATE COPYING MUSIC FROM CDs

22. So does the UK's music industry think it should be unlawful for people to copy their CDs onto their MP3 players?

23. Nobody wants to stop consumers from doing this and nobody has ever tried to prosecute a consumer for doing this.

24. But it is important to remember that copyright gives creators exclusive rights over their work, *precisely so they can earn an income from their work*. This provides the basis for commerce

25. The music industry wants to resolve the historical dilemma as to how private copying by consumers can be monetised in the commercial supply chain.

26. The debate centres on products and services that derive value *directly from the act of copying music*, for example, MP3 players.

27. Consumer research shows that more than half (53%) of the value of an MP3 player like an iPod sold in UK shops today is *directly attributable* to being able to play music copied from CD.

28. Yet Apple does not pay copyright holders a licence for iPods, even though iPods wouldn't sell very much if consumers couldn't copy music from their CDs onto them.

29. Why is this the case? Well, for historical legal and technical reasons. A court case back in 1988—when home taping was the issue—ruled that the manufacturer of double cassette players did not actually do the copying personally, so they were off the hook.

30. That court decision had big consequences that are still felt today. It inadvertently brought consumers into the mix. If the businesses that create the technology and devices for copying music aren't liable for copyright infringement, then consumers carry the liability.

31. The court case also tipped the industrial balance firmly in favour of the technology sector. The tech sector could sell products that encouraged their customers to copy music, but they didn't carry any liability and so did not need to pay a licence to copyright holders.

32. Copyright holders were aggrieved by the judge's decision, because it denied them a legitimate source of revenue. This was a business issue; there was no use in pursuing individual consumers for using devices they bought legally.

33. The judge agreed that copyright holders had a legitimate grievance. The judge said that the balance would be restored by the European Union system of copyright exceptions and private copying levies.

34. This system provides a private copying exception for consumers, so that they aren't technically breaking the law when they copy music. Meanwhile, the manufacturers of copying equipment pay a private copying levy (instead of a licence) to copyright holders. The two have to go together, by law.

35. Twenty-two EU countries adopted the system of a private copying exception and private copying levy. The UK never did. So in the UK at least, consumers have remained technically in breach of copyright law, and manufacturers like Apple have avoided having to pay a private copying levy to UK copyright holders. (Although Apple does pay them in Europe.)

36. The UK Government now intends to impose a private copying exception to copyright law here in the UK, but without a levy or any other form of fair compensation. Copyright holders believe this is illegal.

37. The UK music industry wants to resolve this issue, but in a way that is fair. How this debate is resolved will affect thousands of individual creators as well as investors in their creativity.

38. We have all the sympathy in the world with the viewpoint that consumers should not be acting unlawfully when they copy their CDs, although we doubt that this issue has kept them up at night.

39. We do not understand why our Government is so unsympathetic to our legitimate concerns.

40. The central issue at stake is fairness: about copyright holders receiving a fair return for the use of our copyrights, rights which exist in the first place to enable us to earn from our creative investments.

41. We urge the Government to consider the reality that bringing in a new private copying exception to copyright, without compensation, that extends to cloud services, won't yield the benefits to consumers that Government anticipates. Most consumers will remain materially unaffected by the outcome. The only people celebrating will be tech companies that make use of other people's copyrights.

42. We support a private copying exception, accompanied by fair compensation, which explicitly excludes copying over the internet. This protects consumers, is fair to creators, and will not intrude in the growing digital marketplace. And it ensures parity with the rest of Europe.

43. The UK is great at creativity. This IS our competitive advantage. We generate music, television, games, film and books loved all over the world and return impressive export income back to the UK. More than 10% of the UK's exports of services comes from services by the creative industries. The creative industries account

for nearly 3% of the UK's total GVA. Having a Government that understands and supports the commerce of creativity is absolutely critical to the UK's future success as a leading producer of copyright.

December 2012

UK Music is the umbrella body representing the collective interests of the UK's commercial music industry from songwriters and composers to artists and musicians, studio producers, music managers, music publishers, major and independent record labels, music licensing companies and the live music sector.

UK Music exists to represent the UK's commercial music sector in order to help drive economic growth and to promote the benefits of music on British society.

UK Music's membership comprises of:

- AIM—Association of Independent Music—representing over 850 small and medium sized independent music companies.
- BASCA—British Academy of Songwriters, Composers and Authors—with over 2,000 members, BASCA is the professional association for music writers and exists to support and protect the artistic, professional, commercial and copyright interests of songwriters, lyricists and composers of all genres of music and to celebrate and encourage excellence in British music writing.
- The BPI representing over 440 record company members.
- MMF—Music Managers Forum—representing 425 managers throughout the music industry.
- MPG—Music Producers Guild—representing and promoting the interests of all those involved in the production of recorded music—including producers, engineers, mixers, re-mixers, programmers and mastering engineers.
- MPA—Music Publishers Association—with 260 major and independent music publishers in membership, representing close to 4,000 catalogues across all genres of music.
- Musicians' Union representing 30,000 musicians.
- PPL is the music licensing company which, on behalf of 50,000 performers and 6,500 record companies, licences the use of recorded music in the UK.
- PRS for Music is responsible for the collective licensing of rights in the musical works of 85,000 composers, songwriters and publishers and an international repertoire of 10 million songs.
- UK Live Music Group, representing the main trade associations and representative bodies of the live music sector.

Written evidence submitted by Fran Healy

Thank you for inviting me to this select committee. I am thrilled to be given the opportunity to represent my industry at the highest level and hope I can be of some assistance in your enquiry.

My name is Fran Healy. I sing in the UK band Travis and I am a board member of the Featured Artists Coalition. Travis have been releasing records since our first self released 10 inch vinyl single in 1996. We were signed to an indie label called Independiente for 12 years, over which time we have toured the world, sold around 10 million albums, saw our singles and albums top the sales and airplay charts. As well as winning Brit awards for best album and best band, I was awarded an Ivor Novello award for songwriter of the year. I'm proud to be a British musical export. As a board member of the Featured Artists Coalition (FAC), I'm active in representing featured artists (artists who have signed record deals) providing a voice at the table, at a time when our industry is in transition.

I wanted to write this as an addition to what I will be talking about in the event I don't manage to say everything I want to say.

Before I start I'd like you to listen not as a Member of Parliament but as a fan of music. Everyone is a fan of music. It soundtracks our lives from cradle, through teenagehood, weddings and funerals. We love it.

With that in mind, I see our industry in incredibly simple terms.

At the heart of our business is the relationship between the artist and the fan.

There are four main businesses which have flourished from this special relationship. The music publishing business, the record business, the merchandise business and the live music business.

I feel this has to be overstated because people sometimes think "the record business" is "the music business" when in fact it makes up only 25% of music business revenues. It's an easy mistake to make and is sometimes even made by the record business.

So in order to help our industry become bigger and better in the 21st century we need to look at it in broad daylight, for what it actually is: four businesses revolving round a very special relationship; that of the fan and the artist.

Secondly, if the heart of our business is this relationship between the fan and artist, then the brains of our business are creatives. If we look at the history of the UK music industry, it is riddled with these incredible maverick businessmen and women in each of the four businesses who took it to the next level—Brian Epstein, Chris Blackwell, Richard Branson, Jeff Travis, Martin Mills, Bob Geldof to name a few—all creative and all of whom were massive music fans. Again we return to this idea of fan and artist at the core of the music industry. Just this time, fans who love it so much started a business, probably because they realised how powerful that bond was.

Thirdly, I want to talk about education. I went to the largest comprehensive school in Europe, Holyrood Secondary School in Glasgow. It's a great school but I remember the struggle the art and music department had in securing the next year's budget. Art and music were viewed as fluff, decoration at best. In speaking to art and music teachers today, it feels like it has gotten worse. It seems crazy when the pen in your hand, the carpet under your feet, the building you sit in, the cup you drink from, the computer you surf with, the bed you lie in (I could go on), but all of this was designed and created. Even on a scientific level, an education in art aids the thought process behind great discoveries. I spoke to Professor Anne Glover CBE, the Chief Scientific Adviser at the European Commission last week and she said that an education in art went hand in hand with science.

Creativity is a bedrock subject which you find not just in the art and music business but in every industry that exists. Supporting creativity at secondary school level will not just help our music business, but other businesses too. The 2012 Olympics are a great example of what investment in a specific area can do.

Lastly, I want to say from a business point of view that I believe it would be helpful if there were other sources of funding available to our business, not just the usual suspects eg record industry and publishers. A problem in current tax incentivised schemes is that they will only fund businesses if it is based on a royalty format. Again potential investors don't understand our business. They only see 25% of our business—the record business. We are willing and able to go into long term partnerships which deal with all four parts of our business and would help support artists and develop new ones.

IN SUMMARY

The future of our industry is bright but we have to think creatively and refocus on the artist and fan.

We have to scotch and redefine views which have gathered over decades about the idea of creativity and see it not as this thing to be put in a box over there with art supplies and musical instruments but rather see it as the thread which runs through all industry. That an artist isn't just some person standing at an easel, or strutting around a stage or writing a novel. Art is about challenge and discovery. Scientists, engineers, mathematicians and the most successful industries have artistic creative thinkers at their core. Apple, Google.

So it's of vital importance this creativity is nurtured and invested in from school onwards.

December 2012

Written evidence submitted by Ingenious Media

1. INTRODUCTION

1.1 Ingenious is an investment and advisory firm based in London. We are the largest independent investors in media and creative content in Europe having raised more than £8 billion to invest in creative assets since 1998. We have more than 5,000 investors including institutions, corporates and high net worth individuals. We recently extended the scope of our investment activities into leisure, sport and clean energy.

1.2 To date our partnerships have financed 100 feature films, including such successful commercial films as *Avatar*, *127 Hours*, *Australia*, *Hotel Rwanda*, *Notes on a Scandal*, *Water For Elephants*, *X Men: First Class*, *Alien Vs Predator*, *The Best Exotic Hotel Marigold*, *The Descendants*, *Die Hard 5*, *Girl with a Pearl Earring*, *Fantastic Four 2*, *Hairspray*, *Hot Fuzz*, *Night at the Museum*, *Shaun of the Dead*, *Stardust*, *Streetdance 3D*, *Vera Drake* and *Rise of Planet of the Apes*.

1.3 In television we have worked with all the major broadcasters and produced more than 400 hours of prime-time TV drama, including shows such as *Foyle's War*, *Rev*, *Kingdom*, *Scott & Bailey*, *The Reckoning*, *Law and Order: UK*, *Monroe*, *Doc Martin*, *Primeval*, *Case Histories*, *Injustice*, *The Suspicions of Mr Whicher*, *Man to Manta*, *Zen*, *Neverland* and *Young Leonardo*.

1.4 Elsewhere in the creative economy our experience of producing children's animation includes *Fleabag Monkeyface* and *Pajanimals*. Through Ingenious Games we have invested both in consol based video games (for example *Colin Macrae: DiRT and Fuel*) and mobile games (like *My Puzzler*). We have previously invested in recorded music, including albums by Peter Gabriel and The Prodigy (a number one hit album), but we now focus on music festivals and other live events.

1.5 We also invest in early to mid-stage content businesses through our quoted vehicle Ingenious Media Active Capital (IMAC) and our new Media Opportunities Fund. IMAC investee companies include Digital Rights Group, Whizz Kid Entertainment and BrandRapport Group. Previous investments include 19 Management (creator of *Pop Idol*), and Cream (operator of the Creamfields Festival).

1.6 In this submission we focus primarily on business and financial issues. Investors are rarely in the room when policy-makers and politicians talk about the creative economy: investor perspectives are almost universally ignored in the policy literature. Policy and regulatory issues, for example in relation to the role of fiscal reliefs and, less obviously, the role of arts subsidy, are therefore discussed here only insofar as they directly impact on the investment climate. Our submission is not exhaustive. For example we do not discuss copyright issues, although effective copyright protection remains critical both to sector prospects and investor confidence. Finally we call for a more strategic approach to the management of the creative economy, in support of which we advance seven policy propositions for the Committee's consideration.

2. THE SHORTFALL IN BUSINESS CAPACITY AND THE PROBLEM OF SCALE

2.1 The most intractable problem facing the UK's creative business sector is its inability to grow companies to a scale at which they are capable of competing globally by retaining for re investment the commercial returns generated by their creative successes. Most UK creative businesses, of which there are more than 180,000 according to BIS figures, are tiny—not big enough even to be described as SMEs—and sub-scale, that is to say they live from hand to mouth subsisting on serial projects. We have very few large and medium sized companies in the audio-visual and entertainment fields. Whereas in the 1950s and 1960s the UK could boast two world class media and entertainment companies in EMI and the Rank Organisation, fifty years later we cannot boast a single player to rival Disney, Bertelsman or Vivendi in the global market (apart from the BBC, which is funded by the licence fee and is in public ownership). Control of large swathes of creative business has migrated out of the UK. Whereas creatively we punch well above our weight, commercially—and leaving aside the BBC—we punch well *below* it.

2.2 In content production specifically, the UK's creative economy mainly comprises an eco-system of interlocking micro-businesses, freelancers and the self-employed. More than 90% of the UK's creative businesses employ four people or less according to the government's own statistics. Some of these companies are small because their founder-managers like it that way, but others are small because their owners do not know how to scale them up to grow and become commercially sustainable.

2.3 There will always be a large number of micro-businesses in the sector. From a purely creative point of view, small is both beautiful and productive. Creative talent flourishes best in relatively small and highly flexible units. However creative excellence does not guarantee commercial success. In a competitive global market small, weak, project-based business units are vulnerable to the effects of under-capitalisation, loss of clients, adverse currency fluctuations and the withdrawal of inward investment. Such companies are often only viable because they pay their staff so badly, and sometimes not at all.

2.4 The biggest challenge is to find ways of helping significant numbers of these very small businesses to "scale up" (in investment-speak). We need to develop a solid core of sustainable content-creating businesses at the heart of our economy if we are to be commercially competitive on a global basis. This means taking a much longer term investment horizon than is customary. A second challenge is to provide sufficient incentives to successful entrepreneurs to persuade them not to sell up once they have tasted success and made some money. Too often these businesses end up in the hands of the US and other international "majors": this is a recurring pattern in the UK. The solution is to devise a tax structure that allows capital to be released without a total sale.

2.5 Higher levels of creative business capacity should be the means by which we exploit the commercial opportunities generated by our abundance of creative talent. Without this business capacity the UK will fail, as it now fails, to get a fair return from the skills of our producers and technicians and the box office successes of our writers, directors, actors, composers, musicians, photographers, designers and software developers.

3. RISK, SUSTAINABILITY AND THE RIGHT KIND OF FINANCE

3.1 The idea of an "equity gap" has been debated endlessly by policy-makers with some arguing that there is a shortage of risk capital across all business sectors in the UK and others, to the contrary, that the equity gap is a myth and that the real problem is the lack of "investibility" of almost all small businesses, irrespective of sector. The issue for them is an "investment readiness gap".

3.2 The truth is somewhere in the middle. Creative businesses require access to finance like all businesses, but they also need access to the *right* finance at each stage of their development. We believe that a funding gap does exist, that it is especially acute for creative content businesses because of their high risk profiles, and that it is especially acute outside London. At the same time there is unquestionably an investibility problem, about which we need to know more. That is why we have teamed up with Creative England and Pembridge to support the Collider 12 programme, recently launched, which aims to take early stage businesses and help convert them into investible propositions.

3.3 Unfortunately the debate on that old chestnut “access to finance” has been waged in somewhat sterile terms in the UK, as in Brussels, because of a failure to distinguish between apples and oranges. Considered from the point of view of investor risk the creative business sector is not homogeneous. It exhibits many different business models, old and new, with correspondingly different risk characteristics. There is one fundamental point of differentiation however—the difference between “demand-led” and “non demand-led” models. This is the key to understanding the access to finance question.

3.4 At one end of the risk spectrum are businesses engaged in the *high risk* production of content, like records, films, theatrical shows and games. The activities of these companies are based on a complex and unpredictable relationship to the market. There may be high public demand for their products across an enormous range of genres and tastes but, critically, these activities are *non demand-led* in the sense that no associated market research or pre-testing has any useful predictive value. In the immortal words of the American screenwriter William Goldman (*Butch Cassidy and the Sundance Kid*, *All the Presidents’ Men*), “NOBODY KNOWS ANYTHING”, by which he means that the market response to any given song, show, film or book cannot be anticipated with any degree of dependability. The content developer/producer has to commit significant funds to the creation of a product before he has any idea of whether the public will pay for it or not. In practice much of the financing therefore comes from large distributors, who because of the terms on which finance is offered end up controlling the intellectual property (IP) and thus owning most of the economic value created.

3.5 This business model stands in sharp contrast to other forms of *demand-led* creative business activity, like composing music for a TV commercial, or delivering new marketing software in response to a commission from an advertising agency. Both these activities demand the application of creative skills, and may well draw on the skills of the same people, but they exhibit fundamentally different commercial profiles and have different financing needs. In short they are relatively *low risk* services businesses.⁷⁴

3.6 Somewhere in the middle of the risk spectrum one can identify a third category of business comprising a handful of (usually) larger content distribution and licensing businesses. In this space the distributor can acquire and manage completed creative properties with greater visibility over the critical response and, within limits, box-office demand. He can thus factor in at least the possibility of recovering his acquisition and marketing costs. These businesses are subject to technology risk and especially the impact of the rise of the aggregators, like Google, but they generally do not take on production or content risk.

3.7 The hardest challenges in attracting finance are faced by businesses in the first category—content creation businesses. The problem is common to the entire creative business universe and not confined to any one genre, although the film and games industries experience the greatest difficulties because of the scale of the irrecoverable sunk costs that typify their financing models. Like all content-creating businesses many of these companies face the problem of breaking the vicious cycle of having to pre-sell their content to fund production costs, thereby losing some or all of the rights to intellectual property (IP) which might otherwise generate the profits that would attract further investment and thus help build sustainable growth. A business which loses control of these rights is likely to remain commercially vulnerable, a project fee-based operation, unable to develop a portfolio of content or diversify its product range, and therefore unable to grow sustainably.

3.8 Control of IP determines ease of access to finance. The Hollywood studios have always understood this. It is in this precise commercial context that the issue of IP is so important to the creative economy. It follows that it is vital for content companies to think creatively about financing solutions, above all to help them retain some value in the IP they create. This often involves entrepreneurs having to make difficult choices in deciding whether to accept some form of project financing, and if so on what terms.

3.9 Against this background the private financing options available to most creative businesses, and especially to entrepreneurs in content-producing businesses, are limited. Informal networks of “friends and family” are a significant source, particularly in the early stages. Debt finance has been much harder to obtain since the beginning of the credit crunch, and the supply has now almost completely dried up with the banks having largely withdrawn from the market. Many businesses are started by mortgaging personal property, or on credit cards.

3.10 The availability of venture capital funding, never plentiful in the UK in the media space and always much more difficult to access for content businesses than for technology or service companies, has declined sharply in recent years. Project finance is always an option and frequently a necessity in order to get anything made, but can be expensive and is hard to find. Meanwhile financing from within “the trade”, meaning the largely US-owned “majors”, usually comes at a big price in terms of loss of control.

⁷⁴ In *Risky Business*, a tract published by Demos in October 2011, the authors Helen Burrows and Kitty Ussher claim (on the cover of the publication indeed) that “the lazy assumption that the creative industries are inherently risky is harming Britain’s path to growth”. However it is Burrows and Ussher who make a fundamental conceptual error, partly by failing to distinguish between demand-led and non demand-led business models with their vital consequences for access to finance, and partly by failing to acknowledge or locate the huge amounts of capital at risk in the creative ecosystem. On their very limited analysis many creative businesses do not appear to be especially “risky”, but this is true only if you ignore the projects with which they are associated and which they exist to manage. The risk lies in connected entities—in the off-balance sheet financing of specific creative *projects*, most of which are both inherently risky and very costly. This associated risk capital is principally to be found on the balance sheets of large international entertainment companies (most of them not headquartered in the UK), groups of angels and limited partnerships. The point is that this associated capital, which is always at risk, is not captured anywhere in the Burrows/Ussher analysis.

3.11 In the public financial markets sentiment towards the media and entertainment sector as a whole has remained negative since the bursting of the dot-com bubble in 2001. Very few investors in the financial community understand creative businesses. This is in itself a significant obstacle to the growth of the creative economy. For content producers the shortage of what we call “knowledgeable investors” is, similarly, a considerable barrier to entrepreneurs being able to access the right kind of finance to fund the growth of their businesses. There is no simple or obvious solution to this problem, but government must surely be concerned to help identify one. The best place to start is to get the analysis right.

4. FISCAL RELIEFS

4.1 The role of tax reliefs in supporting the UK’s creative businesses is often misunderstood and is sometimes misrepresented by trade associations—though for understandable reasons. This misunderstanding is reflected in HM Treasury’s recent consultation document *Creative Sector Tax Reliefs*. In his Foreword to this document the Exchequer Secretary, Mr. Gauke, states that

“Like the film tax relief, the aim of the reliefs for animation, high-end television and video games is to provide tax reliefs that encourage investment into production in a way that ensures the sustainability of these industries.....” (emphasis added).

Later, in paragraph 1.6, the consultation document develops this proposition by noting that “In 2010–11 the film tax relief provided £200 million of support to the British film industry, supporting over £1 billion of investment into 190 films.”

4.2 The initial statement, though true up to a point, indicates a degree of confusion about the notion of “sustainability” in the film industry, and by extension other creative content sectors. It is true that the UK film industry would be far less “sustainable” without the film tax credit: the tax relief is crucial to attracting inward investment from the Hollywood studios. In 2011 some 80% of aggregate industry spending in the UK rested on inward investment from the USA. Take away this American money and what remains, apart from some £350 million of government “soft” funding, is negligible in terms of domestic investment.

4.3 In an economic sense therefore the film tax credit undoubtedly does help to ensure the “sustainability” of the sector—indeed, other things being equal, the sector might well collapse without it. Other things may not always be equal however: for example, a sharply rising dollar exchange rate of the kind experienced in the early 1980s would soon make the UK a less competitive place to produce films. Risk capital in the global film industry is extraordinarily mobile: in this scenario the extreme frailty of the UK’s under-capitalised and fragmented film industry would be brutally exposed, tax credit or not.

4.4 This is the point. Though it is universally supported within the industry (essentially it is free money), the film tax credit has done nothing to enhance the underlying sustainability of British film *businesses*. Nor, as currently structured, is it likely to make any future impact on business sustainability unless it is buttressed by a package of other, industry-focused measures designed to address the sector’s chronic structural and financial weaknesses (see section 5 below). Government has consistently intervened on the supply side to promote the quality of the UK’s technical and creative skills through the work of Creative Skillset and others, but has largely ignored the issues of competitiveness, business capacity and business sustainability.

4.5 Against this background tax reliefs are all too easily deflected from their ostensible strategic purpose, serving primarily to provide cheap project finance to big entertainment conglomerates largely controlled from outside the UK. This logic applies equally, though to varying degrees, to all content sectors and sub-sectors—including the games and animation sectors and the high-end TV drama sub-sector. Tax reliefs will help to level the playing field as regards international fiscal competition, for example competition with Ireland in the animation sector, and will certainly help to increase levels of inward investment. To that extent they are very welcome, but they will not transform unsustainable UK businesses into sustainable businesses: they will not of themselves succeed in addressing the structural problem.

4.6 The danger is that the proposed new reliefs will divert attention from this problem by providing a false sense of security. These reliefs offer a short term palliative. Our support for them is therefore qualified. Such credits are *necessary*, because of what is offered elsewhere internationally, but not *sufficient* to ensure the development of sustainable businesses. They will not on their own be effective in improving the competitiveness of the sectors to which they relate. However they could form a vital ingredient in the package of initiatives required to achieve the broader objective.

4.7 Industry attention has naturally focused on the three new proposed reliefs for the games, animation and high-end TV drama sectors. Behind the scenes, however, something very worrying is happening on the fiscal relief front. In recent years the Enterprise Investment Scheme (EIS) has, alongside Venture Capital Trusts (VCTs), brought much needed new investment into creative enterprises, especially in TV and film. Following a meeting between sector business leaders and the Chancellor in February 2011 a number of changes were made to the fiscal regime in the Finance Act of that year, including the raising of EIS tax relief to 30%. Although these changes were intended to promote investment into all business sectors, in private communications it was made clear by officials at HMT at the time of the 2011 Budget that the Chancellor had listened to the representations made by creative sector business leaders and had responded to them positively.

Not surprisingly, there was an enthusiastic welcome from Mr Vaizey, who proceeded to trumpet the wonders of the EIS to the wider creative sector, as well as from the sector itself.

4.8 Several consultations and eighteen months later the situation is much less cheerful. This is not the place to go into the detail of these consultations, or to explore the complexities of the “targeting” regime being implemented by HMRC, or to highlight the capacity constraints now holding up HMRC responses to applications for clearances. Suffice it to say that confusion and delay is epidemic and that the EIS market is currently gummed up. This will lead to significantly less funds being raised from investors in 2012–13 with consequential adverse effects on the audiovisual and media sectors, amongst others. Not for the first time we observe an apparent disconnect between Treasury intentions and the will of Parliament on one hand, and the day to day practice of HMRC on the other, apparently aggravated by internal bottlenecks. This is a major concern for the sector.

5. PUBLIC POLICY: TIME FOR A NEW APPROACH

5.1 Ministers are entitled to draw attention to the fact that the UK enjoys great competitive strengths in the global creative economy. Our creative and technical skills are second to none. However, justified celebration can easily lapse into complacency and hubris. This is a clear and present danger for UK public policy. The rest of the world is not standing still. It is time to reassess the basis on which the state intervenes to support our creative economy. At public policy level a number of barriers to growth can be identified. These include a now out-of-date conceptual framework (“the DCMS 13”), high ministerial turnover, poor data and lack of sponsoring departmental “clout” in Whitehall. More specifically, we urge the Select Committee to address the following seven broad propositions.

5.2 First, the public policy framework governing the analysis of, and the basis for intervention in, the creative industries should be updated to take fuller account of business and investment challenges, rapidly changing business models and intensifying global competition.

5.3 Second, we need to take a long-term strategic view of our competitive strengths and weaknesses so as to be able to capitalise on the former and address the latter. The term “industrial policy” is politically sensitive in the UK. Whatever we call it, we need a plan to help us take a larger share of the growing world market for cultural goods and services, which must surely be the policy goal.

5.4 Third, hardly any original thinking about the future of the UK’s creative economy now takes place within government. The conditions which gave rise to the growth of the UK’s world-beating independent TV sector were the result of specific regulatory interventions over a 25 year period beginning with the creation of Channel 4. Given that the British market is always vulnerable to the superior firepower of American corporations by virtue of its small scale relative to the USA, much more thought should be given to ways of promoting British distribution capacity by means of regulatory intervention. No such thought appears to have been given to these issues since the previous government’s Creative Economy Programme fizzled out in 2008. This apparent inability to lead any process of creative and critical policy-making should be rectified as a matter of urgency whether in DCMS or BIS or some combination of the two departments.

5.5 Fourth, across the whole of the creative content sector we rely too much on inward investment. This is always welcome but it is vital to raise overall levels of domestic investment. Amongst other things, we need to:

- address the gap in understanding between creative business sectors and the City;
- use the tax system to generate higher levels of investor confidence and sustained investment in creative enterprise, thereby increasing domestic creative business capacity; and
- use the tax system, and specifically Entrepreneurs’ Relief, to incentivise successful creative entrepreneurs to remain engaged and not to sell up to well capitalised (usually overseas) players at the first whiff of serious profitability.

5.6 Fifth, there should be a systematic effort to identify and train more creative industry producers and entrepreneurs. We need more business talented individuals to team up with our creative and technical talent. At Ingenious we are playing our part by sponsoring two important new initiatives, partnering respectively with the National Film and Television School (NFTS) and Arts Council England (MeWe360).

5.7 Sixth, we must recognise that public subsidy of the arts is a key element in overall public support for the creative economy. From an investor perspective this means acknowledging that the subsidised sector plays an essential role in enabling *creative risk-taking*. The private sector generally steers clear of this kind of risk in the UK, as in continental Europe. This is a classic case of market failure to which the UK’s system of arts subsidy provides a successful and well-tested remedy.

5.8 Finally, the role of the private sector in much of the creative economy is to *back successful creative risk-taking*. This is perhaps demonstrated most clearly in the film industry where the role played by BBC Films and Film 4 is critical to project development. Private investors will undoubtedly have to do more in future. However what we currently have is a delicately balanced funding ecology with public and private funding combining on many levels and in many different configurations to deliver both social and economic benefits.⁷⁵

⁷⁵ See Martin Smith, *Arts Funding in a Cooler Climate: Subsidy, Commerce and the Mixed Economy of Culture in the UK*, Arts & Business, 2010, especially pages 6–13.

There is a considerable risk that further cuts to arts subsidy, additional to those already planned, will result in significantly fewer “hits” being created leading in turn to the attraction of lower levels of private investment and thus a reduction in overall creative capacity. This would be to the long term detriment of our ability to compete internationally and would make it almost impossible for us to hold on to market share in the global market for cultural goods and services.

6. CONCLUSION

This agenda presents some serious challenges for policy-makers. The government is right to celebrate great British talent and great British success stories and to highlight the economic opportunities available to us. However it must also will the means by which such creative successes can be turned into better business for UK plc. That means placing increased investment at the heart of the policy agenda. If government is serious about backing the “creative industries” as one of the growth sectors of the economy, it must acknowledge the high risk nature of certain parts of the sector. Increasing levels of domestic investment will be crucial. To this end it is necessary to analyse the sector by reference to business models, rather than cultural genres, as in the past, and to take a long term view of the global market. Future economic interventions should focus on specified categories of creative business and their potential to generate taxable revenues, and the need to ramp up domestic business capacity.

October 2012

Supplementary written evidence submitted by Martin Smith, Special Adviser, Ingenious⁷⁶

1. The purpose of this Supplementary Memorandum is primarily to respond to a suggestion made by Mr Bradshaw during the oral evidence session on 18 December 2012 that the Committee be provided with a note on creative economy initiatives launched by government in recent years. What follows is a selected list of the principal policy initiatives, consultations, publications and other activities in which government was the author, the commissioner, the underwriting party, or acted in some combination of these roles. I have only listed initiatives and activities that relate to the creative industries *generally*, not activities particular to one sub-sector or another, *eg* games or music industry roundtables, of which there have been many. The time frame is 2005–12. I have also added a short note on the role of the Creative Industries Council (CIC) following questioning by members of the Committee.

2. The Labour government’s *Creative Economy Programme (CEP)* was launched in November 2005 with the purpose of creating “the best framework to support the innovation, growth and productivity of the creative industries”. It was closely associated with Secretary of State Tessa Jowell and especially with creative industries’ minister and, subsequently, Culture Secretary James Purnell. Its substantial work programme was organised in seven thematic strands under the headings of education and skills, infrastructure, competition and intellectual property, access to finance and business support, diversity, technology, and evidence and analysis. Numerous experts and industry representatives were engaged to sit on advisory working parties, each of which had produced its own report by the end of 2007. The CEP in its larger form continued formally until early 2008 when *Creative Britain* was published (see below), but beyond that at official level only.

3. In late 2006 the DCMS commissioned The Work Foundation to undertake an analysis of the nature of the creative industries—their size, the factors that had shaped their recent success, and the challenges that lay ahead. The resulting report, *Staying Ahead: the Economic Performance of the UK’s Creative Industries*, was written by Will Hutton and colleagues at the Work Foundation, with significant input from NESTA, the DCMS itself, the former DTI and HM Treasury, and published in June 2007. It remains an impressive piece of analysis. Not everyone agreed with it, then or now, and its focus on eight “drivers” of the creative economy is challengeable, but *Staying Ahead* carried indisputable intellectual authority and generated considerable excitement in the sector as a whole. For arguably the first time in the UK, the creative industries were firmly and squarely on the economic map.

4. In April 2007 in association with the DCMS and the former DTI, Ingenious convened a Roundtable discussion under the title of *Sustainable Investment for the Creative Industries?* This six hour event brought together 40 specially invited experts—bankers, venture capitalists, academics, accountants, think tankers, officials, “creatives”, content industry managers and others—to consider the creative industries’ investment agenda from multiple perspectives but with a clear focus on building commercial business capacity. The then Minister for Creative Industries and Tourism, Shaun Woodward MP, attended throughout and was an active participant. A transcript of the Roundtable’s proceedings was published in June 2007 under the same title and can be accessed here <http://www.wbceurope.com/downloads/CreativeInds.pdf>. This attempt to begin building bridges between the financial and the creative communities was the first of its kind. It was organised and financed by Ingenious. Although the initiative was welcomed by all the participants, some of whom stressed that there was a need for it to be replicated many times over, it has not been followed up by government—or anyone else.

5. *Staying Ahead* was published in the expectation that it would closely be followed by a Green Paper. Following much delay this finally appeared, replete with 26 “Commitments”, under the title of *Creative Britain*:

⁷⁶ This Supplementary Memorandum is written in a personal capacity.

New talents for the New Economy in February 2008. It was a considerable disappointment. More of a marketing document than a Green Paper, it largely focused on supply side issues. There was little or no demand side analysis, no attempt to assess the UK's competitive strengths and weaknesses on a global basis, and no attempt to address any of the issues being thrown up by the challenging economics of media business under the impact of digitalisation. Much of the best work done by the CEP working parties, for example on competition and IP, simply disappeared from view.

6. Commitment 24 of Creative Britain was that “We will initiate the launch of the World Creative Business Conference” aspiring “to the scale of the Davos World Economic Forum” with the ambition of combining “the UK's strength as a world-leader in the creative and financial sectors”.⁷⁷ Organised by the DCMS with two private sector partners, such an event did reach fruition under the brand name of *C&binet* (Creativity and Business International Network) at the end of October 2009. Described in a BIS press release as part of “the government's ongoing work to position the UK as the key place where creativity meets global finance, and to help the creative industries face the pressures that could threaten their future success”, C&binet took place over three days at a country hotel in Hertfordshire. It attracted some serious international interest, and was addressed by Jean-Bernard Levy, then Chairman of Vivendi, amongst other industry heavyweights. It was attended by some 200 guests, two Secretaries of State and several ministers. Attendance was initially by invitation only but this rule was subsequently relaxed to allow a number of British Council Young Creative Entrepreneurs to attend.

7. *C&binet* was the first government-backed initiative to attempt to focus on the international dimension of the growing global creative economy, and a clear expression of the last government's ambition to make the UK “the world's creative hub”. A keynote address by Lord Mandelson seemed to hint at a new approach to industrial policy, beginning with a more robust approach to copyright enforcement. The event enjoyed a reasonably high media profile. It was the first major, government-backed creative industries' event to be streamed and tweeted about at scale. The quality of the conference sessions was predictably variable, but the ambition of the event was commendable. It generated much of approving press commentary, some of it abroad, and sparked a considerable “buzz” in the emerging digital creative sector. Notwithstanding this success, C&binet has not been reconvened. Initially it was believed that the private sector would take it over but with clear government backing. It is not clear whether in the event the DCMS decided to junk it on grounds of provenance, cost, or lack of private sector enthusiasm.

8. If the publication of *Creative Britain* was regarded as anti-climactic by many in the creative industries' community (though not by the advertising industry, which was enthusiastic), the *Digital Britain* programme which followed it did much to put this right. Led by Lord (Stephen) Carter in his capacity as Minister for Communications, Technology and Broadcasting sitting in BERR/BIS and begun in October 2008, this work had a complementary but different focus in that it was concerned in Carter's phrase with the “pipes” as well as the “poetry”—with infrastructure and technology as well as content. The emphasis was on providing a rigorous analysis of the consequences of the digital shift. Carter was not concerned with the creative industries *per se*, at least as represented by the already dated concept of the “DCMS 13”, but was focused on content industries subject to the shift from analogue to digital.

9. An interim report was published in January 2009 by DCMS and BERR (as it then was). Chapter Three dealt with the economics of digital content, including a section on investment. Following months of consultation and further research, the final report to emerge from the *Digital Britain* programme was published by DCMS and BIS (as it had become) in June 2009. Chapter Four of the final document, entitled “Creative Industries in the Digital World”, propelled by a stated ambition to “make the UK one of the world's creative capitals”,⁷⁸ focused primarily on copyright infringement and how to stop it, but did so within the framework of a broader discussion of the inter-connected issues of creativity, licensing and new business models. Chapter Four was itself informed by a research report on the creative content value chain commissioned from consultants Analysys Mason under the title of *Fostering creative ambition in the UK digital economy*. Published as a separate paper, the Analysys Mason report contained a flow of funds model of the UK content value chain valuing the sector as a whole at £55.6 billion. Again, both *Digital Britain* itself and the Analysys Mason report on which it is partly based have all but disappeared from view.

10. No significant research or large scale policy review exercises comparable to *Creative Britain* or *Digital Britain* have been undertaken by the coalition government. Almost all specialist, senior level creative industry staff resource within DCMS appears to have been cut or redeployed since 2010; in BIS there appear to be no senior officials with creative industries backgrounds. This implies that much “corporate memory” of the work done by government over the last five to ten years has already been lost, and exposes such officials as remain to the risk of trying to reinvent the wheel in future. There is a fundamental mismatch between the government's loosely stated ambitions for the sector and the official resources committed to delivering them.

11. The most significant coalition initiative has been the establishment of the *Creative Industries' Council* following lobbying by Feargal Sharkey and others. This has much support within the sector but its membership base is too diffuse and it commands no resources of its own. It is all being done on the cheap. One role that the CIC has *not* been given is that of building bridges with the City and the wider financial sector. Yet, arguably, the greatest need in terms of “support for the creative industries” in the UK is for such bridges to be developed

⁷⁷ *Creative Britain: New Talents for the New Economy*, DCMS, February 2008, p. 67.

⁷⁸ *Digital Britain*, Final Report, DCMS and BIS, June 2009, p. 105.

and maintained at scale with government backing. The UK will not remain competitive in the rapidly changing global creative economy unless the alternative asset classes represented in the creative industries, and especially the content industries, are understood, supported and invested in by the wider financial sector.

January 2013

Written evidence submitted by Professor Stuart Bartholomew, the Arts University College at Bournemouth

I have learned of the Select Committee for Culture Media and Sports inquiry into support for the creative economy from Dinah Caine, CEO of Creative Skillset. My own university was the first designated Screen and Media Academy by this Sector Skills Council and has been active in the development of a strong skills base for creative industries.

The Select Committee should be aware of the reports, "Creative Graduates Creative Futures" Ball, Stanley and Pollard, The Institute for Employment Studies 2010 and "Creative Prosperity: The role of Higher Education in driving the UK's Creative Economy" Universities UK, 2010. The first is a longitudinal study of the career patterns of graduates in creative arts, design and media subjects and the latter an analysis of HE in generating innovation, skills and knowledge for the creative economy and in particular that driven by digital technologies. As Chair Of Ukadia the UK association of specialist institutions of arts and design I have contributed to both studies.

I welcome the growing recognition of the significance of the creative industries to the national economy, however, what is less well understood is the contribution of higher education to the education and training of the practitioners to these largely graduate creative professions. In this regard I wish to draw the Select Committees attention to the sustainability of the strong position the UK currently holds within global creative industries. The pre-eminence of UK Design, Arts and Media are based upon alumni of our art and design institutions who graduated 20 years ago. We must look closely at the threats to this supply chain. Reforms to the national curriculum, proposals relating to an English EBAC witness a reduction in school experience of creative arts subjects. Candidates presenting themselves for advanced awards at our universities are less prepared for the courses of study on which they embark. There has been no recognition of the relevance of subjects like design to STEM subjects in the sciences which are receiving strong material support from the English funding council (HEFCE). In summary there is a decline in both the volume and quantity of candidates to support the creative industries and insufficient recognition of the need to support and stimulate specialist studies in design. In a global setting where our competitors in Asia and the Indian sub-continent and making huge investments in design education we must not be complacent over the advantage we currently hold.

There are many more points I would wish to raise with you and in the event that I can be of further assistance to this important inquiry please do not hesitate to contact me.

October 2012

Written evidence submitted by Universities UK

ABOUT UNIVERSITY UK

Universities UK (UUK) is the representative organisation for the UK's universities. Founded in 1918, its mission is to be the definitive voice for all universities in the UK, providing high quality leadership and support to its members to promote a successful and diverse higher education sector. With 133 members and offices in London, Cardiff and Edinburgh, it promotes the strength and success of UK universities nationally and internationally.

1. Many of the points raised in this submission are expanded upon in *Creating Prosperity: the role of higher education in driving the UK's creative economy*, published by Universities UK in December 2010, which is available at <http://www.universitiesuk.ac.uk/Publications/Documents/CreatingProsperityTheRoleOfHigherEducation20,101,130.pdf>

2. Higher education has a crucial role in supporting the creative industries. It is the primary producer of the skills that feed the creative industries, and is an important source of new research that informs new ideas, practices and business models. On some estimates, as much as 18% of students are engaged in a course of study relevant to the creative industries. The government should recognise the importance of the creative industries, and the role of higher education within them, through a clearly articulated strategy.

3. The strength of UK higher education institutions, including those specialising in subjects directly related to the creative industries, contributes to the status of the UK, and London in particular, as a hub of cultural and economic activity stemming from the creative industries. The LSE's report *The Impact of Three London Conservatoires on the UK and London Economies* outlines the economic benefits of three specialist higher education institutions. It is available online at <http://www.ram.ac.uk/LSE-Conservatoires-Report>

4. The impact of the recent teaching funding reforms in higher education are still uncertain. There will be a need to monitor this situation closely and if needs be take a view on how to sustain those subjects delivering significant social or economic benefits in the creative industries through strategic public investment.

5. The level of investment in academic research relating to the creative economy, although increasing, is still modest in comparison to science disciplines. The government should resist the narrow view that science, technology, engineering and mathematics (STEM) subjects represent the exclusive route to economic success. Government and the research councils should ensure adequate funding for research in disciplines relevant to the creative industries. This should include social science research into the nature of the creative economy. Research assessment mechanisms should also ensure that the outputs and impacts of creative industries-related research are fully recognised and rewarded.

6. Universities should continue to develop multidisciplinary education at postgraduate level, which brings together creative, technology and business disciplines. This should be supported by increased investment into multidisciplinary research projects across the three main research councils with interests in the creative economy.

7. The structure of the creative industry sector, comprising many small and micro-businesses, makes engagement between creative industries and higher education difficult. There is no clear reward for academics for such engagement. Support for university-business interaction should be a priority issue for Local Enterprise Partnerships in England, and for economic development agencies in the devolved nations, and this should include interaction between higher education and the creative industries.

8. Third-stream funding, in particular from the Higher Education Innovation Fund (HEIF) has been critical in supporting knowledge exchange between universities and the creative industries. Government and the funding councils should ensure ongoing support for third-stream funding.

9. Higher education policy, and its funding, is not sufficiently flexible to fully incentivise higher education's contribution to the creative industries. At the same time, creative industries policy has paid too little regard to the role that higher education plays in supporting the sector. The two areas of policy are not always fully aligned, and the government should look to address this.

November 2012

Supplementary written evidence submitted by Universities UK

Further to the oral evidence provided on behalf of Universities UK on 8 January 2013 by Professor Geoffrey Crossick, former Vice-Chancellor of the University of London, I am writing to offer the committee some additional supporting information, which I hope you will find helpful. This supplementary evidence focuses on student immigration and the role of higher education research in supporting the creative economy.

RESEARCH

Research carried out in higher education institutions is a crucial source of new ideas and practices that drive innovation in the creative economy. The public funding for research in support of the creative industries comes primarily from the two arms of the dual support system. The Arts & Humanities Research Council (AHRC) has the smallest of all the research council budgets, but it has been helpful that the level of its resources have largely moved in line with those of the other research councils. The AHRC invests significantly in research and support relevant to the creative industries.

In contrast to research in the sciences, for which research council funding is the larger element, in the arts and humanities HEFCE quality-related funding accounts for more than 80% of the total research funding. It is therefore important for the success of research in support of the creative industries that both parts of the dual support system continue to receive strong funding.

The relationship between research in the university sector and innovation in the creative industries is a dynamic and changing one. The most exciting new ideas often come from the large number of small and micro-businesses that are present in the sector, working in informal collaboration with each other and researchers. This contrasts with many other sectors.

The last decade has seen very successful investments by governments to support the transfer and exchange of new knowledge to industry across all sectors. The main source of this funding, the Higher Education Innovation Fund (HEIF), has grown and has been maintained by governments, even in difficult times, in recognition of its success. In recent years, the formula by which the HEIF is distributed to universities has changed. Whereas it previously rested on a range of interactions, it now rests entirely on the income that a university derives from its knowledge transfer activities.

A significant proportion of knowledge exchange activity in higher education institutions, particularly in relation to small-scale creative businesses, arts institutions and community cultural institutions, provides returns to the economy that are not financially measurable in the conventional sense. Much of the knowledge exchange between universities and the creative sector does not generate significant income for the university, because

the organisations involved are too small or limited in their own funds to be able to pay significant amounts for the benefits that they receive. The HEIF funding formula, with its focus on income derived from knowledge transfer activities, does not take account of (and so cannot support or incentivise) the full range of knowledge transfer activities undertaken by universities which are of benefit to the cultural sector. There are many examples in Universities UK's *Creating Prosperity* report, copies of which have been distributed to members of the committee, of the centres and labs established in the university sector to support interactions with the creative economy that might be less easily sustained under the new funding system. Therefore, consideration should be given to revisiting the HEIF funding formula, and including social return on investment (SROI) measures.

STUDENT IMMIGRATION

Student immigration was discussed in the committee session in which Professor Geoffrey Crossick gave evidence, in particular the difficulties associated with new overseas graduates in the creative industries being able to demonstrate the required minimum £20,000 income from a single employer in a sector in which freelancing or "portfolio careers" are common.

Internationally, the UK is widely seen as an ideal place to launch a career in the creative sector, with its combination of the highest quality higher education and a large and vibrant cultural sector in which to gain experience after graduation. The vibrancy of the cultural sector in the UK is dependent upon its international nature, and its ability to attract international talent. Similarly, the quality of the education experience available in our universities, particularly for cultural and creative subjects, is greatly improved by the diverse and international nature of the students who study here.

Those who come to study here form lifelong cultural links and an affinity with the UK, which supports the continued ability of the creative industries in this country to attract the very best international talent. In this way the creative industries are both a source and beneficiary of the UK's so-called "soft power". The ability of UK universities to continue to attract and recruit students from overseas is an important part of this soft power, and a part that is particularly important to the creative industries in this country.

However, Universities UK is concerned that the collective impact of changes in student visa policy, such as the limits placed on post-graduation work with its particular difficulties for those working in the creative sectors, and some of the ways in which the government has in the past presented their visa policies, is having a damaging effect on the perception of study in the UK in a number of important markets. HESA data shows that the number of non-EU students entering new courses of study in UK universities decreased in 2011–12, with a worrying 1.9% drop in new entrants to postgraduate courses. The number entering postgraduate courses in the "Creative Arts and Design" HESA subject grouping rose by 1.5%. Such an increase is, of course, very welcome, but it should be seen in the context of an international market that is growing rapidly. The number of internationally mobile students is estimated to rise from 4.1 million in 2010 to 7 million in 2020.

Non-EU students make up 29% of all students on taught postgraduate degrees in this subject grouping. This figure is significantly higher in other subjects that have relevance to the creative industries, such as in computer science where they make up 55% of the student body. Non-EU students ensure the continued viability of a range of postgraduate courses in the UK, including those that provide the highly skilled workforce required for a strong creative sector.

Universities UK is concerned that, in the short term, the government's target of reducing net migration to the "tens of thousands" cannot be achieved without considerable cuts to the numbers of international students coming to the UK. We are calling on the government to remove university-sponsored international students from net migration targets, recognising the Home Office's confirmation of their strong visa compliance, and that in the large majority of cases they are temporary rather than permanent migrants. We would like the government to take a much more active role in promoting UK higher education internationally, and believe that the inclusion of international university students in the net migration target is a barrier to this in policy terms.

February 2013

Written evidence submitted by Creative & Cultural Skills

1. Creative & Cultural Skills is an independent charity supporting the skills and training needs of the UK's creative and cultural industries. We lead the campaign for fair access to the creative and cultural industries, and have created over 1,800 Creative Apprenticeships in the UK since 2008. We deliver through our Skills Academy, a growing network employers and training providers who are committed to the provision of high quality, industry-relevant creative education and training, apprenticeships and careers advice. We are licensed as a Sector Skills Council by the UK Commission for Employment and Skills. For further information, please visit www.ccskills.org.uk.

THE CREATIVE ECONOMY: AN OVERVIEW

2. The UK has the largest cultural economy in Europe,⁷⁹ and the creative and cultural industries represent one of our economy's greatest success stories. Across the UK the industries employ over 800,000 people and contribute just over £26 billion Gross Value Added (GVA) per annum.⁸⁰ Between 2004 and 2010, the GVA generated by the creative and cultural industries increased by 11%, a figure almost double that of the UK economy as a whole.⁸¹ The performing arts, music and visual arts sectors offer particular success stories, growing by 21%, 17% and 8% respectively since 2009. As these figures suggest, no discussion of economic competitiveness should overlook the lessons the sector, with its progressive approach to intellectual property creation, innovation and collaboration, can offer.

3. Although the industry has proven resilient over the past few years, it has not been unaffected by economic downturn. Our most recent data shows that although employment has risen by approximately 4,000 workers since 2009, productivity has declined by 8% in the same period.⁸² This decline has been felt most particularly in the cultural heritage and literature sectors, where annual GVA contribution has fallen by 18% and 19% respectively.⁸³

4. The mixed fortunes of the creative and cultural industries in the past few years offer both cause for enthusiasm and cause for concern. To remain competitive on a global scale, the UK's creative and cultural industries must begin to think strategically about their skills needs, making sure they continue to develop and attract the skills and talent they need to thrive. In the discussion which follows, Creative & Cultural Skills will set out the key measures through which we believe Government can best support businesses and make sure that creative talent is nurtured both throughout the education system and in the workplace. We will also discuss the role played by Creative & Cultural Skills in addressing these same issues.

How best to develop the legacy from the Olympics and Paralympics of the display of UK talent in the creative industries

5. The Olympics gave cultural venues and ventures across the UK the opportunity to display a wealth of creative talent and innovation. Not only did the opening and closing ceremonies of the Olympics and Paralympics showcase world-class dance, theatre and music to great success, they are also testimony to the value of sustained investment in backstage operations, including venue design, lighting and technical theatre.

6. With the remarkable growth of the live music and performing arts sectors over the past decade, the continued development of backstage roles is of paramount importance. The creative sectors which have witnessed the most growth in the past few years are those which provide live entertainment and experiences, rather than tangible 'products'. For example, live music is one of the largest sectors of the music industry: it comprises 35% of all employment in the industry and generates £800.8 million GVA per annum.⁸⁴ One of the key ways in which we can develop the legacy of the Olympics is to invest in high-quality, industry-endorsed training which equips people with the backstage skills which are in such high demand across the creative industries.

7. Creative & Cultural Skills are committed to improving the skills of the backstage and offstage workforce through the development of a large-scale technical training and rehearsal centre we have built in Purfleet, Essex. Designed and specified by industry experts, The Backstage Centre forms part of a major regeneration project in the Thames Gateway, and facilitates practical and extended training and rehearsals in a bespoke environment. It is a large-scale space for hire for the music and theatre industry, providing the capacity to rehearse, install, develop and train. It offers a unique meeting point for technicians, producers, creative teams and learners of all ages at every stage of their careers, and will play a key role in developing the technical skills and expertise needed to support the fast-growing music and theatre industries, to enable them to achieve their economic potential.⁸⁵ The Backstage Centre allows young learners can have the chance to experience real-time training with some of the world's best bands and theatre companies in a large-scale industry-standard venue.

Barriers to growth in the creative industries including difficulties in accessing private finance and lack of cross-government support

8. In the 2010 Plan for Growth, the Government named the "digital and creative industries" as one of six priority growth sectors with the potential to drive economic recovery in the coming years, and outlined their ambition for the UK to become a world leader in the creative and cultural industries.⁸⁶ However, there are still significant challenges to be overcome in order to ensure that our creative and cultural industries are in the best possible position to succeed in an increasingly competitive international marketplace.

⁷⁹ UKCES, Sector Skills Insights: Digital and Creative, (2012)

⁸⁰ Creative & Cultural Skills, Impact and Footprint 2012/13 (2012)

⁸¹ Creative & Cultural Skills, Creative and Cultural Industry: Occupational, Skills and Productivity Forecasting, (2011)

⁸² Creative & Cultural Skills, Impact and Footprint 2012/13, (2012)

⁸³ *Ibid*

⁸⁴ Creative & Cultural Skills, Impact and Footprint 2012/13, (2012)

⁸⁵ See, www.thebackstagecentre.com/

⁸⁶ BIS, The Plan for Growth, (2011)

Small Businesses

9. At present, the creative and cultural industries face a number of pressing skills shortages.⁸⁷ Despite this fact, the industry is an area of the economy where formal investment in training has been difficult to implement, a problem which largely relates to the prevalence of small and micro-businesses. Ninety-four per cent of businesses in the sector have fewer than 10 staff,⁸⁸ and the vast majority of businesses (94%) have neither an internal training budget nor any record of accessing external training funding (89%).⁸⁹ This is in large part due to the atypical businesses structure and patterns of employment particular to the sector, which can act as barriers to the successful implementation of long-term strategic planning. Small businesses have less time and money to train staff, and portfolio working, seasonal productions and contract-based work make it difficult to offer anything more than ad hoc, on the job training. Consequently, few businesses in the sector pre-empt future human resources requirements by planning staff development, instead choosing to access training only as and when the need arises.

10. Whilst these various issues represent substantial barriers, concerns about the short-term difficulties of training or taking on an apprentice lead employers to overlook the competitive benefits that accrue to their business in the long-term when they invest in staff development.

11. Creative & Cultural Skills work to help businesses overcome these barriers through our National Skills Academy for Creative & Cultural. Our Skills Academy is a growing membership network of over 230 theatre and live music employers and 20 Founder Colleges from across England. In June 2012, we announced the extension of this highly successful model into the jewellery, design and cultural heritage sectors, and have since extended our Skills Academy into Northern Ireland, Scotland and Wales. Creative & Cultural Skills also work to facilitate dialogue between this network and government at both a local and national level, offering businesses invaluable leverage when it comes to influencing decisions that will impact upon their training and development capabilities.

12. The National Skills Academy for Creative & Cultural supports businesses with their training needs in a number of ways. We providing an Apprenticeship Training Service (ATS)—and Apprenticeship Training Association, which helps employers through each stage of the recruitment process. The ATS can employ apprentices directly on behalf of employer, allowing apprentices to split their time between several businesses. This arrangement reduces red tape for businesses, offers assurance that an apprentice will continue to be paid even if the employer can no longer complete the training period, and allows small businesses to take on apprentices part-time, reducing the time they must apportion to training each week.

13. We also develop new qualifications and apprenticeship frameworks in partnership with employers in industries where specific vocational training was not previously available, host an annual conference which brings together members from across the industry, and promote training and CPD for businesses, much of which occurs at a localised level between individual founder colleges and businesses.

Finance

14. Creating dedicated training plans and delivering on them is a strategic business decision which can entail a significant outlay of funding. However, evidence published by the DCMS and BIS suggests that creative businesses find it harder than other SMEs to access finance for long-term investment.⁹⁰ Growing businesses through the development of the workforce can, in some instances, prove difficult because of a lack of cash flow.

Cross Government Co-operation

15. Although the creative and cultural industries come under the purview of the DCMS, decisions made both by the Department for Education and the Department for Business, Innovation and Skills affect the industry in significant ways. A notable example would be the recent introduction of the E-Bacc, as well as other changes to the curriculum currently under discussion at the DfE.

16. Although BIS have identified the creative industries as a key growth industry and promote the development of apprenticeships and other vocational routes, there has been no move to safeguard the future of creative education in schools. This lack of strategic co-ordination between departments is liable to have a negative impact on the development of a skilled creative workforce in the future

Ways to establish a strong skills base to support the creative economy, including the role of further and higher education

Overview

17. Skills are the “global currency” of 21st century economies,⁹¹ and recent research from the UKCES suggests that the next decade will see a significant growth in demand for skilled workers.⁹² Despite the fact

⁸⁷ Creative & Cultural Skills, Creative and Cultural Industries Workforce Survey, (2009)

⁸⁸ Creative & Cultural Skills, Impact and Footprint 2012/13, (2012)

⁸⁹ Creative & Cultural Skills, Creative and Cultural Industries Workforce Survey, (2009)

⁹⁰ BIS, Access to Finance for Creative Businesses, (2011)

⁹¹ OECD, Better Skills, Better Jobs, Better Lives: A Strategic Approach to Skills Policies, (2012)

⁹² UKCES, Working Futures 2010—2020 (2012)

that almost 60% of the creative and cultural workforce are educated to degree level,⁹³ the industry continues to face considerable skills gaps and shortages, suggesting that students are not necessarily being directed towards the educational courses which provide them with the most marketable and industry-relevant skills.

18. Meanwhile, due to the over-supply of graduates in the creative and cultural industries, many graduates find themselves under-employed in jobs that do not necessarily require graduate qualifications. These issues place considerable pressure on the industry to nurture people who possess the right skills, and prepare them for an ever-evolving landscape of work. Creating a high quality education system which allows for clear progression routes will prove integral to this process.

Primary and Secondary Schools

19. Sustained investment in creative education should underpin any government strategy to support the long-term growth of the creative and cultural industries. Despite the fact that the foundations for the next generation of talented, highly skilled creative and cultural innovators are laid at school, there is widespread concern in the industry that schools are failing to provide high quality creative education.

20. Investment in high quality creative education is likely to be further hampered by the introduction of the new English Baccalaureate at Key Stage 4, as resources are increasingly channelled away from creative subjects towards those five 'core' subjects which contribute towards performance measures for schools. On-going emphasis on core subjects may also serve to reinforce the idea that the creative subjects are less valuable or rigorous than other subjects in the timetable. Recently published Government statistics would seem to confirm this concern: more than a quarter (27%) of schools have withdrawn courses for the 2012–13 academic year due to the introduction of the EBacc, in addition to the 45% who withdrew classes prior to the 2011–12 academic year. Creative subjects have fared particularly poorly: the most commonly withdrawn subjects are drama and performing arts, which have been dropped in nearly a quarter of schools where a subject had been withdrawn (23%), followed by art (17%) and design technology (14%).⁹⁴

21. To ensure that the creative and cultural industries are supplied with the workforce they need to grow in the future, the Government must continue to support creative education in schools. The intrinsic value of creative subjects to all pupils—and hence, all areas of the economy—should also receive greater recognition. On this basis we recommend that the Government commit to providing world-class creative education in schools, and work to ensure that creative subjects receive recognition alongside more traditional academic subjects.

Progression Routes

22. People seeking to enter the creative and cultural industries often suffer from a lack of knowledge and awareness about the roles which exist and the skills needed to succeed within them. The existence of careers in 'behind the scenes' roles—such as lighting technicians or set and costume designers in the performing arts sector—are rarely apparent to young people considering their career options.

23. For those who do wish to work in the sector, unpaid internships and volunteering are often required to gain a foot in the door, which excludes people who lack independent financial means. This contributes to a lack of diversity in the workforce, with a negative impact on competitiveness. If the creative sector is to meet its economic potential, then talented and hardworking individuals from all backgrounds must be able to enter and progress, with the principle of fair access underpinning employment.

24. Creative & Cultural Skills work to address these issues through our Creative Choices programme, which provides online access to information, advice and guidance—including links to jobs and training opportunities for anyone working, or aspiring to work, in the creative and cultural industries. This is complemented by a series of career events which aims to reach 17,000 young people in 2012–13 alone.

25. We have also published a guide called 'Internships in the Arts—a Guide for Arts Organisations' in partnership with the Arts Council England. Our guidelines highlight the need for fair and transparent recruitment processes, appropriate management, support and assessment, fair pay, skills development, and formal or informal training where appropriate.

Apprenticeships

26. Working with employers and local education providers, Creative & Cultural Skills have pioneered the Creative Apprenticeships programme, opening up progression routes to the most talented individuals, regardless of background. From a standing start of zero in 2008, more than 1,800 learners are currently undertaking, or have completed, a Creative Apprenticeship at levels 2 and 3. We developed the first apprenticeship frameworks in technical theatre, costume and wardrobe, community arts, jewellery, live events management and music business, and we continue to develop new specialist qualifications where they are needed by industry.

27. The Creative Apprenticeship programme makes a significant social and economic return on investment: each cohort of 200 Creative Apprentices makes a long-term economic contribution of over £2.4 million, and

⁹³ Creative & Cultural Skills, *Impact and Footprint 2012/13*, (2012)

⁹⁴ Department for Education, *Effects of the English Baccalaureate*, (2012)

the next five cohorts of learners are forecast to have an impact in excess of £16 million.⁹⁵ As apprenticeships are comparatively new to the sector, it is also significant that they primarily create ‘new’ positions within an organisation, rather than providing training for someone already within the workforce.

28. Looking to the future, apprenticeships in the creative and cultural sector should aim to deliver the higher level skills needed across the industry. Most of the growth in apprenticeship starts in the sector over the last two years has been among advanced apprenticeships, whose numbers have nearly trebled since 2008–09, and apprenticeships at Levels 4, 5 and 6 are in high demand. At present, many Creative Apprentices progress to university upon completion of their apprenticeship, suggesting that there is a demand for these higher level qualifications amongst learners as well as employers.⁹⁶

Higher Education

29. Figures published by UCAS indicate a 16.4% decline in applications to Creative Arts and Design courses between 2011 and 2012.⁹⁷ It is likely that uptake has been adversely affected by the introduction of student fees in 2011. This decline is worrying the emphasis other countries with growing creative industries place on investment in higher education. For example, a recent report from the Design Commission has highlighted the speed at which the design industries of China, Korea, Taiwan, Singapore, Brazil and Russia are growing.⁹⁸ Many of these countries recognise the strong correlation between design and innovation, and invest heavily in creative education—in China, design is the now the third most popular university subject, after English and Computer Science, and the country produces over 300,000 design graduates per year.⁹⁹ To remain competitive on a global scale, higher education in creative subjects should not be neglected.

30. Creative & Cultural Skills also support the recommendations set out in the Wilson Review of Business–University Collaboration.¹⁰⁰ We particularly support the call for more high-quality internships and work experience placements, as these placements not only furnish people with a good understanding of available careers and progression routes, they can also provide learners with the business and entrepreneurial skills so often perceived to be lacking in university leavers. These skills are invaluable in sectors such as the creative and cultural industries, which tend to suffer from a lack of applicants with the appropriate business and administrative capabilities needed to drive competitiveness. Although universities do provide some entrepreneurial education, they have been slower to provide the support for the creative sector they more readily supply to businesses in technological or scientific sectors.

The extent to which taxation supports the growth of the creative economy, including whether it would be desirable to extend the tax reliefs targeted at certain sectors in the 2012 budget

31. Creative & Cultural Skills supports the recent announcement by the Government of a series of tax reliefs for the film, animation and television sectors. Since its introduction in 2007, the film tax credit has supported £5 billion of investment into almost 600 British films.¹⁰¹ We believe that there is a strong case to be made for the extension of tax credits and other forms of fiscal support for the wider creative and cultural sectors, particularly those sectors such as the live music and theatre sectors which are experiencing rapid growth and have enormous export potential but which cannot necessarily access the appropriate financial and skills infrastructure to sustain this growth in the long term.

The importance of “clusters” and “hubs” in facilitating innovation and growth in the creative sector

32. Creative & Cultural Skills invest heavily in partnership working, and aim to facilitate collaboration between industry stakeholders wherever possible. Particularly in an industry dominated by small businesses, partnership working is the key means by which employers can hope to access information, guidance and other forms of support.

33. The success of our National Skills Academy for Creative & Cultural should be seen as an example of a model which can create lasting changes in businesses behaviour and investment. In addition to the initiatives discussed above such as the Apprenticeship Training Association, we have helped establish a number of Group Training Associations. Group Training Associations or ‘GTAs’ are employer-led hubs where a group of local employers take responsibility for training in partnership with a Skills Academy college. This model benefits small employers who may find it difficult to provide training for an apprentice without support. For example, Creative & Cultural Skills have brokered a contract for Artsworld in Southampton with North Hertfordshire College. Artsworld run the training programme and provide apprenticeship support for ten apprentices, which is far more cost-effective than the college providing day-release training from its base in Stevenage. Because of its Skills Academy status North Hertfordshire College can support the programme through the Skills Academy more cost-effectively than a local college with no links to the creative industries.

⁹⁵ Creative & Cultural Skills, *Assessing the Return on Investment, Evaluation and Impact of Creative Apprenticeships* (2011)

⁹⁶ Creative & Cultural Skills, *Assessing the Return on Investment, Evaluation and Impact of Creative Apprenticeships* (2011)

⁹⁷ www.ucas.ac.uk/about_us/media_enquiries/media_releases/2012/20120709

⁹⁸ The Design Commission, *Restarting Britain: Design Education and Growth*, (2012)

⁹⁹ *Ibid*

¹⁰⁰ Sir Tim Wilson, *Review of Business–University Collaboration*, (2012)

¹⁰¹ HM Treasury, *Consultation on Creative Sector Tax Reliefs*, (2012)

34. Our Backstage Centre offers a further example of a creative ‘hub’ which facilitates innovation in the creative sector. The Backstage Centre is part of High House Production Park, a unique new concept that brings a number of creative industries together on one site in Purfleet in the Thames Gateway. It is adjacent to the state-of-the-art Bob and Tamar Manoukian Production Workshop for the Royal Opera House, a space hosting approximately 30 designers, painters, carpenters, metal and fibreglass workers and apprentices, all working on scenery for over 40 annual opera and ballet productions at the Royal Opera House, Covent Garden. Plans are also in place to create a number of studios for creative practitioners and businesses linked to the wider work of the hub.

The work of the Creative Industries Council and other public bodies responsible for supporting the sector

35. As a member of the Creative Industries Council, Creative & Cultural Skills play an active role in representing the views and interests of the creative and cultural sector to government. The Heseltine Review has indicated that there is need for greater interaction between government and industry: however, we believe that for this forum to work effectively, representation on the Council must be closer aligned with the make-up of the sector. At present, the Council is dominated by large, multi-national companies which are unrepresentative of a sector where 94% of businesses have ten or fewer staff. In an industry as diverse as the creative and cultural sector, it is also important that individual sectors receive adequate representation. The Council’s definition of ‘creative industries’ is extremely broad, with the result that large sectors such as design are represented by only one voice (The Design Council). On this basis, we propose that the Council would be in a better position to support the needs of the sector if its remit were more focused and SME representation were improved.

November 2012

Supplementary written evidence from Creative and Cultural Skills

CREATIVE APPRENTICESHIPS

Bringing together employers, learners and local education providers, Creative & Cultural Skills have pioneered the Creative Apprenticeships programme, which aims to address the current and future skills needs of the creative industries by opening up progression routes to the most talented individuals:

- From a standing start of zero in 2008, more than 3,500 learners are currently undertaking, or have completed, a Creative Apprenticeship in sectors that fall within the remit of Creative & Cultural Skills and Creative Skillset.
- These figures do not take into account the significant number of learners undertaking apprenticeships in more general, transferable roles such as business administration, IT and finance who train and go on to work within the creative and cultural industries.
- At present, the Creative Apprenticeship consists of vocational qualifications at Level 2 or 3 and a theory-based qualification at Level 2 or 3 covering a range of occupation specific pathways. In a recent report published by the UKCES, the programme was cited as a key model for widening access and developing high-level vocational entry routes into the sector.¹⁰²
- Most of the growth in apprenticeship starts in the sector over the last two years has been among advanced apprenticeships, whose numbers have nearly trebled since 2008–09, and apprenticeships at Levels 4, 5 and 6 are in high demand. Many Creative Apprentices progress to university upon completion of their apprenticeship, suggesting that there is a demand for these higher level qualifications amongst learners as well as employers.
- The programme makes a significant social and economic return on investment: each cohort of 200 Creative Apprentices makes a long-term economic contribution of over £2.4 million, and the next five cohorts of learners are forecast to have an impact in excess of £16 million.¹⁰³ These figures make allowances for both deadweight and alternative attribution.
- Significantly, during a period in which youth unemployment is a key concern, almost 90% of Creative Apprentices either stay with their employer or gain employment with another company in the industry upon completion of their apprenticeship.¹⁰⁴

The establishment of the National Skills Academy for Creative & Cultural is integral to the delivery of Creative Apprenticeships:

- Founded in 2009, our Skills Academy is a growing membership network of over 230 theatre and live music employers and 20 Founder Colleges from across England.

¹⁰² UKCES, Sector Skills Insights: Digital and Creative, (2012)

¹⁰³ Creative & Cultural Skills, Assessing the Return on Investment, Evaluation and Impact of Creative Apprenticeships (2011)

¹⁰⁴ *Ibid.*

- In partnership with employers, we developed the first apprenticeship frameworks in technical theatre, costume and wardrobe, community arts, jewellery, live events management and music business. Previous to this, apprenticeships in these areas did not exist and there was little recognition of the value of apprenticeships amongst either creative and cultural employers or young people interested in working in the industry.
- In June 2012, we announced the extension of this highly successful model into the jewellery, design and cultural heritage sectors, along with a move into Northern Ireland, Scotland and Wales.

THE CREATIVE EMPLOYMENT PROGRAMME

The Arts Council has announced that it has selected the Skills Academy, through Creative & Cultural Skills, as the national provider for the new £15 million Creative Employment Programme (CEP). The CEP aims to help young unemployed people aged 16–24 (graduate and non-graduate) find paid entry level work in the arts and cultural sector, and will support up to 6,500 new apprenticeships, pre-apprenticeships and paid internships. The programme aims to provide unemployed people with paid opportunities to gain access to on the job training, skills and experience in the arts and cultural sector.

This work comes at a time when many young people across the country are struggling to find paid employment. The Arts Council recognises that if young people cannot gain entry into the workforce then there is the risk of losing a whole generation of talent. The CEP will start in March 2013 and run until March 2015.

BARRIERS TO UPTAKE

At present, 59% of the creative and cultural workforce is educated to first degree level or above, compared with an average of 37% across the UK workforce as a whole. Despite these impressive figures, our research indicates that the sector faces pressing skills gaps and shortages. In spite of these shortages, the creative and cultural industries are an area of the economy where formal investment in training has been difficult to implement. The vast majority of businesses (94%) have neither an internal training budget nor any record of accessing external training funding (89%).¹⁰⁵ This is in large part due to the atypical businesses structure and patterns of employment particular to the sector, which can act as barriers to the successful implementation of long-term strategic planning.

1. The industry has a strong start-up culture, and is dominated by small and medium-sized businesses: 94% of businesses in the creative sector employ fewer than 10 staff.¹⁰⁶ Smaller businesses tend to have less money and fewer staff available to provide the work-based training which is the main component of an apprenticeship.
2. The industry has a high incidence of freelancers and part-time workers (44%).¹⁰⁷ Seasonal, portfolio and project based work mean that it is often difficult for creative businesses to guarantee apprentices steady work.
3. Evidence published by the DCMS and BIS suggests that some creative businesses find it harder than other SMEs to access finance for long-term investment. This is liable to discourage or prevent businesses from investing in apprenticeships.¹⁰⁸
4. Skills shortages are exacerbated by the fact that demand and uptake of educational courses is student rather than employer led, with the result that there is considerable misalignment between the type of qualifications students leave with and the qualifications employers value or demand.
5. The industry suffers from an entrenched unwillingness or perceived inability to recruit from the non-graduate talent pool. Many creative and cultural employers draw on the rich supply of general arts graduates to fill administrative, support and managerial roles which do not require specific technical qualifications. The high prevalence of entrants drawn from the higher education system ensures that school leavers and those who wish to take alternative, vocational routes into the sector are far less likely to gain employment.

SUPPORT MECHANISMS

Training across the creative and cultural sectors is predominantly provided informally or on the job, and there is an entrenched unwillingness to engage with external training providers. The number of employers offering Creative Apprenticeship has risen sharply in recent years, and will continue to do so as employers become better aware of the benefits that accrue from the programme. Any mechanism which makes it easier for small businesses with limited resources to access training is likely to lead to a significant increase in uptake. Through our Skills Academy, Creative & Cultural Skills support small businesses and freelancers to take on Apprentices through the following mechanisms:

Group Training Associations: Group Training Associations or “GTAs” are employer-led hubs where a group of employers take responsibility for training in partnership with a Skills Academy college.

¹⁰⁵ Creative & Cultural Skills, Creative and Cultural Industries Workforce Survey, (2009)

¹⁰⁶ Creative & Cultural Skills, Impact and Footprint 2012–13, (2012)

¹⁰⁷ Creative & Cultural Skills, Impact and Footprint 2012–13, (2012)

¹⁰⁸ BIS, Access to Finance for Creative Businesses, (2011)

This model benefits small employers who may find it difficult to provide training for an apprentice without support. For example, Creative & Cultural Skills have brokered a contract for Artsworld in Southampton with North Hertfordshire College. Artsworld run the training programme and provide apprenticeship support for 10 apprentices, which is far more cost-effective than the college providing day-release training from its base in Stevenage. North Hertfordshire College can support the programme through the Skills Academy more cost-effectively than a local college with no links to the creative industries.

Apprenticeship Training Agency: Apprenticeship Training Agencies (ATA) support the delivery of high quality Apprenticeship programmes by enabling small employers who wish to use the services of an ATA to source, arrange and host their Apprenticeships. The ATA supports employers through different stages of the recruitment process and can employ apprentices directly, potentially allowing apprentices to split their time between several businesses. This arrangement reduces red tape for businesses, offers assurance that an apprentice will continue to be paid even if the employer can no longer complete the training period, and allows small businesses to take on apprentices part-time, reducing the time they must apportion to training each week.

For example, through the ATA, we were able to help Arts Council East and the Fitzwilliam Museum by recruiting an apprentice and placing them in both organisations, allowing them to meet the required thirty hours a week of training. The apprentice was the employee of the ATA: this meant the ATA administered her payroll (passing on the salary costs to the two organisations), and arranged the college element of her training. This particular apprentice finished her course in April 2012, and is now employed by the Fitzwilliam Museum. The flexibility of an apprenticeship of this type can prove enormously beneficial, giving learners experience of work in a variety of organisations.

Alternative Completion Conditions: The Apprenticeships, Skills, Children and Learning Act (2009) requires that all apprentices be formally employed from the first day of their Apprenticeship. However, in certain occupations, an exemption from “employed” status is necessary—this is particularly true of the creative and cultural industries, where work often involves seasonal, part-time or one-off projects and therefore tends to be staffed by freelancers. We believe that those seeking training in such sectors should not be denied access to Apprenticeships because they cannot meet the usual requirements for employment.

Creative & Cultural Skills provided supporting evidence which helped secure an amendment to the act which rules that apprenticeships in particular occupations should allow for “alternative completion conditions”, whereby apprentices are able to work as freelancers. Such apprentices receive the usual College-based training but work for a number of employers, undertaking a variety of projects. Looking forward, it is our ambition to increase the number of apprenticeships to which the alternative completion conditions apply to reflect the range of freelance opportunities available within the sector.

KEY RECOMMENDATIONS

1. It is vital that small and freelance businesses are supported to train apprentices, particularly through recognition of the time it takes to train to a high level and availability of clear and consistent brand messaging, support and advice.
2. Apprenticeships must last at least one year in order to equip individuals with genuine skills and knowledge. This benchmark should continue to be formally recognised by Government.
3. Employers should be given significant input into the development of industry-relevant qualifications—particularly the higher level apprenticeship frameworks the industry needs—through networks such as the National Skills Academy.
4. Incentivising employers to take on apprentices is crucial, especially for small and micro-businesses. Government should ensure that existing incentive schemes are continued, and the process of employer engagement checked to ensure accessibility.
5. Government should continue to support mechanisms such as Apprenticeship Training Agencies, Group Training Associations and Alternative Completion Conditions, which facilitate collaborative working between small organisations and make it easier for small businesses to take on apprentices.
6. The careers advice offered throughout the education system should be industry-endorsed and should do more to promote awareness and prestige of apprenticeships amongst young people, teachers and parents. Employers and current cohorts of apprentices should be supported to engage proactively with schools.

ABOUT CREATIVE & CULTURAL SKILLS

Creative & Cultural Skills is an independent charity supporting the skills and training needs of the UK’s creative and cultural industries. We lead the campaign for fair access to the creative and cultural industries, and have created over 2,000 Creative Apprenticeships in the UK since 2008. We deliver through our Skills Academy, a growing network of employers and training providers who are committed to the provision of high quality, industry-relevant creative education and training, apprenticeships and careers advice. We are licensed

as a Sector Skills Council by the UK Commission for Employment and Skills. For further information, please visit www.ccskills.org.uk.

January 2013

Written evidence submitted by Creative Skillset

INTRODUCTION

1. Creative Skillset commends the Committee's Inquiry into the support for the Creative Economy, and welcomes the opportunity to respond. We would be happy to support the Committee with any further information it might require including perspectives from our board members (see appendix 1 for Board membership and our chairs of the film, TV and computer games industry skills councils).

ABOUT CREATIVE SKILLSET

2. Creative Skillset is the Creative Industries' skills partnership. We were established to help the UK Creative Industries to be world-beating by leading the sector's skills and talent drive. Owned and invested in by employers, senior representatives across every part of the sector lead our work from Board level through to the development of individual strategies, products, and services. We work in partnership with senior employment and stakeholder interests from across the Creative Industries including large and small employers, SMEs, trade associations and unions.

3. The leading producer of intelligence and research on employment and skills in the Creative Industries, we provide insight and expert opinion on industry issues and trends and work with our employers to develop and implement skills strategies with allied investment vehicles.

4. We are active members of the Creative Industries Council (CIC) which plays an important role in addressing cross-sectoral concerns and in bringing together industry leaders with government. The CIC recognised the skills as one of the three key barriers to growth and tasked Dinah Caine, CEO of Creative Skillset, to lead the work to develop industry led approaches to address skills and talent issues. (More information on this work can be found at <http://cicskills.creativeskillset.org/>)

5. Creative Skillset's remit includes the following industries relevant to the Committee's inquiry: film, TV and games. In addition we cover Advertising, Publishing, and Fashion and Textiles. Music and Design, the other creative industry sectors relevant to the Committee's inquiry, are the jurisdiction of the Creative and Cultural Skills Sector Skills Council.

OVERVIEW

6. The creative industries are rightly at the centre of the country's growth agenda accounting for 5.1% of the UK's total employment and forming around 6.2% of the country's GVA.

7. The Committee's Inquiry on Support for the Creative Economy asks a series of pertinent questions on how government policy can support and strengthen the creative sector. We would like to see existing efforts on the part of industry and government bolstered by a fully joined up skills policy, one that nests skills at the heart of industrial policy.

8. Skills are an essential driver of economic success and productivity. In order to maximise the potential of the sector, barriers to skills and talent development need to be addressed. Many of these are the consequence of the distinctive structure of the sector: where SMEs, start-ups, micro-businesses, freelancers, and project working dominate (84% of creative media firms employ fewer than 10 people) and fragmented recruitment and training practices and narrow entry routes are typical.

9. A great deal of work is already being done by the few large companies in the industries, at a sectoral level and at a cross-sectoral level by the CIC which addresses issues that are common to all sectors in the industry. But the fruits of current plans will only be fully realised when there is greater coherence to skills policy: when there is better alignment in departmental objectives, reduction in overlap, and a coherent investment and funding environment.

10. We agree with the Committee that the Olympics provided a great opportunity to showcase the Creative Industries at their best. We believe that a fitting legacy would be to keep on investing in the talent base and skills of these industries in the same way we are rightly investing in our world-beating elite athletes.

11. Our response to the Committee's inquiry therefore offers a snapshot of the substantial work that is already in train, but a sober reflection on the gaps and barriers that will need to be overcome if the creative industries are to continue to be world beating.

12. We look at the opportunities in terms of a strong skills base and the value of clusters, before providing an analysis of barriers, particularly around the alignment of government machinery and maximising investment.

OPPORTUNITIES

A strong skills base

13. The CIC has proved an important forum for the industry and government to collectively address barriers to growth that affect the creative industries. Identifying skills as one of the three blockages to growth, the CIC tasked Creative Skillset, as the appropriate industry body, with chairing the group to bring forward solutions. This we did in a report in January 2012 (which can be found at <http://cicskills.creativeskillset.org/the-report>).

14. In the report, we identified eight challenges that need to be addressed in order to unlock growth:

- Industry ownership of investment in skills.
- Leadership and management skills.
- Building the creative generation.
- Supporting talent for growth.
- Fusion: the new skills imperative.
- Building the market for high-quality provision.
- Producing and sharing the intelligence we need.
- Increasing flexibility and reducing bureaucracy, joining up investment and clarifying roles.

15. We are now leading on the development of solutions and their implementation, and our recommendations to industry and government cover five broad areas.

- Continuing professional development and nurturing the business leaders of the future.
- Inspiring the next generation of creative talent and equipping them with the right skills and information.
- Increasing and enriching pathways, so that talent from all backgrounds can enter and prosper in the Creative Industries.
- Bringing information to market: co-ordination to meet knowledge gaps and making robust data and intelligence available for all.
- Reducing the bureaucratic burden, joining up investment and clarifying roles.

16. It is worth noting that these recommendations are concerned with the common issues and actions across the sector that benefit all parts of these industries and the bids that we are submitting to Government for co-investment reflect that.

17. The eight challenges listed below are also reflected, to varying degrees, in the sectors of the Committee's inquiry. They are being addressed in our work with industry leaders in each sector and detailed skills development plans and allied investment vehicles are in place or being developed for film, TV, and animation, with work underway for gaming. Sector strategies for Film (A Bigger Future 2), TV Content and recommendations for Computer Games¹⁰⁹ (Next Gen Skills) are included in the appendix 2, and we are sourcing both industry and government investment to deliver these strategies.

18. Skills strategies need to be met with training that is fit for purpose and to this end Creative Skillset has developed a quality assurance scheme, known as the Tick scheme, which is being rolled out to ensure that all HE courses and apprenticeships meet the quality standards required by industry.

19. We are pleased to say that the scheme is held in high regard. Sir Tim Wilson, who led the recent review of business-university collaboration, noted the value of engaging business in developing an accreditation scheme and called the Tick scheme "an excellent example of successful business/HE partnership". The Creative Skillset Tick has also been singled out for commendation in Lord Heseltine's Report, No Stone Unturned, as a recommended model for kite-marking degree courses which have been endorsed by employers.

20. In review, there is a concerted approach to building a solid skills base—at a cross-sector level led by the CIC and at the individual sector level, led by the industry and its skills arms. What we don't have yet is an investment environment or machinery of government that fully supports this activity.

21. We would like to note here that the government's proposed tax reliefs on high-end TV, animation and computer games are extremely welcome. They will stimulate a major expansion of production activity that will, in turn, generate skilled employment, contributing to growth in UK GDP. The opportunities are substantial and we are in a strong position to capitalise on their impact.

22. But there remain some large challenges and we think the proposed tax reliefs should act as a spur for both industry and government action on skills. The reality is a history of lack of concerted action and investment coming face to face with a rapidly changing sector with a real potential for growth. The result is that some key areas in the creative industries are under-skilled and will not be able to capitalise on their opportunities in the global marketplace unless action is taken.

¹⁰⁹ We are a partner to the Next Gen Skills Coalition Campaign and with our Computer Games Skills Council we are focusing on routes in and upwards in the industry (new entrants and Continuous Professional Development).

23. It is positive to see that work is underway to address both cross-cutting and individual sectoral shortages, and to increase the investment needed to do so. The three sectors in our remit that the Committee Inquiry is concerned with—film, TV and games—are moving towards increasing investment and closer action.

24. We have submitted detailed analysis of skills needs for each sector, ranging through crafts, leadership, cutting edge-technologies and enterprise in our response to the HM Treasury Consultation on Creative Sector Tax Reliefs (see appendix 3).

25. However for the value of this effort to be maximised, an equally joined up framework for public funding is needed. Current problems with investment flows and a lack of alignment in government reduce the impact of existing funding and act as a disincentive to the industry, reducing investment confidence. This topic is further covered in the section on Barriers.

SUPPORTING CLUSTERS

26. The creative industries have often developed in clusters, from the historic post-production centre in London's Soho to the new MediaCityUK cluster in Salford, and have found many benefits in doing so.

27. The benefits of clusters include the opportunity to share training and to develop collective approaches in particular areas such as Apprenticeships and high-level business and enterprise skills.

28. Clusters enable employers, especially small ones—which are the overwhelming majority in the creative industries—to leverage improved 'buying power' through economies of scale. They also provide opportunities to bid for public funding to invest in skills.

29. Clusters work for the creative industries, but to maximise their value a joined up skills approach needs to follow. Industry benefits of co-location can be undermined by having to deal with a range of training bodies and agencies all of which will have different contact points, criteria and forms.

30. This "skills labyrinth" is an unhelpful drain on a company's resource and can place a particularly heavy burden on the smaller players in our industry. These small organisations—powerhouses of the creative industries as well as the economy as a whole—are not well served by existing structures.

31. One part of the solution is to develop a closer working relationship between ourselves and LEPs. Government should incentivise this by expecting, as part of their investment, to see partnership working between Creative Skillset at the LEP. This is not currently happening, causing potential for confusion with employers approached by different sources at the same time for similar reasons. It leads to overlap and unnecessary competition in bidding for public funds.

32. MediaCityUK, a significant and established creative industries cluster in the UK, offers an example of how we can create proactive and ambitious skills support to a cluster. Creative Skillset has brought employers and the supply chain together to examine skills gaps, and to develop and implement a skills strategy capitalising on joined-up action and bidding opportunities. A new University Technical College (from 2013) has been formed and the University of Salford Creative Skillset Media Academy is a key partner in the supply of training that will provide a career progression programme from school upwards and which will build the mix of creative and enterprise skills required by this cluster and its wider supply chain. We will produce one map that can be easily followed and understood by any company in the sector, no matter how large or small. We are also working with west of England (Bristol and Bath) and London to develop similar approaches.

33. Of course, the vast majority of firms are not in clusters. We are currently awaiting a decision on a bid to the Growth and Innovation Fund 2 for "Creative Catalyst", a programme that, following the recommendations of the CIC Creative Skillset Skills Group Report, combines some of the benefits of working closely with industry clusters with an online hub which connects and delivers a network of information, advice, guidance, training, tools, resources and services.

BARRIERS

34. Industry works well with government both at an individual departmental level and through the CIC. We welcome the fact that the CIC, in bringing the departments together with industry, creates the potential for aligning strategies and practice. However, we feel more needs to be done to make the desired joined-up approach become reality. We think there is a real opportunity with the CIC. If it were given the vision and resources to work across government, it could play a key role in building the greater alignment that the industry needs.

35. Our focus for this paper is on the context in England, where the government departments we need to work closely with are DCMS, BIS and DfE, along with the CIC for a cross-sectoral approach. It is perhaps worth noting here that our remit covers each of the nations and regions in the UK, and we believe there is interesting work being done by the Devolved Administrations to join up support for the Creative Economy that would be worth examining in the England context. This includes the Scottish Government/Scottish Funding Council's decision to inject around £5.8 million over five years into Creative Skillset's Screen and Media Academies in Scotland, designed to boost the country's position as a world-leader in creative industries. Another example would be the inclusion of creative subjects in the Welsh Baccalaureate.

NESTING SKILLS POLICY WITHIN INDUSTRIAL POLICY

36. The government's approach to a strategic industrial policy is to be applauded. However we do not feel it will be able to fire on all cylinders until skills—a key plank of growth—is fully nested within industrial policy. The reality is that skills policy is still fragmented, the bodies managing it are not aligned with one another, and investment is scattered between bodies and frameworks.

MAXIMISING THE VALUE OF SKILLS FUNDING AND INVESTMENT

37. We welcome BIS's move towards recognising employer-led training and we would like to see this become the norm. Currently the vast majority of BIS's budget for skills goes to providers; we would like to see more of this going to employers.

38. The current environment is neither joined up nor strategic. Fragmented decision-making and overlap between government bodies creates a dissipation of investment, and a disincentive to further investment from industry. As well as placing a burden on companies it is hindering progress to address skills gaps. This ad hoc approach is far from the ideal of an active industrial policy.

39. Using an example from our own experience, in the previous 20 months, Creative Skillset has undertaken 12 separate bids for skills investment, including the Employer Investment Fund (rounds 1,2,3), the Growth Innovation Fund, Employer Ownership Skills Pilot, the skills Funding Agency for Higher Level Apprenticeship Development, and the National Apprenticeship Service for Employer engagement on Apprenticeships. Although we've achieved successful outcomes, the resource expended to respond to these bids—each with different contact points, criteria, and so on, but with the same people sitting on the agencies and committees—has been high and would have been better deployed elsewhere in support of industry objectives, rather than chasing government processes.

40. Given that skills requirements for the industry are set out by employers and their skills arms, we ask whether it makes sense that the £2.6 billion available to support skills is divided into relatively small amounts, a fraction of which, £350 million, we can bid for (the majority going to colleges).

41. The adoption of an intelligent investment model, which is strategic, joined up, with one-pot funding, would make a significant contribution to efforts to build skills. When we have a situation where funding flows go to employers and their skills arms rather than to providers, we can expect a freeing up of investment giving employers the confidence to invest further in skills.

42. This lack of an industry focus can be seen at many levels, for example in the models and assumptions used by BIS where current skills policy assumes permanent employment contracts which are a mismatch for this industry, being largely project-based and freelance. As a result there has been problems in apprenticeships where entrants needing to move from project to project across the life of the course.

43. Meanwhile we believe the DCMS initiative on the Creative and Digital Funders Group is a welcome move to bring together agencies in receipt of public funding in order to achieve greater clarity and simplicity for employers and to make better use of investment. It is a very welcome initiative and would be further enhanced by a review of the roles and alignment of investment between these bodies.

44. In relation to the DfE we have significant issues relating to the school curriculum. We are concerned that the absence of creative subjects in the Ebacc will lead to a sidelining of these subjects in schools. The danger is that the knock on effect is a major reduction in entrants into these industries within a generation. It is a sober example of the lack of alignment in government policy towards a crucial growth industry. We have briefed the government on our specific recommendations on the school curriculum.

November 2012

APPENDIX 1

CREATIVE SKILLSET BOARD

The Creative Skillset Board of Directors is made up of leading industry figures who guide every aspect of Creative Skillset's work. The board is chaired by Stewart Till, CEO of Sonar Entertainment.

Stewart Till, CBE
Chair of Creative Skillset
CEO, Sonar Entertainment

MT Rainey
Vice-Chair of Creative Skillset
Founder, Rainey Kelly Campbell Roalfe and latterly Founder, The Horseshmouth

David Abraham
Chief Executive, Channel 4

Eileen Gallagher, OBE
Chief Executive, Shed Media Productions

Andrew Harrison
Chief Executive Officer, RadioCentre

Professor Stephen Heppell
Founder, Heppell.net

Betty Jackson, CBE
Founder of Betty Jackson Ltd

Stephen Page
CEO, Faber and Faber

Christine Payne
General Secretary, Equity (on behalf of the Federation of Entertainment Unions)

Tim Richards
Founder and Chief Executive Officer, Vue Entertainment

Peter Salmon
Director, BBC North

Stephen Woodford
Chairman and CEO, DDB UK

Chair of the Creative Skillset Film Skills Council: Iain Smith, Producer

Chair of the Creative Skillset TV Content Strategy Group: Anne Morrison, Director BBC Academy

Chair of the Creative Skillset Computer Games Council: Ian Livingstone, Life President, Eidos plc

APPENDIX 2

SECTOR SPECIFIC STRATEGIES

FILM: A BIGGER FUTURE 2: SKILLS. JOBS. ACTION. www.ABiggerFuture2.co.uk

A Bigger Future 2 is Creative Skillset's training and skills strategy for the UK film industry, funded in part by the industry itself through the Skills Investment Fund (SIF), as well as by the National Lottery through the British Film Council.

Building on six years of success with the original A Bigger Future strategy (http://www.creativeskillset.org/film/bigger_future/background/), A Bigger Future 2 focuses on addressing the vital skills and training needs of the industry to deliver maximum economic return: safeguarding today's jobs, creating tomorrow's and maintaining the UK's position at the forefront of the international film industry.

"As an industry we must continue to collectively invest in our own future."

Iain Smith, Producer and Chair of the Creative Skillset Film Skills Council

THE PRIORITIES

Through consultation with a wide range of organisations, as well as direct input from industry professionals, five key funding priorities have been identified to deliver the greatest impact on the future success and sustainability of the UK film industry:

Retraining in New Technologies

Creative Skillset will invest in training for the existing workforce in new industry practices, specifically in areas such as 3D, HD, VFX and digital technologies to match the changing demands of employers.

Supporting Trainees, Apprentices and New Entrants

A new Creative Skillset Craft and Technical Academy funded through the Skills Investment Fund (SIF) will be a centre of excellence in craft and technical training, supporting new industry trainees to enter areas of the film industry most in need.

Developing Creative Talent

Creative Skillset nurtures talent by investing in the training of the most promising directors, writers and producers. We do this through our Creative Skillset Film Academy Network and Accredited courses, by funding short courses and mentoring, and partnering with National and Regional Agencies to respond to local needs and identify a diverse pool of talent.

Enhancing Business Skills

Through training bursaries in skills specific to production, distribution and exhibition, as well as general finance and management skills, Creative Skillset promotes business development and business success.

Improving Health and Safety Awareness and Expertise

Ensuring the safety of the workforce and the financial attractiveness of the UK to production investment, Creative Skillset funds health and safety training that meets the National Occupational Standards and that is recognised in the joint industry Health and Safety Framework.

TV: SECTOR STRATEGY (SUMMARY & WORK IN PROGRESS)

*“UK TV Industry investing and working collectively to identify and develop the best creative talent”
(Creative Skillset TV Content Strategy Group)*

Key business drivers and opportunities facing the Industry

- Rise of technology and direct to audience channels.
- Globalisation of TV marketplace.
- Identifying and engaging with new platforms & audiences, while protecting IP.
- Re-invigorated production hubs in Nations & Regions.

Top five Priorities for Cross Industry Action

1. *Diversity*: changing the profile of new entrants and the workforce:
 - Communicating the “bottom line” benefits of a diverse workforce to employers.
 - New models of Apprenticeship and paid internships.
 - Revised schools’ curriculum to develop skills valued by industry.
 - Signposting to Accredited Creative Skillset Ticked undergraduate and short courses.
 - Talent Showcase events opens direct, personal access to employers.
 - Targeted initiatives around diversity.
2. *Future Skills*: developing new “fusion” skills and multi-platform skills:
 - Embed concept of “Fusion skills” in the curriculum.
 - Work with HE to support Innovation and new developments and wider HE/Industry initiatives around future skills.
 - Multiplatform drive to be an underpinning skills priority in all training and priority for collective investment.
 - Inspire and improve understanding of Fusion amongst Leaders.
 - Promote new approaches to working in cross-functional creative/technical teams within and across companies.
3. *Freelance Skills*: tackling immediate & medium terms skills gaps and shortages:
 - Allocate TV Skills Fund Bursaries against skills gaps.
 - More training day events for freelancers like Fast Train (with BBC Academy).
 - Roll out Accredited Creative Skillset Ticked Short course provision to identify quality provision.
 - Increase availability of online training—flexible delivery of when and where.
 - Better communication of opportunities available.
4. *Skills in the Nations and Regions*: ensuring a skills and talent base across the UK:
 - Working with the Devolved Governments/Agencies to fund local solutions for local issues.
 - Online learning increases accessibility to training to those Out-of-London.
 - Co-ordination and Collaboration in training and talent development—working with clusters and group of employers.
 - Develop high level creative and executive producer talent—reverse talent drain.
 - Aggregation of requirement to provision (bringing benefits of economies of scale).
5. *Supporting Growth*: developing Managers and Business Leaders:
 - Mentoring and Virtual Boards.
 - Contextualised Business development programmes.
 - Contextualised Management & Leadership (M&L) programmes.
 - Communicate the value of M&L training, and providing the appropriate solution.

COMPUTER GAMES: SECTOR STRATEGY

We are a partner to the Next Gen Skills Coalition Campaign and with our Computer Games Skills Council we are focusing on routes in and upwards in the industry (new entrants and Continuous Professional Development).

Recommendations of NEXT GEN REPORT

http://www.nesta.org.uk/publications/assets/features/next_gen

Schools

1. Bring computer science into the National Curriculum as an essential discipline.
2. Sign up the best teachers to teach computer science through Initial Teacher Training bursaries and 'Golden Hellos'.
3. Use video games and visual effects at school to draw greater numbers of young people into STEM and computer science.
4. Set up a one-stop online repository and community site for teachers for video games and visual effects educational resources.
5. Include art and computer science in the English Baccalaureate.
6. Encourage art-tech crossover and work-based learning through school clubs.
7. Build a network of STEMNET and Teach First video games and visual effects Ambassadors.
8. Introduce a new National Video Games Development and Animation Schools Competition.
9. Design and implement a Next Generation of Video Games and Visual Effects Talent Careers Strategy.
10. Provide online careers-related resources for teachers, careers advisers and young people.

Universities, Colleges and Vocational education

11. Develop kitemarking schemes, building on Skillset accreditation, which allow the best specialist HE courses to differentiate themselves from less industry-relevant courses.
12. Higher Education Funding Council for England should include industry-accredited specialist courses in their list of 'Strategically Important and Vulnerable' subjects that merit targeted funding. Industry commits to these courses through industrial scholarships and support for CPD for lecturers.
13. Raise awareness of the video games and visual effects industries in the eyes of STEM and arts graduates.
14. Give prospective university applicants access to meaningful information about employment prospects for different courses.
15. Develop a template for introducing workplace simulation into industry-accredited video games and visual effects courses, based on Abertay University's Dare to be Digital competition.
16. Leading universities and Further Education colleges sponsor a high-tech creative industries University Technical College (UTC), with clear progression routes into Higher.

Education

17. Kitemark Further Education courses that offer students the best foundation in skills and knowledge to progress into Higher Education.

Training and continuous professional development

18. Skillset Creative Media Academies and e-skills UK's National Skills Academy for IT to work with industry to develop specialist CPD training for video games and visual effects industries.
19. Support better research-oriented university-industry collaborations in video games and visual effects.

APPENDIX 3

CREATIVE SKILLSET RESPONSE TO HM TREASURY CONSULTATION ON CREATIVE SECTOR TAX RELIEFS

1. INTRODUCTION

1.1 Creative Skillset is the licensed Sector Skills Council for the Entertainment Media, Advertising, Publishing and Fashion and Textiles. We help the UK Creative Industries to be world-beating by leading the sector's skills and talent drive. We are an industry-owned organisation that actively involves trade unions, professional bodies and other stakeholders to address skills issues in our industries. We are the leading producer of Labour Market Information on the Creative Industries, and use this intelligence, as well as close consultation with our industries, to inform all the work we do. www.creativeskillset.org

1.2 Creative Skillset welcomes the opportunity to respond to the to the consultation on the Creative Sector Tax Reliefs published by HM Treasury (HMT).¹¹⁰

1.3 Creative Skillset strongly supports the introduction of the proposed tax reliefs for high-end television, animation and games. We believe that they will help incentivise significant new inward investment, boost domestic production and help increase exports. This will benefit the UK economy by increasing GDP and will also help to stimulate creativity, innovation and the further development of a flourishing culture across these sectors. The new tax reliefs for film introduced in 2006 have been extremely successful in delivering a range of cultural and industrial benefits and in addressing the market failures which affect film. The market failures which affect film include those which affect skills. Similar failures for skills affect the three creative sectors which are the subject of these tax reliefs. These are described at Annex One.

1.4 The tax reliefs for these three creative sectors will stimulate a major expansion of production activity across all three sectors which will generate skilled employment across all three sectors, thereby contributing to growth in UK GDP. The reliefs will thus assist the competitiveness of the UK economy, as well as contributing to a flourishing culture of high-end television production, animation and games.

1.5 Many of these skills will be in cutting-edge digital technologies, delivering high added value to UK GDP and stimulating the growth of our digital economy. They are also highly transferable skills which could potentially deliver spillover benefits to other sectors such as engineering and manufacturing.

1.6 The opportunities are substantial and we are in a strong position to capitalise on their impact however we need to attend to some key skills issues if the benefits are to be maximised.

2. SKILLS AND TALENT DEVELOPMENT

This response to the HMT consultation focuses only on the issue of skills and talent development as that is our specific sphere of expertise.

2.1 The relevant section of the consultation is Section 6.13:

“The Government believes that investment in UK skills and talent development is a critical element to sustaining UK production. In developing these measures, the Government would like to consider how the benefits from the tax reliefs can be utilised to invest in UK skills and talent development. *Question 44: What systems and measures could be developed or enhanced to ensure that the animation, high-end television, and video game industries have a world class skills and talent base capable of supporting the growth that the new measures will be designed to support?*”¹¹¹

2.2 Many highly skilled people work in the UK’s creative industries and the strength of this varied pool of talent helps to ensure that these sectors punch well above their weight in contributing to the growth of the economy. High-end television production, animation and games have all relied on a supply of highly skilled people. The proposed tax reliefs will help these three sectors to grow significantly, building on their historic strengths.

2.3 However, there are significant concerns that, in specific areas of all three sectors, that the size and strength of the existing skills and talent base is insufficient to cope with the significant amount of additional production activity which is likely to be incentivised by the tax reliefs for these three sectors. Alongside that, there is a risk that there would not be a sufficient supply of skilled people to service the additional activity, thereby leading to productions migrating elsewhere and undermining the core drivers of the tax reliefs—namely to retain production in the UK, to attract production here and to increase exports.

2.4 Examples include:

High-end television production: There are issues in craft and technical grades and a shortage of line producers. According to the Production Guild, there may be gaps especially in lighting and camera, and there is likely to be a need for Continuous Professional Development (CPD) to allow people working in certain production grades (eg production co-ordinators and assistant accountants) to move into management positions on productions. The Guild also says that at present a high level of VFX co-ordinators, supervisors and producers are being brought in to UK from US due to lack of skills and knowledge in resident labour force. Directors UK, which represents directors across the screen industries, has provided evidence to Creative Skillset that there will be a need to develop skills to ensure that a continuing supply of world-class directors is available to direct the increased numbers of productions. This will need to include Continuous Professional Development to take account of new technological developments—for example in Computer Generated Imagery (CGI). Concerns about pressure on the skills base were strongly voiced at a recent Department for Culture, Media and Sport (DCMS) seminar on TV content, which formed part of a series around the Communications Review.¹¹²

Animation: There will be particular pressures in CGI (which the sector already relies upon heavily and which will become even more important in the future) because the tax breaks for computer

¹¹⁰ www.hm-treasury.gov.uk/d/consult_creative_sector_tax_reliefs_180612.pdf

¹¹¹ *Ibid.*, p.31

¹¹² <http://dcmscommsreview.readandcomment.com/communications-review-seminars-video-footage/>

games will create further demand. Other pressure points include higher end animation, short-form animation and rendering and demand created by the potential return of stop-go. There is real and on-going concern about the level and quality of graduates emerging from relevant courses in the UK. Through the Creative Skillset Accreditation and “tick” process, progress has been made in identifying courses that are working in partnership with industry, but more needs to be done by the sector to help ensure that they better meet employers’ needs.

As a recent Animation UK report indicated the industry also supports musicians, set designers, puppeteers, musicians and camera people and there are likely to be skills needs in relation to all these jobs.¹¹³

Games: Even before the announcement of the reliefs it was clear there were significant skills gaps in the sector. According to the landmark Next Gen. report published in 2011, “skills shortages and problems with the education system...[already] rank as one of the main barriers to making video games in the UK.”¹¹⁴ The authors of the report commissioned research that revealed that the skills that are hardest to find in people straight out of education are management skills, expertise with specific platforms and technical skills for production such as maths or physics.¹¹⁵

2.5 Unless comprehensive skills strategies are put in place for high-end television production, animation and games to address these areas of pressure, the result could be that the costs of production personnel with the required skills in these areas rise significantly. Because many people work between feature film, television and animation in particular there is also a danger that the film sector could be affected by this inflation.

2.6 As a result of discussions with the TV Coalition, PACT and Animation UK, Creative Skillset has secured broad agreement that there is a need to put in place comprehensive investment strategies skills in high-end television and animation. Discussions are taking place with computer games. Unless such strategies are put in place, the result could be that the costs of production personnel rise significantly. The strategies will need to reflect the fact that most people working in high-end television and animation are freelance and employed on short-term contracts by small and medium-sized enterprises (SMEs). In the games sector, most people are employed on permanent contracts and the strategy for games will also need to reflect this. A survey for the authors of the Next Gen report showed that small companies dominate the sector—with just under three quarters of the sample having fewer than 25 permanent employees and only 8% having more than one hundred, although relatively few employers account for a significant proportion of the workforce with the four largest companies employing a third of the overall workforce in the sample.¹¹⁶

2.7 Creative Skillset has offered to work with all three sectors to develop these costed, industry-led and evidence-based investment strategies for skills development. In the period from now until the end of 2012, Creative Skillset plans to work with the TV Coalition for high-end television production, with Pact and Animation UK for animation, and with the Next Gen Coalition and UKIE for games to flesh out the strategies.

2.8 By April 2013 which is the planned date for the introduction of the reliefs, (subject to state aid approval), there will need to be agreement on the mechanisms necessary for delivering the industry investment, in order to demonstrate to Government how the benefits from the tax reliefs can be utilised to invest in UK skills and talent development.

2.9 For high-end television and animation, the strategies could be funded, in part, by a levy modelled on the Skills Investment Fund (Film), a voluntary training levy on films produced in the UK, which has been very successful in supporting training for the next generation of film talent. Details of the way in which the SIF works are set out in Annex Two. This levy has had a 70% compliance rate and raises approximately £700,000 annually from a UK spend on feature film of around £1 billion annually.

2.10 This levy could be collected by Creative Skillset, in its role as the Sector Skills Council, and it essential that all investment collected is overseen and directed by industry-led groups in high-end television production and animation respectively, to areas of need which they had identified through the development of the strategies.

2.11 For the games sector, the Next Gen report provided an analysis and action plan which is currently being implemented. Significant progress has been made in certain key areas such as computer science in the curriculum. However, investment on progressing the recommendations has, to date, largely been made by Government rather than industry. The introduction of the reliefs in the sector will enable the industry to focus more clearly on the actions and investments it will make to contribute to delivering the skills needs identified by Next Gen such as the support and benefits it can bring to industry-accredited HE courses and to Continuing Professional Development. The strategy should also help start-up developers and publishers to grow and to develop new businesses models.

2.12 Creative Skillset is an active member of the Next Gen Coalition and we recommend that through the Coalition a more detailed section of recommendations should be developed which prioritises a number of key actions. These actions should help where the industry can demonstrate what action and investment it is making

¹¹³ www.animationuk.org/files/report-pdfs/docs/4I6KD5YW2J.pdf, Perspective.

¹¹⁴ Next Gen. Transforming the UK into the world’s leading talent hub for the video games and visual effects industries. NESTA, February 2011, p.22

¹¹⁵ Ibid., p.50

¹¹⁶ Next Gen. p.22.

to help deliver Next Gen's vision and ambition. We understand that the trade association TIGA is not yet a signatory to the Next Gen. Coalition. We would recommend that in order to address these critical skills issues, that cut across trade association boundaries, there is a need for all parts of the industry to work together in partnership and to address how companies who will be enjoying financial benefits through the tax breaks are going to demonstrate their commitment to investing in their future and that of the sector.

2.13 What is required is an investment mechanism that is suited to the dynamics of the games sector, which is proportionate to budgets and therefore to the financial benefits received through the tax reliefs. Such a mechanism should be designed so that those who have and have not contributed to it can be easily identified. We believe there is merit in exploring whether a levy mechanism is a route to achieving that.

2.14 In addition to industry investment, we will also need to look at other partnership opportunities for investment. In the case of high-end television production and games, there is no complementary support from the National Lottery for skills development, although there is currently some support for animation. There is also public investment to support apprenticeships.

2.15 Creative Skillset would plan to keep Ministers and the Unit responsible for certifying these new reliefs aware of which companies have made a skills investment contribution and which have not, with a list published every six months.

2.16 The strategies will also need to help individuals to plan their own "user journeys" in relation to the development of their own skills by providing a map of ladders of progression through which they can develop their careers. This will need to include reference to the role of guidance and mentoring in helping individuals to realise the full range of their talents and creativity. The strategies will need to take account of the continuing impact of digital technologies on the content production industries and the implications this has for skills needs.

2.17 Creative Skillset would welcome the opportunity to respond to questions on any issues raised in this paper and looks forward to discussing and further developing the proposals.

Annex One

THE GENERAL CASE FOR INTERVENTION AROUND SKILLS

Creative Skillset believes that there is a clear need for public interventions in the form of systems and measures to support training for the three creative sectors, based on market failures and the public benefits which are generated by such interventions.

A report published in July 2012, *Understanding Training Levies*, by the UK Commission for Employment and Skills (UKCES) identified a number of specific and market failures which justify public intervention around training.¹¹⁷

These market failures were identified as follows:

- (1) *Poaching externalities.* Since in practice skills usually have general, occupational, and firm-specific elements, much training is in transferable skills which are of use to several firms. In these circumstances, some firms may seek to avoid the costs of training and try to secure already trained workers from other firms. There is thus a threat to the training firm, and this will dissuade such firms from future training. This is essentially the poaching or free-rider problem.
- (2) *Informational imperfections.* Firms and individuals may have insufficient information about the likely returns to training. Thus an individual may not know whether his/her training will be seen through to the end by the employer—the employer may lay off trainees because of business conditions or may go bankrupt. Similarly a firm may underestimate the benefits and overestimate the costs of training. These are problems associated with imperfect information about returns. Better information on costs and returns and on the external availability of labour may result in more training.
- (3) *Informational asymmetries.* Firms and individuals may wish to invest in training, but lack the necessary funds. In this case they should be able to approach lenders such as a bank to borrow funds. However, the potential lender may well lack the necessary information to calculate the payoff of the training and therefore will be hesitant to lend. This constitutes a credit constraint on training."

A 2012 report by the Organisation for Economic Co-Operation and Development (OECD), identifies the externalities which may be generated by public intervention:

"Training subsidies firms are usually motivated by the presumed existence of externalities, ie benefits accruing to firms other than the investing one (Johanson, 2009, p. 33). Provided that such external value of training activities does exist, it must be assumed that there is under-investment in enterprise training. Subsidies are intended to mitigate this problem by leveraging additional funds from enterprises and increasing the volume of training provided. Further, subsidies can address specific target groups, thus providing a means to attain a more equitable distribution of enterprise training among:

¹¹⁷ www.ukces.org.uk/assets/ukces/docs/publications/evidence-report-47-understanding-levies.pdf

- (a) industry sectors;
- (b) small, medium and large enterprises, as well as; and
- (c) male and female employees or workers with different skill levels.

In many cases, subsidies focus on forms of training that are considered as inducing a transferable qualification, for instance during apprenticeships.”¹¹⁸

Creative Skillset believes that these externalities and market failures exist in the case of the three creative sectors which are the target of the tax reliefs and that they provide the basis for intervention.

Annex Two

THE SKILLS INVESTMENT FUND (SIF) A BRIEFING NOTE

1. BACKGROUND

(a) In 1998 the Film Policy Review Group, chaired by Chris Smith, published its report for Government entitled *A Bigger Picture*.¹¹⁹ The report identified the need to address particular skills shortages if the British film industry was to remain competitive. With 89% of the film production workforce being freelance, the Review highlighted the “need to ensure an adequate supply of appropriately skilled people” requiring “a sustained increase in investment in training.”¹²⁰

(b) To help generate such increased funding, the Review proposed the introduction of a new Skills Investment Fund (SIF).¹²¹ The Fund would be supported through a voluntary levy on productions with contributions calculated against budget.

(c) As a consequence of this recommendation, the Department for Culture, Media and Sport (DCMS) and Creative Skillset, worked with a group of industry stakeholders including the Motion Picture Association (MPA), PACT and BECTU to develop a costed model. The SIF was established, on a voluntary basis, with the agreement of UK and overseas film producers. It subsequently became part of a larger strategy for film co-developed by the UK Film Council and Skillset which was launched as *A Bigger Future* in 2004 and then extended in 2009 As a *Bigger Future 2*, with an annual budget of £3.5 million.

“The industry absolutely must continue to invest in UK film skills and talent by paying the Skills Investment Fund. The SIF directly benefits productions here in the UK by providing talented, skilled and often subsidised crew, but more crucially, it allows the industry to remain competitive in the global marketplace and uphold the tradition of great British filmmaking talent.”—*John McVay, Chief Executive, PACT*

The Motion Picture Association and its members are proud and honoured to have been associated with Skillset’s endeavours to nurture the talents of so many over the years. Creativity needs all the courage and perseverance of those who care. That is what the Skills Investment Fund is all about. *Senator Chris Dodd, Chairman and CEO, MPA*

(d) In 2012, fourteen years after the publication of *A Bigger Picture*, Chris Smith, now Lord Smith of Finsbury, chaired the Film Policy Review, an independent report commissioned by DCMS which again underlined the crucial role of skills. The report stated that; “The development of skills and talent provides the backbone which underpins the success of the entire film sector in the UK; from production, sales, distribution, and exhibition to archive. The future success of the UK’s film industry and the vitality of its film culture depend on the ability to nurture new talent and skills.”¹²²

2. HOW IS THE SIF CALCULATED?

a. The SIF is calculated as a 0.5% contribution of the production budget up to a maximum of £39,500. Certain budget lines are excluded from the calculation; the completion bond; licensing fees for material in a pre-existing format (music, archive footage, story rights etc); financing costs (interest payments, financing fees, bank charges etc); business overheads not specifically incurred in the production of the film and the SIF contribution. Contributions are mandatory for those in receipt of certain forms of public funding (the National Lottery, support from BBC or Film 4, and investment from National Screen Agencies and some other public agencies including Creative England and Film London).

3. ESTABLISHING A MANDATORY SIF

(a) For many years the film production sector has wanted to explore options for making the SIF mandatory for all productions filming in the UK, and through an industry consultation agreed to formally pursue this. When the tax relief was introduced, industry was keen to explore the option of linking SIF payment with accessing the tax relief for film. However at the time this was not something that HM Treasury wanted to pursue. Instead, Creative Skillset has been working with officials at the Department for Business, Innovation

¹¹⁸ www.oecd-ilibrary.org/docserver/download/fulltext/5k97b083v1vb.pdf

¹¹⁹ <http://bigpictureresearch.typepad.com/files/a-bigger-picture.pdf>

¹²⁰ Ibid, p.4

¹²¹ Ibid, p.6

¹²² www.culture.gov.uk/images/publications/DCMS_film_policy_review_report-2012_update.pdf, p.67

and Skills (BIS) to amend the relevant Industry Training Board legislation and work towards introducing a mandatory SIF.

4. WHO ADMINISTERS THE SIF?

(a) Led by an industry advisory board, including representatives of those who contribute to the fund, chaired by the film producer Iain Smith (*The A-Team*, *Wanted*, *Children of Men*), Creative Skillset collects and invests the SIF on behalf of the film production sector.

5. HOW MUCH IS COLLECTED?

(a) Since the SIF was established in 1999 Creative Skillset has collected an average of £700,000 per annum, from UK film production spend of approximately £1 billion each year. In 2011, a contribution from Warner Bros. for the final chapter of the Harry Potter franchise took total SIF contributions since the inception of the levy to over £8 million.

6. HOW ARE THE FUNDS INVESTED?

(a) The SIF is one of the funding streams of A Bigger Future 2, Creative Skillset's UK film skills strategy. Alongside National Lottery funds via the BFI, SIF contributions are used to directly fund the training and development of the film production workforce.

(b) The money is invested primarily in craft and technical grades, supporting new entrants into areas of need such as construction and assistant production accountants, as well as training professionals in health and safety critical roles, while helping industry keep up to speed with the impact of technological advances on their job roles.

(c) SIF contributions are also used to fund a Trainee Placement Scheme. Productions that contribute to the SIF are able to access a database of highly skilled trainees, comprising graduates from some of the leading UK film schools and other skilled trainees, all of whom have less than 12 months professional experience. Creative Skillset heavily subsidises the salary of the trainee. The intention is to provide productions with the best trainees, while encouraging diversity in the industry by broadening the talent pool from which people are recruited.

"We are proud of our contribution to the Skills Investment Fund. It is reflective of our long term association with, and commitment to, the UK film industry and our belief in the creativity and talent of those working in it today, and those who will work in it tomorrow." *Josh Berger, President and Managing Director, Warner Bros. UK, Ireland and Spain*

"There is no easy way to find money from your film budget for something that isn't going on the screen but the Skills Investment Fund is the only way that the industry is going to be able to support itself in the long term and I wholeheartedly believe in the investment in skills for the future."

Andrew McDonald

Producer, The Last King of Scotland, Trainspotting

"We pay the SIF on our productions because we believe that funding training will reap long term rewards in terms of crew quality."

Rebecca O'Brien

Producer, The Angels' Share, The Wind that Shakes the Barley

"Before successfully gaining a place on the course I was working where I grew up in Sutton Coldfield in the West Midlands as an accounts assistant in various private practice accountancy firms studying towards the ACCA professional qualification.

Upon graduating from the scheme, I worked on 'The Kings Speech'. Following that, I had an incredible run of work for 2010, working for all but two weeks. At the beginning of January 2011, I started on a costume drama called Downton Abbey and I'm currently working on the third series after they asked me back.

The course opened up a world that I never imagined I would work in and now I'm here I can't imagine working in a different one.

We are all never sure of what our future holds, however, I do know that I have a solid foundation to develop further which is wholly and exclusively down to the Production Guild, Creative Skillset and the film industry for its investment in the scheme, so thank you very much!"

Matt Lawson, graduate of the Production Guild's Assistant Production Accountants Training Scheme (APATS)

Written evidence submitted by the Open Rights Group

The Open Rights Group¹²³ welcomes the opportunity to respond to the Committee's call for evidence. Our submission focuses on three of your areas of interest:

- (1) Barriers to growth in the creative industries—such as difficulties in accessing private finance—and the ways in which Government policy should address them. Whether lack of co-ordination between government departments inhibits this sector.
- (2) The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government's Response to it.
- (3) The impact of the failure, as yet, to implement the Digital Economy Act, which was intended to strengthen copyright enforcement. The impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament).

Our submission to this inquiry largely draws on:

- (1) Our response to the Government's copyright consultation, which closed in March this year;¹²⁴
- (2) Our submission to the Business Innovation and Skills (BIS) Committee inquiry, from the end of 2011;¹²⁵
- (3) Our submission to the All Party Parliamentary Intellectual Property Group (APPIPG) inquiry that ran in April earlier this year;¹²⁶
- (4) Our submissions to Ofcom in response to their consultations on the Digital Economy Act's Initial Obligations Code and Sharing of Costs Order.¹²⁷

SUMMARY OF KEY POINTS

1. The Government should ensure that work to reform copyright licensing continues, for example the recommendations set out across the reviews led by Richard Hooper CBE. The stimulation of legal markets is crucial, especially in the case of the film and television industries.

2. Improving access to cultural heritage held in libraries, museums and archives can act as a stimulus for the creative industries.

3. The Government should ensure the voices of creators are understood and listened to when policy is being developed. Too often trade associations are used as a proxy for their perspectives. Equally, the interests of consumers and other "users" of copyright need to be considered.

4. We broadly support the findings of the Hargreaves Review and the Government's response to it, believing the recommendations add up to a design manual that will help society reap cultural and economic rewards from new technology through greater creation and use of information, ideas and knowledge.

5. The proposed reforms, implemented carefully, should not result in a weakening of creators' positions or their levels of remuneration but will encourage more socially and economically useful activity.

6. We believe the Intellectual Property Office (IPO) has run an open policy making process that has given stakeholders a number of opportunities to submit evidence to support their position. This contrasts with the policy making by Department for Culture Media and Sport (DCMS), who have made no effort to understand the evidence of the issues and have failed to run an inclusive policy process.

7. The Government should understand and learn from the causes of the delays to the Digital Economy Act—namely, an overly hurried and insufficiently democratic legislative process for a policy that was not based in robust evidence.

8. Strong political leadership is required to ensure that IP policy making is truly inclusive, transparent and is driven by evidence.

1. *Barriers to the growth of the creative industries*

On the issue of copyright and growth, we broadly support the findings of the review carried out by Richard Hooper CBE and Dr Ross Lynch into licensing and copyright. In their diagnostic report, they identified seven key issues that should be addressed in order to improve the licensing of copyright material. Those included reducing the complexity in licensing markets and rectifying repertoire imbalance between physical and digital markets.

¹²³ www.openrightsgroup.org

¹²⁴ Available at: www.openrightsgroup.org/ourwork/reports/submission-to-the-ipos-copyright-consultation

¹²⁵ www.publications.parliament.uk/pa/cm201213/cmselect/cmbis/367/367we07.htm

¹²⁶ www.openrightsgroup.org/ourwork/reports/submission-to-the-all-party-parliamentary-ip-group-inquiry

¹²⁷ Available here: www.openrightsgroup.org/ourwork/reports/response-to-initial-obligations-code-consultation and here: www.openrightsgroup.org/ourwork/reports/response-to-ofcoms-consultation-on-the-digital-economy-act-sharing-of-costs-order

We also believe there is a need for further study of the position of creators in the digital age. This should include considerations of their strengths, weaknesses and vulnerabilities in cultural markets, and should help to disaggregate the interests of creators from intermediaries who are sometimes licensees or custodians of their rights, but more often than not have become proxies for creators' voices in policy making forums. We would advocate study of how creators' hand can be strengthened in the digital age in ways that take full advantage of the connectivity, transparency and accountability that technology offers.

For instance, we believe it is critical that collecting societies adhere to minimum standards, in order to ensure the markets in which they operate are fair, that they build greater trusting relationships with their users and to enable the development of other proposals for licensing reform. As an example, the governance of collecting societies is critical to the enabling of extended collective licensing schemes and orphan works solutions.

Technology could also facilitate a market for rights based on an improved and strengthened position for creators that reduces a reliance on collectivised rights management, rather than enhancing it. It is possible that technical and administrative services could emerge to help performers manage their relationship with the market, instead of being "passengers" in intermediaries' businesses.

For our comments on the co-ordination and nature of IP policy making, please see our concluding notes below on the role of government in IP policy making.

Access to cultural heritage as a stimulus for the creative industries

We suggest the Committee consider the current efforts to broaden access to cultural archives held by libraries, museums and archives. We believe that access to this cultural heritage and stores of material can act as a stimulus, whether directly through reuse or indirectly through partnerships or encouraging the development of creative skills—something recognised, for example, in the 2010 report "Museums Deliver" from the National Museum Director's Conference.¹²⁸ This is something also recognised, in the revision of the EU PSI Directive. We note, for example, the text from a widely leaked proposed (and thus cited with appropriate caveats) text of the Directive, which recognises that "wider possibilities of re-using public cultural material should inter alia allow European companies to exploit its potential and contribute to economic growth and job creation."¹²⁹

This is something that was also noted by the EU's Digital Libraries Initiative:

"Digital libraries provide considerable added value in terms not only of cultural visibility, but also of jobs and investment. Making the wealth of material contained in European libraries, museums and archives (books, newspapers, films, photographs, maps, etc) available online will make it easier for citizens to appreciate their cultural heritage and use it for study, work or leisure. This will complement and support the objectives of the European Union (EU) action on culture. Libraries and archives are major sectors of activity in terms of investments and employment. By increasing their use and the visibility of their resources, digitisation could significantly increase their already considerable impact on the economy as a whole."¹³⁰

We suggest the Committee study these moves and the implications for UK creative industries, in particular looking to the revision of the Public Sector Information (PSI) Directive. We recommend the efforts to ensure broader access to the cultural heritage held by libraries, museums and archives. Our analysis of the revised text that was published in May this year is available from our website, and includes recommendations for further iterations of the Directive.¹³¹

2. The impact on the creative industries of the independent Hargreaves Review and the Government's response to it

We broadly support the findings of the Hargreaves Review and the response of the Government to it. In particular we support the commitment to evidence-based policy and proposals for new exceptions to copyright, especially for a new exception to support parody. We note that the BIS Committee came to the following conclusion following their inquiry into the Hargreaves Review:

"A considerable amount of high-quality work on policy development has been undertaken in the year since the Hargreaves Review. It will be important to maintain that momentum alongside the more rigorous approach to policy formation that Hargreaves recommended. Conclusions are near to formation in many areas, and the Government should press ahead with measures to implement new policy in those areas as soon as possible. We recommend that the Department act swiftly to bring in legislation to that effect.

169. While we recognise that the Government is undertaking a major reform in a complex area, changes are both necessary and urgent."¹³²

¹²⁸ www.nationalmuseums.org.uk/media/documents/what_we_do_documents/museums_deliver_full.pdf

¹²⁹ www.openrightsgroup.org/assets/files/files/ST15065_EN12_re_use.doc

¹³⁰ <https://ec.europa.eu/digital-agenda/>

¹³¹ www.openrightsgroup.org/ourwork/reports/analysis-of-proposed-changes-to-the-eu-psi-directive

¹³² www.publications.parliament.uk/pa/cm201213/cmselect/cmbis/367/367.pdf p. 46

We believe that technology should help increase the creation of and access to information, culture and knowledge. But this requires copyright law that reflects the new opportunities for creative or economically useful activity afforded by new technology. That should go hand in hand with strengthening creators' position by, for example, encouraging fair markets in which they hold a stronger stake, improving the visibility of the provenance of a work and instances of works' reuse, boosting mechanisms of redress and remuneration, and by significantly improving relationships between creators and collective licensing bodies.

The direction of travel of the reforms proposed by Professor Hargreaves and the subsequent Government response will help do this. Conversely, without this programme of reforms, we fear copyright will lose credibility by continuing to inhibit society, through a kind of over-regulation, from making the most of new technology. When it prevents legitimate transformative reuses, such as parodies,¹³³ or prevents researchers from using new technology to analyse large amounts of data in the service of building and sharing knowledge,¹³⁴ copyright works instead like a veto over socially or economically useful activity.

Evidence and IP policy making

The Government's commitment to evidence that followed the Hargreaves review was particularly welcome. This must be an essential part of IP policy making. It would count as a huge step forward.

As we set out in our submission to the Hargreaves Review, one of the clearest examples of the absence of a robust evidence base in past IP policy is the economic impact assessment for the Digital Economy Act. This features references to statistics that are not publicly available, which are given preference for no stated reason and which are taken from research whose methodology is not discussed. There is an absence of any serious critical analysis and a failure to connect evidence with policy choices taken.

In an oral evidence session to the Business, Innovation and Skills Committee in November 2011, Adrian Brazier, from DCMS, admitted that the Government holds no evidence on the effects of copyright infringement online, or of the effectiveness of different ways of dealing with it. Mr. Brazier said that the methodologies behind the evidence used to rationalise the Digital Economy Act (in the Impact Statements) was not publicly available—or indeed available to the Government. He also admitted that the Government were “left making the best brick with the straw available”.

Policy making on copyright enforcement has too often been driven by hearsay and assumptions. We submitted Freedom of Information requests to both DCMS and the IPO on this issue. The response effectively confirmed what was said in the BIS Committee—that the Government has no evidence of the scale, nature and effects of copyright infringement.¹³⁵ At the time of the response, the Government was not only still supportive of the implementation of the Digital Economy Act, but was hosting roundtables encouraging the development of new self-regulatory enforcement measures. These discussions continue—we are not aware of new research being undertaken by DCMS that would serve to guide this work.

A further example of the problems with DCMS' use of evidence comes from the UK Film Policy Review, published in January 2012. The report states that the costs of copyright infringement to the film and television industries in the UK is £535 million per year in the UK. The citation states this comes from “Ipsos Media CAT (2009) GB Movie and TV Piracy 2009”.

We were not aware of an organisation called Ipsos Media CAT, and could find no record of the cited study. Having asked Ipsos MediaCT, we established that the research is from an annual study commissioned by the British Video Association. The study is not public, but the BVA helpfully met with us and talked through their research in person.

It appeared that the cited figure represents what this study asserts is the loss to the film and television industries from all forms of infringement, rather than online copyright infringement. Further, it was not clear if the figure in the DCMS report precisely matched the figure from the research. So DCMS inaccurately cited a figure that diagnoses the effect of all forms of copyright infringement in a section on the need to combat online infringement. Further, the evidence is not publicly available.

It is of course perfectly legitimate for trade associations or other organisations to produce research that they hope informs a policy debate. But we do believe that the debate is best served by research being openly available, so that its methodology and findings can be more closely interrogated and so it can serve as a useful contribution to a considered study of the issue. Policy makers should not accept research uncritically, or use evidence around an issue to post-rationalise a policy decision, or haphazardly cite single studies that are not available publicly without any explanation or justification.

There is no doubt that digitisation has had a serious effect on the creative industries. But policy designed to respond to this issue must be evaluated and supported by transparent and robust evidence. So we support the recommendations from the Hargreaves review that policy making on copyright displayed a greater respect for robust evidence. We also welcome the suggestion that the IPO could work with organisations who may be able

¹³³ See for example the letter written by campaigning organisations of their experiences of copyright and campaigning: www.openrightsgroup.org/blog/2012/campaigners-we-need-right-to-parody

¹³⁴ See for example the JISC report “The value and benefits of text mining”, March 2012, www.jisc.ac.uk/media/documents/publications/reports/2012/value-text-mining.pdf

¹³⁵ For the full response, please see www.openrightsgroup.org/blog/2011/the-need-for-evidence

to contribute evidence to help them develop methodologies and ultimately data that is of a standard worthy of informing and influencing public policy debate.

Evidence and the Hargreaves Review

The BIS Committee report supported the recommendation from the Hargreaves Review that IP policy needs to follow a more evidence-based path. They also noted that:

“We welcome the Intellectual Property Office’s reassurances that more detailed analysis is on-going and trust that it will pursue that work and act on external criticism of data and methodologies. We also agree that the involvement of the Regulatory Policy Committee as an independent auditor of economic analysis is a sensible policy development.”¹³⁶

As is the case for enforcement, we believe the process of implementing the Hargreaves reforms must be grounded in robust evidence.

Comparing the policy processes of the IPO and DCMS is worthwhile. We note that the IPO ran a three month long consultation soliciting the views of all stakeholders following the publication of the response to the Hargreaves review, and ran a number of inclusive seminars. This gave anyone with relevant evidence an opportunity to submit their own evidence of the effects of the various proposals. The IPO have also committed to doing further impact assessments as the recommendations are taken forward. This contrasts pretty clearly with the “invite-only roundtables” approach to policy formation undertaken by DCMS over the past two years which, as we covered above, they admit is not grounded in any evidence or analysis of the issue.

FREEDOM OF EXPRESSION AND COPYRIGHT EXCEPTIONS

It is important consider the broad effects of copyright, which means assessing the impact of reforms on the creative industries as well on creators, consumers, and other “users” of copyright. For example, the relationship between exceptions and freedom of expression is recognised by the Council of Europe in a 2009 report prepared by the Group of Specialists on Human Rights in the Information Society, in which they say that:

“The dimension of public interest [in copyright policy] extends to...(ensuring) optimum access to creative works and to stimulate a wide dissemination of knowledge and creativity. Limitations and exceptions (exemptions) are the mechanisms aimed at securing this access, thereby becoming key factors in achieving a balance between rightsholders’ interests and public interest under copyright system”¹³⁷

We agree that people will only reap the benefits of the Internet as a tool that promotes freedom of expression if there are sufficient exceptions that permit legitimate engagement with cultural works. Such exceptions do not necessarily undermine creators’ rights, or unduly take away earning power from them, but they do encourage people to reuse those works in new and useful ways.

For example, the three proposals around exceptions for parody, use of works for quotation and reporting of current events, and for public administration and reporting, all fall under this theme. This will remove unnecessary obstacles in the way of useful activity whilst ensuring that creators’ legitimate exploitation of their work is not compromised. People should be encouraged not simply to consume information, but to engage with cultural works and to use them to say something about themselves, the world around them, and their place in it.

Our submission to the copyright consultation focused primarily on the need for an exception for parody. The issue is whether one channel for the expression of people’s sense of humour is being constrained through copyright laws over-regulating useful activity. We believe that there is clear evidence that it is, and that this has both cultural and economic consequences. Introducing this as a fair dealing exception would help facilitate parody works whilst ensuring creators’ reputational and financial interests are not undermined.

We note that the BIS Committee also looked at the issue of parody in their inquiry into the Hargreaves process and concluded that:

“We are inclined to agree with the Government’s proposal for a fair dealing exception, but with disapplication of the exception where there is reputational damage and subject to a robust assessment of the economic benefits. We recommend that the definition of unfair reputational damage should make provision to protect (within the exemption) genuine political and satirical comment supportive of free speech.”¹³⁸

3. *The impact of the failure, as yet, to implement the Digital Economy Act*

The delays to the implementation of the Digital Economy Act are an inevitable consequence of a rushed policy and Parliamentary process. The previous Government’s failure to take enough time to consider the drafting of Act, or to consider the technical and legal issues in sufficient detail, has unsurprisingly led to the

¹³⁶ www.publications.parliament.uk/pa/cm201213/cmselect/cmbis/367/367.pdf

¹³⁷ “Copyright and human rights”, Council of Europe, 2009, [www.coe.int/t/dghl/standardsetting/media/doc/H-Inf\(2009\)12_en.pdf](http://www.coe.int/t/dghl/standardsetting/media/doc/H-Inf(2009)12_en.pdf)

¹³⁸ www.publications.parliament.uk/pa/cm201213/cmselect/cmbis/367/367.pdf p.14

mess being cleared up after the passing of the Act through the drafting of the Initial Obligations Code and Sharing of Costs Order.

Issues with the Digital Economy Act

Two and a half years after the passing of the Act, Ofcom and DCMS have still not resolved key issues with the Initial Obligations Code and Sharing of Costs Order. In considering the delays to the Act, it is important to consider that there are still valid and very serious concerns about the effects of the related statutory instruments.

Summary of criticisms of Initial Obligations Code

- Providers of publicly available wifi are still left in an uncertain position. They may end up being considered subscribers, thus becoming the subject of Copyright Infringement Reports. We consider this will act as a disincentive to cafes, libraries and others who may otherwise have offered wifi to their customers.
- We consider this to be an important issue because public wifi availability has grown in significance for Internet users in the UK. Ofcom's own research demonstrates the importance of broadly available wifi infrastructure. The most recent Ofcom market report suggests that 81% of smartphone data traffic was carried over wifi in January 2012. The Act and Code effectively kills off open wifi and places disincentives to the continued proliferation of wifi spots in the UK.
- The standard of evidence of copyright infringement that rights holder will have to adhere to should be completed well ahead of the implementation of the evidence gathering.
- There should full transparency regarding which copyright owners obtain evidence and how, through full publication of the reports provided to Ofcom. Further, those accused of infringement should be able to see details of the process that was used to gather evidence of their alleged infringement.

Our full response to Ofcom's consultation on the Initial Obligations Code is available at our website.¹³⁹

Summary of our criticisms of the Sharing of Costs Order

- We are concerned about the likelihood that a significant number of letters will be delivered late, and the lack of procedures for dealing with late or non-delivered letters; the cost recovery split across ISPs; and the arbitrary appeals fee of £20.
- We estimate that with 2.33 million letters likely to be issued in the first year, approximately 165,000 of these letters will be delivered late.
- We see no basis for the £20 appeals fee and are concerned that this is too high, with DCMS providing no basis for this figure. The fee stems from a concern about reducing the number of appeals, instead of a consideration about what a fair appeals process would look like.
- More broadly, we agree with the Secondary Legislation Scrutiny Committee, that given the assumptions made in the formulation of this Costs order, questions must be raised "about whether DCMS's policy objective of reducing online infringement of copyright by 75% is achievable."

Our full response to Ofcom's consultation on the Sharing of Costs Order is available on our website.¹⁴⁰

We wish to highlight that the Digital Economy Act has attracted criticism from the UN's Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. He criticised the UK's regime for potentially leading to account suspensions:

"The Special Rapporteur ... is alarmed by proposals to disconnect users from Internet access if they violate intellectual property rights. This also includes legislation based on the concept of 'graduated response', which imposes a series of penalties on copyright infringers that could lead to suspension of Internet service, such as the so-called 'three-strikes-law' in France and the Digital Economy Act 2010 of the United Kingdom."¹⁴¹

He goes on to recommend such laws be repealed.¹⁴² We believe that the Act remains a mess of a law; expensive, error-ridden and unlikely to work. It should be repealed. The fault for this situation lies in an insufficiently open and considered policy process, with a law hustled through the democratic process. Enforcement policy should be based on evidence and be developed with the interests of citizens and consumers in mind.

Analysis of the impact

We noted above the weak evidential basis for the Digital Economy Act. We hope any further analysis of the impact of delays to the Digital Economy Act reflects a more considered approach to the evidence available.

¹³⁹ www.openrightsgroup.org/ourwork/reports/response-to-initial-obligations-code-consultation

¹⁴⁰ www.openrightsgroup.org/ourwork/reports/response-to-ofcoms-consultation-on-the-digital-economy-act-sharing-of-costs-order

¹⁴¹ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue A/HRC/17/27 www.2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf p. 14

¹⁴² Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue A/HRC/17/27 www.2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf p. 20

It is important to look at the development of the legal market for creative work, which has grown significantly in the last two years. For instance, digital album sales rose by 27% in the UK in 2011, according to the IFPI.¹⁴³

Through a study in 2011 of the then-leading legal film sites, ORG showed that the online film repertoire in 2011 was very weak, with only 43% of the top 50 British films available for purchase or rent online. Similarly, only 58% of the BAFTA Best Film award winners since 1960 have been made available.¹⁴⁴ This has belatedly and slowly been changing over the past year, with the introduction of further streaming services and a broader catalogue. However, further study of the availability of, for example, back catalogue British films online would be helpful.

We would expect any analysis of the impact or otherwise of enforcement policy to consider these broader questions of the health of legal markets in the appropriate detail.

The role of Government in developing or supporting enforcement policy

Following the controversies surrounding the Anti-Counterfeiting Trade Agreement (ACTA) and the ongoing disagreements over the direction of copyright policy, there is a need for a demonstrably open, transparent and inclusive policy making that is based in evidence. This will require strong political leadership to draw together the various stakeholders and perspectives.

This is especially necessary in the case of copyright enforcement policy. In the recent past, this has been developed primarily through conversations between trade associations and technology companies. DCMS has held a series of roundtables that have operated with the bare minimum of openness. It has not been possible to ensure that the interests of citizens and others are considered.

These conversations are designed to lead to private agreements that will see content and information removed, blocked, or funding to sites withdrawn. Due process and the law are essential when this sort of power to control what people see and do online is handed out. It is unlikely such interests will be properly considered in a forum involving only a small number of trade associations and technology companies.

We should not be entrusting decisions affecting the flow of information online to the representatives of trade associations from select industries. These concerns are especially valid where the Government takes an explicitly “hands off” role, but at the same time threatens those involved with legislation should agreement not be found. The problem is exacerbated when the Government admits it has no evidence to guide its position. With no evidence to hand, what kind of scheme between industries is the Government hoping to see emerge? What sort of schemes would they consider to be appropriate, or proportionate?

Enforcement policy to date has been based on insufficient evidence and has tended to take place in closed forums. Strong political leadership is now required to lead evidence-based, inclusive and transparent policy making. The consequences of failing to do so are twofold. First, further laws or policies or voluntary agreements that undermine freedom of expression and innovation. Second, the sort of “downstream” and very vociferous campaigns seen in the cases of ACTA and Stop Online Piracy Act (SOPA).

November 2012

Supplementary written evidence submitted by the Open Rights Group

This is a short supplementary note to the Culture, Media and Sport Committee. It follows the evidence Open Rights Group gave in person on Tuesday 22 January 2013.

We suggested in our written evidence that the number of letters that may be sent under the Digital Economy Act could be 2.33 million. In this short note we outline the origin of this figure, as it may not have become totally clear through the line of questioning pursued in the Committee hearing.

The figure was mentioned in our written evidence to the Committee in a section summarising our response to Ofcom’s consultation on the Digital Economy Act Sharing of Costs Order. A link to the full response was given in the submission to the Committee.

In the full submission we “show our working”, producing a rough calculation of how many letters might be sent. The calculation made in our response to Ofcom is below. Our full submission to Ofcom is available from our website.¹⁴⁵ Quotations in the below excerpt are from Ofcom’s consultation document, which is available from Ofcom’s website.¹⁴⁶

“Letter volume:

1. ‘CIR estimates were requested to cover a wide range of potential volumes—from 10,000 to 200,000 per month (120,000–2.4 million pa) for each of the six ISPs’ (6.13, page 31).
2. ‘A “base case assumption” of 100,000 CIRs per month (1.2 million pa) was made’.

¹⁴³ www.ifpi.org/content/library/DMR2012.pdf

¹⁴⁴ www.openrightsgroup.org/blog/2011/cant-look-now-finding-film-online

¹⁴⁵ www.openrightsgroup.org/ourwork/reports/response-to-ofcoms-consultation-on-the-digital-economy-act-sharing-of-costs-order

¹⁴⁶ stakeholders.ofcom.org.uk/binaries/consultations/onlinecopyright/summary/condoc.pdf

3. 'Ofcom's continuing discussion with copyright owners about the likely level of demand for CIRs now suggests that it is possible that monthly CIR volumes at the smallest of the qualifying ISPs (presumed to be O2 and Everything Everywhere—(Table of ISP sizes and of CIR reimbursement under flat fee, 6.51, Page 38)) may be below 10,000 per month, possibly as low as 2,500 per month' (6.20, page 32).
4. Assuming the 'base case assumption' of 100,000 CIRs per month applies to the remaining top four ISPs, there will be approximately 405,000 [(2,500x2) + (100,000x4)] CIRs issued in total each month, or 4.86 million per year.
5. Ofcom state that, based upon evidence from the French Haute Autorité pour la diffusion des œuvres et la protection des droits sur internet (HADOPI), a reasonable estimate of the CIR-to-letter ratio (CIRs that trigger a warning letter to be sent to the subscriber) is 48% (7.54, page 50).
6. The other (estimated) 52% of CIRs will not trigger notification either because the alleged infringement occurred during a 'grace period' for that subscriber (42%), or because the IP address could not be matched to a subscriber (10%).
7. This means that, of the 4.86 million CIRs estimated to be issued in this first year, 2,332,800 CIRs first class letters may be sent to customers.
8. Approximately 165,628, or 7.1%, of these letters will be delivered late (Assuming 7.1% of first class post delivered late, as was the case between April and June 2012—see this Telegraph article¹⁴⁷). No figures are available as to how many will be lost, as Royal Mail do not publish this for specific classes of letter."

This is designed as a way of indicating how many letters may arrive late. This is helpful, for example, for the debate about the time subscribers will have to appeal following the receipt of a letter under the Digital Economy Act. Ofcom proposed the time limit should be 20 days (see page 74 of Ofcom's "Initial Obligations Code" consultation¹⁴⁸), and we wished to ensure that rates of postal delays and losses be taken into account.

We hope this serves to clarify the provenance of this figure and the context in which it was used.

February 2013

Written evidence submitted by the Authors' Licensing and Collecting Society Ltd

The Authors' Licensing and Collecting Society Limited (ALCS) is the UK collective management organisation for writers. Established in 1977 and wholly owned and governed by the writers it represents (of whom there are currently over 85,000) ALCS is a not-for-profit, non-union organisation. ALCS exists to ensure that writers receive a fair reward when their works are used in situations in which it would be impossible or impractical to offer licences on an individual basis. To date ALCS has paid over £280 million to writers.

SUMMARY OF KEY POINTS

- The Hargreaves Review and subsequent Government Copyright Consultation identified a number of areas in which expanded copyright exceptions may stimulate economic growth. The evidence base for many of these assertions has been criticised as inadequate and/or insufficiently impartial.
- Evidence of the impact of the Hargreaves recommendations on creators, whose endeavours provide the raw materials for the creative economy, is limited. Independent research commissioned to fill the gaps reveals major risks in the current policy direction—for example, options for expanded educational exceptions could result in a 29% reduction in the creation of new material. To avoid adverse impacts on the creative industries, legislative proposals on exceptions must be justified by clear evidence and presented so as to allow proper scrutiny of their impact.
- The continued failure to implement the Digital Economy Act provisions on lending rights for audiobooks, despite annual loans of around 10 million, perpetuates a situation in which writers are denied their legal rights to remuneration and libraries are operating without the necessary authorisation.

EVIDENCE

Our evidence focuses on the following aspect of the Inquiry:

The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government's Response to it. The impact of the failure, as yet, to implement the Digital Economy Act, which was intended to strengthen copyright enforcement. The impact of

¹⁴⁷ www.telegraph.co.uk/news/uknews/royal-mail/9511937/Nearly-one-in-10-first-class-letters-delivered-late-by-Royal-Mail.html

¹⁴⁸ stakeholders.ofcom.org.uk/binaries/consultations/online-notice/summary/notice.pdf

proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament).

The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government's Response to it

Some positive initiatives are already underway on the back of the Hargreaves Review:

- The institution of a small claims track for intellectual property disputes should assist individual creators in protecting and enforcing their rights.
- The impetus behind developing a 'digital copyright exchange' has created a broader framework for collaborative industry action aimed at improving access through licensing.
- Licensing bodies have worked together in consultation with the Intellectual Property Office to develop and apply best practice standards for transparency and accountability.

It is difficult at this stage to judge the wider impact of Hargreaves, as many of the recommendations have yet to be implemented. However the underlying policy intent is clear, exemplified by plans to widen UK copyright exceptions to the fullest extent permitted by the EU Copyright Directive, while at the same time questioning or rejecting accompanying measures to provide fair compensation to writers and other rightsholders.

In terms of the deeper, longer-term impact on the creative industries, this prioritisation of 'access rights' over creators' rights is a high-risk strategy.

Writers' creativity pervades the creative economy, providing the impetus for growth in traditional markets such as publishing and broadcast, driving emerging sectors such as online content and gaming and promoting cross-sectoral revenue such as the tourism income generated from visits to West End productions.

IPO figures¹⁴⁹ place investment in TV, radio and film at £2.3 billion and books at over £1 billion. These sectors depend on a reliable supply of original content from writers but research commissioned by ALCS¹⁵⁰ highlights the challenging environment in which new material is created:

- Writers receive the lowest income returns during the early stages of their career with median income for the 25–34 age-group of only £5,000 per annum; and
- More than 40% of professional writers earn less than half their income from writing, while 60% of all professional writers hold down second jobs.

With such huge investment dependent on a relatively precarious foundation, the risks to the creative industries are self-evident.

One risk is to the diversity of content being produced. Recent cuts to the already modest Arts Council literature budget (representing only 2% of funding provided to creative organisations) have threatened the existence of a number of the small, independent regularly funded organisations that are the life-blood of literature in this country.

A further, more fundamental risk concerns reforms to the current rights and licensing frameworks. If these frameworks fail to provide the necessary incentives and support structures, individuals will either fail to maximise their creative output or stop producing altogether.

One such support structure is collective licensing. Last year ALCS paid £28 million to 66,000 writers, providing a valuable supplement to payments from royalties and other sources. A significant proportion of this income (around £12 million) is paid to writers for the use of their works in the education sector, under the licensing schemes operated by the Copyright Licensing Agency (CLA) and the Educational Recording Agency (ERA).

Extending the Hargreaves access principle, the resulting Government Copyright Consultation identified measures for widening educational exceptions and restricting licensing as being, "most in line with the Government's objectives—freeing up educational establishments to use copyright works and delivering significant cost savings."¹⁵¹

The accompanying Impact Assessment did not assess the effect on writers and publishers of such reforms and the Consultation requested further evidence in this regard. ALCS gathered evidence from two sources: testimonies provided by its members and independent research.¹⁵² The former provided an eloquent description of the role played by secondary licensing income in the development of educational materials. The latter found that even a modest narrowing of the scope of the current licensing scheme would see a 29% reduction in the number of new educational works being produced.

¹⁴⁹ Updating the value of UK copyright investment, Intellectual Property Office, June 2012

¹⁵⁰ Authors' earnings from copyright and non-copyright sources, Centre for Intellectual Property Policy & Management, Bournemouth University, December 2007

¹⁵¹ Impact Assessment No: BIS0317, November 2011

¹⁵² An economic analysis of education exceptions in copyright, PricewaterhouseCoopers LLP, March 2012

We understand that the Government will publish a paper setting out its policy on exceptions later this year and expect this to take due account of the evidence provided as to its impact within the education sector.

For other exceptions included within the Hargreaves review, predicting the possible impacts on the creative industries is more challenging. The Business, Innovation and Skills Committee highlighted the need for improvements to the evidence presented in the original Hargreaves report:

“Although we agree that certain estimates used to support recommendations in the Hargreaves Review might be criticised as optimistic, the Review itself acknowledged that further economic analysis would be necessary. We welcome the Intellectual Property Office’s reassurances that more detailed analysis is on-going and trust that it will pursue that work and act on external criticism of data and methodologies.”¹⁵³

Despite these reassurances, many of the Impact Assessments accompanying the subsequent Consultation document have been criticised for being insufficiently robust,¹⁵⁴ while the revised assessments still exhibit a worrying reliance on estimates and proxy data, particularly in the context of new markets. The recent report by the All-Party Parliamentary IP Group noted a widespread lack of confidence in the policy development process.¹⁵⁵

Given the finely balanced relationship between copyright exceptions and licensing, the case for reform must be unambiguous and supported by accurate and impartial data. Only then can reasoned judgements be made as to the likely impact of these policies on the creative economy.

The impact of the failure, as yet, to implement the Digital Economy Act, which was intended to strengthen copyright enforcement

The Committee will doubtless receive substantial evidence on the impact of the failure to implement the provisions of the Act relating to the online infringement of copyright. We would like to highlight another part of the Act that has yet to be implemented: section 43, concerning the extension of the Public Lending Right (PLR) scheme to audiobooks and e-books.

ALCS has enjoyed a long and close association with the Public Lending Right Office and continues to collect fees for UK writers due under overseas lending schemes, with over £10 million distributed to date.

Following UK implementation of the EU Rental and Lending Directive, ALCS and the British Equity Collecting Society (BECS) set up the Authors and Performers Lending Agency (APLA) and invested considerable time in working with DCMS and the Intellectual Property Office to develop a solution to the audio book lending issue. These efforts to develop a licensing scheme proved frustrating and ALCS subsequently ran a campaign with the support of the All Party Parliamentary Writers Group to update the PLR legislation to reflect modern library usage. As a result, provisions were included in the Digital Economy Act (2010) extending PLR to e-books and audiobooks. Following the 2010 Spending Review, the funding for this extension was frozen leaving the legislation unimplemented.

As a positive step towards implementing the Act, we welcome the independent review into e-lending set up by DCMS and are heartened to see writers represented on the panel. The main focus of the review concerns the lending of e-books in a changing landscape for public libraries. To avoid any conflict with emerging business models, the provisions of the DEA bringing e-book lending within PLR are fairly circumscribed involving downloads on the library premises. The review will need to address the wider issues associated with remuneration in respect of remote access to works through public libraries.

A more straightforward issue arises in relation to audiobooks. Currently around 10m audio book loans take place each year, the vast majority of which are loans in hard copy formats. In the absence of a licensing scheme, these loans are currently unauthorised in terms of the rights writers and performers hold in their works and performances. Quite apart from the inequitable treatment of rights holders, this situation also places the library service in a position where rights are being infringed on a daily basis.

Given the volume of loans involved and the fact that enabling legislation is already in place, we urge the Committee to strongly recommend to Government that adequate, additional funding is made available to implement section 43 of the DEA without further delay.

The impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament)

We refer above to evidence gathered by ALCS as to the impact of a favoured course of action in relation to educational exceptions. A 29% reduction in the creation of new educational material would have significant effects for domestic publishing markets, export values and overseas licensing revenues not to mention the impact, in pedagogical terms, of a sharp fall in the supply of quality teaching materials.

¹⁵³ The Hargreaves Review of Intellectual Property: Where next?, June 2012

¹⁵⁴ Consultation on Copyright: Comments on Economic Impacts, Oxford Economics, 2012

¹⁵⁵ The Role of Government in Promoting and Protecting Intellectual Property, October 2012

The proposals on educational use are part of a package of reforms linked to the Hargreaves aim of maximising UK copyright exceptions to the fullest extent permitted by the EU Copyright Directive. Within this package there are a number of options and proposals that would have complex and diverse impacts not just on rightsholders but also on users of copyright works.

During the Bill's Report Stage debate in the Commons, the Government spokesman confirmed that proposals on exceptions would be brought forward as secondary legislation and failed to provide the requested assurances that individual proposals would be the subject of individual statutory instruments.

Given the potential for these proposals to have significant impacts on the creative industries (and the individuals contributing to those industries) and the concerns expressed as to the robustness of the Government's current evidence base, it is vital that the opportunity for proper scrutiny is afforded to each proposal. We urge the Committee to take any available opportunity to analyse the proposals during this brief 'pre-legislative' window.

A final point on copyright exceptions—not covered by the Hargreaves Review but still the subject of current debate under the Communications Review—concerns the rules relating to the retransmission of TV channels. Currently UK copyright law provides an exception permitting the retransmission by cable of broadcast signals.¹⁵⁶ When combined with the mandatory carriage rules applicable to certain TV channels, an anomalous situation has been created in which value is ascribed to the process of retransmission/carriage but not to the content contained within the broadcasts, including the programmes scripted by our members.

We commend to the Committee the Mediatique¹⁵⁷ report on carriage policy options and in particular the model it identifies for a 'carriage consent regime' which has the potential to provide for an equitable rebalancing of the current structure, resulting in additional funding for investment in new creative output in the UK film and TV sector.

November 2012

Written evidence submitted by the Publishers Association

Summary

1. The creative industries are one of the most dynamic, innovative and above all successful sectors of the British economy. To further the economic, social and cultural benefits they deliver it is right that policy makers should focus their attention on assisting and promoting them. The PA believes that government support for the sector should principally focus on ensuring that the regulatory, legal, fiscal and policy frameworks are conducive to the creative industries continued success; particularly:

- Maintenance of a robust and flexible copyright framework, which adapts to technological change in an incremental manner, providing stability for investment whilst addressing changing consumer needs and behaviours.
- Ensuring that the UK's tax regime—particularly VAT—does not place British companies at a competitive disadvantage with regards to other EU member states.
- Promotion of British creativity as a core part of export and trade promotion strategies.
- Supporting industry efforts to develop the skills and employment base necessary to make a successful transition to a physical-plus-digital world.
- More generally, adopting a positive and constructive stance to the sector where there is a genuine joint endeavour in developing growth; and conversely maintaining a sceptical approach to those who seek to undermine the UK creative sector for their own commercial—or even ideological—ends.
- Whilst direct policy interventions in the form of subsidies and tax breaks might be applicable in certain other areas (such as supporting the arts) or in specific sectors (such as computer games), it is not The PA's contention that this form of support is necessary with regards to publishing at the current time.

BACKGROUND

2. The Publishers Association ("the PA") is the representative body for book, journal, audio and electronic publishers in the UK. Our membership of 120 companies spans the academic, education and trade sectors, comprising small and medium enterprises through to global companies. The PA's members annually account for around £4.6 billion of revenue, with £3.1 billion derived from the sales of books and £1.5 billion from the sales of learned journals. The publishing industry is a vital component of the creative economy, and employs 33,000 people across 2,500 companies. 41% of our sector revenues are derived from exports, a bigger proportion than in any other country, and the publishing sector is the largest exporter amongst the creative industries. Based on publisher turnover, the UK book market is fourth largest market in the world.

¹⁵⁶ Section 73, Copyright, Designs and Patents Act (1988)

¹⁵⁷ Carriage of TV Channels in the UK: policy options and implications, Report for DCMS, July 2012

3. Like all creative sectors, publishing is a complex ecosystem. At its heart lies the author, or scientific researcher—the individuals whose original talent, skill and insight creates the core copyright work, be that a novel, biography, scientific paper, or any other of the myriad forms of literary work. Behind the authorial talent, lies the publishing company, whose core roles are:

- to provide financial support and investment;
- to identify, nurture and develop authorial talent;
- to assist with taking the work to market, in all of its forms; and
- to help defend the integrity of the copyright.

4. The advent of digital technology is bringing unprecedented change to the sector and how publishers perform each of these roles is a constant source of development. Throughout this transitional phase publishing continues to thrive as it drives and adapts to advances in technology to develop new offerings to readers. Through close engagement with technology companies, publishers have ensured that consumers have been able to enjoy ebooks (consumer ebook sales grew by 366% in 2011, with digital fiction increasing by 188% between January and June 2012). Equally, academic publishers are already fully immersed in digital, with scientific journals having been provided online for over a decade. Educational publishers too, whilst continuing to provide physical text books to schools, saw a 78% increase in digital sales to schools in the first half of 2012. Overall, digital sales currently represent approximately 12% of the combined digital and physical market.

RESPONSES TO QUESTIONS

How best to develop the legacy from the Olympics and Paralympics of the display of UK talent in the creative industries in both Opening and Closing ceremonies and more generally in the design of the Games

5. The Olympic and Paralympic Opening and Closing ceremonies were an incredible demonstration of the vibrancy of our creative industries and of the way in which the content produced in the UK is globally renowned. Publishing was well represented in the ceremonies, through references and readings of Shakespeare, JK Rowling—and even Ian Fleming. In particular, as a showcase to the world, the Olympics emphasised the export potential of the creative economy and it is this specifically that the Government should seek to preserve and capitalise on.

6. In order to achieve this, the Government should maintain a strong focus on supporting the creative sectors in their export markets. Specifically we urge Government to continue tangible support in the following ways:

- The PA works in close collaboration with UK Trade & Investment and administers Tradeshow Access Programme funding, which assists small and medium sized publishers to have a presence at leading international book fairs such as Frankfurt, London, Beijing, New York, Bologna and Abu Dhabi. Attendance at these international book fairs is critical to these publishers in providing routes to market and creating opportunities both for exports sales and international rights licensing. The TAP funding should be seen as a high priority area, not to be diminished or removed.
- The PA was among the bodies advocating the establishment of a network of specialised IP attachés. The IPO is to be commended for the speed with which it has already established posts in India, Brazil and China—with Singapore soon to follow. The PA has been closely engaged with the IP attachés in each of these markets and our sector is already benefiting from their expertise. We support the IPO's intention to broaden and deepen the programme in the coming years and we urge Government to ensure the continued funding to the programme to allow this to happen.
- The PA is a member of the Creative Industries Marketing Board and supports the recent reconfiguring of its role to act as a forum for information exchange, in particular so that creative sectors operating abroad can be aware of upcoming events and high level meetings taking place within other sectors.

Barriers to growth in the creative industries—such as difficulties in accessing private finance—and the ways in which Government policy should address them. Whether lack of co-ordination between government departments inhibits this sector

7. Investment in all sectors of the economy relies on there being a stable and secure framework upon which to base business decisions for the long term. As we discuss further below, the proposed and, we would argue, unnecessary changes to the copyright framework, have done much to create uncertainty for the future, particularly in the area of copyright licensing.

8. To the extent to which complexities and difficulties in licensing are a barrier to growth in the creative industries these are now being actively addressed. The PA is one of the founding funding members of the Copyright Licensing Steering Group, a body set up in response to Richard Hooper's "Copyright Works" report of July 2012, which advocated the creation of a voluntary, industry led body to establish the means of streamlining online licensing of copyright. The CLSG has already begun work in co-ordinating efforts across all creative sectors to establish a common portal for online licensing.

9. The Government may also wish to be mindful of developments within the market that are having an adverse effect on competition. These include the tactics of certain companies, often operating outside of the UK (but selling into the UK market), who are able to leverage their dominant position to undermine UK businesses or impose unfavourable terms on smaller businesses within the UK creative sector—those companies which pay tax and employ people within the UK.

The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government's Response to it

10. The importance of copyright to the publishing sector and to the UK's world-class creative industries cannot be overstated. It is the legal and economic foundation for everything the sector does, driving investment, facilitating innovation, generating revenue and stimulating growth.

11. It is therefore deeply regrettable that the Hargreaves Review and the subsequent Copyright Consultation were infused with a clear bias against copyright, which was portrayed as a hindrance to the economy and as a drag on growth. The Copyright Consultation in particular included repeated references to copyright as a form of regulation—which in the modern political vernacular is a “bad” to be removed or avoided at all costs. In this vein, both the Hargreaves Review and the Copyright Consultation proposed a general weakening of the copyright framework. If enacted these would undermine the licensing structure that balances access to our world class, revenue generating content with revenue generation and security for rights holders. To this point we strongly commend the recent report of the All Party Group for Intellectual Property into the “Role of Government in Protecting and Promoting Intellectual Property”, which called upon Government to “revert to seeing IP as a property right.”

12. In particular, the Hargreaves proposals to introduce copyright exceptions for data and text mining and education and research would undermine the business models of publishing companies, and would damage the prospects for learners and researchers.

13. At the time of writing we still await the IPO's next stage of the copyright consultation process—the initially proposed timetable of October 2012 looks likely to be missed. From what has been set out by Hargreaves and Government to date, there is little confidence in the creative sector that the proposals will be based upon strong economic evidence. (Hargreaves himself recently described his own figures as “best guess estimates”). Economic Impact Assessments published in spring 2012 were based upon highly spurious calculations and there had been little or no engagement with industry to create a comprehensive costs/benefits analysis.

14. Given the lack of any parliamentary scrutiny of the Hargreaves measures to date, should the Government ever take forward to Parliament legislative proposals based upon them, we believe that each individual proposed amendment to copyright legislation should be subject to its own individual economic impact assessment and separate statutory instrument. There should be no possibility of measures being bundled together and voted en bloc. Only through such detailed scrutiny could Government be satisfied that it was acting in the best interests of the creative sector and the wider economy.

15. The biggest lesson to be learnt from the Hargreaves Review and from the Copyright Consultation is the need for robust evidence and analysis to back up policy changes. The Hargreaves Review signally failed to prove its central economic case that weaker copyright leads to greater economic growth, yet the IPO has put forward proposals—indeed lobbied for them at the European Commission—as if the case were proven. It has been left to rightsholder groups to have to make the case against the proposition. Government itself should always be looking rigorously at both sides of every coin at the very least. We would go further and suggest that Government should maintain a rigorously sceptical stance towards those who argue for an erosion of copyright to advance their own commercial advantage at British creators' expense.

16. Finally, we hope the Government will heed the proposal put forward by the All Party IP Group's report (*as above*) that the IP Minister should be a “champion of IP” across Whitehall and that the Ministerial team should have greater oversight of the IPO. This would help ensure the Government's continued focus on promoting the creation of IP.

The impact of the failure, as yet, to implement the Digital Economy Act, which was intended to strengthen copyright enforcement

17. The process of sending notifications to infringing subscribers, as set out in the Digital Economy Act, would be the best means of delivering educational messages on copyright to consumers, which is why The PA supports calls for its speedy implementation. We have long held that copyright infringement is best dealt with through a combination of education, the provision of legal services and enforcement. The DEA achieves this blend through educative letters, guiding users to legal services (as has been the case in France with the implementation of the HADOPI law) and carrying a threat of further sanction. It is deeply regrettable that the implementation of the DEA has been delayed to the extent that it has, but we welcome Ofcom's publication of the Initial Obligations Code and Costs SIs, as good progress towards full implementation of the DEA.

18. However, as set out in our responses to Ofcom, we remain concerned about a number of areas, including the cost of rightsholder participation in the scheme (especially smaller rightsholders) and the future proofing

of the entire DEA system, which presently does not take account of wifi and mobile network provision, which is likely to be a growing area of consumer usage.

19. It should also be recognised that the DEA is just one potential vehicle, and is focused on tackling peer-to-peer online copyright infringement. Equally important is the ability to tackle non peer-to-peer or direct downloading infringement. To this end, the use of site-blocking injunctions under section 97a of the Copyright Designs & Patents Act (1988) (CDPA), by the Motion Pictures Association of America and the BPI have been a success. But this process remains prohibitively expensive to smaller rightsholders and is highly time-consuming. This should be remedied through the creation of an expedited legal process, whereby rightsholders and ISPs could agree on parameters for infringing sites prior to beginning court hearings. We call for Government support in making the case to the judiciary to create expedited proceedings.

20. As a further measure to reduce the impact of online copyright infringement, absent the implementation of the DEA, The PA, with other rightsholders, is exploring initiatives, such as our work with the Digital Trading Standards Group of Internet Advertising Bureau to deal with online advertising on unlawful sites.

The impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament)

21. It is our understanding that existing legislation allows changes to copyright law to be made without recourse to primary legislation, using the provisions in Section 2 (2) of the European Communities Act (1972)—indeed, these provisions have been used to amend the CDPA on a number of occasions. To that extent the provisions (specifically now Clause 66) of the ERR would seem to have little overall impact. We welcome indications from Ministers and Officials that the ERR will not be used to implement any changes to CDPA.

22. However, the means by which the Clause was introduced—with no prior consultation with rightsholders, and with initially no assurances that the aim of the Clause was not to hasten through amendments to copyright—were the source of great anxiety and instability in the sector. It has taken a great deal of time and effort to extract from Ministers the clear reassurances that their stated aim of Clause 66 (the ability to allow the adjustment of criminal penalties) really was the purpose of the legislation. We are grateful to the Secretary of State for now having made this clear through revised Explanatory Notes.

23. The details of the issue are perhaps less important than what the episode indicates about the climate of mistrust which can unfortunately occasionally exist between government and the creative industries regarding copyright. Perhaps the single biggest means of support the Government could give the creative economy would be a cast iron commitment to the support and promotion of a robust and flexible intellectual property regime.

The extent to which taxation supports the growth of the creative economy, including whether it would be desirable to extend the tax reliefs targeted at certain sectors in the 2012 Budget

24. The fiscal system can be used as a lever to support growth and to ensure that British businesses are not unduly disadvantaged in a global market place. This was recognised in the Budget statement in 2012 wherein the Chancellor extended tax breaks to the video games, animation and TV production sectors. However, it is not our belief that such measures are currently required to support publishing.

25. An area of fiscal policy which is of concern to publishers is VAT. France and Luxembourg, have recently dramatically reduced the rate of VAT on the supply of ebooks, to 3% and 7% respectively. This puts British suppliers of ebooks at a clear competitive disadvantage within the EU. We therefore support the stated position of HM Treasury to call for the European Commission to bring infraction proceedings against those EU Member States which use the VAT regime to undercut other states. (N.b. on 25 October 2012 the Commission put Luxembourg on 30 days notice to amend its VAT policy or face action at the European Court of Justice.)

26. The PA strongly supports the reduction or removal of VAT rates for ebooks, given that the same social, cultural, educational and economic benefits which are the justification for the zero-rating for print books apply equally to ebooks. The European Commission is currently consulting on this issue.

Ways to establish a strong skills base to support the creative economy, including the role of further and higher education in this;

27. The PA is closely engaged with the 11 higher education establishments which operate under or post graduate courses in publishing. This is an important access point to the sector, but by no means the only one. It is vital—from both a commercial and moral point of view—that jobs in publishing and indeed all creative sectors are open to all young people in the country, regardless of their ethnic, racial and social backgrounds. Knowledge of the sector, from knowing what roles and jobs exist through to being aware of internships and foot-on-the-ladder roles must not be restricted to those “in the know” and with the right connections. For this reason, The PA is looking to work closely with the body *Creative Access* which is working to ensure young people from black and ethnic minority backgrounds can break into the sector. We are also working with the Society of Young Publishers to improve our outreach to students across the country and in academic disciplines not traditionally associated with publishing.

28. Underpinning all of this activity lies an incumbent imperative on the Government not to undermine the sector and thereby reduce or remove the employment opportunities it currently provides.

The work of the Creative Industries Council and other public bodies responsible for supporting the sector

29. The PA is fully supportive of the Creative Industries Council and we view it as a useful and important vehicle through which the creative industries can come together and engage directly with Ministers on issue affecting our sectors.

30. However, there are a number of ways in which the CIC could be improved to ensure it is of greatest value both to Ministers and to industry. Firstly the frequency of the meetings should be increased. Having only two meetings a year means large gaps between them—which of course become even greater if a member is unable to attend one of them. Although the CIC working groups may meet in the interim, these are naturally focused on their particular areas and do not maintain discussion in other areas. It would be worthwhile introducing a routine “Sherpa” group meeting of nominated representatives by the CIC members who could formally maintain the detailed discussion in between meetings and ensure progress. These would perhaps meet quarterly.

31. IP and copyright are the biggest concerns facing the Creative Industries, yet discussion on this was ruled out at the first meeting as, it was said, they are being dealt with elsewhere. This huge lacuna in the deliberations of the group has now been addressed and IP will form part of the agenda. It is regrettable that it was not there in the first place.

32. In addition to representatives from both DCMS and BIS, the CIC should consider including the IP Minister as a member of the Council. This would greatly aid discussion around IP policy, and would help facilitate greater coordination of Government policy across Departments, in particular around the area of IP.

CLOSING REMARKS

33. We greatly welcome the opportunity to submit evidence to the Committee’s inquiry and would be delighted to provide any further useful information, or to provide oral evidence if this were required. If the Committee would find it helpful, we would be delighted to facilitate a visit to publishing houses, across the academic, education and trade sectors, to demonstrate the creativity and innovation underway in the sector.

November 2012

Supplementary written evidence submitted by the Publishers Association

1. Further to the written evidence which The Publishers Association (“The PA”) has submitted to the Inquiry and further to my oral evidence session on 22 January, I thought it may be helpful to provide further detail on the issue of the robustness of the economic evidence and analysis in the Hargreaves Review for Intellectual Property.

2. This question has been the subject of debate in a number of the oral evidence sessions, including my own and that of Ian Hargreaves. Although the report is getting on for being two years old, it is right that the underpinning economic evidence remains the subject of scrutiny. First, because the anticipated impact on economic growth of the proposed reforms was and remains the principal underlying rationale for the policy. If this principle were to be suspect, or at the least not proven, it would call into question a large part of the Modernising Copyright agenda. Secondly, the need for better economic evidence was one of the primary recommendations in the Report itself. The evidence provided by creative industries was derided as “lobbysynomics”. Aside from the rich irony of this critique given the threadbare economic calculations in the Report, it does highlight the importance of having robust, rigorous and peer-reviewed economic assessments.

3. That said, The PA is not wholly opposed to any and all proposals to reform copyright and licensing as being taken forward by the Intellectual Property Office. Many of the recommendations will ensure that copyright is better aligned with the technologies now available to creators and consumers. However, the broad thrust of ever-further erosion of the underlying copyright framework is still visible in the Modernising Copyright document; but as this paper suggests, it has an extremely questionable underpinning.

THE HARGREAVES POSITION

4. The Hargreaves Review claimed that its recommendations would lead to an increase in UK GDP ranging from 0.3% to 0.6% (£5 billion to £8 billion) by 2020. The Government’s response to the Review endorsed this assessment. It also purported that recommendations would cut deadweight costs by over £750 million. This analysis is set out in detail in “Support Document EE: Economic Impact of Recommendations” of the Hargreaves Review.

5. Document EE itself notes that there is a “high degree of uncertainty” in its analysis, particularly with regards to growth impacts. Of the 22 recommendations made by Hargreaves no assessment of growth impact is made with respect to 14 of them; no assessment of cost saving is made in respect of 11 of them. The proposals for text and data analytics exception and exception for new technologies are most conspicuous for

not being subject to analysis—with the term “not quantified” being used. And yet despite these mis-givings, the growth assessment has been routinely subsequently quoted by Hargreaves, such as in The Lisbon Council “Intellectual Property and Innovation report” of September 2012 in which he cites the £5 billion–£8 billion growth assessment without qualification.¹⁵⁸

6. The single biggest growth effect of any of the recommendations is the £2.2 billion which is accounted for by the recommendation to create a Digital Copyright Exchange. Document EE’s assessment of this proposal (in the section on Copyright Licensing) draws heavily upon the Copenhagen Economics Study “Economic Impact of Digital Single Market”.

7. This report was published in March 2010 by the European Policy Centre. The report assesses the economic impact of creating a digital single market (DSM) in Europe, and concludes that the EU risks falling behind global competitors such as the US, Japan and South Korea, where digitalisation is already seen to be increasing productivity.

8. It argues that the EU economy could gain 4% GDP by stimulating a DSM, however, it currently lacks the foundations for doing this, namely:

- Insufficient e-skills;
- Insufficient infrastructure (broadband) provision;
- Different enforcement of rules, regulations and standards;
- A lack of policy attention;
- Legal barriers such as privacy & data protection, content & copyright, liability of online intermediaries; e-payments, electronic contracts; net neutrality; spam; cybercrime; dispute resolution; and self regulation.

9. The Copenhagen Study goes on to make clear that a number of policy outcomes would need to be achieved, including improvements in areas such as skills, e-commerce, consumer trust, changes in productivity and employment, cultural differences within the EU, and changes in the working practices of the public sector, if a DSM is to be created and the benefits to the EU economy fully realised.

10. The IP licensing regime is simply one small part of this (indeed research quoted in the study sees “content and copyright” as sixth out of 13 barriers to growth, with no specific reference to licensing, which is the main point of the proposed Digital Copyright Exchange).

11. So, having looked at what the Copenhagen Report actually says, what does Hargreaves make of it? Supporting Document EE says “Taking the four% increase in GDP through productivity and induced ICT investment, which the Copenhagen Economics Study expects from better market infrastructure, we assume (conservatively) that the impact of market infrastructure provided by a digital copyright exchange applies only to the four% of the economy which is copyright intensive. By 2020, on this basis, up to an additional £2.2 billion could be provided to UK GDP by a digital copyright exchange.”

12. Hence, we can see that the most important element of the Hargreaves assessment is based on the mis-application of the growth impact of a wide range of policy measures, to just one single measure, copyright, which was at best a peripheral focus of the Copenhagen study. Hargreaves asserts that the benefits of the full range of policy proposals could be gained by just implementing one of them. Hargreaves draws a totally imaginary line between the policy and economic outcome, and the reasoning cannot bear the weight of the conclusion placed upon it.

13. With regard to publishing, Document EE makes two further heroic assumptions. First, it imagines that cross-border licensing in the EU would enable European publishers to emulate the US market, thus triggering growth of 30% (thereby completely ignoring the enormous cultural, linguistic and economic factors which so utterly distinguish the two areas); and secondly, it applies this estimate of 30% increase in *licensing* activity to the £1 billion figure of export *sales*. But there is no earthly reason to imagine that improving licensing systems could ever lead to an uplift of this scale. This dyscalcula is then fed into another growth estimate for the creative industries of £0.6 billion—again grossly (and erroneously) overstating the supposed beneficial impact of the policy.

14. The third biggest growth assessment (£2 billion) is made with regards to the proposal for a private copying exception. Again, the level of heroism in the claims being made argues the need for a more dispassionate assessment. This figure appears to be predicated on nothing more scientific than the assumption that a private copying exception would enable the creation of new products and markets “up to half the size of the iPod market over the last decade, this could grow the economy by up to £2 billion per annum...”.

15. There are some clear omissions from this analysis, the most glaring of which is why it would be UK firms and companies which would exploit this new opportunity and not the “technology giants” already active in the sector, or indeed innovative firms from elsewhere in the world. And why would it be 50% of the iPod market—there is no basis whatsoever for making such a highly optimistic claim. (And predicated an assessment of an iconic product, unique in recent history for its seamless interface between hardware and software is highly dubious. It is rather like using the Mona Lisa as the basis for potential artwork revenues.)

¹⁵⁸ www.lisboncouncil.net

16. Also, the Hargreaves assessment takes no account whatsoever of the foregone growth opportunities of licensing markets which operate successfully within the current copyright framework, although the Impact Assessment does at least mention their existence.

17. The impact assessment accompanying the Government's Copyright Consultation adopts these assumptions and adds other, equally faulty ones. For example, it states that "market evidence suggests the value of copying is already factored into purchase prices". There is no such evidence as it applied to published content.

18. I hope the Committee finds this analysis of some use.

February 2013

Written evidence submitted by the Alliance for Intellectual Property

The Alliance for Intellectual Property (the new name for the Alliance Against IP Theft) warmly welcomes the Culture, Media and Sport Select Committee's inquiry into support for the creative economy.

The creative industries and businesses which depend on IP rights are major contributors to and drivers of economic growth, accounting for significant investment in the UK. Recent Government figures suggest that the creative industries represent £36 billion GVA to the UK economy (Department of Culture, Media and Sport, *Creative Industries Economic Estimates*, 2011), with IP serving as the basis of the £16 billion invested in the UK economy building brands (NESTA, *Driving Economic Growth*, 2011).

As governments look for ways in which to maximise economic growth, they will increasingly look at sectors which are proven to support jobs and growth, such as creative, technological and science, design and manufacturing industries, which rely on IP rights. To achieve growth in these sectors there needs to be a greater understanding of the economics behind IP, how it drives investment and why it needs to be protected.

1. How best to develop the legacy from the Olympics and Paralympics of the display of UK talent in the creative industries in both Opening and Closing ceremonies and more generally in the design of the Games

1.1 This summer saw the UK cement its position on the world stage as leaders in sporting excellence and creative talent. Alongside the success of Team GB and Paralympics GB, the opening and closing ceremonies of both games provided a global showcase for the UK's rich cultural heritage and the development of new creative talent.

1.2 Being able to demonstrate that the UK had robust measures in place to protect the Olympic brand and sponsors' investments was also crucial to London's success. The UK Government even went so far as to pass special legislation giving law enforcement additional powers and responsibilities in relationship to protecting the IP which surrounded the Games.

1.3 Therefore, the role IP played in first delivering the Games to London and then contributing to its success must not be forgotten.

1.4 This commitment to protecting IP should not be lost. There should be an ongoing duty to tackle IP theft via increased resources for trading standards, greater acknowledgement within the police of links between IP theft and other criminal activity, and a commitment to ensuring UK IP can be protected internationally. In addition, there should be greater acknowledgement from the Treasury of its importance, particularly on the back of the 2012 Q3 GDP figures released on 25 October which showed growth primarily linked to the Olympics.

2. Barriers to growth in the creative industries—such as difficulties in accessing private finance—and the ways in which Government policy should address them. Whether lack of co-ordination between government departments inhibits this sector

2.1 There are many different levers that can promote growth in the creative industries, such as the availability of capital, tax incentives, the size of the domestic market, employment legislation and broadband speeds. None of these will have an impact, however, unless the underlying ability to monetise creativity is present. A strong commitment to promoting and protecting IP is vital across all of the creative industries.

2.2 The Alliance believes that a lack of co-ordination amongst Government departments in relation to IP is inhibiting growth by creating uncertainty for those wishing to invest in the creative industries.

2.3 There is also a lack of consistency with regards to what sectors are defined as being part of the 'creative industries' which in our view leads to confusion as to the contribution such industries make. In addition its limited application to sectors such as film, music, and video games means that the contribution made by creative sectors such as design and branded goods is under represented and ignored in policy deliberations.

2.4 While the Alliance seeks to engage with a variety of government departments and agencies, it is of particular disappointment that we have experienced difficulty in focusing the Treasury on IP, its contribution to the economy and its actual and potential role in delivering economic growth. We believe this is because there is a culture within government which sees IP policy as the sole responsibility of the Intellectual Property

Office and the Minister for Intellectual Property. This is very concerning, particularly in light of the Chief Executive of the IPO's comments to the All Party Group on IP on the 21 May 2012. When pressed by Parliamentarians on what he saw the IPO's role as being, John Alty refused to be drawn on whether its role included championing IP and those who rely on it to make a living. This means that there is no-one within government looking at how these incredibly successful businesses can be protected and helped to grow.

2.5 This silo approach to policy making can also lead to implementation log-jams and inconsistencies in policy development and focus. For example, one area in which the IPO has been making good progress is in relation to design rights and the inconsistency between the levels of protection afforded to unregistered design rights as opposed to that enjoyed by copyright. However, a sticking point in addressing this is the Ministry of Justice who refuse to countenance the introduction of similar criminal offences for unregistered design infringement as exist for copyright.

2.6 This inconsistency is further evidenced within BIS itself. While one part of the department is leading on cyber security issues and concerned with the potential for foreign competitors to steal UK ideas and innovation—UK IP, another part (the IPO) is focused on reducing the control rights holders have over who accesses its IP, how and when.

2.6 Greater co-ordination between Government departments, a Minister who was able to act as a true 'IP Champion' and a Cabinet Committee on IP would go a long way to ensuring the UK's IP framework properly supported UK businesses, enabling them to grow domestically and internationally. The need for such a 'champion' is supported by the recent report from the All Party IP Group's inquiry into the Role of Government in Promoting and Protecting IP.¹⁵⁹

3. The impact on the creative industries of the Independent Hargreaves Review of Intellectual Property and Growth and the Government's Response to it

3.1 The Alliance was disappointed at the Hargreaves Review's starting assumption that the current intellectual property framework was a barrier to growth. Not only was this assertion not challenged by the Review Team but it led to other potential barriers receiving no consideration. The Review and the Government's response have caused great uncertainty within the creative industries which can only be damaging to those looking to invest in them.

3.2 With regards to the specific recommendations, we need to separate those that relate to expanding copyright exceptions from those which dealt with making licensing, and the protection of rights, easier. With regards to the latter, Hargreaves' recommendations have been useful. We are pleased that the concept of a Digital Copyright Exchange to facilitate licensing of copyright material is now, following the work undertaken by Richard Hooper, turning into a reality. This is supported by Alliance members. In addition, we welcome the introduction of a Small Claims Track which will make it easier and cheaper for smaller rights holders to protect their rights.

3.3 However, when attention is turned to the recommendation that the UK 'max out' the exceptions permitted under EU law, and even press for new exceptions in Brussels, we must firmly distance ourselves from Professor Hargreaves and the Government.

3.4 Given the flimsy nature of the economic justification for what was proposed in Hargreaves, we were surprised at the speed at which the Government accepted all the recommendation and disappointed that a more robust evaluation was not undertaken prior to the Copyright Consultation being issued.

3.5 We are strongly of the opinion that the impact assessments conducted by the Hargreaves Review and those which accompanied the Government's Copyright Consultation are flawed. This view has been supported by Oxford Economics who, in their analysis of these assessments, identified three main issues, which, in their view, provide serious questions that need to be asked of the proposed recommendations:

- (1) A balanced economic framework must take into account the interests of both the users of goods and services (the "consumer") and the producers of goods and services (the "producer"). Oxford Economics identifies that while much attention has been spent understanding and quantifying consumer surplus (the benefit those who use the good or service derive from it), little effort has been put into a similar understanding and evaluation of producer surplus. It has mistakenly been assumed that taking from the producer and giving to the user a) does not affect the producer surplus and the economic "benefit" this contributes and b) will automatically lead to an increase in economic output. It has not been taken into account that an increase in consumer surplus may not lead to increased economic activity.
- (2) There is a distinct lack of neutrality in the application of the IAs with the tone and emphasis of the Consultation appearing strongly inclined to overturning the existing status quo. Oxford Economics states that while arguments in favour of changing existing legislation are often given lengthy consideration, arguments for the preservation of the status quo are typically given only short discussion. There is no intrinsic reason why this should be the case which leads to serious questions over the neutrality of the Consultation exercise. If the economic benefits and costs

¹⁵⁹ www.allpartyipgroup.org.uk/pdfs/The%20role%20of%20Government%20in%20promoting%20and%20protecting%20IP.pdf

cannot be quantified or justified for policy reasons then any proposal should be in favour of retaining the status quo.

- (3) Connected to the above point is the assumption that the current framework is somehow economically inefficient. In fact, this appears to be the starting point of the Consultation and, according to Oxford Economics, is a fundamental flaw. The fact that the economic inefficiency of current copyright law is *presumed* as opposed to *demonstrated* led to inaccurate assumptions being applied.

Please find comments on a number of the specific recommendations in Appendix 1.

3.6 Overall, it has been difficult to overcome the feeling that the Government is more interested in creating policy which will be of benefit to US based global tech companies than that which is fundamental to UK creators and businesses.

4. The impact of the failure, as yet to implement the Digital Economy Act, which was intended to strengthen copyright enforcement

4.1 The length of time it is taking to implement even the Initial Obligations section of the Digital Economy Act is a cause of concern. Parliament identified in 2010 that measures needed to be put in place to alert and educate people on copyright infringement. The current timetable does not see even letters being sent to those people whose accounts have been identified as being used to conduct illegal activity until 2014. Parliament cannot have envisaged that it would have taken so long for their will to be acted on.

4.2 The impact of the failure to implement the Act is clear—illegal filesharing is continuing and a growing number of sectors are affected. In addition, the fact that we are still over a year away from letters being sent means a huge opportunity to communicate and educate about the harm such activity inflicts is being missed.

5. The impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament)

5.1 The Alliance acknowledges the role which secondary legislation has to play in the UK legislative process. However, we were surprised at the recent inclusion of Clause 66 (originally Clause 56) of the Enterprise and Regulatory Reform Bill. While we supported the stated intent behind the Clause, it was originally too widely drafted. We are pleased that the Government listened to our concerns and has now re-drafted this Clause.

5.2 However, our support should not be read as support for the introduction via secondary legislation of the exceptions proposed in the recent Copyright Consultation. Given the potential negative consequences of these proposals, they should ideally be introduced via primary legislation allowing parliamentarians' full and proper scrutiny. At the very least, they must be accompanied by individual impact assessment and introduced in separate Statutory Instruments. Parliamentarians should not be presented with such impactful proposals 'bundled' in a 'take all or leave all' fashion.

6. The extent to which taxation supports the growth of the creative economy including whether it would be desirable to extend the tax reliefs target and certain sectors in the 2012 Budget

6.1 Please see the individual response from Alliance members.

7. Ways to establish a string skills base to support the creative economy, including the role of further and higher education in this

7.1 Please see the individual responses from Alliance members.

8. The importance of "clusters" and "hubs" in facilitating innovation and growth in the creative sector. Whether there is too much focus on hubs at the expense of encouraging a greater geographical spread of companies through effective universal communication

8.1 Evidence points to the fact that the ability of like-minded industries to group in 'clusters' or 'hubs' facilitates innovation and growth. From Soho in London, home to world-leading businesses in video and film post-production facilitated by investment in a super-fast broadband network, to Dundee in Scotland where computer software developers have coalesced and Cambridge, home to world-leading technology companies, the UK is home to a number of such "hubs". Delegates at the Conservative Party Conference in October in Birmingham visited Fazeley Studios, a creative hub, and heard directly from businesses based there how they found working in close proximity to other companies beneficial.

8.2 From this, we do not believe there has been too-much focus on hubs although we have been puzzled with the Government's obsession with creating a Silicon Valley in the UK in East London—"Silicon Roundabout"—and question, given the natural development of such hubs, Government intervention is actually required.

9. The work of the Creative Industries Council and other public bodies responsible for supporting the sector

9.1 The Alliance supports the Creative Industries Council (CIC) and we view it as a useful and important vehicle through which the creative industries can come together and engage directly with Ministers on issue affecting a range of sectors.

However, there is a feeling amongst members that it has perhaps not been as useful as it could be. To address this we recommend that:

- (1) The frequency of meetings is increased. Having only two meetings per year means there are large gaps between them. While working groups do meet more frequently, these are topic specific and, therefore, the opportunities to discuss broader issues are few and far between.
- (2) IP and copyright policy issues are brought within the remit of the CIC. These are the biggest concerns facing the creative industries, yet discussion on this was ruled out at the first meeting. It has meant that the whole debate around last year's Hargreaves Review and Copyright Consultation was perversely not addressed at the CIC. These issues should have a central, standing place on the agenda.

9.2 Some Alliance members have also questioned the membership of the CIC—namely the inclusion of companies such as Google and Amazon. It is questionable whether these organisations are “creative industries”. They do not generate creative/copyright content and, on many policy issues, Google in particular is opposed to measures which would support the UK's creative businesses.

ABOUT THE ALLIANCE

Established in 1998, the Alliance for Intellectual Property is a UK-based coalition of trade associations concerned with ensuring that intellectual property rights are valued in the UK and that a robust, efficient legislative and regulatory regime exists, which enables these rights to be properly protected. With a combined turnover of over £250 billion, our members include representatives of the audiovisual, music, games and business software, and sports industries, branded manufactured goods, publishers, retailers and designers.

ALLIANCE MEMBERS

Anti-Copying in Design
Anti-Counterfeiting Group
Authors' Licensing and Collecting Society
British Brands Group
BPI (British Recorded Music Industry)
British Video Association
Business Software Alliance
Cinema Exhibitors Association
Copyright Licensing Agency
Design and Artists Copyright Society
Educational Recording Agency
Entertainment Retailers Association
Federation Against Copyright Theft
Film Distributors Association
Motion Picture Association
Premier League
PRS for Music
Publishers Association
Publishers Licensing Society
UK Interactive Entertainment
UK Music
Supporters:
British Jewellery, Giftware & Finishing Federation
Video Standards Council

November 2012

APPENDIX 1

COMMENTS ON SPECIFIC RECOMMENDATIONS

PRIVATE COPYING

The Hargreaves Review drew attention to the fact that most people are routinely transferring the content of the CDs onto portable devices—something which is technically unlawful in most instances. While this has never been a real world problems—in that no-one has ever had legal action taken against them for such an act—we acknowledge that having a law in place which no-one abides by is not an ideal state of affairs

(although the level of which this activity is prevalent across non-music content is unclear and not examined in any great detail in either set of Impact Assessments).

Where Hargreaves, and subsequently the Government, sees the solution purely in the heavy hand of regulation, we submit that a better solution is found in greater transparency, education and licensing agreements between content owners and distributors.

This is evidenced by the existence of licenses which allow content to be legally format shifted across a variety of devices offering consumers ever greater choice and convenience. This can be seen, for example, in the inbuilt licence to copy content onto ten devices which exists with purchases of music on iTunes, the ability to transfer onto an unlimited amount of devices with music purchases from Amazon and in the subscription models of streaming services such as Spotify where accounts can be accessed across different devices.

Such innovations are also seen in the film/TV and video market. The advent of double and triple play, where consumers can purchase the DVD and Blu-ray and the DVD, Blu-ray and digital file of a film (alongside the numerous video on demand and digital home rental services), gives consumers unprecedented choice in the video entertainment market. Crucially, it creates a market structure where people only have to pay for the level of access and flexibility they desire.

The introduction this year of UltraViolet¹⁶⁰ has taken this choice and access to another level again. UltraViolet is a digital locker service which allows a user to access his or her content how, where and whenever he or she wants to, including downloading or streaming content on up to 12 devices. A user can also share access to that content with up to 6 members of his/her household. UltraViolet-enabled content has already been released in the UK.

Given the developments underway, driven by consumer demand and commercial market forces, we strongly question the value of, and need for, Government regulatory intervention which could, in fact, distort the market and lead to less choice, higher prices and reduced quality for consumers.

RESEARCH AND PRIVATE STUDY

The Alliance is concerned about the Government's recommendation to extend the current "fair dealing" exception applying to literary, dramatic, musical or artistic works to include sound recordings, films and broadcasts. We believe that given the high quality of film and sound recordings such an extension would bring with it the opportunity for misuse.

Existing provisions satisfy demands from educational establishments, libraries and archives. Allowing what could equate to unlimited access to high value content of a significant entertainment nature via a right to private study, with the accompanying difficulties in monitoring its lawful application, runs the risk of creating significant opportunity for infringing activity with little in the way of safeguards to protect against this.

TEXT AND DATA MINING

As with a number of the proposed amendments to the system of copyright exceptions, the recommendation to introduce an exception to allow for non-commercial text and data mining (TDM) ignores developments in the market.

It also appears to have stemmed from a lack of understanding as to how TDM works, and why licensing is required to manage the relationship between publishers and content miners. This proposal ignores the significant investment made by the publishing community in technology and infrastructure to support this activity and does not take account of risks or "costs" associated with this proposal.

Licensing models which are highly sensitive to the needs of users are already in place and publishers strongly support those seeking to access data for research purpose. The Publishers Association cites a survey of publishers which found that 90% of respondents routinely permit content mining, with 60% doing so in all cases. Only 12% of requests are turned down, on the basis of questionable credentials of the applicant. Similarly, in response to researchers' frustrations, the industry is in the final stages of evolving a model TDM licence that individual publishers are able to adopt and adapt on a voluntary basis.¹⁶¹

Publishers are also investing in the technology necessary to support TDM, such as converting content to a format which can be understood by mining tools and maintaining the platforms and providing on-going support to content miners. Understandably, they can and will only continue to do so if there is value in it for them.

¹⁶⁰ www.uvu.com

¹⁶¹ www.stm-assoc.org/2012_03_15_Sample_Licence_Text_Data_Mining.pdf

Further written evidence submitted by the Alliance for Intellectual Property

We write in relation to the Select Committee's ongoing inquiry into Support for the Creative Industries. You will be aware that on 20 December the Government published "Modernising Copyright" which sets out its policy intention with regards to copyright exceptions.

"Modernising Copyright" contains revised impact assessments for each of the proposed exceptions. These significantly downgrade the economic benefits of the proposed changes from those espoused by Professor Ian Hargreaves.

The Hargreaves Report states that the minimum benefit of the proposed changes to copyright law would be £4 billion. In "Modernising Copyright" it is £0.5 billion. The Hargreaves Report states that the maximum benefit of the proposed changes would be £26 billion. This figure in "Modernising Copyright" is £0.79 billion. These equate to reductions of 87% and 97% respectively and yet these reforms are still positioned as being of great economic benefit to the UK.

We also wish to draw to the Committee's attention the fact that the Government, in response to a series of Written Questions, has disclosed that it intends to leave important definitions in the new exceptions undefined in the regulations, with any clarification deliberately being left to the courts. No evaluation of the costs of the inevitable legal action that will be required to clarify these laws in the courts has been included in the impact assessments.

We believe these costs are likely to be significant and should have been included in the latest impact assessments. Without them the economic benefit, the driving reason for these changes, remains over estimated and the impact assessments incomplete. This significant outstanding gap in the Government's analysis must be filled in order for the technical review of the draft regulations to be properly informed.

March 2013

Further supplementary evidence submitted by the Alliance for Intellectual Property

Discrepancy in penalties available between digital copyright theft and physical copyright theft.

Criminal offences for digital copyright theft have maximum penalties of two years imprisonment. Criminal offences for physical copyright theft have maximum penalties of ten years imprisonment. This discrepancy came about because the new offences were introduced by secondary legislation, using the European Communities Act 1972, as part of the UK's implementation of the Copyright Directive in 2003. Penalties for new criminal offences introduced by secondary legislation via the ECA are limited to two years imprisonment. This was also after Vince Cable's Private Members Bill in 2002 (Copyright etc Trade Mark (Offences and Enforcement) Act 2002) which increased penalties for criminal copyright offences from two years to ten years to match those available for trade mark offences. This is a worrying discrepancy and the Alliance strongly believes criminal sanctions should not be dependent upon whether the offence is taking place in an online or physical environment. Intellectual property is still being stolen, whichever format is being used.

The problem this has created for law enforcement was seen recently in FACT's significant, landmark, private prosecution of Anton Vickerman. Vickerman was making £50,000 each month running a website which facilitated mass scale copyright infringement. He was prosecuted and subsequently convicted on two counts of Conspiracy to Defraud and sentenced to four years imprisonment—a sentence that would not have been possible if prosecuted under copyright law.

May 2013

Written evidence submitted by the British Video Association

The British Video Association¹⁶² (BVA) welcomes the opportunity to respond to the Inquiry into Support for the Creative Economy. The BVA represents the £2.3 billion video entertainment industry (measured by consumer expenditure), whose members are drawn from film and television companies and independent publishers of video content, on DVD and Blu-ray Disc through to digital distribution for internet-connected and portable devices. By video we refer to the distribution space between theatrical release and broadcast television.

Audiences spend more than twice as much on video entertainment as they do on going to the cinema. The video entertainment industry is the largest single source of funds for film producers generating on average 47% of revenues and a third of revenues for television series and features, according to a survey carried out by Oxford Economics for the BVA.¹⁶³

SUMMARY

- The UK's strong and effective copyright system provides the necessary certainty and property rights to attract continued investment in new film and TV production.

¹⁶² www.bva.org.uk/

¹⁶³ Ready to Face the Future, accessed at www.bva.org.uk/news-press-releases/video-revenues-are-lifblood-uk-film-and-tv-industry

- We reject the Hargreaves Review’s conclusion that relaxing copyright law would stimulate net economic growth in the UK on the basis that there is no evidence that incremental GDP (Gross Domestic Product) would follow.
- The recommendation to introduce a blanket private copy exception without remuneration has the greatest potential to undermine the transition to a stronger digital market and would have a far greater impact on video entertainment compared with other creative sectors because it would ignore the unique characteristics of the audiovisual business.
- The failure to implement the DEA has caused continued infringement of rights-owners’ content, which is damaging investment and the potential for growth in the audiovisual sector.
- There needs to be greater co-ordination between Government Departments in relation to intellectual property policy, education and enforcement; there is a need for the IP (Intellectual Property) Minister to champion British IP and ensure IP policy is created to sustain the UK’s continued global lead in creativity and audiovisual services.
- Copyright should be viewed as an asset and promoted as a property right that sits at the heart of our successful audiovisual industry; it needs to be included wherever film education is being taught.

The impact on the creative industries of the Independent Hargreaves Review of Intellectual Property and Growth and the Government’s Response to it

1. The UK video entertainment sector is in an exciting but delicate phase of development as the predominantly physical market is transformed by the consumer uptake of new digital services. Responding to the opportunities provided by new digital platforms and higher penetration of faster broadband speeds, many new legal video services have been launched which are meeting audiences’ changing needs and have enhanced the range of access to films, TV programmes and other content available to consumers.¹⁶⁴ This has enabled the video industry broadly to maintain its value, despite the impact of the challenging economic climate on businesses’ finances, consumers’ disposable incomes and increasing competition from new free TV catch-up services which contribute to the decline in the physical market.¹⁶⁵

2. The Hargreaves Review of IP and in particular the worrying approach towards copyright has been unsettling for the audiovisual sector and a drain on resources. It created unnecessary unease in the relationship between creators and tech companies that provide the digital platforms for distribution to the users of connected devices. Furthermore, it surprised other national governments who look to the UK as defenders of robust copyright laws and has led to worrying developments at EU level where the EC has been encouraged to “modernise” the EU’s approach to intellectual property rights and is considering the re-opening of the EU Copyright Directive.

3. The unsubstantiated assumptions about the positive impact of Hargreaves’ recommendations were widely criticised as unrealistic by industry and the BIS (Business, Innovation and Skills) Committee acknowledged the “optimistic” nature of some of the estimates used to support them,¹⁶⁶ despite having overlooked the BVA’s written evidence, omitted from its report. We were therefore very concerned by the Government’s rapid acceptance of the Review’s proposals and were disappointed that a more vigorous assessment was not carried out prior to the publication of the Copyright Consultation.

4. While we welcomed some of Hargreaves’ policy proposals, such as the establishment of IP attachés and the recognition that design rights need to be up-graded, we questioned the apparent underlying assumption of the Review, namely that “something” in the intellectual property framework was restricting growth and innovation and therefore needed to be amended. The Review seemed oblivious to the way the market is fulfilling consumer expectations with the myriad of new services already available and dismissed the wealth of evidence provided by the creative industries pointing to the impact on growth of other factors, such as access to finance, employment practices, tax incentives and the scale of the domestic market in ensuring business and economic success.

5. This view was supported by Oxford Economics’ analysis on behalf of the Alliance for Intellectual Property, the BVA and others of the Impact Assessments that accompanied the IPO’s Copyright Consultation. It highlighted the lack of neutrality and undue consideration given to the arguments in favour of amending existing copyright legislation rather than advocating the status quo in the absence of evidence that incremental GDP would be generated for the UK economy, contrary to the first recommendation of Hargreaves’ Review that policy should be evidence based.¹⁶⁷

¹⁶⁴ See page 16 of the BVA’s latest report (www.bva.org.uk/files/u1/BVA-Report_ReadyToFaceTheFuture_final_1_.pdf—up to date on publication) and the new portal for all legal services, The Content Map, which goes live on 6 November 2012 (www.thecontentmap.com)

¹⁶⁵ Total consumer spend on video entertainment in 2011 was £2.3 billion, a decline of just 2.3% on 2010. Digital rental values increased by 10% and digital retail values increased by 28% over this period, helping to offset a drop in the value of the physical retail market from £1.84 billion to £1.75 billion.

¹⁶⁶ The Business, Innovation and Skills Committee’s First Report of Session 2012–13, The Hargreaves Review of Intellectual Property: Where next?, p. 6

¹⁶⁷ www.publications.parliament.uk/pa/cm201213/cmselect/cmbis/579/57904.htm

FORMAT SHIFTING

6. There are at present 36 paid-for and 13 ad-funded TV- and internet-based video streaming, download and VoD (video on demand) services in the UK, not to mention the growing number of TV catch-up services lead by the BBC's iPlayer, more than in any other European country, many of which do have private copy exceptions accompanied by levies. We see this as evidence that there is no need for a blanket format shifting exception, which could at best only addresses a technical legal issue for CD buyers and would ignore the unique characteristics of the audiovisual sector.

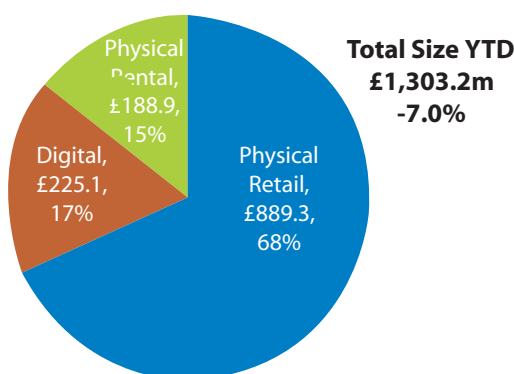
7. At present, for example, there is little consumer expectation of being able to make copies of DVD and Blu-ray Discs, as video entertainment has always been made available subject to copy protection and DVD and Blu-ray Disc packaging displays a "no copying" symbol. The majority of films are only watched once, whether paid for or not, while music tracks are listened to over and over again. We would expect the introduction of a blanket right to a private copy to increase consumer confusion about the law as video buyers would perceive this to have been granted to them regardless of the presence of copyright protection measures on all discs. The EU Copyright Directive makes it illegal to circumvent these technical measures; therefore the public would not legally be able to exercise this right.

8. In the meantime, an increasing number of discs are sold with a digital copy that gives the buyer an authorised digital file should the user wish to have a copy on a computer or portable device.

9. The launch of UltraViolet, a cross-industry initiative which offers shared portable video entertainment in the cloud, is further evidence that a format shifting exception is not needed. The BVA is preparing the consumer launch of UltraViolet in 2013, enabling DVD and Blu-ray buyers to store a copy in a digital locker so that they can share video content with up to five other people seamlessly and easily across multiple platforms and devices, such as computers, internet-connected TVs, game consoles, smart-phones and tablets.¹⁶⁸ It is the up-take of these new services that will enable the video entertainment business to manage the transition from a predominantly physical to a truly mixed economy, whilst still generating a sufficient return on investment in film and TV production to help finance the audiovisual industry's eco-system, even while spending on physical discs continues to decline.¹⁶⁹

10. At present, however, by far the preferred choice of consumers remains packaged media, both retail and rental, which together accounted for 88% of the total 2011 market value for video. This contrasts greatly with the music industry and illustrates the different ways in which a format shifting exception would affect the various creative sectors; digital sales of music recently outstripped that of CDs, whereas 12% of the £2.3 billion spent on video in 2011 was on digital content, growing to 17% by end Q2 2012 (see chart below).

2012 Q1-Q3 UK Video Market Breakdown
Value (Ms)



IHS Screen Digest/BVA/Official Charts Company/Kantar

11. Article 5(2)(b) of the Copyright Directive permits Member States to introduce an exception:

in respect of reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition that the rightholders receive fair compensation which takes account of the application or non-application of technological measures referred to in Article 6 to the work or subject-matter concerned.

12. No economic argument has yet been presented that would justify the financial impact that a format shifting exception would impose on audiovisual rights-holders or the undermining of technological measures that it might entail.

¹⁶⁸ www.uvu.com/what-is-uv.php

¹⁶⁹ We have seen increasing consumer uptake of legal digital services and digital's share of the video market grew by 41% to the end of Q2 2012, according to IHS Screen Digest figures. However, the relatively low up take of EST (34% EST / 66% VOD) means this growth doesn't fully replace physical market value

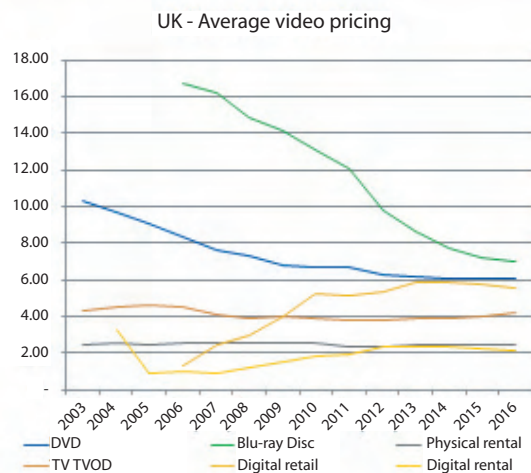
13. The Impact Assessment which accompanied the Consultation on Copyright asserted that such an exception would “create zero harm to copyright owners”. This claim was based on a theoretical paper by Prof. H. Varian,¹⁷⁰ who argued that the possibility of copying could actually increase the willingness-to-pay of users, thereby allowing rights holders to charge higher prices for their content.¹⁷¹

14. Furthermore, the original Impact Assessment asserted that “market evidence suggests the value of any such copying is already factored in to purchase prices” without indicating what this evidence might be. Between 2003 and 2016 the average price of a DVD will have fallen by 41%, according the IHS Screen Digest, while Blu-ray Disc prices are forecast to drop by nearly 60% to just over £6 (ex VAT) by 2016. These price declines have generated no additional sales. In the video industry physical media does not obey the basic laws of supply and demand.

Price for most forms of video is relatively stable, only physical video sees decline



- Lower price should lead to greater consumption
- Analysis indicates that DVD price drops have no effect on sales



15. The Government recently recognised the potential for economic stimulus when it introduced new tax incentives for high-end television drama and animation. Hargreaves’ recommendations to amend UK copyright law are incompatible with the DCMS support for our sector. The widely shared goal of innovation, growth and jobs should stiffen our Government’s resolve to enable the UK creative industries’ to maintain their competitive advantage, to which it is looking for economic recovery. The BVA very much hopes that when the new IP Minister has reviewed the arguments against a blanket private copy exception this proposal will be amended.

The impact of the failure, as yet, to implement the Digital Economy Act, which was intended to strengthen copyright enforcement

16. We acknowledge that the implementation of the Digital Economy Act was significantly delayed by judicial review, but it is a major cause of concern that the current timetable does not see copyright infringement notices being issued until 2014.

17. These notices, which will offer consumers advice on how to prevent future infringement and direct them towards legitimate sources of content, are expected to curb the impact of copyright theft on the video entertainment sector and create a level playing field for legal services.

18. The impact of the delay in implementation is the continued infringement of rights-owners’ content through peer to peer (P2P) file-sharing, which is cannibalising revenues and the potential for growth in the online market. Digital copyright theft is estimated to have cost the audiovisual industry £272 million in 2011, up 45% on the £188 million lost in 2010, while the loss due to sales of fake DVDs fell more than 60%. The overall cost of all copyright infringement was estimated at £0.511 billion in 2011. The 2012 wave of our tracking study is about to commence.

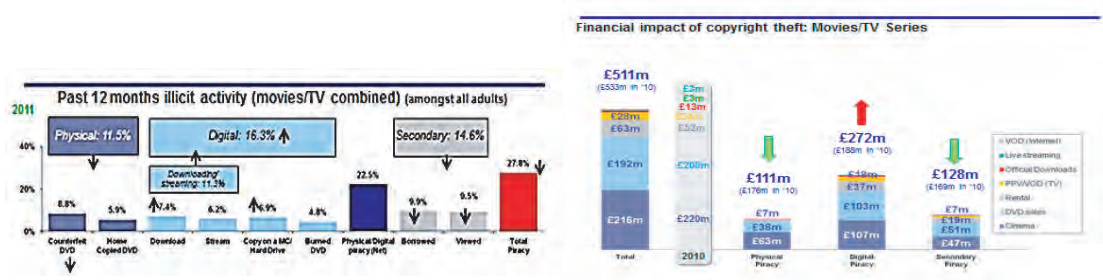
19. As viewing habits increasingly move online, the share of digital infringement and its cost to industry is also increasing.

20. We are therefore working with Government and Ofcom to ensure that the notice sending system is implemented as quickly and efficiently as possible to minimise further financial losses.

¹⁷⁰ Varian HA, 2005, *Copying and Copyright*, Journal of Economic Perspectives 19(2): 121–138

¹⁷¹ “If willingness to pay for the right to copy exceeds the reduction in sales, the seller will increase profit by allowing that right.”

VOLUME OF ILLICIT ACTIVITY OVER THE LAST 12 MONTHS (FILM AND TV—AMONG ALL ADULTS)¹⁷²



The impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament)

21. Given our initial concern with the broad and rather loose language used in the original drafting of Clause 57, we were pleased that the Government chose to re-draft it and provide more clarification as to its scope and purpose.

22. However, we remain concerned that the Government might seek to “bundle” future changes to copyright exceptions into a single SI, thereby preventing proper Parliamentary consideration of policies that could potentially have significant negative consequences for rights-holders. In order for proposed amendments to be given the specific scrutiny they deserve, they must be introduced in separate SIs and be accompanied by individual impact assessments.

Barriers to growth in the creative industries—such as difficulties in accessing private finance—and the ways in which Government policy should address them

23. As detailed above, piracy and regulatory uncertainty reduces investors’ confidence of being able to generate revenue through video exploitation in the UK, which makes obtaining funds for the production of film and television content more difficult. Tackling IP theft would increase creators’ and investors’ financial returns and enable more money to be pumped back into the production of new content. It would also increase the Government’s tax receipts. The Government should maintain the UK’s strong copyright framework and facilitate the availability of venture capital and also access to finance through the growing interest in crowd-funding, so that British companies can raise the investment that will allow them to maintain ownership of their IP, and thus retain the value of creativity to the UK.

24. The BVA welcomes the recommendations from the All Party IP Group in its recent report on the *Role of Government in Promoting and Protecting Intellectual Property*, in which it urges the IP Minister to take on the role of IP champion. The recommendation that senior officials and Ministers at BIS take a greater role in ensuring other departments consult them when developing policies that affect IP will remove the disconnect which has led to inconsistencies in policy development and an incomplete appreciation of the contribution copyright-based industries make to the UK economy.

The importance of “clusters” and “hubs” in facilitating innovation and growth in the creative sector. Whether there is too much focus on hubs at the expense of encouraging a greater geographical spread of companies through effective universal communication

25. Examples of like-minded people and industries coming together and feeding off each other’s creativity to form hotbeds of tech and creative innovation, such as in Shoreditch and Soho, demonstrates an important way in which innovation and growth in the creative sector is generated. The success of “clusters” or “hubs” such as these encourages other areas of the country to develop their respective creative economies, such as in Birmingham and Manchester.

26. While the Government can’t force geographical spread of such “hubs”, it can encourage new growth by facilitating access to finance for creative businesses. We therefore welcome policies such as the Film Tax Relief, which should increase inward investment and further the long-term expansion we have seen in the core UK film industry.

Ways to establish a string skills base to support the creative economy, including the role of further and higher education in this

27. The BVA has long argued for the importance of media literacy being promoted more actively in further and higher education and this should incorporate an understanding of the importance of copyright.

¹⁷² Research by IPSOS for BVA 2011 annual tracking study

28. A survey recently published by the NUS, the IPO and the Intellectual Property Awareness Network (IPAN) shows that while 80% of students believe knowledge of intellectual property is important, most think they do not know enough about it and want to see intellectual property teaching integrated into their courses.¹⁷³

As David Willetts, Minister for Universities and Science said when welcoming the findings of the report:

“It is vital that we have an IP literate workforce to meet the challenges of a rapidly changing workplace. I believe the key to success is to garner support from professional bodies responsible for accrediting courses, as well as university and industry and to use that support to bring about changes to the curriculum.”

29. It is especially important that intellectual property rights in relation to film are included in the syllabi of courses where film is being taught. A proper understanding of the way intellectual property rights generate the finance behind film production would be a valuable component of any course by exploring the need for commercial viability as well as creativity in the interests of economic sustainability.

30. The £28 million investment of lottery funds in film education, as outlined in *Film Forever—the BFI's five-year plan*,¹⁷⁴ presents the perfect vehicle for teaching young people who are interested in a pursuing career in the film industry about the importance of copyright as an asset, not a regulation. We urge the Government to ensure that the BFI (British Film Institute) upholds its commitment to work closely with strategic partners, such as Skillset, the National Film and Television School, Creative Scotland, Film Agency Wales and Northern Ireland Screen, to ensure that its education programme has a truly UK-wide reach.

November 2012

Written evidence submitted by the British Film Institute

1. INTRODUCTION

1.1 The British Film Institute (BFI) welcomes the opportunity to contribute to this inquiry. This is a crucial time for the creative economy; the reality of convergence is upon us and the resultant challenges and opportunities are creating a great deal of flux in the market. Digital has already provided the means to greatly expand access to film culture and to our heritage. Emerging business models are disrupting the traditional supply chain and while companies experiment with different models to exploit technological developments and consumer trends the future is unclear. This is certainly true in film production, distribution, exhibition and archiving, where much attention is being given to exploring the effects of windows, video on demand and digital cinema and how to fund films in this environment. Access to finance remains a significant issue for the film industry, throughout the value chain. Within this context the BFI, as the lead agency for film in the UK, has a vital role in supporting film within the wider creative economy and doing what it can to ensure that the UK remains a global hub for film making. By supporting British film makers to exploit their IP and build sustainable businesses we can make a significant impact. We note that the recently published Heseltine Review refers approvingly to the Dutch approach of identifying leading sectors to drive growth in the economy and that they specifically include the creative industries.¹⁷⁵ A similar approach, with specific prominence given to the creative industries would be welcome in the UK.

1.2 The film industry can deliver growth to the economy and current figures paint a healthy picture. An Oxford Economics report¹⁷⁶ into the economic impact of the film industry demonstrated that the core UK film industry supports 117,400 Full Time Equivalent (FTE) jobs, contributes over £4.6 billion to UK Gross Domestic Product (GDP) and over £1.3 billion to the exchequer. Film exports were a record £2.1 billion in 2010 and the average net trade contribution since 2000 has been £380 million. These figures are good for film, but also are good for the whole creative economy. For every person employed in the core UK film industry a further job is supported through indirect and induced multiplier impacts so the jobs created in the film industry also support people employed in companies supplying the film industry.

1.3 But this success is not guaranteed for the future. Film is an increasingly globally competitive industry and in the UK we punch well above our weight creatively, culturally and economically. But in a competitive marketplace where money and talent are in high demand, we will have to fight to maintain this position. Emerging markets are beginning to compete with us on several fronts, notably India and China on skills for the post production and visual effects sectors. We need to ensure that we remain competitive, whilst also looking at how we can seize new global opportunities for film funding, co-production and distribution of British content.

1.4 The digital revolution is having a huge impact on the audience too. Access to film has never been easier and the BFI is playing its part with a plan to digitise and make available a further 10,000 titles from the BFI National Archive and significant Collections around the UK. Digital cinema should enable a more diverse range of titles to be made available in more places around the UK and what the market on its own cannot deliver, the BFI will assist with its ambitious programme to create audience hubs and build the network across

¹⁷³ www.nus.org.uk/PageFiles/12238/2012_NUS_IPO_IPAN_Student_Attitudes_to_Intellectual_Property.pdf

¹⁷⁴ <http://futureplan.bfi.org.uk/launch.aspx?pbid=62b10d3a-080b-4234-93d6-5fff70b4509>

¹⁷⁵ www.bis.gov.uk/assets/biscore/corporate/docs/n/12-1213-no-stone-untuned-in-pursuit-of-growth.pdf, p.78

¹⁷⁶ www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-economic-impact-of-the-uk-film-industry-2012-09-17.pdf

the UK. If we can increase the market for films, particularly British films, then we will help secure bigger returns on investment which can be re-invested in British film.

1.5 The regulatory environment is essential in creating a place where people can do business and in the context of the Government's Communications Review the BFI have urged more to be done to increase or maintain the broadcasters' contribution to film both in terms of production, distribution and securing the archive for the nation. In addition we have urged the Government to think about the current competition regime for content and whether the scope can be amended to make it more fit for purpose in a digital age.

ABOUT THE BFI

1.6 In 2011 the BFI became the lead organisation for film in the UK. Its mission is to ensure that film is central to our cultural life, in particular by supporting and nurturing the next generation of film-makers and audiences. The BFI serves a public role which covers the cultural, creative and economic aspects of film in the UK. We have a turnover of £100 million a year. We are the principal lottery Distributor for film and make available around £60 million of Lottery money per annum to support skills, development, production, distribution, exhibition, education and film heritage.

1.7 The BFI launched *Film Forever*, its plan for 2012–17 on 3 October. The plan sets out our vision and the practical steps that we will take to achieve it. The strategy is based around three strategic priorities:

- expanding education and learning opportunities and boosting audience choice across;
- the UK;
- supporting the future success of British Film; and
- unlocking film heritage for everyone in the UK to enjoy.

1.8 Many of the themes in our forward plan mirror the issues raised by the select committee in this inquiry and the rest of the response addresses each of the key issues raised by the Committee.

2. HOW TO BEST DEVELOP THE LEGACY FROM THE OLYMPICS AND PARALYMPICS

2.1 The Opening and Closing ceremonies of the London Olympic and Paralympic games were cultural and creative feasts and clear demonstrations to the world of the depth and breadth of creative talent that can be found in the UK. The impressive organisation of the games exhibited our ability to put on a show, and also demonstrated that we have the infrastructure and talent to get things done efficiently and effectively; from large construction set pieces to tiny elements of detail, the UK is an excellent place to do business. The ceremonies also included excellent examples of our visual effects industry, our post production facilities and a host of other creative output.

2.2 The games created a shop window through which we could show the world our strengths. The value of the film industry is that it does the same thing week in and week out through the export of high quality British Films. Films depicting the UK generate around a 10th of overseas tourism revenues worth around £1 billion to UK GDP. References to British films such as "James Bond", the "Harry Potter" series and "Chariots of Fire" were included in the opening ceremonies in large part because these are stories that resonate throughout the world and attract people to the UK. Half of the top 20 global box office successes of the last decade are based on novels by UK writers; films based on stories and characters created by UK writers have earned more than £12 billion at the worldwide box office.

2.3 In "*Film Forever*" the BFI highlights the importance of global exports and inward investment. We are keen to make a tangible difference to these activities in a comprehensive and strategic way and announced increased funding for film exports to support the promotion of British films and film talent at key film festivals and in international markets. We are developing with other key partner organisations a new international strategy and our ambition is to position the UK to maximise its place in a global marketplace and reap rewards for the sector to deliver commercial, creative and cultural exchange through increased focus on inward investment, exports and co-production, as well as championing UK film skills and talent. But we must be realistic about the resources available to deliver this. One of the key legacies from the Olympics could be to target resources flowing back from the Olympics to target key markets like China and Brazil and achieve our ambition. We want be at the vanguard of working with partners to shore up investment from these territories in a variety of ways.

2.4 The more that the Government can do to utilise its international networks and support the industry globally, the more that we can capitalise on our more popular brands and enable newer players to establish themselves and gain traction in other markets.

3. BARRIERS TO GROWTH IN THE CREATIVE INDUSTRIES

3.1 Despite advances in technology and how it is used, both in production and distribution, film remains capital intensive relative to most other forms of creative endeavour. In addition to the issues identified around tax, noted at Section 5 below, there are significant problems in relation to access to finance including digital disruption causing uncertainty for those selling distribution rights around the world to finance films, sales of rights, notably because of the decline of DVD. There has also been a marked decrease in the number, scale

and range of commercial providers of equity and debt to fund film projects. There are broader challenges around securing investment in new business models for the digital age. There are also issues with intellectual property notably relating to copyright infringement and theft which are noted in Section 4 below.

3.2 Film is a complex industry that the majority of financial institutions struggle to understand. Dealing as it does with the creation and distribution of intellectual property, it relies on providers of finance that understand how to value, securitize and monetise such property. This is especially the case within the fragmented film value chain that characterises the UK's independent film sector.

3.3 UK small and medium enterprises (SMEs) in general have experienced greater difficulties than their larger counterparts in accessing finance primarily due to the higher risk they represent. For SMEs in creative industries these difficulties have been particularly acute. As SMEs suffer from long-standing challenges in accessing bank and equity finance they have historically been the main target of government action to ease access to finance, but many of those interventions have not benefited the UK Film Industry. While the UK Film Tax Relief and the Enterprise Investment Schemes (EIS) are valuable means of supporting individual film productions, there has been negligible support to help broaden access to finance for the production of slates of films, the domestic distribution and international distribution of films made in the UK or the growth of the corporations that finance, produce, export and distribute UK films; essential building blocks of a successful UK film industry. In particular, the BFI is planning to undertake detailed work to establish what kind of public policy interventions might help stimulate investment across slates of films and support corporate growth.

3.4 There is also a need for access to financial and business advice to support sustainable growth. What is in short supply is strategic business advice, not transactional expertise; there is plenty of the latter available.

3.5 There are also barriers to growth caused by the lack of high-speed broadband. More than any other popular form of content, film is reliant on fast and reliable broadband services to enable online distribution, given the large data requirements: it is audiovisual in nature, feature-length films often run to more than two hours in duration, and consumer expectations of high picture and sound quality are typically higher than for other forms of audiovisual content (such as TV programmes). Our understanding is that minimum bandwidth requirements of 3Mb/s are needed to provide DVD-quality pictures. For these reasons, the rollout of superfast broadband in the UK will have a significant effect on the film sector throughout the UK and its absence in certain areas represents a barrier to growth.

4. INTELLECTUAL PROPERTY AND GROWTH

4.1 The BFI wants to see 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, notably by stemming copyright infringement and theft online. In practice, this means ensuring that copyright legislation affecting film achieves the right balance between access and protection. It is now almost six years since Andrew Gowers' report for the previous Government on intellectual property was published and yet there has been very little legislation introduced in the meantime to update the copyright framework and even the legislation that has been introduced (the clauses relating to online infringement in the Digital Economy Act) has not yet become operational. There is an urgent need for Government action to ensure the intellectual property framework is fit for purpose in the digital age.

4.2 Increased access to film within the framework of the law will have many significant benefits such as helping the BFI and other archives across the UK to make more of the materials they hold available. This will benefit the public, learners, film culture and the creative industries. That is why, for example, we support the proposed measures on orphan works which are contained in the Enterprise and Regulatory Reform Bill.

4.3 As an organisation which invests public money in the production, distribution, exhibition and archiving of films, the BFI is keenly aware that copyright infringement and theft is damaging to the interests of rights-holders and the creative community as well as to citizens generally. Such illegal activity was estimated to cost the UK film sector €308 million in 2008. It is crucial that rights holders are able to make their films available to audiences secure in the knowledge that there is a robust legal framework in place which is designed to significantly reduce copyright infringement and theft—both online and offline. In previous submissions to Parliament, the BFI has broadly welcomed the announcements by Government regarding the next steps for the implementation of the Digital Economy Act (DEA) in respect of measures to curb online copyright infringement, and we wish to see rapid implementation of the measures to significantly reduce online copyright infringement that are contained within the Act. But we have major concerns about the costs of participating in the scheme which has been developed by Ofcom—these costs are such that they would seem to preclude all but the biggest companies from taking advantage of the DEA provisions.

4.4 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.

5. TAXATION

5.1 The Film Tax Relief has been an undisputed success story; supporting the UK film industry and the UK economy. Without it, we estimate that UK film production would be reduced by 70% and there would be an associated average loss of around £600 million per year of total UK film production of which £500 million would be inward investment. The BFI is supportive of the proposed new tax reliefs for animation, high end television and video games and has co-operated with the Government in devising the draft cultural tests. The BFI currently administers the film cultural test and we have offered to carry out the administration of the new cultural tests on behalf of the Department for Culture, Media and Sport, subject to receiving the appropriate resources to do so.

5.2 We expect these new reliefs to have a positive effect on the overall UK content production market but advocate a full evaluation of the effect of the three new reliefs before proposing any further areas of expansion; we need to test the impact of these reliefs, how they work together and how they affect the market. With four reliefs working alongside each other it is important to ensure a net benefit to the UK before proposing further additions.

5.3 There are other non-sector specific tax reliefs such as Venture Capital Trusts (VCT), Research & Development (R&D) and Enterprise Investment Schemes (EIS), which can support the creative economy. The BFI would advocate more exploration about how all these reliefs could be amended to continue to support the creative economy. Of these schemes, EIS is the most beneficial to parts of the film industry because it creates a significant opportunity to attract venture capital for film production. We welcome the recent increased in the value of EIS to investors, the amount that individuals can contribute, and the annual limit on EIS.

5.4 The BFI welcomes recent statements and reassurance from HM Treasury about the legitimacy of EIS schemes and will actively work with the Government to address the perception problem about the validity of these schemes.

5.5 As part of our international strategy, we have identified some key global territories with the most opportunities to secure investment. We would welcome support from the Government in the next phase which is conducting research into really understanding the fiscal value that can be secured through targeting investment opportunities. As part of this strategy, we would also like to explore with the Government whether the fiscal incentives can be adapted to better serve co-production films which don't tend to attract this investment. Co-production could be the key to unlocking investment from emerging global markets and help us develop a mixed ecology of film investment not overly reliant on one market.

5.6 In addition, more could be done to support philanthropy in relation to Film. The BFI welcomes the new Cultural Gifts Scheme but remains concerned that it will target a narrow definition of "cultural" works which won't properly reflect the cultural significance of film. The BFI National Archive, along with other film archives throughout the UK, plays a vital role in safeguarding audio-visual heritage. We urge the Government to either consider an extension of the definition to properly embrace film, or create an additional scheme to incentivise the donation of archive footage and film rights to film archives with the BFI playing a significant role.

6. SKILLS

6.1 Skills are the bedrock of the creative economy and the breadth and depth of the talent base is fundamental to the UK's ability to compete internationally now and in the future. In our future plan we set out our proposal to partner with Creative Skillset (the Sector Skills Council for the Creative Industries) and the Department for Business, Innovation and Skills (BIS) to develop and execute an advocacy plan to help ensure that investment is adequate. We will also develop a skills strategy based on three priorities: developing new high quality talent; skills that keep pace with technological developments; and entrepreneurship and business skills.

6.2 But we believe that some more fundamental questions need to be raised about supporting skills development. There needs to be a focused and targeted approach to supporting skills needs in growth industries to further the UK's economic prospects at home and abroad. The balance of skills investment does not fully reflect growth potential so for example, despite film being a growth area, Film Schools are not yet supported by Higher Education Funding Council for England (HEFCE) in the same way as other sectors are; there needs to be more funding that is better targeted to stimulate growth. As BFI Chair Greg Dyke said during the BFI London Film Festival, *"The Government has given real support to the cultural industries which it sees as the growth industries of tomorrow. If that's the case it's vital that film, art and creativity are taught alongside English, maths and computer studies because it's the knowledge of all these essential subjects which is needed for kids who want to go into post production, special effects, games and animation."* This isn't just about film, it applies across the creative sector where there is a lack of investment in the skills we need to compete internationally. The arts and creativity appear to be marginalised in plans for reform of the curriculum in England. The recent Henley Review of Cultural Education in England underlined the importance of creative and cultural education and noted that *"there is a risk that the importance of Cultural Education is devalued unless it is seen as part of the entire curriculum offering for young people"*. In addition there is a danger that access to the best schools is becoming increasingly elitist so the Government should look at more ways of ensuring access for all, with particular measures—for example bursaries—to ensure that no one is denied access because of inability to pay. The BFI recognised the significance of apprenticeships to support talent development for all sectors of the creative economy.

6.3 The new tax breaks should serve to encourage more production to the UK. One of the benefits of this will be more jobs created in the industry but one of the issues to contend with will be how to ensure that the skills base is large enough to cope. There may be increased pressure on the skills infrastructure and the whole sector will have to collaborate to grow the pool of skilled people to reap the maximum benefits from the reliefs. The BFI will be at the centre of those discussions and our relationship with Creative Skillset will be key.

6.4 Growing that skills pool starts with talent development. The BFI, working with the National Agencies and Creative England, will work with partners to create a talent network throughout the UK to develop and nurture talent. These will create a network with the National Screen Agencies, Film London, and Creative Skillset.

6.5 In addition we are partnering with the Department for Education (DfE) to deliver a 16–19 film academy which will operate across every region of the UK and this will also be a partner in the network supporting talent. This will complement our new £7 million 5–19 programme for education which is currently being developed. In addition we support the recommendations from the Hope/Livingstone report that propose an increased focus on STEM skills at school and which seek to bring about a better fit between the skills developed at university and the needs of the creative industries, notably the Visual Effects (VFX) sector.

7. CLUSTERS AND HUBS

7.1 Creating clusters and hubs facilitates innovation and growth but this shouldn't be at the expense of widening the creative economy to incorporate skills, talent and perspectives from across the UK. Much of the film industry, for example the production sector, has traditionally been concentrated in London and south east.

7.2 One of the BFI's key aims is to promote diversity and to ensure that people from the whole of the UK have the opportunity to be part of the film industry as well as experience the rich rewards of watching a wide range of films reflecting their own culture and those of people from around the world. We think that the best way of ensuring this reach is to support hubs and build out networks in a comprehensive approach which delivers for people across the UK. Our strategy aims to build on the best of both approaches in several ways including the education offers outlined in section 6 above.

7.3 The BFI welcomes the Technology Strategy Board's Catapult programme which will establish a network of technology and innovation centres. We would like to actively partner with the TSB in delivering appropriate support to the film sector to build on the potential for delivering growth and exploring new digital business models.

7.4 Through the development awards and the production awards of lottery money made by the BFI, we aim to support films that reflect the diversity of the UK and its storytellers. For example our new development awards will be available to help production companies from across the UK to build their development slates with creative and financial autonomy. We will encourage applications from companies with a particular genre focus or area of expertise such as working with filmmakers outside London.

7.5 Building audiences is a key element of creating support for the creative economy and the BFI is committed to address gaps in provision through building on the capacity of film network hubs and ensuring reach to wider audiences through initiatives such as community venues for films and the audience network. If the Government pursues the recommendations in the Heseltine Review about devolving increased amounts of funding to the regions, then film should be a key beneficiary as a driver of growth.

8. PUBLIC BODIES IN THE SECTOR

8.1 The BFI is supportive of the aims behind the Creative Industries Council which was set up to be a voice for creative industries and focus on areas where there were barriers to growth. While we welcome moves to make the Council more industry-focused it is an anomaly that there is no place for the BFI on the Council given our expertise and remit as the lead agency for film; we think this should be addressed and the BFI should be invited to be on the Council as a matter of priority. The Council should focus its efforts on barriers to growth and the BFI would advocate for a less frequent but more impactful relationship with Government Ministers which is geared around delivering specific actions rather than merely discussing issues.

8.2 The BFI itself has undergone significant transformation in the last 18 months and through "*Film Forever*" it has articulated a new strengthened vision for public support for the film sector. We have been heartened by the initial reaction to this strategy, which was informed by extensive consultation, and are focusing our efforts on the key priorities outlined in the introduction to this paper. The BFI is committed to being open and transparent and to maintaining an on going dialogue with our partners and the sector; we are holding a series of road shows across the UK in November to talk in more detail about some of the initiatives mentioned in our Film Forever strategy.

8.3 We believe that the BFI (one of the few public bodies operating in both the creative industries and in the cultural sphere) has a strong and positive impact on the creative economy and we will continue to work hard to deliver that value to the film industry, the economy and the UK public.

The BFI would welcome the opportunity to give oral evidence in due course.

November 2012

Written evidence submitted by the British Screen Advisory Council

INTRODUCTION

The British Screen Advisory Council (BSAC) welcomes the Culture, Media & Sport Select Committee inquiry into support for the creative economy. Considering how Government policy can best enhance the prosperity of the UK audiovisual sector is a key facet of our work and we have published a number of reports on this subject in recent years. We are therefore pleased to take this opportunity to submit evidence to the Committee.

As you know, BSAC is an independent advisory body to the government and policy makers at national and European level and to the audiovisual sector. It brings together the widest possible range of UK interests, experiences and contacts in the screen industries including television, games, film production, distribution, exhibition, post-production and the US studios with offices in the UK.

The UK audiovisual sector is one of the most competitive media markets in the world. Our expenditure on content is one of the highest globally with an estimated £13 billion per year flowing through the audiovisual economy, with £4 billion spent on UK originations. The UK's creative industries continue to significantly outperform competitors, contributing a higher proportion to the country's gross value-added than any other OECD nation. It is therefore extremely important that Government policy is correctly positioned to protect our global competitive advantage and to encourage industry to thrive.

The Government has identified the creative industries as a growth sector recognising their potential as an important contributor to wealth creation. In his announcement of the new tax reliefs for animation, high end TV and games in March 2012, the Chancellor asserted the "industrial ambition" to "turn Britain into Europe's technology centre" starting with digital content. The sector has been subject to major structural shifts as a result of technological developments. As well as audiovisual businesses taking advantage of the opportunities afforded by digital technology, there is an opportunity for Government in the long term to review the framework of public subsidy and regulation currently in place, and consider the policy levers available to it to ensure the best conditions for the sector.

ACCESS TO FINANCE

In order to help to provide the best conditions for growth and innovation within the audiovisual sector, it is necessary for Government to recognise that although the UK is rich in creative talent and adept at producing creatively excellent content, various factors prevent creative businesses from achieving scale and effectively exploiting their IP. The vast majority of creative businesses in the UK are very small and lack the scale to finance their own projects and must therefore seek private investment. The high risk profiles of such businesses impact on their ability to attract sufficient investment from the market. It is essential that Government intervention in respect of easing access to finance for creative businesses is based on a sound understanding of the risk profile of such businesses.

BSAC has engaged with the HMRC on the revision of guidance for the operation of the Enterprise Investment Scheme over recent months. Concerns were raised in relation to the new guidance unintentionally penalising creative businesses. We have received assurance from HMRC officials that this will not be the case and look forward to the publication of the final guidance.

As we noted in our response to the DCMS Communications Review,¹⁷⁷ crowd-funding sites can offer a valuable source of finance for creative businesses, especially SMEs, in the UK, and could provide the opportunity to leverage further private investment. We support the recommendations of the Creative Industries Council report on Access to Finance that Government consult with the Financial Services Authority to introduce an enabling legal framework for crowd-funding.

IP REGIME

BSAC has been actively engaging with Government in constructive debates on the IP framework over a number of years. We have previously welcomed Government action to facilitate the legal use of audiovisual material in which there is one or more orphan right as well as the conclusions of Richard Hooper's feasibility study to develop the Digital Copyright Exchange. BSAC is currently participating in the Working Group which is considering how to create a Copyright Hub. We have, however, expressed concern that the direction of travel, in relation to certain proposals, is towards amending copyright law as far as possible for the benefit of only certain types of stakeholders. We would caution that such a course needs to be pursued very carefully if it is to facilitate the Government's goal of delivering real value to the UK economy and to the creators and lawful users of IP. In our response to the DCMS Communications Review, we recommended that, in taking forward future developments of the copyright regime, it is essential for the IPO to continue to improve its

¹⁷⁷ See BSAC response to DCMS Communications Review at www.bsac.uk.com/2012.html

economic analysis of the evidence, as well as to reaffirm what we believe is the essential requirement for IP policy development, namely delivery of a system that is fairly balanced between the interests of all stakeholders.

BSAC has for a long time identified copyright infringement as a priority issue needing Government action. The sending of messages to those identified by right owners as engaged in casual copyright infringement in the peer-to-peer environment is likely to lead to a significant reduction in illegal use of content and these provisions in the Digital Economy Act should now be brought into force. Industry must continue to play its part in developing new ways of making protected content available to the public and, for example, engaging in initiatives such as the Copyright Hub to make legal licensing of content easier. However, industry action alone is unlikely to be sufficient to enable the digital creative industries to build and protect their online revenues in the long term; and therefore to continue to invest in innovative new business models to meet consumer demand for high quality content across platforms and devices. Government oversight and, if necessary, regulatory intervention will continue to be required in order to ensure all relevant stakeholders effectively address copyright infringement. Educational initiatives led by the Government to increase understanding about the value of copyright are also important.

The proposals in the Enterprise and Regulatory Reform Bill that would permit changes to copyright law without recourse to primary legislation include a provision that would enable the issue of orphan works to be addressed, an issue that BSAC has recommended action on for some time. However, we are concerned that the current proposals may prevent a solution that balances fairness for missing right owners against not being unnecessarily bureaucratic for potential users of orphan works. The proposal that would permit provision about extended collective licensing may, on the other hand, not sufficiently constrain when that could apply. BSAC is pleased to be involved in discussions in the IPO working group about how these powers might be used, but it would have been preferable for these discussions to have preceded decisions about the provision in the Bill. This would have enabled provisions to be appropriately drawn up to permit secondary legislation on the issues in a fair and balanced way. We are pleased that the scope of the provision permitting changes to copyright exceptions has now been clarified by an amendment linking what can be done to provision within the scope of EU Directives.

SKILLS FOR THE CREATIVE ECONOMY

Over many years, BSAC has argued that an effective cross-sectoral skills strategy is a key component in the maintenance of the global competitiveness of the UK's creative industries. In a 2009 report on the state of the sector, we called for the production of "a generation of 'creative technologists'".¹⁷⁸ We are a supporter of the Next Gen Skills Campaign for the introduction of an industry relevant Computer Science course within the framework of the National Curriculum. Progress is being made on this issue, however, the UK risks losing its competitive advantage in the VFX and computer games sectors as it will take several years for appropriately qualified new entrants to emerge. With this in mind, we recommend that Government regularly evaluate whether the present curriculum is adequate to provide children with the literacy they need in the digital age.

In our response to the recent DCMS Communications Review, we highlighted some ways in which further and higher education institutions could further help in the establishment of a strong skills base for the creative economy. These include multi-disciplinary courses which bring together industry-relevant digital content creation with creative arts practice and business skills, and greater engagement and partnership between higher education and industry in line with the recommendations contained in Sir Tim Wilson's Review of Business-University Collaboration.

CONCLUSION

In order to effectively deliver a coherent policy for the support of the creative economy, BSAC believes that audiovisual policy must be properly resourced in order to strengthen economic knowledge and sector specific expertise within Government. Government should consider how to ensure that DCMS has the scale and capability to deal with the complex and rapidly evolving economic and technological issues facing industry going forward. We have previously recommended that, given the UK has the most developed and mature audiovisual sector in Europe, it is important to consider how to ensure the needs and concerns of UK industry are effectively represented in policy negotiations at European level.

October 2012

¹⁷⁸ For the 'BSAC Creativity, Competitiveness & Enterprise report' see <http://www.bsac.uk.com/policy-papers.html>

Written evidence submitted by Directors UK

INTRODUCTION

1. Directors UK is the professional association for film, television and all moving image directors in the UK. The organisation is both a collecting society for the distribution of secondary rights payments to directors, and the professional association providing services and support to its members. It seeks to protect and enhance the creative, economic and contractual rights of directors in the UK and works closely with organisations in the UK, Europe and around the world to champion directors' rights and concerns. With over 4,500 members it represents the overwhelming majority of working film and television directors in the UK.

2. Directors UK welcomes the opportunity to submit comments to the Culture, Media and Sport Committee inquiry into support for the creative economy. Our focus in responding is on the *Creative* element of the "Creative Economy" and in particular creative individuals, who are the engine of economic growth. Our key priorities are:

- Support for copyright—fair rewards and incentives for British creators.
- Tax and employment—recognition and support for the nature of freelance employment.
- Skills and training—developing and inspiring talent.
- Representation of individuals—a government champion for the individual creatives.

CREATIVE TALENT—INDIVIDUALS AND BUSINESSES

3. Creative talent is the engine of a thriving UK industry. In our view government policy-making has tended to focus on developing and supporting business organisations within the creative sector. While it is clearly right to look at ways to support creative businesses, it is vital also to develop and support creative individuals. We believe more attention needs to be paid by government to the needs of creative individuals so that we capitalise on opportunities that would have a direct benefit on the creative economy.

4. What was so striking about Danny Boyle's Opening Ceremony for the Olympic Games was not just a director's creative concept, design and execution brought to life on the world stage, but his celebration of the work of other individual British creators from the fields of music, film, technology, engineering, fashion design, invention and more. The inspiration comes from the individuals—David Bowie, Alexander McQueen, J.K. Rowling—and not the businesses that published or produced their works.

5. The key attributes of a creative mind—innovation, inspiration, surprise, risk-taking, challenging norms, new perspectives—can be applied across many industries—fashion, art, film, television, music, design. Creative individuals generate new ideas, products and services that power the growth in the creative economy. These individuals, in our view, need a champion in Government.

6. In this paper we provide some examples of where greater support for creative individuals would benefit the creative economy as a whole. We also highlight some areas where there has been strong government support, as evidence of the potential that a joined up approach can realise.

SUPPORT FOR COPYRIGHT & FAIR REWARDS FOR CREATORS

7. The creative industries have been recognised as a key growth sector. However, without the ideas and inventions of individual creators, underpinned by the protection of those ideas through copyright, there would be no creative economy.

8. Much of the Government's desired growth from the creative industries will derive from the ideas and creations of individual authors and creators. It is therefore crucial that, like businesses, individual creators are able to participate fairly in the rewards of success of their creations and are thereby incentivised to commit their careers to creating more great British works.

9. To ensure that creativity is contributing to the maximum economic growth in the UK, the Government needs to ensure that authors and creators are encouraged to remain in the UK commercial sector through incentive and reward.

10. We have seen in both our own and other industries how the UK's brightest talents can become disillusioned and decide instead to forge their careers in other countries and/or industries where their talent is fairly rewarded (in the case of film directors—to the USA).

Fair compensation for surrendering rights

11. Directors UK members have an active interest in copyright and IP, as directors are recognised as authors of their work under UK and European law. Retaining IP rights is vital; it provides creators with the means to realise value for the uses of their creations. The extent to which independent TV producers have used the retention of rights granted in the 2003 Communications Act to distribute more UK content on secondary channels and in particular internationally, illustrates the extra economic success achieved when content creators have control over their own IP rights.

12. At Directors UK our main challenge has been asserting our members' rights in the face of huge pressure to surrender their copyright for no fair reward or compensation—a challenge that remains to be resolved in the area of film. We are also concerned this will increasingly become an issue for on demand and other digital use of their works where it proves difficult for individual creators to tap into the various different revenue streams and to deal with some of the very large ISPs.

13. Without fair remuneration for authors there is no incentive to continue to create new and innovative commercial content, instead concentrating on projects where the incentives come from critical or artistic acclaim rather than commercial success, and this poses a very real risk to industry and growth.

14. We want to see an environment emerging in which consumers, creators and service providers can all access creative material at a fair price and with fair rewards and compensation to creators for the use of the copyright.

Hargreaves

15. Many of these issues are largely dealt with through the copyright system, and Directors UK has been involved in the work of Hargreaves, the IPO, Richard Hooper and BIS.

16. On the whole we felt that the Hargreaves review and the work that followed it was heading in the right direction, in particular its understanding of the need to sustain fair rewards for creators, and for the continuing fight against IP theft. We were particularly supportive of the recommendation for a Digital Copyright Exchange, which was further developed by Richard Hooper and has led to industry figures agreeing to support a “copyright hub” project. We believe this industry-led approach is the most effective way of ensuring that copyright licensing is as efficient and usable as possible in the digital age.

17. However, there are some areas arising from the Hargreaves review in which we do have concerns, in particular Private Copying Exceptions for personal use and issues concerning the regulation of Collective Management Organisations.

Private Copying Exceptions

18. Format shifting (or copying works across devices) whilst notionally illegal in the UK is not currently enforced and consumer awareness of the illegality of it is low, with consumers expecting to be able to use the content on whatever device they choose. While we agree with Hargreaves that this needs to be addressed, in our view it is important to have flexible and adaptable arrangements which allow people to access content via different platforms but which protect and fairly reward rights holders.

19. In our response to the IPO's consultation on copyright we highlighted our concerns regarding the private copying exception. We argued that the consultation document seemed to pitch consumers, creators and platforms/businesses against each other. It appeared to have been framed very narrowly, limiting the extent to which legal private copying could take place and without any payment to copyright owners. Instead we proposed an alternative Statutory Licensing approach, which would permit more extensive private copying that could liberate new creative businesses whilst providing a fair reward to creators of the works which new businesses wish to use.

20. Statutory Licensing could take the form that equipment or platform providers, or the consumers themselves, would pay a licence fee at the point of purchase of content which would give them the right to all authorised uses. We believe this approach would be widely supported by creators, consumers and digital businesses:—consumers will be able to use their content in the ways in which they want without breaking any laws; businesses will be able to create and develop market opportunities for products using these works; and creators will be fairly rewarded for the use of their work. In our response we strongly urged the Government and the IPO to think again.

Regulation of Rights Owners

21. Following Hargreaves and work being conducted in the EU, policy is moving towards heavier regulation of rights owners such as Collective Management Organisations (CMO's) in the UK and Europe. Whilst we support the need for better regulation of CMO's we are concerned that an uneven playing field might be created if legislation excludes private rights collection organisations and public institutions such as public service broadcasters. Once again it risks unfairly penalising groups of individual creators compared to businesses.

Retransmission Fees

22. Outside of Hargreaves, a further anomalous situation in the UK which is being examined within the DCMS Communications Review is the fact that there is no standard requirement that payments are made by pay TV platforms for retransmission of free-to-air PSB broadcast channels, unlike most countries in the rest of Europe.

23. British Creators are alone in not currently benefitting from retransmission copyright fees in the way that authors in other countries do, as highlighted in research conducted by Oliver and Ohlbaum:¹⁷⁹ *“Across much of continental Europe and the USA re-transmission of leading free to air networks is protected by copyright (ie they need the channel’s permission to re-transmit) and is accompanied by an obligation on platforms to pay a copyright fee which is then shared between the broadcasters, producers and authors of TV works/programmes”*.

24. We believe that the new Communications Act should require that pay TV broadcasters must pay to carry the PSB channels, this would provide additional funds to those channels and would represent a valuable incentive to all creator groups—writers, producers, directors, performers, music composers—through both remuneration for use of their works and as funds for investment in new content creation. Any changes to the retransmission fees structure should incorporate copyright payments for authors.

TAX & EMPLOYMENT

25. We welcome the government’s commitment to the film tax credit and the proposals for introducing creative sector tax incentives for high end TV, animation and video games. Directors UK had been increasingly concerned about the risks to the industry of such productions moving out of the UK and this move should help to reduce this risk.

26. However, whilst there has been government and treasury support for the business end of the industry we are concerned that on an individual level some aspects of the tax system bear down too severely on creative individuals and should be reviewed.

27. In recent years creative businesses have been removing creative individuals from full-time staff positions. As a result the vast majority of creators and authors are now freelance ie pursuing their careers outside a company/staff employment structure, with fewer employment rights and protection and with limited support.

28. Their careers are often characterised by long periods where they are not paid. This time can be used productively to develop and research new projects, at their own risk. We note the moves that the Government has already made to alter certain aspects of the corporate tax regime in the UK with a view to incentivising spend on R&D. We would like the government to explore the possibility of extending similar ideas to individual creators through the personal tax system so that authors are incentivised to invest their time between periods of “paid work” in the development of strong and innovative creative ideas.

29. We have also been concerned with the unintended consequences of the HMRC’s “9-month rule”. This rule, set out in the HMRC Film Industry Tax Guidelines whereby any freelance worker in the film and TV industries whose contract extends beyond nine months is deemed to have PAYE tax status, causes producers and broadcasters to limit contracts to nine months maximum, even if the project has a natural life of one year. As a result, a director who is quite clearly a freelance worker has to take an enforced and artificial three month period of unemployment, and is denied the opportunity to complete the natural cycle of employment on that project. It also has an impact on freelancers who are employed independently on different projects, headed up by different production teams, but for the same umbrella employer, eg the BBC, ITV or a large independent production company. In the case of continuing drama directors, who are limited to working on a small number of productions (*EastEnders*, *Casualty*, *Holby*, *Doctors*, *Coronation Street*, *Emmerdale*) produced by the BBC or ITV, they risk enforced unemployment as a result of the restrictions imposed by the rule.

30. This measure was originally introduced, we believe, to prevent the avoidance of PAYE by workers who claimed to be self-employed, but in practice now it is having the effect of an additional and unfair penalty on workers who are clearly freelance and have no claim to employed status. Directors UK is currently engaged in dialogue with HMRC regarding their recent update to these rules and while we acknowledge that the revisions do allow some flexibility, it is still confusing to both employers and freelancers alike. We would like to see the nine-month rule altered in the case of the Film and Television industry, to remove this unnecessary and harmful effect.

SKILLS AND CAREER DEVELOPMENT FOR CREATIVE INDIVIDUALS

31. The UK was able to showcase so many talented British individuals at the Olympic ceremonies, but they all had to start somewhere. When considering the legacy of the Olympics we need to ensure that we continue to create an environment that nurtures, develops and supports our creative individuals throughout their careers and which allows for entrepreneurial risk-taking.

32. The value of the creative economy, and in our case film, television and new media production activity in the UK from both indigenous production and inward investment, demonstrates the vital need to ensure that the UK’s talent base remains world class, not just in terms of facilities and resources but also for individual creative talent.

33. There is a clear analogy here with sporting excellence. The risk is that UK talent will not be available to deliver the full range of creative content required for the future, unless we tackle the issue of investment in

¹⁷⁹ <http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/RetransmissionandAccessChargesReview.pdf>, page 1 & 9.

skills and career development. We believe this requires a strategy for the development of the whole careers of creators, and not just discrete skills training.

34. Our concern is that training has recently tended to focus on what funding bodies or creative businesses want or think is wanted, as opposed to what the individual recipients actually need. This is exacerbated by the fact that the casualisation of the workforce has fragmented access to training opportunities for our largely freelance British talent base.

35. We believe the industry and the individual creative talent would be better served if training strategy and funding focused more on the delivery of career development through professional associations who are tuned in to the needs of their members.

36. Directors UK, as the professional association for screen directors, can and should play a key role in determining where key skills gaps exist and where training and further development needs must be met. In our members experience current practice by broadcasters and employers does not address this in a practical way.

37. Beyond the core craft skills learnt at college or on the job, directors need to acquire any new technical skills; they also require opportunities to practice the full range of skills and to be supported in their existing work place; and they need to gain inspiration and learning from their own work, that of their peers and of the great directors. Our concern is that with the increase in risk-averse investment and commissioning there is little scope for directors to develop their own vision, experiment or innovate with new ideas and techniques.

38. We are ready to work with Creative Skillset to identify these gaps and needs and to deliver the necessary training to ensure that there is no shortage of talented, world-class British directors creating innovative British content.

39. Directors UK is also keen to ensure that activity designed to identify and develop talent is applied across the country. This is important not only to ensure that all potential talent has the opportunity wherever it is based, but also that a range and diversity of UK voices is present both behind and in front of the camera.

REPRESENTATION OF CREATIVE INDIVIDUALS

40. Directors UK has become the recognised voice representing the concerns of our members. We are now an active participant in industry and government discussions and our opinions are being heard, but we are conscious that voices representing individual creators have been, and still are, too often missing in industry discussions and forums. We view this as a dangerous oversight.

41. We note that among the list of members on the Creative industries Council there are representatives of creative businesses across a variety of sectors but there appears to be no individual creators or representatives speaking on behalf of creative individuals. We believe it is important that creative individuals are part of the debate concerning development and growth in the creative economy.

42. An example of how well this can work can be seen in the recent Film Review conducted by Lord Chris Smith. His review brought together input from individual creators, film businesses, industry experts, skills experts, educationalists, government departments—with BIS, DCMS and the Treasury all playing their role. As a result it produced a list of recommendations that ensured a joined up approach to policy and to which all parties felt incentivised to work together to deliver in order to best develop their industry.

43. Policy work affecting the creative industries is currently being undertaken in departments across government eg by the DCMS in the Communications Review, by the IPO on copyright, BIS on growth, innovation and skills development and HM Treasury on creative sector tax reliefs, all of which have the aim of protecting and encouraging growth in the UK's creative industries. Whilst Directors UK welcomes this cross-governmental support for the creative industries and feel there is a continuity in the policy objectives that links many of them together, there has to be sufficient support for Creative Individuals. Our proposal to achieve this is for the Government to designate a champion who would work across departments to ensure that the interests of individual creators are heard, supported and encouraged and to ensure a more joined up approach to policy making.

November 2012

Written evidence submitted by The Association for UK Interactive Entertainment (UKIE)

1. INTRODUCTION

1.1 The creative sector is a hugely important one for the UK. Within this, the games industry is one of the biggest, most agile, and most diverse creative industries in the UK. The boxed and digital UK video game retail market was worth close to £3 billion in 2011.

1.2 The games industry supports 28,000 jobs across the UK, 9000 of them of them in the highly skilled games development sector.

1.3 Games have become an increasingly popular form of entertainment. The launch of major games franchises now regularly out-grosses any other entertainment launch, including Hollywood films.

1.4 The UK games industry is also at the forefront of developing innovative digital business models.

1.5 Recent UK global successes include “Batman: Arkham City” developed by North London studio Rocksteady Studios and “Football Manager 2013” by Sports Interactive, also based in London. This is not to mention web based successes like *Moshi Monsters* and online role playing game *Runescape*, with over 100 million registered users between them.

1.6 The UK has traditionally been a world leading centre for the industry. Britons were pioneers in games design and innovation and this continues to pay dividends—the UK remains a world leader in a global industry that is predicted to be worth over £50 billion globally by 2016 in software sales alone. PricewaterhouseCoopers projects this sector will grow at an average annual rate of 7.2% between 2012 and 2016—faster than film, music and TV.¹⁸⁰

1.7 Ukie has been pleased to see the Government recognise the value and importance of the games industry in recent years. We have been glad to work with them on a number of initiatives, most recently industry wide tax breaks, measures to develop the skills required by the industry and the successful launch of PEGI, the pan European age rating system for games, this summer.

1.8 Ukie wants to work with government to develop regulation and legislation fit for a digital age that will allow the UK’s games and interactive entertainment sector to thrive and make Britain a global hub for technology growth and digital creativity.

1.9 For the games industry to continue to thrive in the UK it needs the following:

- People with the right skills. Creation of a game, among all other types of media and entertainment, involves perhaps the greatest combination of creativity and technical skills. It requires a huge range of skills to produce a modern game, including art and illustration, writing, and marketing as well as the computer science skills that almost all modern businesses need.
- A business environment which encourages investment in the UK. This includes a competitive tax environment and access to finance for UK companies.
- Accurate measurement of the size of the UK games and interactive entertainment industry.

1.10 Government has a role to play in helping achieve this. Below we set out Ukie’s assessment of current Government initiatives and discuss how Government could maximise its opportunities to support the games industry in the UK.

2. SKILLS

2.1 Hi-tech digital skills are vital for a range of industries, including video games, but the UK faces serious challenges on this front, particularly with regard to Computer Science and ICT.

2.2 Until the recent reforms, little or no Computer Science or programming was taught at GCSE level in UK schools creating serious skills shortages because of poor curriculum and little or no career articulation.

2.3 Next to curriculum reform, there are also structural problems in UK education. According to the Royal Society two thirds of teachers are judged not to have sufficient qualifications to teach even the outmoded ICT curriculum dis-applied in September 2012.

2.4 The combination of these factors has had a knock-on effect on the take-up of Computer Science later on. In 2011 only 3,517 out of the 782,779 (or 0.4%) qualifications entered at A-level were in Computing and only 7% (241) of Computing A-level students are girls.¹⁸¹

2.5 In November 2011 Ukie launched the Next Gen Skills campaign,¹⁸² an alliance between the digital, creative and hi-tech industries and the UK’s leading skills and educational bodies to ensure the UK develops the computer programming skills it needs for the UK’s economy.

2.6 Over the last year the campaign has made significant progress due to engagement by the Departments for Education and Culture Media and Sport, both of which recognise the need to turn education around. The DfE’s consultation on ICT reform in January this year and work commissioned by the DfE has developed a draft Programme of Study for ICT which will include a computer programming option.¹⁸³

¹⁸⁰ PWC Global Entertainment and Media Outlook—www.pwc.com/gx/en/global-entertainment-media-outlook/segment-insights/video-games.jhtml

¹⁸¹ www.education.gov.uk/rsgateway/DB/SFR/s001055/index.shtml

¹⁸² Next Gen Skills is a major new campaign formed from an alliance between the biggest names from the UK digital, creative and hi-tech industries and the UK’s leading skills and educational bodies to improve the computer programming skills needed for the future growth of our economy. The campaign is funded and led by games and interactive entertainment trade body Ukie (including major international companies with UK interests such as Microsoft, Sony, Nintendo, EA, Activision and SEGA, plus leading UK creative development studios such as Blitz Games Studios, PlayGen and The Creative Assembly). Other supporters include Google, TalkTalk, Facebook, the British Screen Advisory Council, Guardian Media Group, the Design Council, Intellect, IPA, British Computer Society, Abertay University, Skillset, GuildHE, E Skills, the Education Foundation, NESTA and UK Screen (representing some of the world’s leading visual effects businesses, including Oscar winners Double Negative and Framestore).

¹⁸³ ICT BCS Draft Programme of Study <http://academy.bcs.org/content/draft-ict-programme-study>

2.7 Aligned with this there has been significant movement in making Computer Science a recognised, rigorous discipline in its own right at GCSE. We are now working with DfE on the implementation of these measures, in particular the new Computer Science curriculum. Major examination bodies have developed or are developing new Computer Science GCSEs and qualifications—removing a major obstacle hindering progress—and together with Computing at School, the Royal Academy of engineering, British CS and others we have submitted a paper to the DfE on the case for inclusion of Computer Science on the E-Bacc.

2.8 In order to address our talent pipeline problem, there is much work still to be done around creating rigorous courses and it is essential that we do not lose momentum here. For example, support for bursaries for 50 new teachers and a Network of Excellence announced on 19 October will need to be enhanced by additional funding in order scale reforms adequately.

2.9 The campaign also advocates concentration on “STEAM” not just “STEM” subjects. Google Chairman Eric Schmidt critiqued British education in August 2011: “Over the past century, the UK has stopped nurturing its polymaths. You need to bring art and science back together.” As the NESTA-Next Gen Report shows, the creative economy needs creative employees—labour market entrants who are not just skilled in Computer Science, but also Art and other creative subjects. There is continuing uncertainty over the status of Art in the new curriculum and the indications are that inclusion in the English Baccalaureate have been rebuffed. We firmly believe that the status of the subject as an essential discipline in the education system needs to be defined at Key Stage 4 and 5.

2.10 *Ukie, through its Next Gen Skills Campaign, will continue to work with government to ensure computer science is fully embedded in the national curriculum and that there are enough teachers being trained to teach this crucial subject. We also call on government to make computer science a part of the English Baccalaureate and to recognise art as a crucial skill required by many of the UK's digital and creative industries.*

3. UK Tax Environment

3.1 The games industry is both highly competitive and truly global. The UK industry has also found to its cost in recent years that the talent that supports the industry is highly mobile. Ukie campaigned for several years for the Government to implement a form of targeted tax relief for games production to allow the UK to compete with the likes of France and Canada, whose governments had decided to actively encourage the growth of the industry in their country.

3.2 The Government's announcement in Budget 2012 of a tax relief targeted at the games and animation sectors was most welcome. We think this is an important step to preserving the UK's leading status in games production globally, not least as it is combined with broader reforms to corporation tax rates designed to increase the competitiveness of the UK's tax environment.

3.3 Since March, Ukie has engaged in active dialogue with DCMS and HMT to assist the development and implementation of such a relief. Ukie itself has also engaged with over 200 individual games companies of all sizes to help understand the implications of tax relief and concerns of games developers and publishers. Some important questions remain about how a tax relief scheme would function in practice.

3.4 In our recent submission (<http://ukie.org.uk/content/ukie-response-hm-treasury-consultation-creative-sector-tax-reliefs>) to the DCMS consultation to the scheme, we called for:

- The relief to be designed to make sure that the new scheme supports all parts of the industry—encouraging growth from small independent studios, existing bigger studios and attracting inward investment from multi-national companies.
- The rate of relief to be set at 30% for all UK games development.
- There to be no need for a minimum budget threshold for games to qualify for relief.
- Assurances that the new business models and ways of making games which stretches beyond “release” are recognised in the new tax system—which means that games businesses can claim for production costs incurred for DLC or as games continue to be developed and iterated.
- A specialist team dealing with Tax Returns and Cultural Test applications for the games industry.
- A voluntary contribution allowed for companies to invest in talent development and skills.

3.5 DCMS is now also consulting on the application of the “cultural test” required under EU law. Ukie will be working with DCMS to ensure that any cultural test is relevant and applicable to games development in the UK.

3.6 *The introduction of targeted tax relief for the games industry represents a huge opportunity to bolster the UK's leading position in a growing, high value global industry. But Government must continue to work with industry to ensure that any relief is relevant, future proofed and as effective as possible.*

4. ACCESS TO FINANCE

4.1 Many games companies are small studios or even individual developers, so as with any SME access to finance is critical. As well as traditional forms of financing, Ukie sees non-bank lending becoming an increasingly important source of funding.

4.2. In the creative economy especially we are seeing some exciting developments around crowdfunding. Crowdfunding is a catch-all term encompassing a range of different models to allow companies to raise money from a broad pool of individuals, and individuals to support or invest in schemes which interest them.

4.3 At the moment there are three main models for crowdfunding:

- The donations model, whereby individuals back specific projects with a donation in return for a product or perk. An example of this is Kickstarter, recently launched in the UK, which several games companies have used with great success to raise funds to support the development of games.
- The debt model, whereby a wide pool of investors lends money to a business on agreed repayment terms. In the UK one example of this is Funding Circle.
- The equity model, whereby individuals take a stake in a company in return for an investment. Seedrs is an example of this model of crowdfunding platform operating in the UK.

4.4 The internet has created a huge opportunity for companies to exploit the potential of crowdfunding to raise finance. But there remain issues to be worked out before this potential can be fully realised.

4.5 Although the donations model may be the most well known form of crowdfunding at the moment, and high profile success stories have helped raise awareness of crowdfunding among both investors and companies, in general the functioning and implications of crowdfunding are still poorly understood.

4.6 Current regulatory frameworks around the equity model were not created to cater for crowdfunding platforms. This makes compliance technically possible but practically confusing and difficult.

4.7 Ukie is working with several other industries and crowdfunding platforms to explore what the Government, and the industry, needs to do to fully unleash the potential of crowdfunding in the UK.

4.8 Ukie has found so far that while Government is enthusiastic about the potential for crowdfunding to support the creative economy, there has been little coordination between Government departments to understand either the implications of crowdfunding or the regulatory changes needed to ensure UK businesses can make the most of this opportunity.

4.9 Ukie would therefore like to work with government and representatives from the crowdfunding sector to develop regulations that will allow crowdfunding to flourish in the UK and particularly to allow the equity model to operate as effectively as possible.

5. IP

Copyright enforcement

5.1 Ukie believes that protecting intellectual property rights needs lots of different approaches. Enforcement measures, education about copyright, and accessible, legal offerings—at the right price—are all crucial.

5.2 Any enforcement measures must always be proportionate, targeted and balanced enough so as not to undermine the valuable relationship games makers have with their audiences and players.

5.3 The video games industry provides myriad successful and sustainable business models, which deliver consumers easy access to the products that they want—from £40 boxed products and cloud-based offerings to free to play apps, casual, and social games.

5.4 The UK's video games industry is capable not only of delivering digital entertainment which is scalable internationally and can contribute to our national GDP, but also providing high quality career opportunities for the next generation.

5.5 Despite the range of offerings, IP theft remains a challenge to the games industry.

5.6 Ukie calls on all parties involved in the debates around IP enforcement (government, search engines, ISPs and rightsholders) to work together to create enforcement measures that will help prevent the large scale of illegal downloading that we have today. We continue to be involved in government hosted discussions around this debate.

Copyright exceptions

5.7 Ukie does not see the need to change the UK's IP system. The UK's IP system already supports the many business models that make up the games industry—equating to the biggest, most agile, and most diverse creative industry in the UK. Any changes that are being considered must be evidence based and be shown to deal with known market issues. Rather than benefit the market, Ukie believes that any changes could damage the UK's games and interactive sector.

5.8 Ukie believes that extending exceptions to copyright threatens the growth of the UK's creative industries and the games and interactive entertainment sector with them.

5.9 Video games are classified as software under the EU Software Directive. Any copyright exceptions have been carefully tailored to deal with the issues relevant to computer programs and have been created within the EU Software Directive and the Copyright Designs and Patents Act after careful consideration and consultation. These exceptions have worked well and provided needed flexibility for software producers and users in particular.

5.10 *Any private copying of computer software as such is not permitted and indeed is unnecessary beyond the limited provisions provided for back-up copies in defined circumstances.*

5.11 If any exception to address private copying of other content were to be introduced in the UK—which Ukie believes could be done without re-opening the existing EU Copyright Directive—we trust that the introduction of any such law would comply with the Software Directive, and that only the existing exceptions in the Software Directive would continue to apply to video games and interactive entertainment (as computer software), and not any broader private copying exception.

5.12 Video games, being software, are not subject to collective management or compulsory licensing. Any obstacles Ukie members have in relation to rights clearance for other content (eg music) have tended to arise in the online game sector within the context of the collective rights management structures which exist at the international level. Of the numerous options considered which would make rights clearance for music content easier, we would favour streamlined pan-European and/or multi-territory licensing processes.

6. CLUSTERS AND HUBS IN THE CREATIVE SECTOR

6.1 The games industry hasn't tended to be as London-centric as some others in the creative sector. There are major clusters of developers right across the UK, for example in Dundee and Liverpool.

6.2 The emergence of smartphones and tablets has also created new platforms for smaller developers to reach consumers, no matter where they are based. However the Government's focus on the technology sector through the Tech City initiative has been welcome, and Ukie has welcomed the opportunity to engage with Government on how to encourage investment in the UK.

6.3 But access to finance is also a crucial factor in the development of hubs/clusters—the Tech City cluster would be less likely to succeed if London was not also home to a clustering of venture capital. In this sense, realising the benefits of non-traditional funding streams including crowdfunding could be a viable way for some businesses outside the major “hubs” to raise finance.

6.4 *Government focus on the technology industry is welcome, but facilitating crowdfunding could encourage the growth of small businesses outside the established “hubs”.*

6.5 *Ukie would also like government to consider some recommendations made in a Demos report entitled “A Tale of Tech City” (www.demos.co.uk/files/A_Tale_of_Tech_City_web.pdf?1340,965,124) and consider the wider application of these recommendations to encourage growth in other regional clusters. In particular looking at the recommendations concerning the role that local government can play in supporting clusters. The Demos report called for:*

- Local authorities to ensure Local Plans explicitly encourage the provision of affordable and shared workspace, supplementing National Planning Policy Framework clauses on change of use;
- Local and central government to explore the potential for converting empty buildings that they own in East London into workspaces, tendering management to professional shared space providers; and
- Government to encourage the provision of affordable workspace. This could involve modifying the existing Business Increase Bonus scheme—giving an additional subsidy when planning permissions for affordable space are granted.

7. MEASUREMENT OF THE INDUSTRY

7.1 Official Government statistics are not measuring the true size of the UK games industry.

7.2 Improving the accurate measurement of the games and interactive entertainment industry is crucial in measuring the effectiveness of the Government's policies that are designed to support the industry, particularly the success of the incoming games tax production credit scheme from 2013.

7.3 The potential damage that can be done as a result of inaccurate data was highlighted recently by errors contained in Creative Scotland's report (An Approach to the Economic Assessment of the Arts & Creative Industries in Scotland June 2012) that inaccurately stated that the Scottish games industry generated no revenue for the UK.

7.4 In this case, Ukie found that figures generated from publicly available data and our own members show that the Scottish games industry in Summer 2012 is made up of over 110 businesses, employs more than 500

professionals and generates at least £40 million of value to the Scottish economy. Scottish studio output has generated over £1 billion in revenues over the last five years alone.

7.5 Ukie has previously called for improvements to be made to official Government statistics as a partner in last year's Risky Business Report, produced by think-tank DEMOS (www.demos.co.uk/publications/riskybusiness), and would like to see these recommendations implemented.

7.6 The Risky Business Report (published October 2011) called for the Government to:

- Consult the sector to establish where the current Standard Industrial Classification (SIC) codes system, currently used by UK and Scottish governments, is lacking and how it can be improved.
- Press for international reform of SIC through the EU and the UN to enable the system to better reflect the reality of the UK economy.
- Task its statistics agencies to make it easier for the ONS and external researchers using government data to track and study new and important sectors of the UK economy, including the creative industries, which are not well served by the current SIC system.

7.7 Ukie has recently welcomed becoming part of a newly formed data group, run by NESTA and proposed by the government's Creative Industries Council, to look at how accurate and meaningful data can be collected for the creative industries.

7.8 Ukie wants to work with UK and Scottish governments and other bodies jointly to provide access to data sets that can give a better picture of the UK's games industry.

7.9 Ukie has unique access to the UK boxed product market and is also working on producing data for purely digital games markets—its PC Download Chart is currently operating as a beta and is the only chart that provides actual sales data for digital games products.

November 2012

Written evidence submitted by TIGA

INTRODUCTION

TIGA welcomes the Culture, Media and Sport Select Committee's inquiry into support for the creative economy.

The Independent Game Developers Association (TIGA) represents the UK's games industry. The majority of our members are either independent games developers or in-house publisher owned developers. We also count games publishers, outsourcing companies, technology businesses and universities amongst our membership. Between them TIGA members employ over half of the UK games development sector's workforce.

At TIGA our mission is to represent game developers and digital publishers at all levels to make the UK the best place in the world to do games business. TIGA wants to see a flourishing developer and digital publisher sector based in the UK, with rising numbers of start-ups, growing sustainable studios and above all declining business mortality rates.

THE UK GAMES INDUSTRY

The creative industries have a potentially important role to play in helping to rebalance the economy away from an over-reliance on public sector employment and financial services towards export oriented, high skill knowledge industries. The UK games industry is a vital sector within the digital and creative industries. The games development sector contributes approximately £1 billion to UK Gross Domestic Product (GDP) and employs 9,000 highly skilled development staff, 80% of whom are employed outside of London.¹⁸⁴ The sector is export oriented: 95% of UK video games developers export at least some of their games. The industry is R&D intensive: two-fifths of studios have a budget earmarked for R&D purposes.¹⁸⁵ The video games sector is also low carbon in output. Most of the work in games development involves design on computers, the packaging in games is minimal and box products are relatively light to manufacture and to transport. In the future, video games will become even more low carbon in nature as the industry moves towards digital distribution.

The video game sector offers opportunities for growth and high value, high technology job creation for the UK. Estimates from PWC suggest that the global market for video games will grow from \$52.5 billion in 2009 to \$86.8 billion in 2014.¹⁸⁶

The UK Government can enable UK games developers and digital publishers to take advantage of this growing global market by taking action in the areas of finance, skills and support for exporters.

¹⁸⁴ Gibson, N., Gibson, R. and Wilson, R., *Making Games in the UK Today* (TIGA, 2012).

¹⁸⁵ Wilson, R., *State of the UK Games Development Sector* (TIGA, 2011).

¹⁸⁶ PWC *Global Entertainment and Media Outlook 2010–2014*, published June 15th 2010.

ACCESS TO FINANCE

Access to finance is the number one challenge facing games developers and digital publishers. The implementation of an effective Games Tax Relief is a crucial part of the answer to this problem.

(a) Games Tax Relief

41% of developers blame a lack of readily available finance as an obstacle to growing their business.¹⁸⁷ UK games development is heavily reliant upon global games companies for finance. 76% of investment in UK games development is derived from global companies.¹⁸⁸ The remaining 24% is self-funded by British games companies, who largely rely upon existing cash resources, including retained profits, and, to a much smaller degree, private investment to fund development.¹⁸⁹ Access to debt, bonds and equity finance is relatively difficult. This is because of the high levels of uncertainty about consumer demand and the intangible nature of IP. Difficulty in accessing finance probably contributes to a high studio mortality rate: 197 games companies closed down between 2008 and 2011—a number almost equalling the number of start-ups (216).¹⁹⁰

The UK games industry is currently competing on an un-level playing field in the struggle to secure finance from overseas publishers. Game developers in countries including Canada, France, Singapore and the USA receive significant tax breaks for games production, which effectively reduces the cost of game development. For example, in Quebec in Canada, tax relief stands at 37.5%.¹⁹¹ A wide range of other fiscal incentives are also available in other territories such as Germany¹⁹², Australia¹⁹³, New Zealand¹⁹⁴, Sweden¹⁹⁵, Finland¹⁹⁶, South Korea¹⁹⁷¹⁹⁸ and Japan¹⁹⁹. No tax break for games production exists in the UK and the country is missing out on long-term investment and employment in the video games sector as a result.

Employment in the UK games development sector has declined by over 10% since 2008. Conversely, the Canadian games industry's workforce grew by 33% between 2008 and 2010.²⁰⁰

The UK games industry is also suffering from a brain drain. 41% of the jobs lost to the UK games development sector between 2009 and 2011 relocated overseas, mostly to Canada, which benefits from massive tax breaks for games production.²⁰¹

Investment by studios has fallen from £458 million in 2008 to £411 million in 2011.²⁰² Additionally, the UK's share of global investment (venture capital and private equity) in the games industry declined from 10% in the mid-2000s to 3.5% in 2011. Countries with tax relief for games production are comparatively more attractive to global investors, with the result that the UK is at a disadvantage.²⁰³

TIGA has consistently campaigned for the introduction of Games Tax Relief, a measure which reduces the cost of games development, to reverse these negative trends and to enable the UK games industry to compete on a more level playing field. In March 2012 the Coalition Government agreed to introduce tax relief for video games, animation and high end T.V. production, with the measure coming into effect in April 2013. This is excellent news for the UK video games industry and ultimately for the UK economy. Games Tax Relief will enable UK video games developers and digital publishers to compete on a level playing field, boost investment and job creation and improve access to finance—assuming that the tax relief is well designed. Games Tax Relief will:

- help support start-ups and small games businesses;
- improve access to finance for independent studios;

¹⁸⁷ Wilson, R., *State of the UK Game Development Sector* (TIGA, 2010).

¹⁸⁸ Publishers fund game projects according to two main models: (a) work for hire, whereby a publisher commissions a studio to develop a video game for a fee; (b) royalty advances, whereby a studio pitches a project to a publisher with whom it agrees to share royalties generated by the game in exchange for an advance that funds development activities. Once the game is released the publisher recoups the advance from the sales receipts of the game, after which it shares royalties.

¹⁸⁹ Gardner, P., Gibson, R., and Wilson, R., *Investing in the Future: a Tax Relief for the UK Video Games Industry, second edition* (January 2011).

¹⁹⁰ Gibson, N., Gibson R., Wilson, R., *Making Games in the UK Today* (TIGA, January 2012).

¹⁹¹ Studios in receipt of public support in Canada are receiving support equivalent to 23 per cent of their turnover, giving them a significant competitive advantage. See e-skills, the Sector Skills Council for Business and Information Technology. The Report, *Technology Insights 2011: The Games Development Sector*.

¹⁹² Germany's Culture Minister introduced a national video games development competition for culturally German video games Deutscher Bundestag, Drucksache 16/7116, 14 November 2007.

¹⁹³ Prototype funding from Film Victoria www.gamesindustry.biz/articles/australian-developers-awarded-USD240-000-prototype-funding

¹⁹⁴ www.gamasutra.com/php-bin/news_index.php?story=23495

¹⁹⁵ Gotland Game Awards www.gamesindustry.biz/articles/gotland-game-awards-offers-300-000-prize

¹⁹⁶ www.develop-online.net/news/32323/Finnish-Government-devotes-10-million-to-game-development

¹⁹⁷ www.gamasutra.com/php-bin/news_index.php?story=21368

¹⁹⁸ www.gamasutra.com/php-bin/news_index.php?story=23510

¹⁹⁹ www.guardian.co.uk/world/2009/apr/10/japan-manga-anime-recession

²⁰⁰ Gibson, R., Gibson, N., and Wilson, R., *Making Games in the UK Today* (TIGA, January 2012).

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ Ibid.

- improve the UK's chances of retaining and attracting both investment from and studios owned by global publishers (subsequent to the announcement that Games Tax Relief would be introduced, global games businesses including Activision Blizzard have announced intention to invest in the UK²⁰⁴);
- allow larger companies to grow and retain experienced talent that struggles to stay in the UK in the absence of such assistance;
- expand the venture capital market for games companies (just as the film tax credit did for film production companies), which will largely benefit British-owned companies; and
- stimulate economic activity and pay for itself. This has been the experience in France, where, between 2008 and mid-2010 The Centre National de la Cinématographie estimated that the total Government receipts from the video games tax credit were €63.4m versus the cost of the tax credit of €38m, a 1:1.7 return on investment.²⁰⁵

Research conducted by Games Investor Consulting for TIGA indicates that over five years Games Tax Relief could generate and safeguard: 4,661 direct and indirect jobs (equivalent to around half of the existing workforce in the games development sector); £188 million in investment expenditure by studios; increase the games development sector's contribution to UK GDP by £283 million; generate £172 million in new and protected tax receipts to HM Treasury, and could cost just £96 million over five years.²⁰⁶ Games Tax Relief is exactly the kind of policy measure that the UK needs at a time when the wider economy is struggling.

The precise details governing the design of Games Tax Relief have still to be determined but will almost certainly be based on the Film Tax Credit. TIGA, in response to HM Treasury's *Consultation on Creative Sector Tax Reliefs* (September 2012) suggests that Games Tax Relief will give a powerful boost to the games industry and to the wider economy particularly if:

- there is no minimum spend threshold (in order to help small budget games as well as large projects);
- there is a flat rate of relief of 30% on eligible projects;
- the relief is effective from pre-production to post-launch support; and
- educational games are eligible for relief as well as entertainment games.

The requirements of EU law mean that only culturally British video games can be considered eligible for Games Tax Relief. Therefore, studios' games will have to pass a cultural test in order to benefit from Games Tax Relief. Games will secure points in the test if their content meets fundamental features of the Cultural Test (cultural content, cultural contribution, heritage, creativity, diversity, cultural hubs and cultural practitioners).

The DCMS has published a consultation document on the cultural test (*Creative Sector Tax Reliefs: Cultural Test for British Video Games: Consultation*, October 2012). TIGA raised a number of issues in response to this consultation exercise. In particular, TIGA believes that the cultural test should:

- award points for artistic costs if those costs are more than 25% of the budget rather than 50% as originally proposed by the Government;
- award points defined for fictional settings and species to allow sci-fi, fantasy and non-narrative titles to secure cultural contribution points in the test;
- make points available for the use of UK service providers, including motion capture providers;
- award points for key roles defined for cultural practitioners that are not currently represented in the test such as Concept Artist, Producer and Assistant Producer;
- allot multiple points to individuals fulfilling multiple roles at smaller companies; and
- increase the number of points that are available for producing games in the English language (including official Regional or minority languages of the UK).

The Government plans that the BFI will administer the cultural test. TIGA believes that if the BFI is to assume this vital administrative role, then it would need to be properly resourced and should hire experts from the video games sector and consult with experts at TIGA and the wider games industry. A discrete unit focused on video games within the BFI might be the best approach.

Games Tax Relief will provide a major boost to the UK games development and digital publishing sector and will make a major and positive impact on improving access to finance for many studios operating in the sector.

²⁰⁴ See 'Konami to open London studio for PES' (MCV, July 2012) (www.mcvuk.com/news/read/konami-to-open-london-studio-for-pes/0100040); 'UK chancellor Osborne toasts British video games' (MCV, August 3rd 2012) (www.mcvuk.com/news/read/uk-chancellor-osborne-toasts-british-gaming-excellence/0100688); 'Activision Blizzard opening new UK mobile games studio' (Digital Spy, May 21st 2012) (www.digitalspy.co.uk/gaming/news/a382806/activision-blizzard-opening-new-uk-mobile-games-studio.html); 'New Xbox studio to open in London' (MCV July 26th 2012) (www.mcvuk.com/news/read/new-xbox-studio-to-open-in-london/0100177).

²⁰⁵ Source: pp47–53, "Evaluation des dispositifs de crédit d'impôts"—Centre National de la Cinématographie, France 2010.

²⁰⁶ Gardner, P., Gibson, R., and Wilson, R., *A Video Games Tax Relief: An Incentive to Build a Sustainable Games Development Sector* (TIGA, February 2012).

(b) Research & Development (R&D) Tax Credits

The UK currently invests a lower proportion of GDP in R&D in comparison to G7 countries such as the USA, France, Germany and Japan. At the same time, business investment in R&D in the UK is relatively low compared to other G7 countries. Currently the UK devotes only 1.8% of GDP to R&D.

The UK video games industry is an R&D intensive sector using cutting edge technology to create games for a global market. Many TIGA members do use the existing Small Firms R&D tax credit system. TIGA campaigned for an increase in the rate of R&D relief and strongly welcomes the Government's decision to raise the rate of relief to 225% of qualifying expenditure. The Government could consider expanding the scope of the Small Firms R&D tax credit to include other costs associated with the development of a new game: for example, patent and trademarking costs, and the costs incurred in defending copyright. In France, R&D tax relief includes IP protection costs in qualifying expenditure.

(c) Prototype funding

The Abertay University Prototype Fund is supported by UK Government and European Structural Funds (with the Scottish Government being the Managing Authority for the latter funding) and also with Abertay University's resources. The Abertay Prototype Fund enables developers to apply for grants of up to £25,000 to create prototype games. This scheme should be maintained. The Abertay Prototype Fund has provided prototype funding support for 58 companies to date, amounting to £1.45 million. There have been almost 300 applications to the Fund so far. Game development is a risky venture involving high technological, artistic and business risks. It is consequently relatively difficult to raise external finance and so funds such as the Abertay Prototype Fund can play a valuable part in supporting the sector.

(d) Bank finance

Bank loans and bank overdrafts are not crucial sources of finance for most UK games developers. TIGA research in 2011 revealed that just 12% of game developers had a bank loan and only 29% operated a bank overdraft to fund their business.²⁰⁷ Given the relatively high risk nature of game development, bank lending is unlikely to become the principal source of finance for the industry. Nevertheless, greater choice and competition in the banking market should be promoted. This might improve bank lending to small and medium-sized businesses, including those in the games development sector.

ENCOURAGING EXPORTS

The games development sector is export oriented: 95% of UK developers export at least some of their games. The introduction of Games Tax Relief should power the games' industry propensity to export. Other things being equal, it should have the effect of enabling many UK owned games businesses to expand their operations and export still more content. In addition to introducing Games Tax Relief, the Government should reform the UKTI's Tradeshow Access Programme (TAP). UKTI works with accredited trade organisations such as TIGA to operate the TAP. The scheme supports UK businesses looking to exhibit at overseas trade shows by providing eligible firms with grants of £1,000, £1,400 or £1,800, depending on the location of the trade show.

Accredited trade organisations such as TIGA should be allowed to use UK Trade & Investment (UKTI) grants to cover travel and accommodation costs as well exhibition expenses. This would enable more eligible SMEs in general and games businesses in particular to attend trade shows, thereby enhancing their potential to export. The principal of using public funds in this way has previously been conceded: some of the now defunct Regional Development Agencies helped businesses in this way.

SKILLS

(a) Skill shortages

The UK video games industry needs a highly educated and trainable workforce in order to compete successfully. The industry relies on highly creative, technical people with skills and qualifications in areas such as design, programming, artificial intelligence, animation, mathematics and physics. UK games businesses increasingly recruit graduates in a range of disciplines, although employers typically place most emphasis on portfolio work rather than qualifications. The video games sector's workforce is highly qualified. TIGA's research shows that some studios have 80% of their workforce qualified to degree level.

TIGA's research indicates that, on average, 18% of the graduates that developers employ hold a degree in a games course.²⁰⁸ Game developers recruit graduates from a wide range of disciplines in addition to games, including: design, computer science, art/animation, mathematics and physics.

The skilled people that the games industry needs are not always easy to find. TIGA research in 2011 revealed that 35% of developers had experienced difficulties in filling vacancies while recruiting over the previous 12

²⁰⁷ Wilson, R., *State of the UK Game Development Sector* (TIGA, 2011).

²⁰⁸ Wilson, R., *Games Businesses and Higher Education* (TIGA, 2010).

months. Developers reported have difficulty filling vacancies for designers, artists and managers and above all high quality programmers.

Difficulty in recruiting programmers is probably due in part to the decline in the supply of high quality graduates in computer science. The number of students taking a first degree in computer science (full and part-time) has declined from 106,770 in 2004–05 to 65,515 in 2010–11.²⁰⁹ The situation has been exacerbated by the fact that the UK games industry has suffered from a brain drain. Additionally, a report by the House of Lords Science and Technology Committee on science, technology, engineering and mathematics (STEM) education in the UK in 2012 noted that many undergraduates in traditional science subjects have not studied A level maths, while those that have done so often lack sufficient mathematical knowledge for their chosen course. Good mathematical skills are vital for programming.

Policy makers should continue to focus on raising standards in maths and the sciences at GCSE and A level and promoting the uptake of these subjects by students in order to increase the potential supply of graduates available to work in the industry. There are encouraging signs. 2012 saw an increase in the numbers of STEM students at A Level and GCSE, with maths and physics now in the top ten A level subjects. The Government's decision to withdraw the ICT national curriculum from September 2012 and to give schools greater opportunities to teach computer science is sensible. In the medium to long term, this could help to increase the supply of computer science graduates.

(c) *Leadership and management*

Businesses in the creative industries sometimes lack the strategic skills necessary for high and sustained growth.²¹⁰ The Government might therefore want to consider measures to promote training amongst managers and leaders. For instance, a training fund could be established for SMEs in the creative industries including the video games sector, whereby every pound spent on training programmes could be match funded up to a level of £1,000 in order to put higher level training within reach for more SMEs.²¹¹ Such a scheme could incentivise firms to invest in higher level training, with positive consequences for the relevant businesses.

(d) *Migration*

There are currently plans to eliminate the Shortage Occupation List on the UKBA website (see www.ukba.homeoffice.gov.uk/sitecontent/documents/workingintheuk/shortageoccupationlistnov11.pdf). The Shortage Occupation List enables games developers to fill vacancies for software developers (Shortage Occupation Code 2132) and for producer and production manager roles (Shortage Occupation Code 3416) relatively quickly. This is because the Shortage Occupation List enables employers to look outside of the UK/EU labour markets for staff without having to advertise within the UK/EU. Unfortunately, the Government plans to eliminate the Shortage Occupation List. This will eliminate the existing fast track recruitment process and instead force employers to advertise for 28 days in the UK/EU market before looking outside of these markets. Additionally, employers are required to advertise on the Job Centre Plus website, which is not an effective route for finding personnel to work in the games industry. This policy will have a negative impact on some games businesses because it could slow down their recruitment process.

I hope that you find this information to be of use.

February 2013

Written evidence submitted by the BBC

KEY POINTS

- The television, radio and online sectors make an important contribution to economic growth and to the UK's cultural vitality. The UK television sector has a strong reputation for producing high quality content with global appeal.
- A licence-fee funded BBC is a key driver of growth in the creative sector—generating £2 of economic value for every pound of expenditure. Support for the independent sector and its commercial activity also creates benefits to the UK economy.
- The BBC facilitates knowledge transfer across the creative economy—through adoption of open standards, as a result of BBC training, by fostering the development of creative clusters and by working in partnership with others.

²⁰⁹ www.hesa.ac.uk/index.php/content/view/1973/239/

²¹⁰ Carr, J., *Creative Industries, Creative Workers and the Creative Economy: a Review of Selected Recent Literature* (Scottish Government Social Research, 2009), p. 13

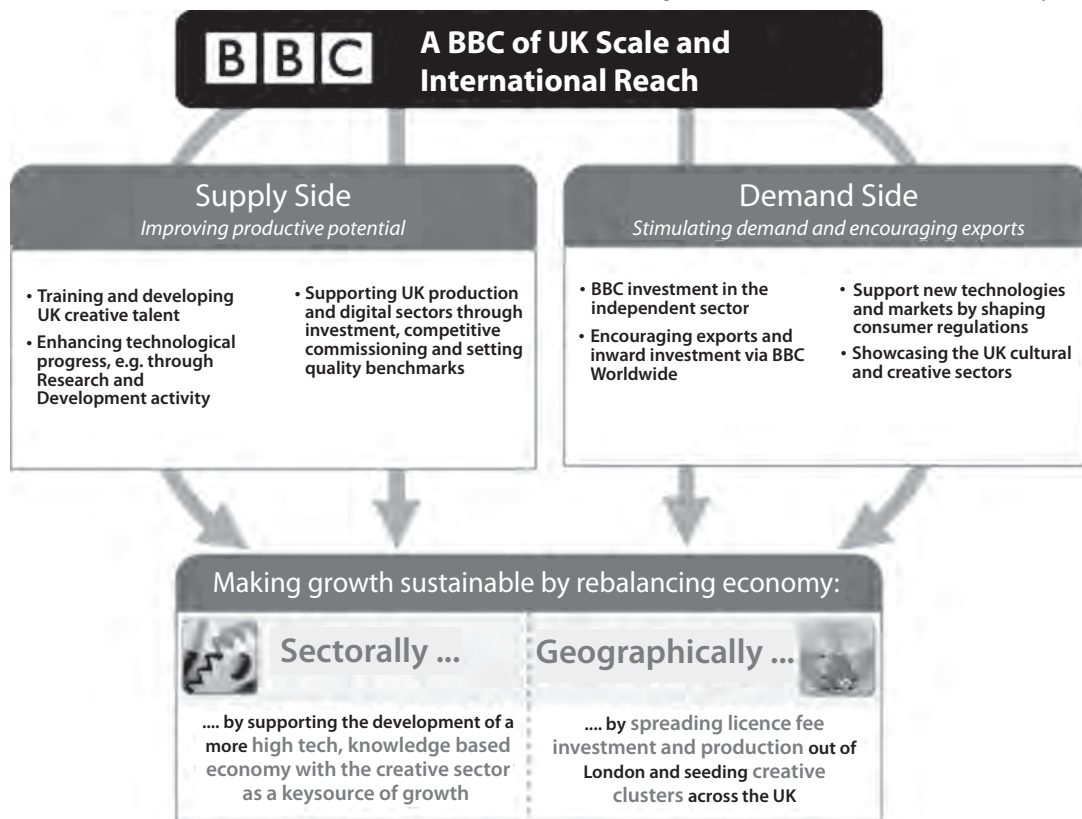
²¹¹ In other words, if an employee or manager attended a £2,000 training course, the training fund would pay £1,000 towards the overall costs, while the business would pay the other £1,000. Similarly, if the course cost £1,500, the training fund would pay £750 and the business the remaining 50 per cent. Apparently while such management and training schemes exist for film and t.v., no such publicly funded scheme exists for the video games industry.

- A targeted and proportionate regulatory regime will be critical in sustaining the BBC's contribution to growth in the future. In particular there needs to be a supportive policy framework in place which not only ensures that there is continued investment in high quality UK-originated content, but also that audiences are able to access it.
- To achieve this, the BBC believes that priority should be given to reforming platform carriage arrangements, extending the principle of EPG prominence for public service content, sustaining a viable DTT platform and promoting net neutrality.
- The BBC also welcomes Government proposals to reform the Intellectual Property regime and to introduce creative sector tax reliefs.

INTRODUCTION

1. The BBC exists to deliver public purposes by providing high-quality programmes and services that educate, inform and entertain. But in meeting this mission, the BBC delivers broader benefits to the digital and creative industries—which in turn spill over into the wider economy. In 2011–12, the BBC's Gross Value Added²¹²—that is the value the BBC adds to the UK economy through its public service and commercial activities—was around £8 billion, so at least two pounds of economic value was generated by every pound of the licence fee.

2. This figure highlights the importance of the BBC to the UK creative economy although it does not reflect all the ways in which the BBC supports growth. *Helping to drive growth in the creative economy* set out a framework which shows how the BBC contributes to sustainable growth in the creative sectors and beyond.



3. In summary, the BBC aids private sector growth both by enhancing the productive potential of firms in the creative economy (through investment in skills and training, by enhancing technological progress, and by supporting the independent sector) and by stimulating the demand for the outputs of the creative economy (by commissioning of programmes from the independent sector, by encouraging exports and inward investment via BBC Worldwide, by encouraging take-up of new technologies and by showcasing the UK cultural and creative sectors). These supply-side and demand-side impacts also help to provide sustainable growth by rebalancing the economy sectorally and geographically.

4. Underpinning this framework is the role of the BBC as a driver of knowledge transfer across the creative and wider economy, as this is a key channel through which many of the BBC's activities lead to further growth in the creative economy and beyond.

5. Aspects of this framework are discussed in more detail below.

²¹² Gross Value Added (GVA) provides an estimate of the value generated by an organisation for the UK economy reflecting both immediate expenditure on people, infrastructure and services and any indirect consequential effects on the wider economy.

BBC support for the independent production sector

6. The television production sector makes an important contribution to the UK economy and is a critical source of jobs and growth. The UK's strong position is partly due to the healthy competition between in-house and independent producers. The BBC's in-house production base delivers a range of benefits to UK licence fee payers and to the UK creative economy including a focus on public service values, setting a quality benchmark across a range of genres and serving UK audiences. It guarantees the cost-effective supply of a wide range of genres and returns cultural and economic value to the UK. It also helps to grow production bases of scale across the whole of the UK.

7. The UK's independent sector provides a vital source of competition, injecting fresh ideas, diversity of thinking and innovative formats. Growth in the independent production sector, from £120 million in 1982 to £2.4 billion in 2011,²¹³ is testament to its success.

8. An important way in which the BBC contributes to growth is by stimulating the demand for programmes made by in the independent sector. The commissioning of programmes from the independent production sector and the way the BBC does business with external suppliers helps to underpin a dynamic and vibrant commercial production sector. In a period where other sources of revenue are under pressure, the licence fee provides a valuable source of funding for a range of content. The introduction of the Window of Creative Competition (WoCC) in 2007 increased competition between in-house and external suppliers. The BBC Trust's biannual reviews of the WoCC²¹⁴ show that it is working effectively in allowing commissioners to find the best ideas from both in-house and independent producers.

9. In 2011–12 the BBC spent nearly £1.1 billion in the creative economy, including £489 million on independent productions supplied by companies across TV, radio and online, £75 million on acquired programmes and £277 million on payments to contributors, artists and for copyright. The £277 million includes payments to on-air contributors such as actors, scriptwriters, composers, musicians, presenters as well as licences associated with the use of music, existing literary works and direct programme contributors. In 2010–11 the BBC issued 336,000 contracts to contributors and rights owners for in-house programming alone and each week we report some 250,000 items of music to the Music Collecting Societies.

10. The BBC also plays a crucial role in sustaining breadth and depth in the independent television production sector. The BBC is not only a key source of revenue for the independent production sector but we also continue to work with the largest number of suppliers compared to other broadcasters. In 2011 the BBC was supplied by 295 different suppliers. In comparison, Channel Four worked with an estimated 250 “indies” in 2011, ITV worked with 73 and Sky worked with 110.²¹⁵

11. Similarly the BBC continues to support the radio sector. BBC radio operates an independent supply quota of 10% and a WoCC of 10% which was introduced as part of the BBC Trust's Radio Independent Supply review in 2010. In addition to the 10% quota, the BBC has a commitment to commissioning programming from a suitable range and diversity of independent producers. More broadly, BBC radio offers distinctive and original UK public service content in scale: Radio 4 is the world's largest commissioner of radio drama and features original drama every day of the year; Radio 3 remains the most significant commissioner of new music in the world; BBC music stations support new, specialist and live music across the network; Radio 1 breaks news acts in a far more diverse range of musical genres than any other provider; BBC Introducing—a collaboration between BBC network, nations and local radio—gives unsigned and emerging musicians the opportunity to be heard by mass audiences.

BBC Worldwide's contribution to the UK creative industries

12. Successive governments have encouraged the BBC to engage in commercial activity, in part to relieve pressure on the licence fee. BBC Worldwide is the main commercial arm and a wholly owned subsidiary of the BBC. In 2011–12 it returned a record £216 million to assist the BBC in meeting its financial challenges. As well as supporting the BBC, BBC Worldwide operates as one of the engines for the UK's wider creative economy, generating a UK GVA of £947 million in 2011–12. It has been an important contributor to the global success of the UK audio visual sector and to the economy more generally contributing over £40 million in corporation tax to the Exchequer over the last three years, plus additional tax payments in the form of VAT and National Insurance contributions.

13. As a commercial organisation, BBC Worldwide contributes directly to UK growth through its own performance. Its headline sales in 2011–12 grew 5% to £1,085 million. Headline profit grew 8% to £155 million, despite a challenging commercial climate.

14. BBC Worldwide is the largest TV programme distributor in the world outside the US major studios. BBC Worldwide sells programmes and formats produced by the BBC and by over 200 UK independent producers to the rest of the world. Each year, BBC Worldwide puts on BBC Worldwide Showcase, the world's biggest programme trade fair organised by a single distributor. It provides a launch pad for top quality UK

²¹³ Source: Mediatique analysis and PACT Financial Survey and Census, 2012

²¹⁴ See www.bbc.co.uk/bbctrust/news/press_releases/2012/wocc_2012.html

²¹⁵ Broadcast Indie Survey 2012

programmes to reach much wider audiences across the globe. This year, more than 640 international buyers attended BBC Worldwide Showcase—a 19% increase on 2011—generating around £50 million of sales.

15. As a channel owner, it operates a global suite of television channels, reaching 356 million subscribers. BBC AMERICA, for instance, is a well-established cable channel available in 80 million homes in the US—offering the best of British programming from the BBC and independent producers to the US market. Meanwhile the Global BBC iPlayer app pilot enables overseas audiences in 16 countries access to high quality British TV content through a subscription service. Through BBC Worldwide’s part-owned business, UKTV, it extends the window of availability of high-quality programmes to UK audiences, and has delivered growth every year since the network launched in 1997.

16. BBC Worldwide delivers further opportunities to expand consumers’ enjoyment of media brands, such as via its DVD business, its rapidly growing digital businesses (including download-to-own, apps and games) and through its Live Events.

Supporting growth in the wider creative sector

17. As well as content from the BBC, programmes and formats from more than 200 UK independent producers were distributed by BBC Worldwide in 2011–12. Of the 100,000 hours of high-quality UK programming sold to over 700 customers from the USA to Indonesia in 2011–12, roughly a third of TV sales revenue earned came from indie produced content (both BBC and non BBC commissioned).

18. High growth firms face obstacles in accessing finance and business skills. This is particularly true in the creative sector, which is characterised by a small number of large companies—eg the broadcasters and major “indies”—and a large number of small firms. BBC Worldwide works in partnership with UK independent production companies.

19. As part of its support for individuals looking to make a career in TV, Future Formats is a BBC Worldwide funded initiative with BBC Entertainment, which has helped 12 people from non-television backgrounds create and pitch television formats, and is now running its third scheme this year. The initiative offers lectures and workshops, followed by placements with entertainment development teams within the BBC.

20. BBC Worldwide is also supporting other parts of the UK’s creative economy. Earlier this year, BBC Worldwide announced the six UK-based digital media start-up finalists for its BBC Worldwide Labs initiative. BBC Worldwide Labs is a new and comprehensive six month programme to support the most dynamic emerging digital media and technology companies in the UK. The start-ups have been offered workspace within BBC Worldwide’s West London offices, and have the opportunity to work alongside specialists from across BBC Worldwide, who can offer sound business advice in areas such as technology, content, marketing, sales and distribution, advertising, PR, HR and legal among others. BBC Worldwide is not seeking to inject money into the selected companies, but hopes that commercial deals and partnerships will transpire, thus helping to establish the start-ups at their next level of success.

Growing exports and inward investment

21. Exports and inward investment are a key component of a nation’s national income and an important driver of economic growth. The UK’s digital and creative sector performs exceptionally well on a global basis; the UK is second only to the US in its export success.

22. BBC Worldwide has made a significant contribution to this success. It is Britain’s largest international television company and exports the best of British creative content to the world. It has been successful at supporting exports from, and inward investment into, the UK creative sector. Together the BBC and BBC Worldwide helped to attract £32 million of co-production funding into the UK in 2011–12 from overseas broadcasters, supporting investment in the UK production sector. The company’s strategy is to increase the amount of revenue it generates from overseas business, with the last financial year seeing the proportion of international sales increase by 16% to 64% (55% in 2010–11).

The BBC’s contribution to innovation and knowledge sharing

23. The Government’s 2011 *Innovation and Research Strategy*²¹⁶ put innovation at the heart of the growth agenda. The BBC is an important innovator in the creative industries, not only through its contribution to technical Research and Development, but also as a result of its investments in other “intangible” asset²¹⁷ including people, brands, programmes and program formats.

24. A licence-fee funded BBC of scale and international reach is well-suited to spreading the benefits of this innovation to other firms and sectors in the creative economy, generating wider improvements in productivity by encouraging knowledge spillovers and transfers. This is partly because the BBC interacts with many elements of the creative economy; not only its own staff, but also programme contributors, freelancers,

²¹⁶ See www.bis.gov.uk/assets/biscore/innovation/docs/i/11-1387-innovation-and-research-strategy-for-growth.pdf

²¹⁷ Intangible assets (often known as knowledge assets or intellectual capital) are assets that do not have a physical or financial embodiment. For a fuller discussion see *Growth, Innovation and Intangible Investment*, by Jonathan Haskel to the LSE Growth Commission, June 2012 and BIS research paper number 74 (May 2012), the *Impact of Investment in Intangible Assets on Productivity Spillovers*

independent production companies and other firms within its supply chains. The BBC's funding model also gives it the stability and incentives to engage in a wide range of activities at a time when other parts of the creative sector are under financial pressure.

25. The BBC promotes the diffusion of knowledge in the wider economy through several channels.

The BBC's commitment to open standards

26. A key channel for diffusing knowledge is through open standards. The BBC's commitment to open standards is enshrined in the BBC's Agreement, and this commitment is integral to the way in which the BBC operates. Open standards are fundamental to driving market innovation and will always be important to the BBC's mission to introduce the benefits of new technology to society. Common technical standards bring significant advantages allowing manufacturers to maximise their investment by allowing them to replicate technologies across multiple markets. Common standards also enable content providers to share their content more widely across different devices, creating horizontal markets.

27. Common standards have been instrumental in driving the take up of digital TV. Freeview is found in 18.7 million homes. It has brought the benefits of interactivity and paved the way for next generation IPTV services. For example, YouView, the interconnected TV platform resulting from a partnership with ITV, Channel 4, BT, Talk Talk and Arqiva, has been deliberately engineered around open standards.

28. BBC R&D's commitment to open standards is demonstrated by its role in standard setting groups both within the UK and internationally. For example, BBC R&D played a pivotal role in developing DVB-T2, the standard for High Definition digital terrestrial digital TV. Drawing on its experience with the original DVB-T standard as well as with BBC R&D also makes a point of publishing its working papers and speaking at conferences in order to ensure that the benefits of its activity are disseminated widely. In 2010–11 BBC R&D presented 27 conference papers and published 20 other papers.

The BBC's contribution to training

29. The BBC is required under the Agreement to train its own staff and support the preparation and maintenance of a highly skilled media workforce across the audio visual industry. The work of the BBC Academy—the BBC's centre for training—is instrumental in meeting this obligation.

30. The BBC Academy plays a critical role in generating knowledge spillovers and transfers through training of BBC staff who may work elsewhere in the audio-visual industry later on in their careers.

31. The BBC Academy offers trainee schemes covering a wide range of areas including production, production management, journalism and design. The schemes offer year-long paid training and provide a thorough grounding in many aspects of broadcasting through training and work placements across the BBC's regional and national centres. BBC traineeships have produced some of the most respected names in broadcasting who have gone on to work outside of the BBC including Kevin Lygo (Managing Director, ITV Studios), Stephen Merchant (Writer, Director, Radio Presenter, Comedian and Actor), Peter Kosminsky (Film Writer, Presenter and Director, Member Governor of the BFI) and Julie Etchingam (Presenter, ITV).

32. During 2011–12 the BBC has employed over 50 apprentices across the UK—based in London, Salford, Cardiff, Bristol and Glasgow. The 2012 London and Scotland Scheme are industry-wide, involving partners such as ITV, Talkback Thames, Tiger Aspect, Endemol. The Government has also recently announced that the BBC and Channel Four will provide placements and apprenticeships as part of the Employer Ownership Pilot.²¹⁸

33. The BBC also works with universities to develop BBC branded Masters programmes. The Masters Programme in Production Management is a BBC Academy partnership with Bournemouth and Salford University. Most recently the BBC Academy has added a Software Engineering and Internet Architecture MSc. delivered by Bournemouth and Bradford Universities.

34. Subject to Fair Trading restrictions the BBC Academy aims to share as much training as possible with the mobile freelance community. In 2011–12, c 8,500 non-BBC delegates attended BBC training courses and events. In addition, almost 700,000 have accessed the BBC's online learning which is made freely available via the BBC Academy's external websites.

The BBC and creative clusters

35. In 2008 the BBC renewed its commitment to move more network television production out of London to draw on the talent and skills of the whole UK, to ensure that 50% of network production will be made outside of the UK by 2016. One of the key benefits of this strategy is that the BBC has kick-started the development of creative clusters around the UK. Companies within these clusters benefit from sharing first class resources and knowledge with other local and creative organisations. Creative clusters can also promote sustainable growth by rebalancing the economy geographically.

²¹⁸ [http://news.bis.gov.uk/Press-Releases/-150-million-for-businesses-to-build-skilled-workforce-68396.aspx?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+bis-news+\(BIS+News\)](http://news.bis.gov.uk/Press-Releases/-150-million-for-businesses-to-build-skilled-workforce-68396.aspx?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+bis-news+(BIS+News))

36. The BBC's move to MediaCityUK in Salford, which started in Spring 2011, is a tangible example of the beneficial impacts of creative clusters. This migration of activity will also lead to direct and indirect employment effects.²¹⁹ In addition BBC North has engaged with local communities via outreach activities and put in place a BBC North partnership strategy involving institutions such as The Salford Foundation, The Oasis Academy and The University of Salford.

37. The BBC has also sought to encourage network production in the Nations with the development of production hubs in Glasgow, Cardiff and Northern Ireland. Studios at Roath Lock, which opened last year in Wales, are now home to *Casualty*, *Pobol y Cwm* and *Doctor Who*. *Waterloo Road* has also recently moved to Greenock. A recent study by Deloitte's shows that more than 80% of network TV spend in the nations is attributable to the BBC.

The BBC in partnership with others

38. One of the benefits of partnership arrangements is that they can promote knowledge sharing which in turn can improve the productive potential of the creative sector. The BBC's 2010 Strategy *Putting Quality First* set out how partnerships across the industry could create increased value both for the BBC and others. It concluded that the BBC is well-placed to help other institutions and groups and that "partnerships" should be the default setting for most new activities.

39. Examples of recent successful BBC partnerships include The Space, a digital arts service from the Arts Council England and the BBC, and Radioplayer, which allows the audience to access BBC and commercial radio stations from a single online platform. Both of these partnership activities have provided a catalyst for growth in commercial revenues. The Space has raised the profile of suppliers who have benefitted from having greater exposure than they might have otherwise expected. An online survey of visitors to The Space indicated that 20% of those surveyed had gone on to visit an artist or organisation's website after seeing their work and 4% had purchased tickets for an event/exhibition. The introduction of Radioplayer has corresponded with a 32% increase in online listening between Q2 2011 and Q2 2012, and commercial online revenues have increased by £10.2 million over the same period.

40. The BBC has also been heavily involved in the Digital Production Partnership (DPP)—an initiative formed by the UK's public service broadcasters to help producers and broadcasters maximise the potential of digital production. The partnership also leads the standardisation of technical and metadata requirements within the UK broadcast industry to ensure that digital video content can be easily and cost effectively distributed to audiences via multiple platforms. The partnership is funded and led by the BBC, ITV and Channel 4 and it provides information and shares best-practice.

Future plans

41. Looking ahead, the BBC's support for the creative economy is likely to increase. The BBC is working in partnership with the independent sector to develop a new permanent download-to-own window for content. By combining BBC-owned content with that from the independent sector and other rights holders, this partnership will deliver additional public and economic value.

42. Our commitment to support the development of a wider "public space" with a growing number of partnerships with other public bodies and commercial bodies will provide on-going benefits to the creative economy. We are continually evolving different forms of partnership models. For instance the BBC and Arts Council England are currently exploring the potential for a permanent digital arts service following on from the success of The Space.

43. The BBC has plans in place to advance The Connected Studio via a series of collaborative events taking place across the UK over the coming months. The Connected Studio provides an opportunity for external digital agencies, technology start-ups, designers and developers to submit and develop ideas for innovative new features and formats for BBC Online. The Connected Studio has a fund of up to £1 million available to invest in both early stage concepts and public-facing pilots across the whole of BBC Online, as we all support individual developers, project managers and UX expertise.

44. However, the BBC's ability to deliver these ambitions whilst continuing to support the creative economy crucially depends on the regulatory and policy landscape. The responses to the Committee's questions address this issue in more detail.

RESPONSES TO COMMITTEE QUESTIONS

45. The remainder of this submission focuses on four specific issues highlighted in the Call for Evidence:

- Developing the legacy from the Olympic and Paralympic Games;
- Barriers to growth in the creative industries;

²¹⁹ The employment effect of BBC North is not yet known. However, the North West Development Agency estimated that the BBC's relocation had the potential to create 10,000 jobs and add £170 million to the regional economy and research by Amion Consulting (March 2006) estimated that MediaCityUK will employ 15,000 people and deliver £1billion net value to the North West economy.

- The impact on the creative industries of the current Intellectual Property regime; and
- The extent to which taxation supports the growth of the creative economy.

Legacy from the Olympic and Paralympic games

46. London 2012 has been called the first truly digital Olympics. This was borne out by the record-breaking audience figures for the event. The Olympics attracted over 51.9 million viewers in the UK across linear TV channels and Red Button. London 2012 was also the first truly mobile Games with 9.2 million UK mobile browsers to the BBC's Olympics coverage, making up 34% of all daily browsers to BBC's Olympics coverage, and 12 million requests from mobiles for video throughout the Games. Millions of people watched the Games via BBC Red Button with 23.7 million views to the 24 SD and HD streams (covering every Olympic sport) made available on the satellite and cable TV platforms.

47. Building on this success to leave a lasting digital legacy in years to come will be critical. The BBC is proposing to take forward many of the lessons learned from broadcasting the Olympics to ensure the benefits are long lasting. The BBC has secured the rights to a succession of major sporting events including the *Glasgow Commonwealth Games 2014*, the *World Athletics Championships* in 2015, the *Rio Olympics* in 2016, and the *World Athletics* in London in 2017. A BBC partnership with NHK which brought the world's first live broadcast in super high vision of swimming events from the Olympic Aquatic Centre will provide useful experience when broadcasting events such as these in the future.

Barriers to growth in the creative economy

48. On most metrics, the UK has one of the most successful broadcast and content creation sectors in the world. Previous BBC responses to Government consultation²²⁰ have highlighted the conditions required to promote investment in high quality UK originated content—a key driver of growth in the broadcasting sector. One is the diversity of funding streams and competition for quality between a range of public and private operators. Another is the carefully designed regulatory framework that has supported a Public Service Broadcasting model with the scale and reach to deliver significant consumer and citizen benefits. A competitive tax regime, a robust and modern IP framework, a skilled workforce and support for SMEs are also important factors. Targeted and proportionate public policy and regulatory interventions can stimulate—rather than stifle—growth as well as secure wider social and cultural objectives.

49. The BBC welcomes the Government's alignment of the policy objectives of sustaining high levels of investment in a range of UK originated content and ensuring widespread and easy access to that content. These objectives are mutually reinforcing. In policy terms, priority should be given to reforming the platform carriage arrangements, extending the principle of EPG prominence for public service content, sustaining a viable DTT platform and promoting net neutrality.

Carriage consent and payments

50. The widespread availability of public service channels on the main television platforms is an important objective.

51. The UK's current carriage consent and payments regime is unfair and runs counter to the core policy objective of driving investment in the TV content sector. It is also internationally anomalous. It is possible to reform the regime to reverse the flow of payments and consequently lead to a net increase in UK originated content investment.

52. At present, the TV platforms pay nothing for carrying the main free-to-air broadcasters, despite the fact that taken together, they are by far the most watched channels and so bring considerable value to those platforms. On the contrary, the PSBs—who are for all practical purposes obliged to seek re-transmission on the major TV platforms to meet their universality and “must offer” obligations—pay significant carriage fees to the satellite platform. Under the current Technical Platform Services (TPS) regime, BSkyB is permitted to recover platform development and maintenance costs (including marketing and set-top box subsidies) from PSBs but is not required to take account of the benefits that the platform derives from carrying the channels. The result is that the PSBs effectively subsidise a platform that likely derives more benefit than it confers, with a resultant diversion of funds away from UK content investment.

53. Under the TPS regime, BSkyB levies Platform Contribution Charges (PCC) of c£15 million per annum on the PSBs and further fees for EPG listings. We welcome BSkyB's recent decision to reduce the TPS fees it charges broadcasters but this does not obviate the need for reform of the underlying arrangements.

54. There are a range of options available to reform the current UK regulatory framework. As far as BBC is concerned, there should be zero payment. This could be achieved through application of the “must carry”/“must offer” rules (similar to what is used in some other European countries), or alternatively by reforming the TPS regime to ensure it takes account of the significant value delivered by BBC services.

²²⁰ See the BBC's response to Jeremy Hunt's open letter seeking views on the Communications Review and subsequent submissions to the DCMS seminars to inform the White Paper.

55. The outcome should be a net positive impact on original UK content investment, for the following reasons:

- The PSB system guarantees a high level of investment in UK content and these broadcasters spend a significantly higher proportion of their revenues on UK content investment than pay-TV channels; and
- The BBC would commit to spending any returned carriage fees on UK content. It is likely that the not-for-profit Channel 4 would also dedicate the bulk of any incremental income to programming budgets. The Government may want to consider making it a condition of reform that consent payments are re-invested by the commercial PSBs into UK content.

Prominence

56. Under current legislation, the main TV platforms are required to give “appropriate prominence” to the main public service channels. The prominence rules are designed to aid easy and universal access to these PSB services. With developments in EPGs and the growth of new “gateways” to content, there is a risk of the prominence framework losing its ability to deliver current policy objectives. To date, the BBC has managed to secure an appropriately prominent position on many new content gateways thanks to its commitment to emerging technologies. However, this may become increasingly challenged as the market develops.

57. The Government should therefore consider updating the “appropriate prominence” framework, with the principles extended to on-demand content gateways. The BBC recommends the following policy approaches are considered:

- Introducing enabling or backstop provisions which would be triggered only when a defined threshold was met, for example, when the gateway or access point became used by a significant number of consumers as a means of receiving on-demand programmes. Ofcom could be given a duty to review market and technology developments to assess if the trigger had been reached. Such an approach should be proportionate and minimise the risk of interference with platform innovation and the development of new services.
- Scope of on-demand gateways. This could be where the provider has “editorial responsibility” over selection and organisation of content in an on-demand catalogue, as under the current EU AVMS Directive. At present, this would be likely to cover non-linear listings and on-demand catalogues on “traditional” UK TV platforms, connected TV-related devices and OTT providers; and
- Definition of prominence. The key principle would be that public service content should be displayed in a prominent position on such gateways. It would not be sensible to try to prescribe in legislation what prominence should mean on the variety of present and future gateways and selection technologies. Rather, Ofcom should be given the power to draw up a code setting out the requirements that should be met, based on an assessment of audience expectations and technology.

Access to spectrum

58. As well as ensuring spectrum is used efficiently, spectrum policy should also support universality and choice for consumers of UK television; maximise investment in UK original content; and minimise the disruptive impact on consumers of changes in spectrum use.

59. DTT is the most popular UK TV platform—used in over three quarters of UK homes—that delivers significant consumer and public value. It performs an important role in providing universal, low cost access to PSB services and also supports platform competition. These roles will remain for the foreseeable future. For example, forecasts show that DTT is likely to be the primary source of TV reception in c45% of UK homes in 2020. Internet protocol television (IPTV) services, such as Youview, are a complement to linear broadcasting and will not represent an effective substitute for DTT for the foreseeable future.

60. Developments in domestic and international policy on the use of UHF spectrum could adversely affect the future of the DTT platform. The BBC, alongside the other DTT multiplex operators, has responded to Ofcom’s consultation paper on the long-term use of UHF spectrum.²²¹ In summary, our view is that the cost-benefit case has not been made to transfer a significant amount of the spectrum used by DTT (in the so-called “700 MHz band”) to mobile broadband. Clearance could involve significant costs and disruption for the DTT platform and for the millions of UK households who have selected it to access digital television services, often as a direct result of the Government’s switchover programme.

61. In the event that it is decided to transfer the 700 MHz band to mobile, it is vital to ensure that the consumer and public benefits delivered by Freeview are maintained for the long term—in a way which means that all Freeview viewers continue to receive the range of services they can access today, and also are able to receive more HD services over time. This will require compensating spectrum—namely the “600 MHz band” freed up by digital switchover—to be allocated the DTT platform without auction. We welcome Ofcom’s recognition of the need to sustain the DTT platform.

²²¹ <http://stakeholders.ofcom.org.uk/consultations/uhf-strategy/>

62. The Government and Ofcom should carefully consider the impact on broadcasting any introduction of Administered Incentive Pricing (AIP) for DTT spectrum. Given that the amount of spectrum allocated to PSBs is commensurate with their public service obligations, spectrum charging is unlikely to create additional incentives for efficient use of spectrum. The introduction of DTT spectrum charges would significantly reduce the funding available for public service content, to the detriment of UK audiences. This would run counter to the Government's core policy objective of incentivising greater investment in UK originated content. Ofcom should, therefore, waive the application of AIP to spectrum used by the PSBs. If not, the Secretary of State should consider using her powers under the Wireless Telegraphy Act 2006 to direct Ofcom accordingly.²²²

Net neutrality

63. As convergence progresses, so the importance of maintaining the open internet increases. It has contributed to digital innovation and growth, sustained access to digital public services and been a safeguard of media plurality. The BBC has therefore welcomed the good progress made by Government, the Broadband Stakeholders Group and the majority of UK Internet Service Providers in agreeing a voluntary code with tangible commitments to support the open internet.²²³ Despite this progress, the BBC would warn against complacency. There is a risk that service and content innovation will be hindered if providers of internet access block services, or apply traffic management in a manner that discriminates against content providers.²²⁴

64. In general, the BBC believes Ofcom's new ex ante powers—under the revised EU Framework Directive and corresponding UK law—are currently sufficient to ensure transparent consumer information about traffic management practices and address harmful discrimination on the internet. However, the pace of change in the market requires Ofcom not only to actively monitor market developments but to demonstrate a willingness to use its powers should this become necessary.

The Intellectual Property regime

65. The Committee seeks views on several aspects of the current IP regime: the impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth and the Government's response to it; the impact of the failure, as yet, to implement the Digital Economy Act; and the impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament).

66. It is essential to ensure a strong, flexible IP regime that preserves the incentives for investment in original content. The BBC welcomes the proposals on extended collective licensing and orphan works schemes to modernise copyright as part of the Enterprise and Regulatory Reform Bill. However, we would caution the Government against a broadly drawn private copying exception, which could undermine secondary exploitation and rights holders' incentives to invest.

67. On copyright infringement, we are disappointed that the Hargreaves review did not recommend changes to legislation to help rights holders enforce rights—in particular the clarification of section 73 of the Copyright, Patents and Designs Act 1988 to address the problem of websites offering unauthorised online streaming of channels with their own advertising on top, which undermines investment in content.

68. In addition, implementation of the notifications regime under the Digital Economy Act (DEA) could have been speedier and provided for a less complex and costly system than the one under consultation. In addition, while the DEA primarily focuses on infringement by UK users via Peer to Peer, copyright owners frequently face infringement via other services such as embedded streaming, or in jurisdictions outside of the UK. A toolkit of enforcement measures is essential to target different points in the value chain, including effective collaboration by intermediaries to address the funding of infringing services (payment processors, advertising networks, search), prompt responses to notice and take action requests, and timely court blocking injunctions. It is important that Government continues to facilitate and give momentum to UK stakeholder dialogue on these areas and, with Ofcom, engages effectively with EU and international policy development.

Tax reliefs for the creative sectors

69. The BBC believes that the Government's tax relief proposals form an important component of the Government's Plan for growth in the communications sector. The BBC sees the tax reliefs as providing a valuable opportunity for the Government to create a critical mass of infrastructure and skills to enable and support production in the UK both today and over the longer term. The BBC is keen for the Government:

- To make contribution to training a condition of receipt of the tax reliefs—for example by introducing a compulsory levy payable to Skillset or by placing a direct responsibility on production companies in receipt of the relief to train staff working on their productions.

²²² Under section 5 of the Wireless Telegraphy Act 2006, the Secretary of State may by order give general or specific directions to Ofcom about their radio spectrum functions.

²²³ www.broadbanduk.org/content/view/485/7/

²²⁴ http://erg.eu.int/doc/consult/bor_12_30_tm-i_snapshot.pdf

- To ensure that the right conditions are in place to encourage strategic investment in infrastructure in relevant and appropriate locations (eg in areas of shortage or in regional clusters) and to bring together public and private sector investment to maximise its effectiveness.
- To use the tax credits to support the regional agenda so that the benefits of any additional investment are spread around the country rather than being concentrated in the South East. For example, the Government may wish to consider introducing higher rates of tax relief for out of London investments as defined by Ofcom.

70. More generally, Government should consider the tax reliefs in the wide context of other measures aimed at supporting UK production to ensure that it has a coherent and consistent approach to all content producers.

November 2012

Supplementary written evidence submitted by the BBC

This note provides the BBC's response on how much we commission from independent radio producers, in terms of spend, following the Culture, Media and Sport Select Committee hearing of 12 March 2013 into Support for the Creative Economy.

In its support for the independent radio production market, the BBC operates a quota and a "Window of Creative Competition" ("WoCC") for radio independent supply. In 2006, the commitment to independent radio productions was formalised within the BBC Charter Agreement and a quota is set at 10% of eligible hours.²²⁵ More recently, the BBC has made an overall minimum of 20% of eligible hours available (including the 10% quota) through the operation of a WoCC whereby independent producers have the opportunity to pitch for commissions. The content commissioned from independent producers represents programming of varying costs from a broad range of genres, many different parts of the schedule and from a range of different independent producers.

Also, as explained by John Tate, BBC Director of Policy & Strategy, the UK radio independent production market is different to television not only in terms of scale, but also in structure and competitive dynamics. Unlike television, the BBC is the predominant purchaser of radio programmes from the independent market, and international and secondary markets for rights have not developed. This is due partly to the nature of radio programming, which is typically live and of interest mainly to national, regional or local audiences. It also reflects the fact that commercial radio companies operate an integrated model of production in which the vast majority, if not all, broadcast content is created in-house. Given the low variable cost of radio production, it is important for radio broadcasters to be able to leverage their fixed costs across a cost effective in-house production base.

In FY 2011/12, the BBC's direct spend with radio independent production companies was £20.9m. This reflects the production fee paid to independent companies. Separate to the production fee, the BBC directly meets the music copyright costs²²⁶ and station management costs associated with all independent programming, as well as talent costs in some programme areas. Given the use of shared resources by BBC in-house production and independent production partners, these central costs cannot be apportioned to independent companies in a meaningful way and it is for this reason that the BBC considers hours to be the most informative measure.

²²⁵ Clause 58 of the BBC Agreement.

²²⁶ The BBC meets copyright costs for all recorded music and the vast majority of live performances with just a few exceptions.

²²⁷ Mediatique, "Carriage of TV Channels in the UK: policy options and implications", Report for the Department for Culture, Media and Sport, July 2012. <http://dcmscommsreview.readandcomment.com/wp-content/uploads/2012/07/120709-DCMS-Carriage-Consent-Report-FINAL.pdf>

²²⁸ BBC One, BBC Two, ITV1, Channel 4 and Channel 5, the BBC's digital channels BBC Three, BBC Four, CBBC, CBeebies, BBC News and BBC Parliament. Figures cited do not include BBC Alba, BBC HD or S4C.

Lastly, the Committee may wish to note that operating the radio quota and the WoCC on the basis of hours is also the most editorially sound approach in our view, as it allows competition for the best ideas to be paramount.

March 2013

Further supplementary evidence submitted by BBC

BBC AND PSB INVESTMENT IN ORIGINAL UK CONTENT

This note provides the BBC's response on how much public service broadcasters (PSBs) invest in original UK content, following the Culture, Media and Sport Select Committee hearing of 12 March 2013 into Support for the Creative Economy.

As explained by John Tate, BBC Director of Policy and Strategy, the PSBs together account for c90% of investment in original UK content. A July 2012 report commissioned by DCMS to inform its Communications Review²²⁹ provides that in 2010 the designated PSB channels²³⁰ invested £1.87 billion in original content (of which £922 million by the BBC). Pay-TV is stated to have invested £215 million (£140 million by Sky's channels plus £75 million by others, including Discovery, UKTV and NBC). This gives investment by the designated PSB channels as c90% of the total of £2.08 billion.²³¹

These figures focus on investment in original UK programme-making as it is widely understood, and therefore exclude sports rights and production costs, acquisitions, repeats and third party investment.²³² The report for DCMS drew the PSB figures from Ofcom's PSB Annual Report 2011 and Ofcom's Communications Market Review 2011. We would note that, in accordance with its duty to assess the designated PSBs' delivery of the public service purposes set out in the Communications Act 2003, Ofcom's PSB Annual Report provides an independent audit of investment in original UK content by the designated PSB channels and ensures that the data is collected and compared using consistent definitions.

April 2013

Written evidence submitted by Channel 4

1. Channel 4 welcomes the opportunity to respond to the Select Committee's timely inquiry. The UK's creative sectors, which range from television and feature film to fashion, design and games development, already have significant cultural and economic importance and have the potential to provide even further growth and employment for the country in the years ahead. But the UK's great success stories—which include being a global leader in television formats and one of the largest games markets in the world—have not come about by accident. Instead, the health of the UK's creative industries is a result of the specific policy decisions and regulatory frameworks put in place by successive Governments. As the UK looks for sectors that can drive its growth in the future, Channel 4 welcomes the Committee's focus on ensuring that Government policy enables the creative industries to reach their full potential.

2. In particular, Channel 4 believes that stimulating investment in UK content should continue to be a key objective of the public policy framework for the creative industries. Channel 4 would urge the Committee to explore as part of its review public policy measures which will enable the UK content industry to thrive, including policies which will help Channel 4 to deliver public service content in line with its remit and sustain its investment in the sector.

CHANNEL 4 AND THE PUBLIC SERVICE BROADCASTING ECOLOGY

3. Channel 4 is a publicly-owned, commercially-funded public service broadcaster with a statutory remit to be innovative, experimental and distinctive. Unlike the other commercially-funded public service broadcasters, Channel 4 is not shareholder-owned: commercial revenues are the means by which Channel 4 fulfils its public service remit. In addition, Channel 4's not-for-profit status ensures that the maximum amount of its revenues are reinvested in the delivery of its public service remit, including high levels of investment in content commissioned from around the UK and across a range of genres.

4. Channel 4's remit to be distinctive means it is responsible for commissioning content that would struggle to find a home elsewhere—as most recently demonstrated through its brave news and current affairs (*Channel 4 News*, *Sri Lanka's Killing Fields*), cutting-edge film and drama (*Tyrannosaur*, *Top Boy*) and daring comedy (*Black Mirror*, *10 O'Clock Live*). Through our factual programming we seek not just to explore big topical

²²⁹ Mediatique, "Carriage of TV Channels in the UK: policy options and implications", Report for the Department for Culture, Media and Sport, July 2012. <http://dcmscommsreview.readandcomment.com/wp-content/uploads/2012/07/120709-DCMS-Carriage-Consent-Report-FINAL.pdf>

²³⁰ BBC One, BBC Two, ITV1, Channel 4 and Channel 5, the BBC's digital channels BBC Three, BBC Four, CBBC, CBeebies, BBC News and BBC Parliament. Figures cited do not include BBC Alba, BBC HD or S4C.

²³¹ If spend by the commercial PSB portfolio channels is included in the total, investment by designated PSBs plus commercial PSB portfolio channels is also c90% of total investment.

²³² We understand that Sky's announcement of £600 million spend by 2014 includes in-house production for sport.

issues, but also challenge contemporary taboos—in recent months bringing large audiences to themes as varied as multiculturalism (*Make Bradford British*), mental health in the workplace (*4 Goes Mad* season), disability (*The Paralympics*, *The Undateables*) and trans-gender lives (*My Transsexual Summer*).

5. Reflecting the quality of its commissions, Channel 4 won 10 awards at the 2012 RTS programme awards with content ranging from *Mummifying Alan* to *24 Hours in A&E* and *Hugh's Fish Fight*—and also won five awards at the 2012 BAFTAs and two Oscars at the Academy Awards.

6. Channel 4's establishment as a statutory corporation with a public service remit, and its status as a publisher-broadcaster, is a good example of Government support for the creative industries. It forms part of the public service broadcasting (PSB) system, comprising the licence-fee funded BBC; the publicly-owned but commercially-funded Channel 4; and the commercial PSBs ITV and Channel 5. Together these organisations continue to deliver the most significant levels of investment in UK content—and in particular on content that meets public service purposes. This system has played a major part in the ability of the UK content industries to go on delivering significant cultural and economic value, and Channel 4 would urge the Committee that when considering future forms of support for the creative industries, it seeks to explicitly build on the strength of the UK's current policy interventions.

CHANNEL 4 AS AN INVESTOR IN THE CREATIVE ECONOMY

7. For 30 years, Channel 4 has worked with the independent production sector to provide some of the UK's most innovative and distinctive television programmes, films and increasingly, online content. In 2011, Channel 4 invested £419 million in UK-produced content across its portfolio of services—and plans for this figure to increase to a historic high of around £450 million in 2012.

8. Channel 4's unique status as a publisher-broadcaster means it is able to play a special role in supporting the creative economy, creating jobs and providing opportunities for talent from all over the country. A 2010 report from Oxford Economics showed that Channel 4's activities generate £1.1 billion for the UK economy each year & support 28,000 jobs across the UK.

9. Channel 4's investment has helped the independent production sector grow into a thriving industry, and the UK to become a leading exporter of TV programmes and formats. For example, Channel 4 commissions such as *Undercover Boss* and *Secret Millionaire* have successfully been exported to the United States and its most recent innovative factual format *The Audience* has been sold to territories including Canada and Denmark.

10. The UK's vibrant independent production sector continues to rely on Channel 4 for a large part of its success. In 2011, Channel 4 worked with over 400 suppliers across TV and digital media, across all parts of the country. This included large international companies, many of whom are now owned by multi-national corporations, alongside emerging SMEs.

11. Channel 4's support has benefited companies from across the UK. Channel 4 spends more than £100 million in the nations and regions annually—all on independent production companies. Channel 4's support for the creative economy in the nations and regions of the UK is outlined in more detail below.

12. Channel 4 is building on its TV tradition in the digital world, stimulating investment in the digital economy in the same way that helped to give birth to the independent production sector in the 1980s. In 2011 Channel 4 worked with 150 digital suppliers, 40 of which were new to the broadcaster. 47% of this online spend was on companies based outside London.

13. Recognising that the independent sector has undergone considerable growth over the last decade, Channel 4 has set out to broaden the range of companies it works with, to ensure that it is open to the best creative ideas and that there continues to be a range of different sized independent companies within the sector.

14. In 2011 Channel 4 launched the Alpha Fund to support new start-ups, regionally based companies, projects featuring diverse talent and grassroots innovation, and aims to kick start original ideas that can grow in scale and ambition. Jay Hunt, Channel 4's Chief Creative Officer, has also established the Independent Producers' Access Plan, which encourages all of the commissioning team to engage with producers around the UK and meet targets for working with new companies and talent. Channel 4 has already seen positive progress from this strategy—with companies voting it the best broadcaster to work for in the 2012 Broadcast Indie Survey.

15. It is Channel 4's unique model and commitment to emerging talent that has enabled it to have such a catalytic impact on the creative industries. Channel 4's status as a publicly-owned entity is central to ensuring it is able to go on playing this major role in the creative economy.

CHANNEL 4 AS A SHOWCASE FOR THE CREATIVE INDUSTRIES

16. As a broadcaster with universal reach, free at the point of use, Channel 4 is able to play a unique role in its support for the creative industries—not only as a direct investor in innovative television, film and digital media—but also as a window on artistic endeavours from all creative disciplines: whether that is theatre, visual art, dance, music or design.

17. The Committee notes the success of the Olympics and Paralympics Opening and Closing Ceremonies as a showcase for UK cultural excellence. Channel 4 was not just the broadcaster of the Paralympics Ceremonies, but has over the years also developed and supported many of the artists featured in all the Ceremonies: from Danny Boyle, whom Channel 4 has nurtured from his directorial debut, *Shallow Grave*, through to his forthcoming feature, *Trance*, to amputee dancer David Toole, who starred in a Channel 4 film of theatre company DV8's performance piece *The Cost Of Living*, and the British Paraorchestra who featured in the Paralympics Closing Ceremony and whose formation was the subject of a Channel 4 documentary.

18. Channel 4 will continue to develop its distinctive approach to arts coverage, which includes championing cutting edge art that audiences may not otherwise see, such as through its broadcast of the Turner Prize; championing emerging forms of creative disciplines as legitimate forms of art—whether that is graffiti, spoken word poetry or house music; and uncovering new artistic talent. In 2012 Channel 4's arts output has ranged from Grayson Perry's acclaimed documentary on class and taste, *a behind the scenes preview of Damien Hirst's Tate Modern exhibition*, to *Random Acts*, a showcase of 360 specially commissioned 3 minute arts films.

POLICY ISSUES AFFECTING SUPPORT FOR THE CREATIVE ECONOMY

19. While Channel 4 believes that any thinking about creative industries policy should seek to build on the effective framework that is already in place, Channel 4 believes there are incremental, but important, reforms that can make a real difference to the ability of the UK creative industries to grow and prosper.

Incentivising investment in content

20. With specific regard to broadcast media, Channel 4 believes the Government could maintain and incentivise greater investment in UK content, including investment in public service content by the PSBs. The current Communications Review provides a good opportunity for the Government to take action to meet this objective and support the creative economy, for example by:

- Updating the Electronic Programme Guide (EPG) regime to take into account convergence and to secure prominence for public service content in non-linear environments. The Government could encourage Ofcom to conduct a review of the current EPG regime with a specific view to making recommendations/changes likely to maximise investment in high quality, diverse, original UK content in a converged world, and ensure that Ofcom has appropriate backstop powers to ensure prominence in the light of future technological changes.
- Re-opening the debate on advertising minutage rules. Channel 4 believes that the advertising minutage rules could be changed to drive further investment in public service content from all commercially-funded PSBs, and therefore suggests the Government consider amending Ofcom's statutory duties to ensure that, in any future debate on the harmonisation of the PSB and non-PSB minutage rules, Ofcom specifically has an objective of encouraging investment in UK content from PSBs. The PSBs remain the biggest investors in original UK content, and therefore, in Channel 4's view, the substantial increase in revenues for PSBs that harmonisation down of the minutage rules to PSB levels would enable would have a direct positive impact on the ability of all commercially-funded PSBs to invest in UK content and deliver public service obligations, as well as enhancing the viewer experience.
- Ensuring that the carriage regime—ie the relationship between channels and platforms such as cable and satellite—recognises the huge value that PSBs bring to these platforms. Channel 4 notes a report commissioned by the Government from Mediatique, which considers whether a deregulated model of carriage might deliver additional benefits for UK viewers. Channel 4 welcomes Mediatique's conclusion that under a new, deregulated model "an outcome whereby payments flow from TV platform operators to PSBs is plausible and that this could lead to an increase in expenditure on original content industry wide" and that this justifies a review of the current regime governing carriage.
- Waiving the planned introduction of Administered Incentive Pricing (AIP)—ie spectrum charging—from the end of 2014 for PSBs as a means of supporting public service content investment in future. The introduction of AIP for spectrum used for broadcasting would result in the PSBs making millions of pounds of AIP payments to Ofcom—funds which could otherwise be used to deliver public service content obligations.

Intellectual property (IP)

21. Channel 4 welcomes the Committee's emphasis on intellectual property policy. As a major investor in the creative economy, Channel 4 relies on a sound IP regime to underpin its activities. Unlawful use of copyright material undermines investment in content. Channel 4 believes that a strong IP regime has been a key factor in the strength of the creative industries in the UK, promoting entrepreneurialism, innovation and economic growth in the UK broadcasting sector, and a weakening of the regime could lead to a vicious spiral of declining revenues, investments and audiences.

22. Channel 4 believes that overall the existing UK IP framework works effectively, rewarding content creators and stimulating innovation and economic growth in the creative sector.

23. In relation to online copyright infringement, Channel 4 welcomes the initial obligations set out in the *Digital Economy Act 2010* to help address online copyright infringement. Channel 4, alongside others in the content industries, is also seeking to address this issue through the provision of compelling legal offers, such as 4oD, and by helping to educate consumers about the important role played by intellectual property in underpinning content creation.

24. Beyond the measures in the *Digital Economy Act 2010*, Channel 4 believes that the Government can help reduce online piracy by repealing Section 73 of the Copyright, Designs and Patents Act 1988. Online sites such as TVCatchup.com have used Section 73 as a defence for appropriating Channel 4's TV channels and streaming them live over the internet on both fixed and mobile networks, without consent.

25. These parasitic services compete both for viewers and revenue, making money from Channel 4's channels by selling advertising around the content. TVCatchup, for example, sells "in-skin" and/or pre-roll advertising against Channel 4's broadcast content and that of the BBC services. This commercialisation of Channel 4's content is in direct competition with Channel 4's own online services.

26. The negative commercial impact of retaining Section 73 is significant for PSBs, and this impact will continue to increase if no action is taken by the Government to repeal these provisions. It is essential that the Government ensures that the IP regime continues to allow content providers the incentives and protections to enable them to continue to invest in content.

27. Finally, Channel 4 shares the concerns expressed by some rightsholders about proposals which could allow copyright law—in particular exceptions to copyright law—to be made via secondary, rather than primary, legislation. Given the importance of a strong IP regime for the future of the creative industries, Channel 4 believes that any proposed changes to the IP regime need to be debated fully.

Spectrum policy

28. Spectrum is a highly-valuable public resource with a wide variety of competing uses, from television channels in high definition and standard definition, through mobile telephony services, to wireless broadband and beyond. The allocation of spectrum provides an exciting opportunity to deliver new services to consumers and drive growth. However, Channel 4 is concerned that developments in domestic and international policy on the use of spectrum could adversely affect television services enjoyed by viewers across the UK.

29. Channel 4 believes that spectrum allocation for Digital Terrestrial Television (DTT) needs to take into account the significant social and cultural value the platform delivers for consumers. It is vital that a strong signal is sent by the Government that sufficient spectrum should be allocated to DTT in the UK—allowing it to evolve to meet consumer demand and technological developments. Any deterioration in the DTT platform would diminish viewers' enjoyment of TV services, and directly and negatively affect PSBs' ability to invest in UK content and make that content universally available, free at the point of use.

30. Channel 4 believes that the Government and Ofcom should commit to a strong DTT platform for the long term that will continue to provide viewers with universal access to public service content and new ideas and information, free at the point of use. Channel 4 is therefore concerned by recent proposals from the House of Lords Select Committee on Communications, which suggested that terrestrial television should be transferred from its DTT spectrum and moved to the internet. Channel 4 believes it is vital to retain universal access to broadcast free at point of reception for the foreseeable future to continue to deliver social and economic benefits—and Channel 4 is pleased to see that the Government has recently confirmed its support for this position.

UK tax relief for creative sectors

31. Channel 4 welcomes the proposals outlined by the Government to introduce tax reliefs for high-end television, animation and games. They are an important recognition of the economic significance of the creative industries and, as part of the existing suite of UK policy initiatives aimed at supporting the creative industries, are likely to provide a further cultural and economic boost to the UK; enhancing the country's global competitiveness by attracting production that may not otherwise be made in the UK, incentivising new investment, as well as retaining and developing the dynamic creative skills-base that already exists here.

32. The new reliefs build upon the success of the film tax credit. As a major investor in UK feature film through Film4, Channel 4 has extensive experience of the film relief, which has brought significant benefits to the industry, helping to grow the volume of British productions while also attracting substantial inward investment into the UK, thereby creating new employment opportunities for British crew.

33. Channel 4 has provided detailed comments on the proposed tax reliefs as part of the DCMS and Treasury consultation processes. Channel 4 has consistently emphasised the importance of the ensuring the reliefs: incentivise indigenous content investors alongside overseas investment; promote support for training and skills development; and provide sufficient flexibility to enable current and future business models to develop and flourish.

34. With regards to the specific scope of the tax relief, Channel 4 supports the principle of including a wider range of genres within the scope of the high-end television tax relief, rather than just drama and comedy. For

example, including documentary programmes within the definition (as long as they qualified over the £1 million threshold) could incentivise further investment in high-quality, highly-skilled documentary making.

Skills policy for the creative sectors

35. Channel 4 welcomes the Committee's focus on establishing a strong skills base to support the creative economy. Supporting the on-going development of skills and talent in the creative industries is a vital objective—for the media sector as well as UK plc more generally. If the sector is to fulfil its potential, the UK must ensure that the creative talent base that exists here is fully equipped to respond to the rapid changes of the digital landscape. Therefore Channel 4 believes that rather than a 'one-size-fits-all' skills strategy, emphasis should be on promoting flexibility and industry-led innovation.

36. Channel 4 invests significantly in talent and skills development. This includes its own award-winning internal programmes run through 4Talent, which offers work experience placements, apprenticeships, workshops and master classes to people looking to gain entry into the creative industries, alongside funding and support for external skills bodies such as Creative Skillset and the National Film and Television School.

37. As a broadcaster with a remit to be innovative and experimental, as well as a duty to invest in talent, Channel 4 has launched initiatives aimed at meeting some of the skills challenges presented by emerging technology. Specifically a major challenge is created by convergence, which has brought together disciplines that may previously have sat apart, such as science, technology and the arts—and which may not yet have in-depth understanding of how each other operates. To address this issue, Channel 4's online team runs the Fuel4 programme, a series of events and paid placements aimed at encouraging collaboration and understanding between TV and digital producers.

38. Since 2011, a strategic focus of Channel 4's skills programmes has been to broaden access to a wider range of young people—particularly those from less advantaged backgrounds. This is particularly important for the creative industries—where jobs can be centralised in particular locations and which can be dependent on establishing personal relationships with those already in the industry. As a result of this culture, the creative industries as a whole remain under-representative of some social groups—such as ethnic minorities, disabled people, and those from disadvantaged backgrounds.

39. For this reason, Channel 4 is proud to have become a founding signatory to the Government's Social Mobility Business Compact, in which it has pledged to support communities and schools, recruit fairly and openly, and provide opportunities for all young people to get a foot on the ladder.

40. 4Talent has a strong track record in engaging with young people from across the country, and helping them on to further careers in the industry—with 42% of participants in its work experience programme finding further experience or employment in the industry as a result. In 2011 Channel 4 set out to widen the groups of young people it was reaching through these schemes, and actively sought to attract people from all educational and employment backgrounds by venturing outside of the traditional media 'hubs'. Over the last year 4Talent open days have visited locations including Derry, Barnsley, Penzance and Dundee. Of the attendees, 61% said neither of their parents went to university, and 18% had received income support growing up.

41. While steps are being taken by individual companies, like Channel 4, to broaden access to the creative industries, improvements could still be made at both an industry and national level. For example, while the public service broadcasters offer extensive opportunities for new talent to gain access to the media, Channel 4 believes more could be done to incentivise a broader range of media companies, including smaller companies, to open up access. Limiting the red-tape involved in setting up and joining apprenticeships and work experience schemes could be a useful way of doing this—so that they are flexible enough to appeal to smaller organisations and do not become an administrative burden.

42. It is also vital to any cohesive skills strategy that there is significant engagement between industry and educational institutions. Channel 4 notes that the success of these partnerships is founded on how easy it is to approach and develop relationships with specific institutions—and where there are clear points of contact for industry to liaise with.

Regional creative clusters

43. The Committee asks about the importance of "clusters" and "hubs" in facilitating innovation and growth. Channel 4 agrees that it is important to support the creative industries throughout the UK: supporting regional companies has been a key element of Channel 4's work for the last 30 years. In 2011, it invested £152 million in programmes for the TV channel portfolio from companies in the nations and regions—an increase of 22% on 2010. Channel 4 continued to exceed its licence quotas for the main channel, with 48% of all hours of TV commissions coming from outside the M25, and 4.2% of its investment coming from Scotland, Northern Ireland and Wales. In recent years Channel 4 has sought to build new relationships with companies in the devolved nations; for example, Telescop of Swansea, who produced one of Channel 4's stand-out single films of the year with *Wallis Simpson: The Secret Letters*, their first ever commission for Channel 4. Channel 4 has also expanded the spread of its digital commissions, working with 54 businesses based outside London, including games and apps developers in Dundee, Bristol and Middlesbrough. 47% of Channel 4's online commissioning budget in 2011 was spent outside London.

44. While Channel 4's focus has been on attracting creative ideas, regardless of where in the country they come from, Channel 4 has found the existence of 'creative hubs' to be a helpful source of expertise and talent. These hubs have often grown historically as a result of the major broadcast centres such as ITV and the BBC—and the success of MediaCity in Salford is a testament to the continued importance of major infrastructure investment from the broadcasters.

45. Beyond this, Channel 4 is engaging increasingly with talent from 'hubs' in other parts of the country—that have developed as a result of other factors such as strong local universities or transport links to major cities. This is true particularly for companies in the emerging digital sectors, which are less concerned with physical proximity. For example, in recent years Channel 4 has become a significant investor in innovative online games—and has recognised that Dundee has significant expertise in games development. Talent is attracted to the city by the games courses at the University of Abertay Dundee, and then stay to set up their own, internationally successful, games companies. Channel 4 has commissioned several of these companies, which include TAG Games and Dynamo, to produce innovative projects, and in 2011 announced that its new games commissioner would be based in Scotland in order to harness the wealth of gaming talent that exists there.

46. Channel 4 hopes that this submission is of assistance to the Committee and would be happy to discuss these issues in greater detail.

November 2012

Supplementary written evidence submitted by Channel 4

CHANNEL 4'S INVESTMENT IN SKILLS AND TALENT DEVELOPMENT

The Culture, Media and Sport Committee asked Channel 4 to provide further information on two aspects of its evidence relating to industry training and skills. The briefing note below outlines examples from our own experience of "red-tape" that may potentially hinder further industry investment in skills and development initiatives, as well as the schemes that we run across the UK to develop creative talent.

As a publisher-broadcaster with a remit to nurture talent, Channel 4 has a unique role in supporting emerging and established creative talent, both amongst its own employees and across the wider industry. This includes its own award-winning internal programmes run through 4Talent, which offers work experience placements, apprenticeships, workshops and master classes to people looking to gain entry into the creative industries, alongside funding and support for external skills bodies such as Creative Skillset and the National Film and Television School. We also work closely with our creative suppliers, many of whom are small and emerging businesses, to encourage them to offer their own training and skills programmes.

ENCOURAGING SMALLER COMPANIES TO INVEST IN SKILLS

Channel 4 has tended to focus in the past on developing its own training and development schemes and funding them itself, but recognises that this is not always an option for smaller companies of the kind that Channel 4 works with. We therefore encouraged the Committee to consider ways in which smaller companies can be incentivised and helped to invest in this area.

Larger organisations have a role to play here; for example Channel 4 has collaborated with smaller creative companies to enable them to offer training and development, most recently funding an apprenticeship placement within online youth broadcaster SBTv. In its written evidence to the Select Committee, Channel 4 noted that "limiting the red-tape involved in setting up and joining apprenticeships and work experience schemes" could also help incentivise smaller organisations to invest more in skills and training development. Examples from Channel 4's own experience include:

- **Work Experience Kitemarks.**

Some existing kite-marks for work experience schemes, such as the Quality Mark scheme managed by the National Council for Work Experience, required an extensive, and costly, evaluation process. This led to only a small number of organisations, all multi-national companies, applying. While this scheme in particular closed in 2012, Channel 4 believes that it is important that any future accreditation schemes are conscious of the need to not be overly onerous on the companies applying.

- **Apprenticeship funding.**

Channel 4 runs its own apprenticeship scheme and recognises the value of training and developing young people in this way. Channel 4 currently funds all of the apprenticeship schemes it runs itself—however it recognises that this may not be an option for other companies. It is therefore helpful that public support for apprenticeships is available via agencies such as the Skills Funding Agency, the National Apprenticeship Service and local organisations—but Channel 4 would note that the process for accessing this funding can at times be time-consuming, potentially deterring companies from applying.

SKILLS DEVELOPMENT ACROSS THE UK

In Channel 4's oral evidence session, we were asked to expand on the training and development opportunities given to people outside of London. Channel 4 is a major investor in the regional creative industries of the UK, investing £157 million on production companies based outside London in 2012. This work is supported by a range of training and skills schemes Channel 4 operates with its creative partners both in London and across the nations and regions of the UK. These are aimed at bringing new entrants into the industry and supporting their development as they build their careers. These schemes are outlined in further detail below.

Beyond the specific schemes and initiatives offered by Channel 4, the creative partners we work with also provide opportunities to young people wanting to gain entry into the industry. In Liverpool, for example, Lime Pictures, who produce *Hollyoaks* for Channel 4, offer a range of apprenticeships and work placement opportunities.

- Channel 4 schemes based at Channel 4's London headquarters.
 - **4Talent Apprenticeship Scheme:** Successful individuals work in one of Channel 4's departments for 12 months as part of this scheme, gaining qualifications and earning a salary in the process.
 - **4Talent Internship Scheme:** Channel 4 also offers 12-month internships across a range of departments, including a competitive salary and career support.
 - **4Talent Work Experience Scheme:** Channel 4 offered 140 work experience placements in 2012 across its organisation, for one or two weeks.
- Channel 4 schemes based in companies across the UK
 - **Channel 4's Production Training Programme:** Individuals take part in a 12-month training programme at one Channel 4's suppliers, with positions including trainee researcher, trainee co-ordinator, and trainee junior developer. Six places are available specifically for disabled applicants. Companies offering these places are located across the country—for example last year placements were offered with Raise The Roof in Glasgow and Waddell Media in Belfast.
 - **Channel 4 Investigative Journalism Programme:** Journalists are given the opportunity to work within a production company and develop ideas for Dispatches, Channel 4's award-winning current affairs programme. In the first year of the scheme placements were offered in production companies based in London and Glasgow.
 - **Channel 4 Fuel4 Producer Placement programme:** to encourage greater collaboration and expertise between digital and television sectors, this scheme paid for TV producers to work in digital companies as producers and digital executives to work in TV companies. Placements were offered in companies based in London, Oxford, Brighton and the West Midlands.
- 4Talent Open Days
 - As part of its commitment to social mobility, and recognising that the creative industries as a whole remain under-representative of some social groups, in 2012 Channel 4 set out to widen the groups of young people it was reaching through its 4Talent arm. This has involved actively seeking to attract people from all educational and employment backgrounds by venturing outside of the traditional media "hubs". Over the last year 4Talent open days have visited smaller UK towns that aren't seen as significant production centres and which other media organisations rarely visit—including Derry, Barnsley, Penzance and Dundee. Of the attendees, 61% said neither of their parents went to university, and 18% had received income support growing up.
 - In 2013, Channel 4 will increase the number of open days it runs to a total of 12. These will be held in the following locations: **London, York, Falmouth, Llandudno, Sunderland, Lincoln, Preston, Aberdeen, Norwich, Derry and Eastbourne**. While we are conscious that with limited resources we cannot visit every location in the UK, we will continue to identify other areas that could benefit from these sessions and that other media organisations are not targeting, and will work with local charities and universities to promote these days to encourage as many young people to attend as possible.

Further supplementary written evidence submitted by Channel 4

CHANNEL 4'S INVESTMENT IN THE CREATIVE ECONOMY AND UK ORIGINATED CONTENT

Channel 4 welcomed the opportunity to provide evidence to the Culture, Media and Sport's inquiry into support for the creative economy in March. We note that the Committee was particularly interested in the issue of broadcasters' content spend, and as such we have provided below further details on Channel 4's content spend and how this contributes to the UK's creative economy as a whole. The following comments outline the level and breadth of Channel 4's investment in original UK content—as well as the distinctive role this investment plays in fulfilling our unique public service remit, developing the creative industries and benefiting a wide range of viewers across the whole of the UK.

Channel 4 has a specific, and unique, job to do: to deliver our statutory public service remit. Our current strategy to deliver this is through “investing in innovation”—both creatively and commercially. This includes investment in creative renewal, a long-term approach to refreshing content and investing in new, innovative and risk-taking programmes that make the schedule genuinely distinctive and different, underpinned by a future-facing commercial strategy focused on maximising distribution of this content across digital platforms and building deep relationships with our viewers.

Our unique position and strategy allows us to provide a significant contribution to the vibrant mixed ecology of a broadcasting sector which is a huge success story for the UK. Concurrent public and private investment in UK content has led to a virtuous circle of increased levels of investment in content, which in turn has delivered a TV sector that offers choice, competition and diversity and delivers enormous cultural, social and economic benefits.

CHANNEL 4'S CONTENT INVESTMENT

Our creative strategy in 2012 prioritised investment in original content. Channel 4 invested **£434 million** in originated content in 2012—the biggest investment in original commissions in Channel 4's history. This figure will be published in our 2012 Annual Report in May and reported to Ofcom, and can be broken down as:

- £387.4 million invested in original content for the main Channel 4 channel.
- £36.4 million invested in original content for Channel 4's digital channels.
- £10.3 million invested in online Channel 4 projects and content.

While the total figure of investment in original content is undoubtedly an important measure, Channel 4 would also emphasise the importance of looking beyond this headline to consider how and where this money is invested, and the impact of this investment.

As outlined above, Channel 4 has a specific remit and therefore our content investment is focused on delivering this. Our investment in originated UK content is distinctive in that it places particular focus on:

- Investment in a **wide and diverse range of public service genres**, such as documentaries, drama, news, current affairs, comedy, history, science and production and development of feature films.
- **Supporting the creative economy** through:
 - Promoting new talent, both on and off screen;
 - Benefiting a wide range of independent production companies, including new start-ups;
 - Developing the production skills base in the nations and regions;
- Producing content that is available to all, **free at the point of use**

The following sections explain Channel 4's distinctive contribution to the UK broadcasting sector in further detail.

A DIVERSE RANGE OF PUBLIC SERVICE GENRES

Channel 4's investment in UK content is spread across a wide range of genres and programme formats and continues to cover ground other channels wouldn't in a number of areas.

For example, Channel 4 is committed to continued investment in many other genres where Sky is not active in. In history, for instance, our acclaimed content includes *Richard III: The King in the Car Park*, which provided the exclusive story on this high-profile archaeological discovery. Similarly, Channel 4 invests in high quality, accessible science programmes, such as the recent *How to Build a Bionic Man*, and distinctive and thought-provoking religious content—such as our daily ethics strand *4thought*. Current affairs also remains a strong focus for our output, with both *Dispatches* and *Unreported World* providing powerful investigative content.

The diversity of our investment has most recently been reflected in the number of BAFTA nominations secured by Channel 4's original commissions: 17 nominations were spread across drama, entertainment, specialist factual, features, documentary, news, sport, and comedy.

Channel 4 also plays a vital role supporting UK feature film and remains a cornerstone of public service film-making in the UK—investing in many of this country’s most defining films and nurturing a generation of distinctive film-making voices. With a remit to participate in the making of high quality films and to develop people with creative talent in the film industry, Channel 4 continues to have a strong reputation amongst audiences for offering alternatives to mainstream films.

In 2012, Channel 4 invested £17.9 million on feature film production and development, with a number of Film4 films receiving critical acclaim. *Berberian Sound Studio*, for example, won more BIFAs than any other film last year, including Best Director and Best Actor, while *The Iron Lady* won two Academy Awards including Best Actress for Meryl Streep.

SUPPORTING THE CREATIVE ECONOMY

New talent

Channel 4 is committed to providing opportunities for new and emerging talent, and recognises the wider importance of supporting the development of people with creative talent for the industry as a whole. In particular:

- Channel 4 continues to fulfil its remit to support the development of people with creative talent by promoting new on-screen talent across a range of genres, such as Sharon Rooney (*My Mad Fat Diary*), Terry Mynott (*The Mimic*), David Fishwick (*Bank of Dave*), as well as a number of new faces recruited to our Paralympics presenting team following a £600,000 nationwide talent search to find the best new disabled presenters.
- Channel 4’s Creative Diversity department, based in Glasgow, places particular emphasis on driving the development and commissioning of content from new, diverse, grassroots talent throughout the UK.
- Channel 4 invests in a range of content allowing new talent to prove themselves in front of a national audience, and increased its hours of first-run originations in strands dedicated to new talent across the portfolio in 2012 by 9%. For example, *First Cut* continues to broadcast films by up-and-coming directors; *Random Acts*, the short-form arts strand, provides new talent with an artistic space and creative medium every weeknight; and *Coming Up* remains the only UK initiative offering aspiring talent the opportunity to make an authored drama with a guaranteed network broadcast.

Contribution to the independent production sector

Since its inception as a publisher-broadcaster, Channel 4 has played a vital role in supporting the UK independent production sector, providing a significant spur to its growth over the last 30 years. Today, Channel 4 continues to offer important and distinctive support to the sector, and its highest-ever spend on UK content enabled it to make a significant investment in the creative economy in 2012. For example, last year:

- Channel 4 worked with 460 companies across television, film and digital media—an increase of 6% from 2011.
- 30% of these companies were new suppliers—136 companies in total, of which 60 were new television company suppliers.
- The number of television independent production companies that Channel 4 worked with was 275—up 5% from 2011.

Channel 4 also remains firmly committed to working with new companies that might otherwise not be able to break through into the industry and continues to ensure that there is a constant wealth of opportunities for new independent producers to contribute to its output. Channel 4 has enabled small start-ups to realise their ambitions and has helped production companies to grow into world-beating export successes.

Last year, for example, all commissioning departments were tasked with building relationships with new companies, which led to a number of successes, including ACME Films, a new production company nurtured by Channel 4’s Alpha Fund, winning Company of the Year at the Creative Diversity Network Awards in 2012; and Firecrest Films, a small Scottish current affairs company, producing *Secrets of Poundland*, one of the highest-rating *Dispatches* ever.

Nations and regions

Channel 4 remains firmly committed to investing in productions in the nations and regions, and strives to ensure that its economic impact is spread across the UK. Channel 4 has an ambitious plan to increase its spend outside of London, in particular in the devolved nations, and is actively looking at ways in which it can further support new independent and digital production companies in every area of the country.

In 2012, Channel 4 worked closely with a number of independent production companies in the nations and regions on a range of high-profile commissions. In particular, we note that:

- Across the portfolio, Channel 4 invested a total of £157 million on programmes from companies based outside of London—an increase of 3% on the previous year.
- Over £21 million was invested in content produced outside England—up 37% from 2011—with 5.4% of our total network spend coming from the devolved nations.
- 35% of Channel 4’s online commissioning budget was spent outside London—and 6.7% outside England—with 59 agencies based outside London securing work with Channel 4 including games and apps developers in Dundee, Neith and even the Outer Hebrides.

Creative companies outside London have contributed many of Channel 4’s most successful and acclaimed projects. Finestripe Productions’ *Bank of Dave*, for example, recently won the Nations and Regions Award at the RTS Programme Awards 2013, while Chunk Games’ online project *The Bank Job* won Best Game at last year’s Broadcast Digital Awards. Both of these companies are based in Scotland. In addition, Channel 4 continues to invest in several major returning drama series filmed outside of London, such as *Hollyoaks* in Liverpool and *Fresh Meat* in Manchester.

Free at the point of use

Channel 4’s status as a free-to-air public service broadcaster ensures that audiences of all backgrounds and incomes can enjoy unique and innovative content across the Channel 4 portfolio on a daily basis—not just those who pay for it.

Our free to air status also means that we maximise the impact of UK content spend with the widest possible audiences. In 2012 88.1% of all TV viewers were reached across Channel 4’s TV channels every month, and we saw substantial audiences across a range of genres—including *The Snowman and the Snowdog* (more than 11 million viewers across the Christmas period) *The Queen’s Mother in Law* (4.6 million viewers); and *The Plane Crash* (4.2 million viewers).

SKY CONTENT INVESTMENT

Channel 4 understands that its own level of investment in UK content, as compared with Sky, was the focus of discussion at a later Committee evidence session.

We note that Sky committed itself in 2011 to increasing its investment in original content by 50% over the course of three years, saying that the level of investment will reach £600 million in 2014. In addition, in its written evidence to the Culture, Media and Sport Select Committee’s current inquiry into support for the creative economy, Sky noted that “*we invested almost £450m in the production and origination of UK content last year.*”

Like-for-like comparisons

Channel 4 welcomes the Committee’s efforts to ensure greater clarity of content investment amongst broadcasters as part of its current inquiry. While it is clear that Sky are increasing their investment in originated content, which is welcome, Channel 4 believes that like-for-like comparisons on their content investment remains difficult. Channel 4 notes that, during the evidence session, Sky stated that this investment excluded any rights or acquisitions, and was a like-for-like comparison with public service broadcasters. However, Sky’s decision not to publish on an annual basis their specific level of investment in originated content, a breakdown by genre or source or information on what is included in their definition of UK content spend, hinders any attempts to fully understand the nature of such spending or to make insightful and like-for-like comparisons between broadcasters. Channel 4 believes that a fair comparison can only be achieved if Sky opts to publish their content investment figures based on Ofcom definitions—as required by public service broadcasters—on an annual basis.

Contribution to the creative economy

Channel 4 welcomes all additional investment in UK content—whether from Sky or any other media organisation—as this helps the television sector to deliver further cultural, social and economic benefits across the UK. Nevertheless, in relation to Sky’s increased investment, we believe that it is important to recognise that Sky’s contribution to the overall UK broadcasting ecology remains largely separate to Channel 4’s contribution, and as such we regard any additional investment as complementary to our own.

In particular, we believe that Sky’s increased investment will benefit aspects of the creative economy separate to Channel 4’s focus, such as:

- **Established talent.** While Channel 4 recognises that Sky provides a number of opportunities for emerging talent to develop their skills through their commissions, it notes that a significant number of their programmes are fronted by established talent. Many of these individuals have been first developed by Channel 4, such as Ricky Gervais and Chris O’Dowd, and by other public service broadcasters, such as Ruth Jones and Ralf Little.

- **Contribution to independent sector.** Channel 4 welcomes Sky's increased investment in UK independent productions and recognises the benefits that this will have for the wider production sector, but notes that the £139 million that Sky invested on independent productions from 129 indies is significantly lower than the figure for Channel 4 provided above. Nevertheless, while in-house productions continue to comprise a majority of its overall UK content spend, Sky's investment in independent productions will help to further strengthen the independent sector and will supplement the benefits derived from Channel 4's more extensive collaboration with the sector as a publisher-broadcaster.
- **Genres.** We note that Sky intends to spend the vast majority of its incremental investment on drama, comedy and the arts, which will complement our own award-winning programming in these areas, as outlined above. Nevertheless, it remains unclear whether Sky will invest in wider public service genres—such as science, history, religion and current affairs—where Channel 4 has a strong track record. In addition, Channel 4 notes that Sky does not invest in the development and production of UK-originated feature films.
- **Different audiences.** Sky's status as a pay-TV broadcaster inherently limits the reach and impact of its new content as compared with free-to-air PSBs. In 2012, for example, Channel 4's comedy programming across the portfolio reached 31.6 million viewers, as compared with 12 million for Sky, and there was a similar gap in drama (22.9 million for Channel 4 compared with 14.9 million for Sky). Given that much of Sky's new content will remain behind a paywall, it is unlikely that these differences in audience reach will narrow substantially, and as such original UK content will continue to have the biggest impact on free-to-air PSBs.

April 2013

Written evidence submitted by ITV, BBC and Channel 4

THE DIGITAL PRODUCTION PARTNERSHIP

The Digital Production Partnership (DPP) was formed in March 2010 by the UK's public service broadcasters to help producers and broadcasters maximise the potential benefits of end to end digital production in television. The key aims of the partnership are broadly as follows:

- (1) To reduce costs and increase efficiency for broadcasters and producers alike in the long run in particular by agreeing common delivery and production standards for content across the PSBs.
- (2) To help to grow the competitiveness of the UK audio visual sector by driving the uptake of digital delivery thus helping to grow the multimedia and online exploitation of content.
- (3) To maximise the opportunity for the independent sector to compete effectively for commissions from all PSBs.

The DPP is funded by ITV, BBC and Channel 4, with representation on its various work streams from Channel 5, Sky, S4C, UKTV and BT Sport as well as independent production companies, and other key stakeholder bodies. The partnership has two primary areas of activity.

- A commitment to establish common technical standards between UK Broadcasters.
- Establishing best practice digital production processes and workflows in the industry.

The DPP is an efficient, streamlined operation that receives substantial support from the broadcasting community—to date, the Digital Production partners have invested, both directly and in kind, in the region of £1 million to enable and ease the transition to file based delivery across the industry. A recent review of the budget indicated that it is at the appropriate level to complete delivery of the partnership's current objectives to the end of the 2013–14 financial year.

To date, the DPP has achieved the following:

- Common Technical & Metadata Standards for Programme Delivery to UK's major broadcasters
 - Tapes (published March 2011).
 - Files (published Jan 2012).
 - Live (published Oct 2012).
- Two reports on the benefits and barriers to achieving digital production (A third report is due to be published in May 2013).
 - "The Reluctant Revolution" looks at the barriers to end to end digital—and how changes in the market, technology and processes could tear some of those barriers down.
 - The second report, "The Bloodless Revolution", offers a practical guide for producers, offering a framework within which to plan and deliver an end to end digital workflow.
- A downloadable Metadata Application for Indie production companies to wrap files with the required metadata for broadcast.

- A number of successful DPP Forums—which are open events, held every 2–3 months to enable the direct sharing of best practice and specialist knowledge of the latest digital production techniques within the UK’s TV production community.
- Promotion of manufacturer interoperability with special events held at Channel 4 to test DPP compliant file based workflows moving across different manufacturer platforms.
- Established solid relationships with other leading organisations in the industry, working in tandem with them to develop new initiatives and including key members on various DPP working groups. These include:
 - AMWA (American Media Workflow Association).
 - SMPTE (Society of Motion Picture Engineers).
 - UK Screen (UK post production representatives).
 - PMA (Production Managers Association).
 - EBU (European Broadcasting Union).
 - Creative Skillset (training provider).
 - BBC Academy (training provider).

The DPP is currently working on;

- A third report: ‘The Creative Revolution’ asks the big and difficult questions about the creative impact of digital technologies. The report is accompanied by a film of interviews with key industry leaders.
- Partnerships with key training providers to address the skill requirements for digital production, linking the Higher Education Institutes with the industry practices that the DPP is promoting.
- Production budgeting guidance for digital production.
- Extending the technical standards work to include Loudness, Acquisitions, Subtitling, Automated Quality Control, Interstitials and Promos.

March 2013

Written evidence submitted by ITV/Channel 4/Channel Five

S.73 OF THE COPYRIGHT DESIGNS AND PATENTS ACT

What is S.73 of the Copyright Designs and Patents Act 1988?

Section 73 is a provision in UK copyright law which permits the immediate retransmission of the main PSB free to air services by “cable” in the area where the original PSB channel was broadcast. Crucially, Section 73 provides that the copyright in the broadcast (and in any work included in the broadcast) is not infringed by such retransmission. The effect of this section therefore is to permit “cable” operators to retransmit the PSB services without agreement or consent.

What was the original purpose of the provision?

The policy justification for Section 73 in its current form was to encourage cable roll out in the 1980s and 1990s as a competing platform to terrestrial television.

How have the courts interpreted the provision today?

In the recent TVCatchup litigation in the UK and CJEU, TVCatchup (an online TV “service” provider) argued that its retransmission and commercial exploitation of the PSB services via the internet was lawful under S.73 on the basis that “cable” ought to be given its natural meaning. The judge in the High Court litigation agreed saying:

“I see no reason why the cabling system inherent in the internet should not be regarded as “cable” for the purposes of the Section 73 defence”²³³

This is not an interpretation that can realistically ever have been intended by Parliament, nor is it one that the Government believes is correct (on the basis of our pre-litigation correspondence with the IPO). In that correspondence (in 2008/9) the IPO said the following:

““cable” in section 73 as amended must mean the same thing as “cable” in the Information Society Directive, the relevant requirements of which were implemented by the section 73 amendments in question. In the Information Society Directive “cable” is not synonymous with “wire” and is confined (as therefore, is section 73 CDPA) to the retransmission of broadcasts by conventional cable programme providers. The foregoing supports this Office’s view that the activities of IPTV providers such as “Zattoo” who purport to rely on section 73, are in fact wholly outside the scope of that provision and that there are grounds for challenging them on that basis.”

²³³ Para 139 of the High Court judgment of Mr Justice Floyd, *ITV Broadcasting and others vs TVCatchup* (18 July 2011).

The IPO also stated in the correspondence that the interpretation of section 73 by the IPTV providers (and confirmed by the UK court in the TVCatchup case) “cannot have been Parliament’s intention”²³⁴

What are the problems with Section 73 now?

1. Economic loss for PSBs and the UK creative economy

Section 73 is now being relied on by a series of “service” providers, most notably TVCatchup and FilmOn, to make money from the PSB channels, retransmitting them via their own online services and placing advertising in and around the channels (including the BBC’s channels). Not only are the PSB services being exploited without agreement or payment to anyone (including contributors) but, perversely, Section 73 effectively permits these online services to stream a small amount of content on the PSB channels (such as some old series for which online rights were not obtained or certain sports coverage) that the PSBs services themselves can’t stream online for rights reasons. This perverse consequence of S.73 has attracted significant attention from underlying rights holders including UK producers and foreign providers such as the US studios as well as other industry bodies.

“Services” such as TVCatchup undermine the legitimate online streaming services and on-demand ‘catch-up’ services provided by the PSBs which, in the case of the commercial PSBs, are a core part of on-going efforts to make a financial return on the PSB investment in original UK content.

It is increasingly clear that TVCatchup in particular is operating at scale in the UK and has many millions of users (TVCatchup claims close to 12 million registered users on its site). The key losses from this exploitation for the PSBs are as follows:

- Loss of audience from legitimate PSB online streaming services, linear broadcast viewing and on demand services;
- For the commercial PSBs, loss of advertising and sponsorship revenue from their own channels. In particular, TVCatchup is pitching the commercial PSBs **own channels** as vehicles for its advertising and is generating material sums from blue chip advertisers in direct competition with the commercial PSBs own commercial exploitation online of the same channels. We are trying, via the UK court proceedings, to get visibility as to the sums that TVCatchup is making from the exploitation of the PSB services.

By contrast with PSB exploitation of channels and content online, none of the TVCatchup revenue flows back into original UK content production, or to underlying talent and rights holders. The scale and problem of this free riding is likely to increase substantially over the coming years as more and more households adopt connected TV.

2. The original policy rationale for Section 73 has gone

Significant cable roll out is now a thing of the past and the TV distribution market is now highly competitive. Cable is a highly effective and well resourced competitor to Sky and Freeview/DTT. There is no reason to continue to grant a primary legislative advantage from the 1980s to one particular platform operator in the current competitive market. Moreover, the Communications act 2003 introduced a “must offer” obligation on the PSBs, requiring us to offer the main PSB services for carriage on the cable (as well as satellite) platform. In addition, Virgin Media contract with the PSBs for the supply of all of the other channels offered by the PSBs that are not covered by S.73.

What should the Government do?

In our meetings with the Government to date it has been hard to understand the remaining policy rationale for Section 73 particularly given the “must offer” obligation that applies to the PSB channels. We believe that repeal of Section 73 would be a sensible de-regulatory measure that would end the unjustifiable damage which is being suffered by the PSBs, and would also ensure that the UK continues to meet its Community law obligations.

We believe the forthcoming legislative programme relating to the reform of intellectual property rules provides the Government with an opportunity to urgently consider repealing Section 73 assuming this cannot be achieved by secondary legislation after the passage of the Enterprise and Regulatory Reform Bill. Repeal of Section 73 would not only assist broadcasters in their fight against parasitic websites (which has already consumed a great deal of time and costs in order to attempt to clarify the legal position in the courts) but would also ensure that UK legislation complies with the EU *acquis* and therefore reduce the risk of any potential infringement proceedings against the UK.

²³⁴ Letter from the IPO to the BBC, Channel 4, Channel 5 and ITV on section 73 dated 2 March 2009

The negative commercial impact of retaining Section 73 is significant for UK PSBs, and ultimately as a result the producers of the audio visual content they broadcast. This impact will continue to increase if no action is taken by the government to repeal these provisions.

April 2013

Written evidence submitted by the Commercial Broadcasters Association

- Commercial Broadcasters Association (COBA) represents UK digital, cable and satellite broadcasters. Our members operate without public intervention or support via the licence fee or Public Service Broadcasting (PSB) licences.
- COBA members invest £624 million a year in UK television content, up 27.9% on 2009 levels, and contribute more than £4 billion a year to the UK economy. COBA members invest nearly 10 times more in the UK than across the rest of Europe combined. This investment has helped drive overall growth in UK TV production in recent years, despite relatively flat spending by PSBs.
- The legislative and regulatory regime developed by successive Governments has supported this growth, encouraging a competitive market that is demonstrably delivering increased investment and responding to consumer demand. We therefore see no case for large scale changes.
- We believe that the UK copyright regime has also helped support growth and investment by providing flexibility to develop new services, while enabling rights owners to generate a return. We are concerned that the Digital Economy Act is still to be implemented.
- Multichannel broadcasters operate in a sector dominated by the PSB networks, with the three commercial PSB networks accounting for nearly 60% of all UK advertising revenues. Growth therefore cannot be taken be granted.
- We have identified a range of threats, including proposed changes to the regime governing the Electronic Programme Guide (EPG); changes in payments between pay TV platforms and PSBs that could damage non PSB channels; and ensuring PSBs are accountable in delivering statutory duties.
- We also set out two possible ways to increase competition and innovation: considering the case for a competitive market for EPG positions; and offering flexibility and consumer protection through pin protected channels.

EXECUTIVE SUMMARY

1. The UK multichannel sector is a growth success story. Broadcasters in the sector are now investing £624 million per annum in UK television content, up 27.9% on 2009 levels. COBA members contribute more than £4 billion a year to the UK economy, and invest nearly ten times more in the UK than across the rest of Europe combined.²³⁵

2. This has helped drive an overall increase in funding for new UK television production in recent years. Investment in first-run UK network production has increased from £2.7 billion in 2009 to £2.9 billion last year, even once relatively flat investment at Public Service Broadcasters (PSBs) is factored in.²³⁶

3. This means investment for creating UK content is coming from a greater range of sources than ever before. The PSBs continue to account for the majority of commissioning, but non PSB sources—ie the multichannel sector, PSB portfolio channels and the independent production sector—now account for 37% of first-run network originations, and this figure is growing.²³⁷

4. We welcome this inquiry by the Culture, Media and Sport Committee. We believe the legislative and regulatory regime that has been developed over the last two decades by successive Governments has supported this growth by encouraging an open and competitive market. Digital satellite and digital cable are now in more than 13 million homes, around double the corresponding figure for 2001. Over the same period, the digital terrestrial platform has grown from around two million homes to 12 million.²³⁸ As a result, the multichannel sector is increasingly able to risk investing in relatively high cost first-run original content.

5. We therefore see no case for large scale legislative or regulatory changes. In our response to the DCMS' Communications Review we have asked that the Government broadly maintains a regime that allows for competition and, wherever possible, takes a "light touch" approach.

6. Given a legislative and regulatory framework that continues to allow for competition, we believe the UK has an exceptional opportunity to build on this success story. The UK has long-standing advantages in its language, skills base, infrastructure, and strong content supply sector. The multichannel sector's investment in UK content is producing notable successes, including NBCUniversal's global success with *Downton Abbey*, Turner's first Bafta win with *The Amazing World of Gumball*, and UKTV's award winning hit *Dynamo*:

²³⁵ COBA 2012 Economic Impact Report, Oliver & Ohlbaum Associates for COBA, September 2012. Copy available on request.

²³⁶ Ibid

²³⁷ UK Commissioning Trends, O&O for COBA, August 2012. Figures excludes regional spending and sports rights costs. Copy available on request.

²³⁸ Communications Market Report 2012, Ofcom, July 2012, Figure 2.4

Magician Impossible. This success can only encourage further risk taking, providing incentives to do so remain in place.

7. This growth cannot be taken for granted, however. Multichannel broadcasters operate in a sector that is dominated by the PSB networks, with the three commercial PSB networks alone accounting for nearly 60% of all UK advertising revenues.²³⁹ At the same time, investment in first-run UK content remains a high risk proposition compared to repeats and acquisitions—arguably more so than for non PSBs than for PSBs, who have relatively guaranteed access to larger audiences through their privileged spectrum and positioning on the Electronic Programme Guide in order to generate returns.

8. In this submission we outline specific areas where we see a risk of dampening competition and investment. Amongst these, proposals to link a channel's position on the EPG directly to its UK content investment would create significant uncertainty for broadcasters and risk destabilizing the sector. Ultimately, this would be likely to lead to channels reducing expenditure in order to operate on a prudent basis.

9. Additionally, COBA members that operate children's channels are concerned that automatically granting the BBC children's channels the top positions in the children's section on the Sky EPG would damage their ability to invest in UK children's programmes. Investment by COBA members in UK children's content has increased by 60% since 2009 and is now worth nearly £30 million per year.²⁴⁰ The BBC children's channels already achieve strong audiences on Sky, and have privileged EPG positions through their public service status (which means they have leapfrogged older channels such as Nick Jr., which broadcasts around 50% UK shows). Perhaps uniquely, though, the BBC channels do not depend on EPG positioning to determine their levels of investment in British content—for our members, however, this is a major factor in setting programme budgets.

10. In addition, proposals outlined in the recent Mediatique report for the DCMS to adjust the regime for payments between pay TV platforms and PSBs could damage the ability of the multichannel sector to sustain its investment in UK content, were they to lead to reduced payments by pay TV platforms to non PSB channels—a scenario envisaged in the report.

11. We also outline areas where we believe the commercial PSBs may not be being held fully to account in the delivery of their statutory duties. This is important in order to ensure that public assets—ie the PSB licences—deliver maximum benefit for the public, as well as to avoid a risk of crowding out the multichannel sector through unfair competition.

12. In the section on IP and copyright, we note that the current regime provides the flexibility to develop new services and, through ensuring the ability to generate a return, the incentive for rights owners to invest in creating content in the first place. The tone of recent debates around the Hargreaves review, where it was suggested that the copyright regime is not fit for purpose in the digital era, has not strengthened industry confidence in the UK's IP regime. In addition, we are concerned that implementation of the Digital Economy Act has been delayed.

13. Finally, we suggest two areas where we would welcome further thinking to ensure that the UK market continues to be as competitive as possible. Firstly, the secondary market for EPG slots on the Sky platform (where channels are able to sell their channel numbers directly to each other) has helped encourage new entrants and ensure a competitive market, and we support consideration of whether it is desirable and practicable to encourage this on other platforms.

14. Secondly, we suggest that Government and Ofcom should look at the potential for enabling a wider range of linear channels to show content rated up to 15-certificate before the watershed providing this is with pin protection. This is currently allowed for premium film channels and pay-per-view and, with the development of robust and widespread pin technology, we believe such an approach would offer at least as much protection for consumers as the watershed, as well as increased flexibility for industry.

15. In summary, with a legislative and regulatory approach that continues to encourage growth through competition, the UK has the ideal scenario for future growth: a vibrant, mixed ecology with a genuine range of players investing in domestic content and developing new services.

INTRODUCTION

1. The Commercial Broadcasters Association (COBA) is the industry body for multichannel broadcasters in the UK. Our members operate without public intervention or support via the licence fee or PSB licences.

2. Our members include: Discovery Networks (chair), BSkyB, Chinese Channel, Fox International Channels, NBCUniversal, QVC, SBS Broadcasting Network, Sony Pictures Television, Turner Broadcasting System, UKTV, Viacom International Media Networks, and The Walt Disney Company.

3. Throughout this submission, we make reference to COBA's 2012 Economic Impact Report, a new independent report we have commissioned from Oliver & Ohlbaum Associates to analyse the economic contribution of the multichannel sector to the UK. This is available on request.

²³⁹ Ofcom Communications Market Report 2012, Figure 2.3

²⁴⁰ COBA 2012 Economic Impact Report, Oliver & Ohlbaum Associates for COBA, September 2012. Copy available on request.

Issue 1: *How best to develop the legacy of the Olympics and Paralympics of the display of UK talent*

1.1 COBA members provide opportunities for a range of talent. As we outline in the later section on skills in this submission, we invest in skills development in a number of ways.

1.2 In addition, COBA members increase the range of opportunities available to UK talent in terms of TV programme commissioning. We commission a relatively high level of television programmes from smaller companies in the independent production sector—investing around 34% of total expenditure on independent UK commissions on companies with turnovers of £25 million or less. This compares to 16% at the BBC, 8% at Channel 4, 19% at Five and 11% at ITV.²⁴¹

1.3 COBA members also have an important role in helping that talent reach audiences in the UK and the rest of the world. Domestically, UK commissions by COBA members are increasingly “punching through” to find bigger audiences. *Dynamo: Magician Impossible* exemplifies how a broadcaster like UKTV is willing to take a leap of faith on new British talent. *Dynamo* is, as the Guardian put it, “a skinny kid from Bradford”, whose father was in and out of prison and who grew up on some tough housing estates. When UKTV first started talking to him, he had already taken his idea around various broadcasters and not managed to secure a commission. UKTV took a risk in giving him a major commission and the result has been a phenomenon, with the first episode of the second season reaching 4.15m people across its first week, and making headlines from China to North America.

1.4 In terms of promoting UK talent on a global level, one of the most striking examples in recent years is *Downton Abbey*, which was co-financed by NBCUniversal. The investment from NBCUniversal helped ITV take a risk on an original script in a high cost genre. NBCUniversal has promoted the show around the world, showcasing British talent on a genuinely global level.

Issue 2: *Barriers to Growth, Including Access to Private Finance and Lack of Co-Ordination Between Government Departments*

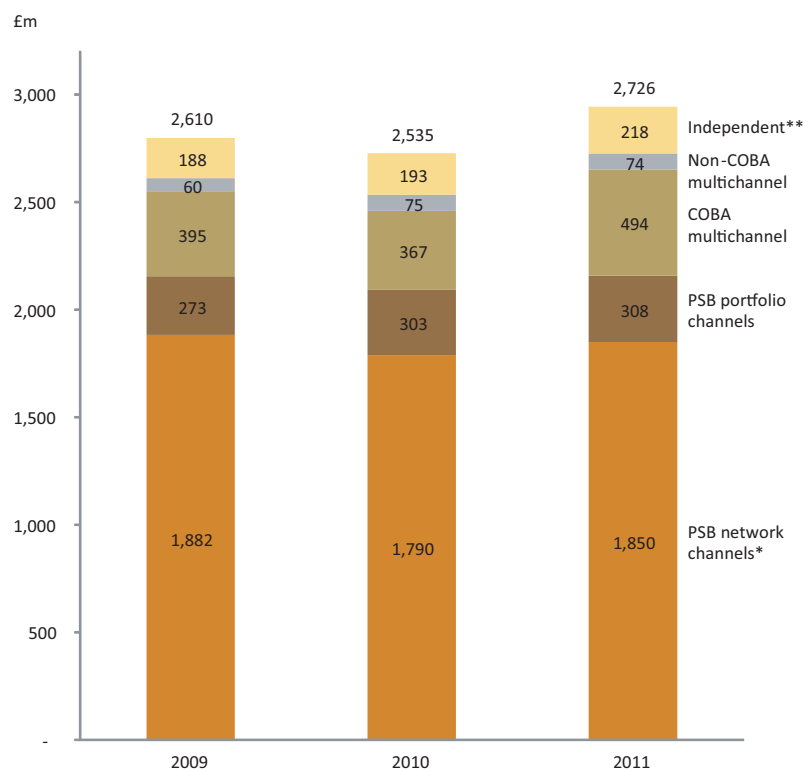
2.1 The UK is successfully moving towards a more mixed broadcasting ecology, with investment for UK content coming from a greater range of sources than ever before. While the Public Service Broadcasters (PSBs) remain dominant, non PSB sources (the multichannel sector, PSB’s portfolio channels and the production sector) now account for 37% of investment in first-run network originations (ie new UK shows that are shown at national level).²⁴²

2.2 Taking into account all of these sources, the UK has seen an increase in investment in first-run network originations since 2009 (excluding sports rights costs). Spending rose from £2.6 billion to £2.7 billion, as shown below.

²⁴¹ Independent Production Sector Financial Census and Survey, O&O for Pact, June 2012, page 14

²⁴² UK Commissioning Trends, O&O for COBA, August 2012. Copy available on request. Figures include UK sports production investment but exclude sports rights payments for both PSBs and non PSBs.

INVESTMENT IN NETWORK FIRST-RUN UK TV CONTENT



*Note: Excluding nations & regions spend

**Note: Estimate based on O&O work on PACT Census

Source: O&O for COBA based on Ofcom PSB reports, previous work for COBA and PACT, Oliver & Ohlbaum analysis

2.3 As shown above, the multichannel sector is the single biggest source of investment from emerging, non PSB sources. The sector has grown to considerable scale, contributing more than £4 billion to the UK economy in GVA last year.²⁴³

2.4 In terms of investment in UK television content, the multichannel sector accounted for £624 million last year, up 27.9% on 2009. Of this, nearly £500 million was on first-run UK production (excluding payments for sport rights).²⁴⁴

2.5 We believe the legislative and regulatory regime that has been developed over the last two decades by successive Governments has underpinned this growth by encouraging an open and competitive market. Digital satellite and digital cable are now in 13 million homes, around double the corresponding figures for 2001. Over the same period, the digital terrestrial platform has grown from around two million homes to 12 million.²⁴⁵ As a result, many broadcasters in the multichannel sector are starting to generate audiences and revenues that can justify the risk of investing in UK content on a greater level.

2.6 At the same time, this growth has seen the development of a range of new services responding to changing consumer demands. Consumers are able to access the most recent creative content, including films and other TV content, through multiple channels and platforms in a variety of different ways and at different price points.

2.7 We therefore see no case for large scale changes to a legislative and regulatory regime that broadly allows for competition and has supported growth.

2.8 This is not to suggest, however, that this growth can be taken for granted. Multichannel broadcasters operate in a sector that is dominated by the PSB networks, with the three commercial PSB channels accounting for nearly 60% of all UK advertising revenues.²⁴⁶ In 2010, the Competition Commission's review of the CRR mechanism confirmed ITV's continuing power in the advertising market.²⁴⁷

2.9 At the same time, investment in first-run UK content remains a high risk proposition compared to lower cost repeats and acquisitions. Commissioning first run original content is arguably more of a risk for non PSBs

²⁴³ COBA 2012 Economic Impact Report, Oliver & Ohlbaum Associates for COBA, September 2012. For the avoidance of doubt, this figure refers to broadcast activities only and excludes other areas such as studio facilities and ISP interests.

²⁴⁴ Ibid

²⁴⁵ Communications Market Report 2012, Ofcom, July 2012, Figure 2.4

²⁴⁶ Ofcom Communications Market Report 2012, Figure 2.3

²⁴⁷ ITV Contract Rights Renewal, Final Report, Competition Commission, December 2010

than for PSBs, who have relatively guaranteed access to larger audiences through their privileged spectrum and EPG positioning in order to generate returns on their investment.

2.10 More specifically, in terms of potential threats, we would like to raise a number of concerns:

- (a) We are concerned about some of the options outlined in the report by Technologia for the DCMS. Proposals to link EPG positions to UK content investment would create significant uncertainty for broadcasters, destabilizing the sector and potentially leading to channels cutting back their investment in order to run their businesses on reasonable basis.
- (b) COBA members that operate children's channels are concerned that proposals to grant the BBC children's channels automatic top positions in the children's section on the Sky EPG would impact on their ability to invest in UK children's programmes. Investment in UK children's content by COBA members has grown by 60% on 2009 levels and is worth nearly £30 million a year.²⁴⁸ The BBC children's channels enjoy strong audience shares on the Sky platform, and they already have privileged positioning from their public service status, which has meant that they have leapfrogged older channels such as Nick Jr (which shows around 50% UK content). EPG position does not affect the BBC's income and therefore has no direct relationship to its investment in content. For COBA members, however, EPG ranking is one of the key parts of their business model. While the original intention of giving the BBC privileged EPG status may have been to ensure that its channels were readily available, this does not have to mean they are top. In addition, the market for UK children's content has changed dramatically since this intervention in the 2003 Act, with commercial PSBs' provision of UK children's content falling sharply.²⁴⁹ This makes the need to bear in mind the impact on other providers all the more important.
- (c) Proposals to adjust the regime governing payments between PSBs and pay TV platforms could also damage the ability of the multichannel sector to sustain its investment in UK content, were they to lead to reduced payments by pay TV platforms to non PSB channels—a scenario envisaged in the Mediatique report for the DCMS.
- (d) The PSBs should be held to the fulfillment of their statutory duties so as not to confer an unfair advantage on the licence holders, as well as to extract maximum value from public assets. As Ofcom highlighted in a recent report for the Secretary of State, frequent pressure from the licence holders to dilute their duties means that PSB provision is “inevitably subject to a high degree of uncertainty.”²⁵⁰ Even where Ofcom has resisted PSBs diluting their duties, it has not always been able to prevent such moves. Consequently, ITV1 has managed to substantially reduce its annual investment in UK children's content, with first-run original hours dropping from 158 in 2006 to 60 in 2011.²⁵¹
- (e) PSB licences should contain a genuine balance between duties and benefits that, again, does not give their holders an unfair advantage. We believe that the PSB licence regime fails to take into account the true value of PSB licences, as it ignores benefits such as the cross-promotional value for PSB portfolio channels. In addition, we have asked the DCMS to clarify with Ofcom whether the recent reduction in payments by commercial PSBs to pay TV platforms has been factored into Ofcom's analysis of the value of the new PSB licences. Even without taking into account any additional benefits, Ofcom concluded in its recent report for the Secretary of State that the PSB licences for Channels 3 and 5 were commercially sustainable for the next period, and that any additional benefits should be in return for additional duties rather than preserving the status quo.
- (f) We are concerned about proposals in the paper tabled by the DCMS on Competition as part of the Communications Review. In our view, companies operating in the broadcasting and/or telecoms sectors are subject to traditional competition laws and therefore any differences between the broadcasting and telecoms regimes do not, by default, allow anti-competitive behaviour. We have seen a range of channels enter the market and develop over the last two decades and our view is that no changes to the broadcasting competition regime are necessary.

2.11 We have, however, suggested further consideration of two ways to potentially promote competition and innovation, namely:

- (a) The secondary market for EPG positions on the Sky platform, which is based purely on commercial transactions between the owners of those positions and buyers, has increased competition and innovation, encouraging the launch of new channels.²⁵² We support the policy option in the Technologia report for the DCMS for exploring whether opening up other EPG platforms to a market mechanism is feasible or desirable.²⁵³

²⁴⁸ The Contribution of the Multichannel Sector to the UK Economy, Oliver & Ohlbaum Associates for COBA, September 2012

²⁴⁹ ITV1 first-run original hours of children's content fell from 158 in 2006 to 60 in 2011, according to Ofcom's 2012 PSB Report, Annex B: PSB Output and Spend, Figure 33.

²⁵⁰ Licensing of Channel 3 and Channel 5, A Report from Ofcom to the Secretary of State, September 2011., 5.8

²⁵¹ Ofcom PSB Report, Annex B: PSB Output and Spend, Figure 33

²⁵² The value and optimal management of channel position on electronic programme guides, Technologia for DCMS, July 2012, page 65

²⁵³ Ibid, page 48

- (b) We have also put forward a proposal to enable broadcasters, at their discretion, to show linear channels pre-watershed using pin protection (up to 15-rated programming). Currently, this is an option available for premium film channels and pay-per-view only, but the system of pin protection is well established now. Extending this option to other appropriate services under Ofcom's Broadcasting Code would encourage innovation and consumer choice, while providing protection that is arguably more robust than the watershed.

Issue 3: The impact of the Hargreaves Review; the failure to implement the Digital Economy Act; and proposals to change copyright law without primary legislation

3.1 A wealth of innovative new services have launched on a variety of platforms over recent years, making content available across PCs, tablets, mobiles, games consoles and connected TVs. Investment in UK content by the multichannel sector has risen 27% since 2009, and the UK is the leading European hub for investment by COBA members.²⁵⁴

3.2 The copyright and the Intellectual Property (IP) regime has helped underpin these developments, providing a flexibility that has enabled the market to develop new ways to re-use rights to content at home and abroad. Just as importantly, the copyright regime has enabled the market to generate a financial return on this re-use—a crucial factor in attracting the investment which is necessary to create content in the first place.

Hargreaves

3.3 The Hargreaves Review's suggestion that the UK IP regime was not fit for purpose in the digital era weakened the confidence of many rights owners in the UK's legislative and regulatory processes. As we have outlined, we believe the IP regime has underpinned growth and innovation.

Enterprise And Regulatory Reform Bill

3.4 The Enterprise and Regulatory Reform Bill also risks damaging rights owner confidence by introducing measures that would allow changes to copyright exceptions by Statutory Instrument. This risks such changes being made without full scrutiny.

Digital Economy Act

3.5 It is a matter of concern that the Digital Economy Act has not been fully implemented. The Act is a significant step forward in IP protection, and the ongoing illegal use of IP is highly damaging to the audiovisual sector.

Issue 4: The role of taxation and whether it would be desirable to extend tax reliefs

4.1 COBA members are amongst the world's leading investors in animation and high-end television content, and we view the current proposals for tax credits to stimulate UK production in these genres as significant and welcome interventions. While the UK has many competitive advantages, a lack of public incentives for television production (beyond the significant benefits afforded to PSB broadcasters) has been a weakness compared to other markets.

4.2 We would welcome consideration of tax reliefs for other areas but believe the UK must first focus on finalizing and implementing the current proposals, including ensuring that they are compliant with European State Aid rules.

Issue 5: Ways to establish a strong skills base

5.1 The UK has an exceptional skills base and infrastructure, giving it a competitive advantage. COBA members make an important contribution right across the skills agenda.

5.2 At school age, BSkyB recently launched a dedicated schools production facility titled Sky Skills Studios. Planned around five national curriculum areas, the initiative sees up to 12,000 school pupils per year write, shoot and edit their own television report in simulated studio environments. The aim is to inspire young people to learn about television production, as well as develop and build life skills.

5.3 In the production sector, multichannel broadcasters are amongst the key contributors to the Creative Skillset TV Skills Fund, which provides training for freelancers in the television sector.

5.4 COBA members are also active in developing skills amongst their UK employees of all experience levels. Discovery's mentor programme has up to 40 pairings in the UK, while managers at all levels can attend courses from the Discovery Masters Programme, which include developing management skills, coaching and UK employment law. In addition, Discovery is soon to launch its first Creative Summit in Colorado, an initiative aimed at developing the skills and encouraging new ideas from 44 participants from around the globe, including the UK.

²⁵⁴ COBA 2012 Economic Impact Report, Oliver & Ohlbaum Associates for COBA, September 2012. Copy available on request.

Issue 6: *The importance of clusters and hubs*

6.1 At a national level, COBA members, who include many of the world's leading multichannel broadcasters, invest nearly ten times more in the UK than across the rest of Europe combined.²⁵⁵ We believe this means they have a crucial role in ensuring that the UK is a leading European media hub.

6.2 Within the UK, we believe creative clusters have strengths and weaknesses. There is some benefit in developing centres, such as the ability to encourage the development of local support services and infrastructure. However, this policy does not necessarily promote commissioning from other parts of the country—it is, for example, of limited use to a production company in other parts of the country if a commissioner moves from London to Glasgow or Manchester.

6.3 What is of most importance is that the UK has a commissioning network that is competitive and open to a range of ideas on a meritocratic basis through a range of gatekeepers. We believe COBA members have an increasingly important role in providing opportunities for commissions and production across the UK. This is a result not only of our increased investment levels in UK content in general, but also from growth in multi-channel commissioning in key public service genres such as children's, and relatively high levels of investment in content from smaller producers.

6.4 As part of this, COBA members commission from a range of independent producers in the nations and regions. At SpiderEye Productions in Cornwall, an ongoing commission from The Walt Disney Company, for animation series *Jungle Junction*, is helping sustain more than 50 jobs. In Bath, factual producer Touch Productions has commissions from Discovery and Nat Geo, while Lime in Liverpool and North One in Birmingham also have commissions from COBA members.

6.5 In terms of the broader production sector outside London, HBO's *Game of Thrones*, filmed in Belfast's "Titanic Quarter", has delivered sustained investment into the Northern Ireland production sector, an area that has historically struggled to attract investment. MTV's European Media Awards, held last year in Belfast, also delivered £22 million for the local economy. We believe this represents one of the biggest stimuli that the Northern Ireland television production sector has had over recent decades.

November 2012

Supplementary written evidence submitted by the Commercial Broadcasters Association (COBA)

In response to the request of the Culture Select Committee during oral evidence and to comments made in oral evidence by third parties, COBA would like to provide further written evidence to the Inquiry into Support for the Creative Industries on two matters:

- As requested by the Committee, figures on UK television content commissioning across the broadcasting sector as a whole, illustrating relative levels of investment by PSBs and non PSBs.
- How proposals from commercial PSBs in oral evidence to re-open the debate about adjusting rules regarding the number of permitted advertising minutes are flawed and would be highly likely to seriously damage investment in UK content from commercial broadcasters in the multichannel sector.

We would be very happy to discuss any of these matters with the committee.

AN OVERVIEW OF UK TELEVISION CONTENT COMMISSIONING

1. COBA last year commissioned independent consultants Oliver & Ohlbaum Associates (O&O) to analyse not just its own members' growing investment in UK content, but to put this in context across the broadcasting and television production sector as whole. O&O looked at the three main sources of investment in UK content: the PSB channels (and their portfolio channels); non PSB broadcasters in the multichannel sector (ie for the most part COBA members); and the independent production sector itself. The analysis covered 2009–2011 and focused on original first-run national network programming (ie new, UK programming commissioned for national networks), and excludes payments for sports rights from all broadcasters and programming commissioned solely for the devolved Nations and specific English regions. We have separately briefed Ofcom on the findings.

2. We have attached the analysis, *UK Commissioning Trends*, as a separate document, but the key findings are:

- Overall investment in new UK programming from all sources increased from £2.8 billion to more than £2.9 billion from 2009–2011.
- This was primarily driven by increased investment in UK content by the non PSB sector, ie multichannel broadcasters, which rose 25% to nearly £500m. PSB investment was flat over the period.

²⁵⁵ COBA 2012 Economic Impact Report, Oliver & Ohlbaum Associates for COBA, September 2012. Copy available on request.

- Total spending from non PSB sources—ie commercial multichannel broadcasters and the independent production sector itself—now accounts for 27% of investment in new UK content for network broadcast. Of the remaining 73%, 10% of this comes from PSB portfolio channels, meaning that actual PSB investment represents 63% of the total market.

3. It was argued in earlier oral evidence to the Committee that PSBs accounted for 90% of investment in UK content. We believe this may refer to analysis by Ofcom in its last Review of Public Service Broadcasting, carried out in 2008. In that review, the figure of 90% was included as an estimate for the year 2009.²⁵⁶

4. While we do not dispute that figure for investment at the time, we believe O&O's more recent study evidences how the UK is moving towards a more mixed ecology in terms of raising investment for domestic production. As mentioned above, we have presented this research to Ofcom.

THE FLAWED CASE ADVERTISING MINUTAGE HARMONISATION

5. In response to comments made by Channel 4 and ITV representatives in oral evidence to the inquiry, COBA would like to clarify its position on proposals to harmonise advertising minutage between PSB and non PSB broadcasters.

6. Firstly, we note that Ofcom concluded an extensive review of precisely this issue no less than 15 months ago, publishing its final statement in December 2011. Having weighed up consumer, competition and public service broadcasting issues, the regulator found no basis on which to proceed with any changes to the current regime. Ofcom stated:

“We believe that the interests of consumers are delivered effectively through the rules as currently set out. We have not found or been presented with evidence that suggests a change to the existing rules would necessarily better deliver against these interests and the overall goals of regulation in this area.”²⁵⁷

7. COBA welcomed this conclusion. We previously commissioned independent analysis that indicated that harmonisation could reduce advertising revenues for non PSBs by around £80 million per year—revenues which support broadcasters' commissioning strategies and which have a direct relation to levels of investment in UK content. We are happy to supply a copy of this analysis on request.

8. As we have outlined to the committee in written and oral evidence, COBA members are increasing their investment in UK content, and the UK generally, significantly. According to our recent independent report on the matter, COBA members have increased investment in UK content by 27% over the last three years, an increase which has helped grow overall investment from all sources in new UK content over that period, despite relatively flat spending by PSBs. Advertising revenues are critical to this investment. The loss of £80 million per year in advertising income would represent a clear and significant blow to our ability to invest in new UK content, and would create a risk of substantially reducing future growth.

9. It should be noted that the current arrangements partly reflect the dominant position of the PSB broadcasters in the advertising sector, where the three commercial PSB channels control 60% of advertising income. The mass reach of commercial PSBs via their privileged access to spectrum and guaranteed carriage remains an attractive selling point to advertisers and such broadcasters are able to command a premium that reflects this.

10. This dominance was confirmed in the Competition Commission's 2010 investigation into ITV's Contracts Rights Renewal (CRR) undertakings, which concluded that ITV1 continues to have a dominant position and stated that:

“We found that, as in 2003, ITV1 continues to have unique features which limit its substitutability...Media buyers continued to believe that ITV1 was able to offer unique benefits in terms of the size of its audiences and the ‘quality’ of its impacts. We found that, as in 2003, difficulties remain in switching advertising expenditure away from ITV1.”²⁵⁸

11. It is also important to bear in mind that minutage restrictions are a clear opportunity cost that PSBs accept when taking a PSB licence, which of course provides them with a range of advantages such as spectrum, EPG prominence and the ability to cross promote to portfolio channels. These advantages reinforce their dominant market position.

12. Furthermore, the maximum permitted minutage under European rules is 12 minutes per hour, a maximum that is allowed in certain Member States. COBA members in the UK therefore already operate in a stricter regime than some other European markets.

13. We believe that events since Ofcom's decision not to proceed with any changes to the current rule mean there is even less of a case now for changing the advertising minutes regime than there was at the time. Our independent report detailing COBA members' increasing investment in UK content was published the year after Ofcom's decision, so the level of our investment in UK content is even clearer, as is the potential damage

²⁵⁶ Ofcom, PSB Review Phase 1: The Digital Opportunity, figure 26, page 56

²⁵⁷ <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/advert-code/ad-minutage>

²⁵⁸ Competition Commission, Review of ITV's Contracts Rights Renewal Undertakings, Final Report, May 2010

to UK content investment. In addition, both ITV and Five have recorded healthy profits, suggesting that the PSB model is robust.

14. We also caution against easy assumptions that PSB investment in UK content is guaranteed, while that of non PSB services is not. As we outlined to the Committee in oral evidence, there is every indication that, given the continuation of a reasonable legislative and regulatory framework, investment by the multichannel sector will continue to grow. The UK has strong underlying factors that make investing in domestic content attractive: a renowned production sector, a high level of skills, a large domestic market, the English language and, more recently, the introduction of tax credits for television production. In addition, current investment in UK content is coming from a diverse range of players in a wide variety of genres. Highlighting their commitment, many COBA members have now invested not just in UK content, but in UK production companies themselves.

15. Conversely, PSB investment has declined by around £600 million over the last decade.²⁵⁹ Despite statutory commitments and the concerns of Ofcom, ITV1 has dramatically cut back its new UK children's programming from 158 hours in 2006 to 60 in 2011,²⁶⁰ and was recently fulfilling 40% of its Out of London hours with just one show, a late night listings service.²⁶¹ Five's recent arrangement with the Secretary of State to maintain a children's strand has, to our knowledge, no oversight by Ofcom, and it is unclear how this will be enforced. Ofcom recently stated in its Section 229 report to the Secretary of State that the repeated revisions that have been made to the commercial PSB licences, at the behest of the licence holders, over the last licence period were not "in the public interest".²⁶² However, we are unaware of any legislative means to stop this occurring again during the next licence period.

16. As a matter of policy therefore, it is not as simple as saying that one PSB investment is guaranteed and non PSB is not. In COBA's view, the UK benefits greatly from having a mixed ecology where both sectors can thrive.

March 2013

Further supplementary written evidence submitted by the Commercial Broadcasters Association (COBA)

Thank you for publishing COBA's supplementary evidence to the Culture Select Committee's inquiry into support for the creative industries, in which we attempted to clarify the conflicting figures for the amount invested by PSBs and non PSBs in UK-made television content. Having looked at the BBC's supplementary evidence on this point I would be very grateful if you would allow us to make a further few points as we do not recognise the figures for investment by COBA members that the BBC is using. A body of evidence—from Oliver & Ohlbaum's research for us, to Pact's annual census, through to annual company statements by individual broadcasters—now indicates that the landscape for investment in UK content is changing. PSBs still account for the majority of spending, but other sources such as non PSBs and the independent production sector are increasingly contributing and it is, in our view, extremely important that the Committee takes this into account in its thinking.

According to its supplementary evidence, the BBC has based its assertion that non PSBs account for 10% of UK television content investment on figures cited by Mediatique in its report for the DCMS last year ("Carriage of TV Channels in the UK: policy options and implications"). We are unclear how Mediatique arrived at its figures for UK content investment by COBA members. Mediatique's report says that its figures are "informed by an informal audit of stakeholders and its own analysis", but COBA is not aware of Mediatique having consulted any of its members about their investment in UK content for this report. Mediatique adds that Ofcom's market report confirmed its estimates, but Ofcom does not publish figures for COBA members' investment in UK content, only their overall content spend including imports—it only reports on an annual basis on UK content for PSBs as part of monitoring the fulfilment of their statutory requirements.

Even if Mediatique's figures were accurate, we would still question why investment in UK sports production (as opposed to rights) should be left out of its estimates. This clearly prejudices the non PSB sector as sports production is a significantly bigger proportion of our spending. The BBC acknowledges that the Mediatique figures do not include this genre.

In addition, the Mediatique analysis does not take into account any investment by the independent production sector, which as the Committee is aware is another emerging player in this area.

As we have outlined to the Committee, COBA commissioned Oliver & Ohlbaum last year to conduct an authoritative analysis of non PSB investment in UK content, and to look more widely at other sources (their report is attached). In short, investment in first-run UK content (excluding repeats, payments for sports rights and regional production) in 2011 broke down as follows:

— PSB: £1.85 billion.

²⁵⁹ Ofcom, Public Service Broadcasting Annual Report 2012, Figure 3

²⁶⁰ Ibid, Annex B, Figure 33

²⁶¹ http://stakeholders.ofcom.gov.uk/binaries/broadcast/tv-ops/c3_c5_licensing.pdf

²⁶² Ibid

- Non PSB multichannel: £568 million.
- PSB portfolio channels: £308 million.
- Independent producers: £218 million.

We believe this provides a comprehensive and up to date picture which takes into account emerging sources of funding as well as the more traditional. According to this analysis, PSB investment (including their portfolio channels) amounts to 73% of total spend, and core PSB channel spend (ie excluding portfolio channels) 63%, as we explained to the Committee in oral evidence and in our previous evidence.

I would be very happy to discuss this further, or for this to be treated as further supplementary evidence.

May 2013

Written evidence submitted by BSkyB (“Sky”)

1. Sky welcomes this opportunity to respond to the Culture, Media and Sport Committee’s (“CMS Committee”) call for evidence on support for the creative economy. The UK audiovisual sector is a significant British success story, sustaining thousands of jobs, supporting a global hub of artistic, technical and production expertise and underpinning the international profile, cultural vibrancy and economic contribution of the UK’s creative industries.

2. Sky is proud to have played a significant role in this success, both as an innovator in technology to deliver TV via satellite and more recently the internet; and as pioneer in UK content production through the launch of transformative services in news and sports from our inception 23 years ago. From being the first company to launch a 24 hour breaking news channel in Europe, to transforming the coverage of sport in the UK, Sky has always been a very substantial producer of UK TV content and has created in-house production capabilities of a significant scale. In 2011 we invested almost a quarter of a billion pounds in Europe’s most advanced and sustainable digital broadcasting centre at our campus in West London.

3. Today Sky invests well over £2 billion annually in TV content, two thirds of which is spent in the UK. Of that we invested almost £450 million in the production and origination of UK content last year. This is an increase of almost 20% on the previous year and puts us on course to meet our target of investing £600 million in UK content (excluding rights) by 2014. Having built our business and reputation on sport, news and movies, the vast majority of incremental investment is being spent on drama, entertainment, comedy and the arts.

4. In our response to DCMS’ recent Communications Review,²⁶³ we highlighted how the current regime works well. We cautioned against significant changes to the scale and scope of regulation of the sector—in which there is already a substantial amount of state intervention and regulation—as this could damage the growth in investment in programming and innovation by companies such as Sky.

5. In its call for evidence, the CMS Committee identifies a number of issues which play a key role in facilitating innovation and growth in the creative sector and deliver real value to the wider economy. For the purposes of this consultation we will focus on the issues which are of particular relevance to Sky.

The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government’s Response to it

6. In its response to the Hargreaves Review, the government recognised the vital contribution that IP makes to the UK’s economy and society: “UK business invests more in intangible assets than physical ones, and nearly half of that intangible investment—£65 billion in 2008—was in intellectual property (IP). IP’s contribution to the UK’s economy is therefore both substantial and vital. Its wider impacts on society, in terms of culture, education and basic human rights such as freedom of expression, are no less important.”²⁶⁴ Sky agrees with this view.

7. The overwhelming policy imperative at this moment, when commercial incentives are delivering the growth that the government seeks, is for stability and certainty in the regulatory frameworks governing channels and TV platforms, including in the area of intellectual property rights. We have seen no evidence to suggest that the unsubstantiated benefits of regulatory change would provide a better outcome than the demonstrated growth in content investment by the commercial sector. Indeed the risk must be that changes would undermine that growth, without necessarily providing any counterbalancing benefits.

8. Certainty about IP rights allows producers to decide whether or not to take a risk in investing in content. It allows broadcasters and distributors to take a view on whether or not they will make enough income across different media to cover their costs. And above all it provides incentives for continued investment in a wide range of high quality content. Recent evidence confirms that this is the case.²⁶⁵

²⁶³ Sky response to DCMS’ seminar paper on competition in content markets <http://dcmscommsreview.readandcomment.com/competition/>

²⁶⁴ www.ipso.gov.uk/ipresponse

²⁶⁵ “Creative UK—The audiovisual sector and economic success”—A report by Robin Foster and Tom Broughton, April 2011

9. We are aware that the government is planning a consultation on the next phase of the Hargreaves review. Until there is significant evidence that the IP framework is failing to provide the necessary incentives for continued investment in high quality content, we see no case for large scale regulatory or legislative changes. We call on government to ensure that IP continues to protect creators, and existing legislation is properly enforced.

10. Any proposed changes need to be proportionate and evidence-based. Furthermore, the uncertainty caused by inevitable lengthy legislative programmes should not be underestimated. In this respect, it is worth considering the impact caused by the delayed implementation of the Digital Economy Act.

Ways to establish a strong skills base to support the creative economy, including the role of further and higher education in this

11. Alongside its vital role of informing and entertaining people, the UK audio-visual sector also plays a wider educational and social role. Reliable evidence shows that “around £13 billion flows directly into the UK audiovisual sector each year”, and “supports a host of highly-skilled jobs in distribution, marketing, technical and support services. Estimates put direct employment in the sector at 132,000 jobs”.²⁶⁶

12. We share the Government’s commitment to developing skills in the UK. Sky is a key employer in the creative industries, committed to developing and growing the skills of all those who work directly or indirectly with us. At the end of 2011, Sky alone employed 22,800 people (direct and full time contract) in the UK. To give a sense of scale, this means that Sky employs more than twice as many people as the entire software publishing industry in the UK and more than half as many people as the entire pharmaceuticals industry in the UK.²⁶⁷

13. Moreover, Sky has hired 3,800 young people (16 to 24 years old) in the past three years, including nearly 300 graduate trainees and apprentices. These staff are making a valuable contribution to Sky’s business, but are also gaining valuable skills and enhancing their prospects in the labour market. Sky is also an active member of the Association of Graduate Recruiters²⁶⁸ which aims to raise standards of graduate recruitment and development across the UK, and a key partner of the National Film and Television School (NFTS),²⁶⁹ which attracts the best students, tutors and filmmakers from across the globe. To better support young people from all backgrounds to make the best start to their careers, Sky has signed up to the Deputy Prime Minister’s Social Mobility Business Compact.²⁷⁰

14. Sky also regularly engages with the UK economy’s research base to develop new products and services. This helps hone the commercial viability of the research base’s technological efforts. In 2011, Sky’s product research group engaged with 15 universities, five research or technological development centres, and over 50 suppliers about new technological development.²⁷¹

15. Finally, our Sky Skills Studios initiative helps young people gain insight into media careers by taking schools behind the scenes. Students (aged 8–18) are able to see how we create TV on a tour of Sky Studios. We also offer them the chance to work with our technology, including broadcast quality cameras, green screens and touch screen edit tables to make their very own television report on subjects they’re studying at school. We aim to introduce 12,000 young people a year to the Sky Skills studio in the first year.

The importance of “clusters” and “hubs” in facilitating innovation and growth in the creative sector

16. Sky welcomes the CMS Committee’s assumption that “clusters” and “hubs” will play a key role in facilitating innovation and growth in the creative sector. The government backed East London TechCity initiative was a positive step towards more innovation and growth in the IT sector. Similarly, Sky is a supporter of the recently inaugurated “TV Triangle”,²⁷² a commercially backed broadcast hub in West London with three out of the four major pay TV companies in the UK (including Sky), and over half of the major broadcasters. Benefits of the Triangle are expected to be manifold, both to those companies directly involved (a number of which are SMEs) and the wider UK economy. These include:

- attracting inward investment from international TV/media companies;
- encouraging start up media tech companies to work closer to the established companies in the Triangle;
- supporting cross fertilisation between the broadcast and the web industries, including in areas such as production and advertising; and
- attracting and providing jobs to the best talent (including interns and graduates) from around the country.

²⁶⁶ Ibid.

²⁶⁷ “The economic impact of Sky in the UK—A report prepared for Sky”, Oxford Economics, July 2012

²⁶⁸ www.agr.org.uk/

²⁶⁹ <http://nftsfilm-tv.ac.uk/school>

²⁷⁰ www.dpm.cabinetoffice.gov.uk/social-mobility-business-compact

²⁷¹ Ibid.

²⁷² www.tvtriangle.org.uk/

The work of the Creative Industries Council and other public bodies responsible for supporting the sector

17. Whilst Sky is supportive of the Creative Industries Council (CIC), there is an opportunity for the CIC to achieve more, both for the commercial sectors involved and Government. Primarily, we believe that the most pressing concern facing the creative sector—the support and protection of intellectual property—deserves and ought to be a standing item on the CIC’s agenda. Whilst recognising that there are other forums where IP is discussed, it seems anomalous that this vital policy area is not even touched upon at CIC level. We have recently had the Hargreaves Review of IP, the IPO’s Consultation on Copyright, and significant developments in the High Court on the Digital Economy Act and site-blocking actions brought under the Copyright Act. However, the CIC has not had the opportunity to discuss any of these hugely significant developments. We recognise that not all members of the CIC may wish to be involved in detailed policy discussions. Accordingly, we would support the creation of a CIC “sherpa” group formed of senior policy representatives from the creative industries.

November 2012

Supplementary written evidence submitted by BSkyB

Sky is pleased to be given the opportunity to supply the Committee with further evidence of our considerable and growing investment in the UK’s creative industries.

INVESTMENT IN CONTENT Q686

Sky invests well over £2 billion annually in TV content, around two-thirds of which is spent in the UK. In 2010 we made a commitment to increase the proportion of this spend that relates to UK commissioned and produced programming so that by 2014 this element would account for £600m across all our channels—this element does not include the acquisition of any sports or movie rights. We are well on track to meeting this target with £450m invested in 2011. As explained during the evidence session, most of the growth is coming in areas such as drama, comedy, entertainment and the arts, where we see new gaps and opportunities. We expect about two-thirds of our additional spend to be invested in these areas. When we refer to UK content we mean programmes commissioned from the UK’s independent production sector as well as our journalism and in-house production activity, which directly supports over 2,500 jobs dedicated to content creation. UK programming targets exclude investment in sports rights, overseas programme acquisitions and partner channels.

TECHNICAL PLATFORM CHARGES Q705

Sky is the only platform currently required to provide “open” access to its platform. This means, amongst other things, that any broadcaster with an EU broadcasting licence can seek to add its channel(s) to Sky’s EPG provided the broadcaster can secure an EPG slot. In addition, a broadcaster on the Sky DTH platform is able to acquire conditional access services and/or regionalisation services from Sky in order to encrypt its channel(s) and/or provide its channels to specific regions within the UK and Republic of Ireland.

The Sky DTH platform provides significant benefits to broadcasters, including the PSBs. Sky has invested well over £1 billion in its digital satellite platform, creating a platform which enables broadcasters to deliver TV channels (in both standard definition and high definition), radio stations, and interactive services to over 11 million UK households. Over 200 different broadcasters now use the platform to deliver services to UK households.

Sky’s platform charges for its EPG and conditional access/regionalisation services are set out in a rate card. The platform charges are consistent with Sky’s regulatory obligations and Sky seeks to recover both the cost of running the platform and the costs of its development.

Sky’s rate card sets out its current charge’s²⁷³, as well as its provisional charges for the period commencing 1 July 2014. The charges paid by the PSBs for technical platform services were reduced by around 40% in 2012 and will reduce by approximately 30% in 2014. The total paid by all PSB channels in 2014 will be approximately £7 million, with further reductions expected in the future. The BBC charges in 2014 are expected to be around £4.4m.

SKY SKILLS STUDIO Q718

The Sky Skills Studio initiative gives young people the opportunity to gain insight into the media by taking schools behind the scenes. Students (aged 8–18) are able to see how we create TV on a tour of Sky Studios. We also offer them the chance to work with our technology, including broadcast quality cameras, green screens and touch screen edit tables to make their very own television report on subjects they are studying at school. Our aim is to introduce 12,000 young people to this free educational experience in the first year.

²⁷³ http://corporate.sky.com/documents/pdf/20c24d2e1c62406594e1a79de5f917db/bskyb_and_sssl_published_price_list_effective_1_july_2012.pdf

With regards to the Committee's interest in the geography of the schools visiting Sky Skills Studio, of the schools that have already visited or are due to visit 47% are from the surrounding Boroughs, 32% are schools from inside the M25 and 21% from the rest of the UK. These include schools from Aberdeen, Bolton, Bradford, Durham, Cheshire, Coventry, Falkirk, Flintshire, Gloucestershire, and Hampshire. We have even welcomed an International school from Doha.

APPRENTICESHIPS Q719

As a key employer in the creative and technology industries, Sky is committed to developing and growing the skills of all those who work with us. Sky is continuing to increase the number of apprentices it takes on and this year is planning to take on just under 100 young people across our customer service, technology, engineer, marketing and broadcast operations.

The apprenticeships are structured programmes with on the job training as well as classroom based learning to develop their skills and achieve nationally recognised qualifications. The apprentices attend internal training courses to build core professional skills such as communication and time management. Each apprentice has a line manager for coaching and daily management, they also have a 'buddy' for more pastoral care and support. We hope that these opportunities are the beginning of the candidate's careers with Sky and, depending on the successful completion of the qualification, expect the apprenticeships to become permanent roles with Sky.

In addition to our commitment to apprenticeships Sky also runs a number of other schemes including an extensive graduate and undergraduate placement scheme. This year there will be around 100 vacancies across 20 programmes from strategy to technology, from marketing to customer operations, and HR to Sky Sports News. Such is the popularity of these places the majority have already been filled.

April 2013

Written evidence submitted by Sandie Shaw, Chair, Featured Artist Coalition

Personal Background: I am a rights owning recording artist who has been performing and producing music for 50 years. I am also a book author, qualified psychotherapist and founder of Arts Clinic for the mental well being and mentoring of those in the creative industries. I would like to thank you for inviting me here today to talk on behalf of the FAC.

Featured Artist Coalition Background: The FAC was formed in 2009 to represent the interests of recording artists. We have approximately 3,000 members made up of a mix of high profile artists like Mumford and Sons, Tom Jones and Jools Holland as well as new and up-coming artists. We have an artist only board—including a mix of established artists like Annie Lennox, Dave Rowntree from Blur, Fran Healy from Travis, Rumer and new artists.

I have served two years as a director on the FAC board and 18 months as the executive chair—with co chairs Nick Mason (Pink Floyd) and Ed O'Brien (Radiohead). We do not have the financial resources of other organisations and trade bodies like UK Music and its members. We work as volunteers and do it for the love of music and our hopes for the future.

My husband, an eminent clinical psychologist often says, "It is impossible for the right brain to articulate left brain experiences." But let me try...

Some points I would like to make:

- **Support**—Finance is the biggest barrier facing emerging artists establishing their own businesses. A recent BiS paper (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136345/13-p176a-sme-access-to-finance-measures.pdf) highlighted sources of finance but they are all bank based. The problem is that banks don't lend money to creators. We believe that the SEED EIS scheme launched in last years budget will be a good step forward but it has not quite kicked in yet.
- **Olympics**—one of the keys to its success was the feeling that 'we are all in this together': engendering this 'feel good' spirit which is one of the primary function of the arts. We believe the success of the Olympics can be built on by more initiatives and opportunities, large and small which involve the cross fertilisation of all the creative industries and include the general public.
- **IP and piracy**—IP is a right of remuneration rather than a control mechanism. We need to turn the taps on. Recording and playing music is how we make a living. We need to be paid fairly and properly by both consumers and the various technology and music bodies in between. I believe illegal file sharing from peer to peer networks should be dealt with through education. With appropriate funding a body such as the FAC could develop an education programme as it would help if consumers were aware of how much money artists were getting paid (or not). We feel that if consumers knew how file sharing and piracy affected their favourite artists, they would be less likely to engage in it. However, we do feel that organised piracy should be stringently dealt with by the law and that illegal sites should be starved of advertising money.

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- **Collecting societies**—need proper governance. Although PRS do a great job, recording artists are disadvantaged at PPL but this is being gradually addressed. This needs to change before we start trying to impose ourselves on Europe. The FAC are supportive of the EU Directive 2012/0180 on collecting societies which is currently being considered by the European Parliament. The FAC hope this will bring all collecting societies up to the standard of PRS.
 - **Copyright extension**—in its present form, although welcome from a theoretical point of view, has been a poisoned chalice for most recording artists, in particular ‘heritage artists’ from the 1960s and 1970s, as it has served to perpetuate the abusive and exploitative contractual relationships existing between them and the Rights Holders. Those few who have managed to achieve significant longevity (like Cliff Richard, The Beatles, The Stones, Pink Floyd, and indeed myself) have been able to re-negotiate their contracts by a combination of good fortune and force majeure. The majority, however, of these artists are pensioners who will now be in their late sixties and seventies. They are no longer able to perform live, and do not have the financial wherewithal or the current knowledge to hire a lawyer and fight for their rights. The labels have received the spoils with barely a thought for these artists. The MU will receive 20% for session musicians, hired to play on our recordings in the studio but Featured recording artists are disadvantaged. See the financials attached. We would like assistance from the Select Committee in getting the attention of the IPO and ensuring they take our concerns into consideration.
 - **Copyright regime**—Artists’ copyrights are their creations. We think of them as our babies and we believe we are their best guardians. Copyright should be licensed and never assigned as in Germany (max 35 years). This safeguards everyone in that it enables a contractual obligation to be re-assessed on both sides and if necessary stopped, or modified on new more appropriate terms. This is a BIG ASK but if any small thing I do in my lifetime can help to enable this to happen I will die a very happy lady.
 - **Tax incentives**—The creative process, career trajectory, and life cycle of a recording artist is very different from someone in a 9–5 job making their way up the ladder. The source of our work is ourselves. Like anyone else, we are subject to illness or a life changing personal event. Women have babies. While one might conceivably manage to coast in the usual work environment, even taking sick or compassionate leave is harder for artists as we are heading up a major promotion with everyone depending on us to deliver our unique performance. Artists are put under the most incredible personal and professional pressure. Major success does not last long, three years if you are lucky, five years if you are very lucky, 10 years plus and you are a living legend. One of the prerequisites of enduring success is to have fallow periods where you take time out to re-charge. This leads to artists having periods of high income and then no income. We do not have a regular annual income. It would really help if we were taxed over a five year period rather than annually. Also if we were given the option to re-invest a percentage of our taxable income back into the music industry. Our very success as artists is proof that we should know how best to invest. This way the artist and their money stay in the UK
 - **School curriculum**—Creativity in all respects needs to be nurtured in school. It is not all about learning by rote. We favour apprenticeships over degrees.
 - **Geo clusters/hubs**—These are incredibly important to individual artists. At the moment access to our world is very unequal. It is fine if you come from a public school background and have family money. This allows you to start on a level playing field and to keep your independence. In my view most great music has come from environments where people are struggling to turn things around such as those from inner city backgrounds. At the very least hubs will give a sense of community and fellow support to aspiring musicians. This alone is worth a lot. The FAC is very interested in developing this idea.
 - **Govt and policy making 1**—The IPO should allow all parties in the UK recording industry, including artists, to sort out our differences on content and implementation of copyright extension ourselves. It is far too important a piece of legislation to allow a dilettante approach. If we cannot reach agreement in 30 days then we suggest that an outside non partisan adjudicator is appointed for two weeks to sort it out.
 - **Govt and policy making 2**—Taking on staff should be easier for creative businesses. Apprenticeships are riddled with complex employment laws.
 - **Govt and policy making 3**—The whole music industry is based on a recording artist’s work. Everyone else is dispensable except them. We would like to be asked to the table not to always be on the menu. We would like the government to consult and talk to us as well as with music industry trade bodies and rights holders when drafting and proposing policies that will affect us.

Written evidence submitted by PLASA

ABOUT PLASA

PLASA is the global trade association for the professional entertainment technology industry. It comprises of companies in the entertainment and installation industries representing the leading providers of professional audio, AV, lighting, projection, staging, special effects and related disciplines. It has over 1,240 members worldwide.

The professionals in this sector rank among the most talented in the world, maximising developments in technology and communications to produce highly innovative and ground-breaking products.

PLASA offers a comprehensive range of services to its members, including support and advice from specialist advisers, writing accredited technical standards and providing updates, a range of research projects, business and technical seminars, and specially negotiated rates on a range of business products and services. At the start of 2011, PLASA and ESTA—the leading trade association representing the North American entertainment technology industry—merged under the PLASA name.

PLASA is committed to encouraging everyone in the industry to adopt and promote good business practices, and to promoting financial growth for the sector with a focus on long-term sustainability.

DEVELOPING THE LEGACY OF THE OLYMPIC AND PARALYMPIC GAMES

PLASA members were responsible for the supply, manufacture and production of the audio and visual content of the London 2012 Olympic Games. They developed the most memorable moments in the Opening and Closing Ceremonies; from the fiery appearance of the iconic Olympic rings in the Opening Ceremony, to the 70,500 LED Tablets placed at every seat to integrate the audience into the projection element of the shows; the scenic effects which included the industrial chimneys that rose from the ground to the Olympic Cauldron itself—these were mobilised by companies in our sector. Through moments such as these, along with the incredible pyrotechnic displays used throughout, PLASA members brought the Games to life with spectacular, innovative and world-leading lighting and sound production.

The Olympic No Marketing Rights Protocol has prevented each of the companies involved from being able to proudly publicise their involvement in London 2012. PLASA is calling on the Government, LOCOG and BOA to urgently lift the marketing restriction, to allow British companies to publicise their work at London 2012.

PLASA believes that lifting this restriction is one of the best ways in which the legacy from the Games can be developed.

BARRIERS TO GROWTH IN THE CREATIVE INDUSTRIES

There is a sense within PLASA's membership that the creative industries fall between Departments. The Olympics marketing issue is the latest manifestation of this. Whilst there are trade missions currently taking place in Brazil, with the view of securing some contracts for Rio 2016 for British companies, the companies involved in London 2012 are still prevented from publicising their involvement.

The creative industry is very fragmented, largely due to the high proportion of SMEs in the sector. This means it is more difficult to ensure messages get through to those in the industry, and that there are many small companies all struggling to keep up to date with updates from multiple departments.

PLASA believes the Government should work pro-actively and collaboratively with those trade associations already operating in the creative industries to deliver messages from Government, and gather views from the industry. Identifying a single point of information would ensure SMEs are better able to process the information available to them.

Access to finance is, as for all industries, a challenge for the creative industries at present. PLASA would support measures to increase access to finance for SMEs in the industry.

PLASA would also support an increase in trade missions organised by UKTI and the UK Government. Many manufacturers in the entertainment technology industry are based in the UK. Their products are world leading. PLASA believes the UK Government should be supporting these valuable UK manufacturing companies by assisting them to build their international profile further.

INTELLECTUAL PROPERTY

PLASA supports the recommendations of the Hargreaves Review on Intellectual Property, in particular the recommendation that accessibility to the IP system should be improved for smaller companies.

UK companies lead the world in designing and manufacturing entertainment technologies. Significant levels of funding go towards developing innovative designs and applications, often by SMEs. These designs are often exploited by others in countries which are not subject to UK copyright law.

PLASA welcomes the positive words from the Government on the need to act on intellectual property, and the role that innovation and design in the creative industries could play in driving economic growth. However, to date PLASA do not believe enough action has been taken, and more focus is needed to develop a new structure quickly.

TAX RELIEF

PLASA would support more tax relief for the creative industries. These should be focussed on supporting innovation, research and development and manufacturing. Support for these aspects of the industry will see a “trickle down” effect for the rest of the industry, as they benefit from new and innovative products.

PLASA believes there are two avenues to ensure the UK continues to lead the world in innovative technology. Protecting intellectual property (as discussed above) is one means. The UK should also be supporting manufacturers to develop new products and keep ahead of the market. The Government must foster research and innovation to keep the UK industry at the forefront of developments worldwide.

ESTABLISHING A STRONG SKILLS BASE

PLASA has previously been an officially recognised awarding body for qualifications. However the large numbers of regulations which are frequently updated mean that it is often financially unviable for trade associations to maintain this status when training only a relatively small number of people.

There is an appetite within the industry to train new entrants into the industry. Whilst a move towards industry standards means that those new entrants receive industry specific training, it can also mean it is harder for people to move between industries. There is a need for Further and Higher Education to maintain a central role in training people, but there is a place for greater industry involvement in ensuring that this meets their requirements.

Whilst the technical aspects of the skills base are important, there is a need to make sure that business skills are developed within the industry, to ensure those in SMEs are able to build their businesses.

THE ROLE OF “CLUSTERS” AND “HUBS”

PLASA believes that trade bodies create natural hubs. They provide a network of contacts, and environment for sharing knowledge and expertise. PLASA believes that this natural “hub” environment should be cultivated and facilitated by Government, and that this approach would ultimately provide better value for money than creating artificial “hubs”.

CREATIVE INDUSTRIES COUNCIL

PLASA has some limited involvement with the Creative Industries Council, mainly on issues relating the education.

Whilst PLASA supports the aims of the Creative Industries Council, PLASA are concerned about the focus of the Council on the more high profile “talent” than the backstage component of the industry. Because of this, there is a feeling within the production side of the industry that there is a lack of urgency within the Council, and that real sustainable progress in developing and expanding the industry is not being made.

PLASA is committed to promoting the role of the creative industries in the British economy, and in supporting its members to build sustainable businesses and train the next generation of industry professionals.

Olympics Case Studies

TAIT TECH’S “LANDSCAPE VIDEO”

Tait Technologies brought two elements to the Opening ceremony; the application of video pixels across the audience; and the highly theatrical application of LEDs to the NHS sequence.

The principal item was the Pixel Tablet. Tait was first approached by Danny Boyle two years ago while he was investigating different technologies, LED video being one of them. What was developed with the Pixel Tablet system was “landscape video”: where video emerges from its two dimensional world to become three dimensional, with the audience becoming integrated into the show itself. Designed to work in any venue, this item has become part of Tait’s future rental portfolio.

There were 70,500 seats provided with an LED Tablet, all linked to a central feed via a coiled cable at the seat, down into a branch line installed along each row. The Tablet head contained nine RGB LED clusters in a 3 x 3 configuration. The company had just 14 weeks from the signing of the contract to arriving on-site and commencing installation—during this time Tait remarkably went from design, through commissioning to delivery.

The Tablet system was installed semi-permanently, in that it would reside in the stadium for almost three months, and required more stringent, durable cable management. The team completed the installation to fully operational status in just 18 days, laying 370km of mains and data, 13km of custom-built cable trays, and over

70,000 Tablets and their holders. Immersive did the pixel-mapping for the event, while Avolites Media used a 3D model of the stadium to define target coordinates. Each individual LED was HD mapped; the most complex video-mapping ever attempted.

While perhaps not quite so jaw-dropping, the beds and pillow LED devices had their own challenges. About 300 single and 20 double beds were pushed around in choreographed fashion by NHS volunteers. The duvets on the beds had a total of 15km of self-powered LED in them and the pillows also included LEDs; the rechargeable battery pack was in the bedframe, though some pillows were independently powered so they could be used independently of the bed in the routine.

At the end of the event, the 320 beds left were destined to end up in hospitals in Tunisia.

OLYMPIC RINGS FORGED IN HELL

After the lighting of the Olympic flame, perhaps the next most iconic moment of the Opening was the fiery appearance of the Olympic rings, built by HELL (Howard Eaton Lighting Ltd.). The rings were created from fibre glass-clad steel frame trusses, built in-house. Seven 90kg segments formed each 12m diameter circle. Attention was focussed on the centre ring, which was “forged” from molten steel during the industrial revolution scene: the other four rings were already flown above and concealed on the stadium roof.

Artem provided the pyrotechnic accompaniment that recreates the smoke and sparks that would occur in a real forging process, while HELL created the illusion of flowing metal using LEDs. Each ring had RGB LED coverage on all faces, with the centre forged ring and trough having additional amber LED strips. The additional amber provided a powerful authentic colourisation of the molten metal, and the LED sequence was controlled to advance the light/molten-metal in a realistic way. The flying of the forged ring to join the other four was part of Stage One’s Qmotion remit.

The rings were produced to look good as individual objects, with the moulded fibreglass used to form the ring’s outer surface created at the correct opacity so that people could not see the LEDs, or any of the underlying support structure, when lit from any viewpoint. Likewise HELL had to work out the mounting structure for the pyrotechnics—nearly a thousand holes and supports in which to mount them. The results on camera were very effective.

After the games the steel frames went straight to be melted down, the fibreglass stripped for recycling, and all the PSUs, LEDS and DMX drivers returned to HELL for future projects. Although the company does lots of work like this, they have never produced anything on this scale, for such a large audience, before.

November 2012

Written evidence submitted by PPL

INTRODUCTION

1. PPL welcomes the Committee’s inquiry into support for the creative economy (the “Inquiry”) and the opportunity to make a submission in response to the Committee’s call for evidence.

2. We note from the Inquiry’s terms of reference that the music sector is one of the creative industries from which the Committee is especially seeking views. We also note that other music industry organisations, including the BPI and Musicians’ Union (each of which has many members in common with PPL) and UK Music (of which PPL is itself a member) have submitted written evidence to the Committee in relation to the Inquiry.

3. Mindful of those other submissions, and with the hope that it is of some further assistance to the Committee, PPL’s own written evidence for the Inquiry therefore focuses primarily on facts, data and experiences arising from PPL’s role and remit as a UK licensing body for certain uses of recorded music—acting on behalf of many thousands of record companies and performers across the UK, for all of whom PPL licensing income is a key revenue stream. More information about PPL and its members is set out below (see paragraphs 8–14 below).

4. Of the issues identified by the Committee in its terms of reference for the Inquiry, PPL’s written evidence relates primarily to the following:

- Barriers to growth in the creative industries; whether lack of co-ordination between government departments inhibits this sector.
- The importance of “clusters” and “hubs” in facilitating innovation and growth in the creative sector.
- The impact on the creative industries of the independent Hargreaves Review of Intellectual Property and Growth, and the Government’s Response to it.
- The impact of proposals to change copyright law without recourse to primary legislation (under the Enterprise and Regulatory Reform Bill currently before Parliament).

EXECUTIVE SUMMARY

5. *Far from being a barrier to growth, copyright is the foundation on which a vibrant UK music industry has been built, adding real value to the UK economy. In the context of PPL licensing, there can be significant commercial benefits to businesses and broadcasters from using recorded music; collective copyright licensing simplifies this process and generates a vital source of income for UK rightsholders (many of whom are small businesses or sole traders themselves).*

6. *The Digital Copyright Exchange feasibility study has been a positive process, rightly focused on voluntary, industry-led solutions. As noted in Richard Hooper's "Copyright Works" report, PPL is playing its part through continued joint licensing with PRS for Music and ongoing work towards a global recordings database.*

7. *The Hargreaves Review and subsequent Government policy-making process has been a much less positive experience, with a skewed starting point and weak evidence base leading to some flawed conclusions. This unfortunately appears to be a continuing trend, following other experiences of copyright policy-making affecting the music sector, with the net effect being to demonstrate that the IPO is not the champion of copyright that it could and should be.*

ABOUT PPL

8. PPL is the UK-based music licensing company which licenses recorded music to be played in public or broadcast (including online). Established in 1934, PPL carries out this role on behalf of its tens of thousands of record company and performer members.

9. PPL licenses hundreds of thousands of businesses and organisations from all sectors across the UK, Channel Islands and Isle of Man who play recorded music to their staff or customers (often referred to as "public performance") and who therefore in most circumstance require a copyright licence by law. These can range from pubs, bars, nightclubs and hotels to shops, offices, factories, gyms, schools, universities and local authorities. PPL also licenses music service providers to copy recorded music for services such as in-store music systems, jukeboxes, fitness compilations and in-flight entertainment systems. An annual public performance licence from PPL can cost as little as 19 pence per day.

10. PPL's broadcast and online licensing covers the use of recorded music on the BBC's television, radio and iPlayer services and by hundreds of commercial television and radio broadcasters. These licences often cover a modest range of new media uses of recorded music in addition to "traditional" broadcasts. PPL also licenses some dedicated online services such as the radio services offered by Last.fm and We7, and niche services such as community, hospital, student and prison radio stations.

11. PPL also operates an International service, used by many of its members. Through over 50 agreements with music licensing companies globally, PPL is able to collect licensing revenue from the use of its members' recorded music around the world. Under these agreements with other music licensing companies, PPL also acts on behalf of their members to collect their UK licensing revenue.

12. After the deduction of PPL's operating costs and certain approved industry funding contributions, the net revenue collected by PPL is distributed to its members at individual track and performer level, based on information about the music used by licensees and the data contained in the PPL Repertoire Database, which holds the details of the millions of recorded music tracks covered by PPL's licences. PPL aims to keep its cost-to-revenue ratio below 15%.

13. PPL has a large and diverse membership. The term "record company" does not do full justice to the breadth of different sound recording copyright owners and licensees comprising PPL's 8,500 recording rightsholder members. These members include the major record companies but the majority are, in effect, small businesses or sole traders based all over the UK: independent record companies and labels, and emerging artists making and releasing their own recordings. Similarly, whilst PPL's 53,000 performer members include some globally successful artists, the majority are lesser-known performers, including thousands of session musicians across all genres of music.

14. PPL is a separate company from *PRS for Music*. Copyright protects musical compositions and lyrics separately from the recordings of them. *PRS for Music* licenses the use of those compositions and lyrics, on behalf of authors, songwriters, composers and music publishers. Playing music in public, or broadcasting it (including online) will in most instances require a licence from both PPL and *PRS for Music*.

COPYRIGHT AND GROWTH

15. PPL is proud to be part of a vibrant UK music industry which, as noted in evidence submitted to the Inquiry by others, adds real value to the UK economy in terms of growth, job creation, tax revenue and a net export position (with 12% of the global music market). Far from being a barrier, copyright is the foundation on which that value and growth is based.

16. In the context of PPL's own operations, copyright generates significant value for PPL's members. In 2011, PPL collected £153.5 million in licence fees across its three main licensing areas of Broadcast and Online, Public Performance and International, representing 7% annual growth. This led to PPL's annual distribution of

licensing revenue, in June 2012, being the largest in PPL's history. A huge cross-section of PPL's membership benefited from that distribution, with for example payments being made to over 24,500 individual performers.

17. PPL licensing does not just benefit PPL's members. By providing a simplified and centralised means for UK businesses to play recorded music legally and for a fair price, it is also enabling those businesses to unlock and enjoy the commercial benefits of doing so. As part of ongoing efforts to raise awareness of music licensing requirements within the UK business community, PPL and *PRS for Music* have jointly commissioned independent research under the "MusicWorks" banner (www.musicworksforyou.com).

The most recent research, published earlier this year, found that:

- 77% of small to medium sized businesses say that playing music in the workplace increases staff morale, and creates a better atmosphere and working environment for staff and customers;
- 22% would prefer to lose a day's trade than operate in a silent environment;
- 65% say music in the workplace makes their employees more productive; and
- 40% believe that playing music can increase sales or results for the business.

COPYRIGHT AND INNOVATION

18. PPL, like many within the creative industries, has found the feasibility study into the Digital Copyright Exchange (commissioned by Government and led by Richard Hooper) to be a positive process. PPL welcomes the genuinely consultative and evidence-based approach taken by the feasibility study. The "Copyright Works" report published by Richard Hooper in July 2012 was a fair and balanced assessment, acknowledging—in the context of the music industry—the steps already taken to simplify and streamline copyright licensing in reality (in contrast to what the report identified as a "perception" of difficulty and inaccessibility) but encouraging further progress to be made. As the Committee may be aware, representatives of the publishing, music, images, audio-visual and other creative sectors have joined forces (and committed funding) to take forward the Hooper recommendations. PPL is pleased to be part of this ongoing activity, on the basis that this remains a voluntary and industry-led solution.

PPL joint working with PRS for Music

19. Innovation in copyright licensing is not confined to the digital market. The "Copyright Works" report noted other opportunities for further streamlining and, in that context, fully supported the fact that PPL and *PRS for Music* have agreed to work more closely together, including more joint licensing.

20. Collective licensing already simplifies the licensing process for music, by providing blanket access to millions of different compositions (via *PRS for Music*) and recordings (via PPL) rather than requiring each business or broadcaster using music to obtain separate permission from each copyright owner. The first report from the Digital Copyright Exchange feasibility study acknowledged that each of PPL and *PRS for Music* is efficient in its own right. However, both organisations recognise the value, to music users and rights owners alike, in finding ways to work more closely together. To that end, PPL and *PRS for Music* already operate joint licensing solutions covering schools, churches, DJs, community buildings, and "limited manufacture" (ie the making of a small number of CDs or DVDs including music, such as amateur dramatics societies recording their stage productions, or charities recording community projects). PPL and *PRS for Music* have also been working together on raising awareness of music licensing, such as through joint advertising and joint attendance at trade events.

21. As the next step in working together, PPL and *PRS for Music* are developing two new initiatives: joint licensing solutions for small workplaces and for amateur sports clubs (planned to be administered by *PRS for Music* and PPL respectively).

Innovation in data management

22. In its recommendations on the issue of data building blocks, the "Copyright Works" report also identifies the importance of rights information database and highlights the role that PPL and *PRS for Music* are playing in the development of, respectively, a Global Recordings Database and a Global Repertoire Database.

23. PPL is well-placed to help the UK take the lead on the world stage as far as the management of sound recording data is concerned, having developed and built a new Repertoire Database which is at the heart of PPL's licensing and distribution activities. It holds data on 5.5 million recordings, with—on average—data on over 10,000 new recordings submitted by PPL's members each week.

24. Delivering (on time and on budget) the new database, together with new repertoire matching and revenue distribution systems, has been a significant undertaking and a lot of hard work—but represents an essential evolution for PPL not least because of the growing scale of its UK operations (let alone the potential to develop a global solution). For example, in order to distribute 2011 licence fees to members (allocated at individual track and performer level), PPL processed 3.1 billion seconds of recorded music usage by TV and radio broadcasters.

25. PPL's database is also used to provide sound recording metadata to *PRS for Music* to support the licences that rightholders require (so that the songwriters, composers and publishers are paid) when releasing a recording and to support the anti-piracy activities of the IFPI and BPI (identifying the owners of recordings used illegally).

IMPACT OF UK GOVERNMENT IP POLICY

Hargreaves Review and subsequent developments

26. The Hargreaves Review (and resulting Government response, through the Consultation on Copyright and subsequent policy proposals) has unfortunately been a largely disappointing experience. It is clear that PPL shares this view with many other businesses, organisations and creators within the creative industries—as can readily be seen from other parties' submissions to the Inquiry and indeed from the evidence and conclusions from other reviews, such as the recent All Party Parliamentary IP Group inquiry into the role of Government in protecting and promoting intellectual property.

27. Certainly—in the context of copyright at least—the Hargreaves Review and subsequent process has been characterised by policy proposals which, in the supposed name of growth and streamlining, would in reality largely just transfer value from creators to users and introduce new and unnecessary complexity. Further, those proposals were seemingly based on the unproven proposition that copyright is broken and then built on flimsy evidence and flawed analysis; contrary to the stated Government aspiration of evidence-led policy, it has often seemed to be more a case of policy-led evidence.

28. In its March 2012 submission to the All Party Parliamentary IP Group inquiry, PPL expressed its hope that the evidence comprised in the numerous submissions to the Consultation on Copyright would be used to give a much more robust factual, legal and economic basis to the Government's ultimate policy proposals on these issues. Unfortunately, thus far, much the same evidential concerns endure.

29. Government's various proposals for additional or extended copyright exceptions are a key example of these concerns, where the potential harm to rights holders is significant and yet the economic justification is widely disputed. Whilst perhaps not as prominent as the debate around format-shifting, the proposals include a new exception covering "official celebrations" and a widened exception covering use of copyright works relating to the demonstration or repair of equipment. In neither case has a clear argument been made for how economic growth would result, whereas both proposals would directly and adversely reduce licensing income for UK rightholders.

30. By way of further example, similar concerns arise in the context of Government's proposals for codes of conduct for collecting societies. As explained below, the UK's collecting societies have already been taking the lead in establishing a self-regulatory framework for codes of conduct, focusing on transparency, accountability and good governance—a voluntary process which was already well underway before the Hargreaves Review. Notwithstanding this, the Hargreaves Review recommended regulatory intervention through statutory codes, despite a distinct lack of credible evidence or analysis justifying this or clearly linking it to economic growth.

31. Government has subsequently supported self-regulation in the first instance but with strings attached, in that there is still said to be a need for statutory "backstop" powers to regulate collecting societies. Whilst PPL and its fellow UK collecting societies welcome support for the self-regulatory model, we remain concerned as to whether we will be given a fair and proper opportunity to show that self-regulation works, in light of our misgivings regarding the policy-making process thus far.

Case Study: Codes of Conduct

32. PPL is committed to providing first class service to its members and licensees. We were proud to reach the finals of both the UK Customer Experience Awards (in 2011 and 2012) and the European Call Centre and Customer Service Awards (in 2012). PPL is also committed to transparency, accountability and good governance.

33. This week, PPL has published formal Codes of Conduct for members and licensees, setting out important information about PPL (and how to find out more), what members and licensees can expect from PPL, and how they can help PPL to help them. PPL has adopted these voluntary Codes as part of a wider self-regulatory initiative by collecting societies across the creative industries, under the umbrella of the British Copyright Council (BCC). PPL's Codes are based on the BCC's Principles of Good Practice for Collective Management Organisations' Codes of Conduct and also reflect feedback from members and licensees (and their representative bodies) obtained via a 12-week open consultation earlier this year. The Codes can be viewed on the PPL website.

34. The BCC collecting societies' ongoing work to design, build and deliver this self-regulatory regime was given only a fleeting mention in the Hargreaves "Digital Opportunity" report.²⁷⁴ Instead, the Hargreaves Review focused on purported economic evidence as set out in Supporting Document EE to the Hargreaves Report.²⁷⁵ That supporting document has attracted widespread criticism for its inaccuracies and its unsubstantiated and

²⁷⁴ www.ipso.gov.uk/ipreview-finalreport.pdf

²⁷⁵ www.ipso.gov.uk/ipreview-doc-ee.pdf

mistaken assertions (as evidenced, for example, by many of the responses—including PPL’s—submitted to the BIS Committee’s inquiry into the Hargreaves Review in August 2011²⁷⁶).

35. The relevant impact assessment published alongside the Government’s Consultation on Copyright largely repeated the flawed “evidence” of Supporting Document EE and compounded this by making further unsubstantiated and misplaced assertions.

By way of just one example, the impact assessment referred to multiple licensees having alleged that they were put under duress by collecting societies to obtain licences that they were unsure they needed. The impact assessment went on to say:

“This duress can be heightened where licensees are under the impression that a collecting society is a government agency or acting with the sanction of government. In one case ... the government has had to ask a collecting society to refrain from referring licensees to a government helpline for corroboration of a licensing method used by it.”

PPL believes that it is the collecting society in question, but is able to confirm that the impact assessment misrepresents what actually happened. PPL sometimes encounters businesses that are unsure whether PPL, or even copyright licensing generally, is some sort of scam. In appropriate cases, as part of its efforts to be clear and transparent with these prospective licensees, PPL has suggested that they may wish to visit the IPO website, where there is useful, neutral information about copyright licensing and the collecting societies (including PPL) which operate in the UK. PPL believes that the impact assessment is referring to one such case. To this day, PPL does not understand why the IPO was so concerned about PPL making reference to the IPO in this context.

36. PPL commented at length on all of these concerns in its detailed submission to the Consultation on Copyright²⁷⁷ and was therefore disappointed to see that the same issues persisted in the revised impact assessment published in July 2012.²⁷⁸ In PPL’s view, by repeatedly declining to take the opportunity to improve the evidence base, the IPO only served to compound the concerns and lack of confidence prompted by the original evidential and analytical failings.

37. The statutory backstop powers proposed by Government have been introduced into the Enterprise and Regulatory Reform Bill in what is currently Clause 68 and Schedule 21. Those draft provisions confer a series of very broad powers on the Secretary of State to regulate licensing bodies (ie collecting societies). These include the power to require a licensing body to adopt a code of practice, to impose a statutory code of practice under certain circumstances, to impose financial sanctions for non-compliance and to recover the cost of regulatory measures from licensing bodies. There are very few parameters set out on the face of the Bill for the exercise of these powers, and the detail is all to be left to secondary legislation.

38. PPL welcomes Government’s support for self-regulation by collecting societies. However, in light of the enduring concerns regarding the evidence base for this and other aspects of the Government’s proposed copyright changes, it is very important that the decision whether—and, if so, how—to exercise the backstop powers (if enacted) is based on meaningful consultation and robust evidence. In particular, this must avoid creating a duality of regimes, which could be highly cost-inefficient for collecting societies (harming their members) and highly confusing for rights users and rights holders alike.

Other experiences

39. It may also assist the Committee for PPL to comment on two other instances of UK Government IP policy-making that are directly relevant to PPL and its members. In both these instances, the ultimate outcome has been very positive, with legislative change helping to bring about a fairer balance between the rights of creators and users and a better alignment of UK law with the EU and international position: However, these outcomes were only achieved recently, after a surprisingly long and difficult journey (and more resistance than support from Government officials).

40. The first example is sound recording copyright term extension, which is now the subject of an EU Directive to be implemented at national level by November 2013.

This brings the rights of record companies and performers more into line with other copyright owners and will in particular help to safeguard a very important income stream for older generations of performers (a heartfelt point made by many of those performers personally in a video petition submitted to 10 Downing Street). Without the extension, key recordings from the 1960s risked falling out of copyright which, given the strength and enduring appeal of British music, would have had an adverse economic impact on the UK music industry and therefore on UK plc. However, despite this risk, the widespread support for this reform across many EU member states, and the clear disparity between the term of protection for sound recordings and performances compared to that afforded to other types of copyright work, the UK Government was initially steadfastly opposed to copyright term extension and it was only after many years of concerted effort—with support from EU commissioners rather than officials here in the UK—that a breakthrough was finally made.

²⁷⁶ www.parliament.uk/business/committees/committees-a-z/commons-select/business-innovation-and-skills/inquiries/parliament-2010/hargreaves-review-of-intellectual-property/

²⁷⁷ www.ipso.gov.uk/response-2011-copyright-ppl.pdf. See pages 14 to 26 and in particular PPL’s response to Q46 (starting on page 17).

²⁷⁸ www.ipso.gov.uk/consult-ia-bis0313-20120702.pdf

41. The second example is the repeal, effective from 1 January 2011, of sections 67, 72(1B)(a), 128A and 128B of the Copyright, Designs and Patents Act 1988. These reforms removed two copyright exceptions (affecting the use of sound recordings in the not-for-profit sector) which were incompatible with EU and international law and should have been removed many years earlier to comply with the EU Rental and Lending Directive (dating from 1992 and which the UK purported to implement—but without addressing these exceptions—in 1996). Notwithstanding the very clear legal and moral case for reform, and the economic harm to rights holders which undoubtedly resulted from the operation of these “rogue” copyright exceptions for so long, there was again sadly a palpable lack of support from IPO officials for many years, meaning that it was a slow and difficult process to achieve change.

General observations

42. PPL notes the conclusions of the All-Party Parliamentary IP Group (IP APG) in its recent report on “The Role of Government in Promoting and Protecting Intellectual Property”. In addition to observing that the IPO’s policy-making function has lost the confidence of stakeholders, the IP APG concludes that a champion of IP is needed within Government, with due recognition of IP as a property right.

43. PPL wholeheartedly supports that conclusion, and would add that it is not just a matter of championing IP in the UK but also on the European and global stages. PPL is aware that in Brussels there is currently some surprise at the current stance of the UK Government; namely that despite the international success of the UK creative sector, the impression given by Government is one of being opposed to the protection of IP.

44. As the Committee may be aware, the IPO has also recently published its conclusions²⁷⁹ following its earlier discussion paper: “From Ideas to Growth: Helping SMEs to get value from their intellectual property”. The conclusions document identifies the importance of raising business awareness and understanding of IP. In doing so, the conclusions document also states: “*The IPO’s ambition is to ensure that UK SMEs both recognise and understand the value of their intellectual property and can access the advice they need to grow their business by maximising the benefits which flow from their innovation and creativity.*”

45. With so many of its own members comprising small or micro businesses, PPL hopes that the above sentiment will be reflected not just in the IPO’s awareness-raising work but also more generally in its policy-making. PPL would welcome an expanded educative role for the IPO in promoting awareness and respect for copyright and its value within the wider UK business community. However, even more importantly, there must be improved awareness and respect for copyright within the IPO itself.

December 2012

Written evidence submitted by the Department for Business Innovation & Skills

Thank you for giving me the opportunity to answer questions at the Committee’s evidence session on 14 May 2013.

We discussed the Government’s decision to create a limited exception to copyright for private copying, which will allow consumers to make reasonable use of digital equipment to enjoy copies of creative works that they own.

I offered to explain to the Committee the basis for the calculation of the £258.7 million benefit over ten years provided by the Government’s Impact Assessment on private copying. I enclose a copy of that document (Annex A)²⁸⁰ so you and other members of the Committee can see the full details, but I thought it was worth setting out the key points in this letter. I have also enclosed a copy of the Economic Impact of Recommendations from the Hargreaves Review of Intellectual Property and Growth (Annex B)²⁸¹.

The main monetised benefits discussed in this Impact Assessment come from the creation of new technological markets (devices or digital content services) in the UK, arising from the removal of excess regulation on businesses and consumers.

Digital technologies work by copying. It is important that consumers are able to undertake limited personal copying, which is necessary for the normal use of consumer technologies, where that does not undermine the incentives copyright provides to creators and investors. At the moment, copyright law prohibits such copying. The Impact Assessment looks at the implications of reducing these legal barriers to reasonable use of consumer technology.

As a result of this measure, innovative technology firms will benefit from reduced licensing and legal costs. However, more significant benefits to the economy and consumers are likely to arise from the new markets created as a result of a reduction in barriers to entry. Risks and costs experienced by innovative firms will be reduced, making the UK a more attractive place to invest in these firms, particularly SMEs.

²⁷⁹ www.ipo.gov.uk/business-sme-conclusions.pdf

²⁸⁰ Not printed.

²⁸¹ Not printed.

It is difficult to estimate the size of a new market, especially one for digital technology. The method chosen was to look at markets that already rely on private copying exceptions, and to use these as proxies for the way technology markets are likely to develop following introduction of a new private copying exception in the UK.

Based on this approach, a high estimate was derived by studying development of the mp3 player market over a 10-year period. Assuming a future technology market which is also based on private copying follows a similar trend, and that a UK firm is able to become second-largest player in such a market as a result of the exception gave a high estimate of £57 million per annum.

Our low estimate was derived through similar analysis of the DVR market. Assuming that, over a 10 year period, a UK firm could acquire a similar market share as TiVo currently enjoys in this market (6.5%), gave a low estimate of £5.6 million per annum.

Over 10 years, this gives a low estimate of £46.8 million and high of £470.5 million. An average of these estimates gives a best estimate of £258.7 million.

For consumers, the primary benefit will be legal clarification, as the exception will legalise a practice most consumers believe to be reasonable, and which many already believe is permitted by law. The new law will be seen as more sensible by many, and will help to draw a clear line between reasonable and harmful copying.

Consumers will also benefit from reduced costs, risks and increased market opportunities experienced by technology firms. Lower licensing and other costs will be passed on to consumers, who will no longer have to pay multiple times to use copies they have bought. Consumers will benefit from reduced barriers to market entry and enhanced competition in consumer technology, and the lower prices and greater choice of services that are likely to result from this. However, insufficient data was available to monetise these benefits to consumers in the impact assessment.

When preparing its analysis, the Government listened to feedback from industry. The methodology for assessing market development was refined to take account of additional information supplied by stakeholders, though none proposed a better overall methodology. The range of possible options set out in the initial impact assessment were refined and reduced to the narrowest option, which will have the least impact on copyright owners. The impact assessment also discounts the benefits over the ten-year period. The result that the £258.7 million best estimate is toward the bottom end of the £0.3 billion to £2 billion benefit range estimated by the Hargreaves Review.

Government considers that all benefits, whether to the economy or consumers are important when assessing the impacts of a policy. The proposed exception is much narrower than those of other European countries and simply legitimises practices most consumers already consider reasonable. Further, given that the behaviour is already occurring, the Government estimates that costs to rights holders will be negligible.

I hope that this provides the explanation that you were seeking. I am copying this letter to all Members of the Culture, Media and Sport Select Committee and Ed Vaizey MP.

June 2013

Supplementary written evidence submitted by PLASA

On 26 March 2013 I gave evidence to your committee's inquiry into support for the Creative Industries. During my evidence I highlighted the negative impact on PLASA's members of the Olympics "no marketing" protocols, which prevent companies involved in supplying the Games from promoting that fact. I also highlighted the unsatisfactory nature of the solution presented by the government—the Suppliers Recognition Scheme (SRS). The categories established by the SRS are so broad as to still exclude many of the companies represented by PLASA which contributed significantly to making the Games such a success.

Recently I wrote to Secretary of State Maria Miller to highlight my concerns regarding the operation of the SRS. As you showed interest in this particular issue during my evidence, and kindly offered to explore the ways in which you could help, I wanted to bring this letter, and a subsequent reply from the Rt. Hon. Hugh Robertson, to your attention. Both are included with this letter.

I feel that the Government's answer is still unsatisfactory. The incredible work of British companies involved in the Olympics is a key aspect of the legacy of the Games. It should be an opportunity for British companies to promote themselves at home and abroad, providing significant economic benefit to the Creative Industries and UK in general. Instead, many of my members have to remain silent about their achievements. Mr Robertson draws attention to the differentiation drawn between suppliers of equipment and those who operated it, the former being excluded and the latter included in the SRS. This has meant, for example, that PLASA members who supplied key lighting to the Olympic Stadium have been forced to remain silent about their achievements because a major sponsor produces similar lighting—even if that sponsor did not actually supply any form of lighting to the Games.

It is important to note that it is mostly SMEs, whose growth is so vital to the economic recovery of the UK and the continued success of the Creative Industries, which are suffering because of the "no marketing"

protocols and the subsequent inadequacies of the SRS. These companies, lacking big budgets for advertising and promotion, rely on being able to promote their previous work to secure new commissions.

June 2013

Annex 1

Letter from PLASA to the Rt Hon Maria Miller MP, Secretary of State, DCMS, 4 March 2013

At the end of January you announced that suppliers to the London 2012 Olympic and Paralympic Games would at last be able to capitalise on the crucial role they played in making the Games a success. I was delighted that the British companies which brought the Games to life would now be able to publicise their involvement and promote their work at home and abroad.

It has now become clear that far too many companies are still being prevented from benefiting from their involvement. Suppliers whose goods and services are within “business categories” covered by IOC sponsors are still excluded from the scheme. These “business categories” have been drawn so broad with no refinement, that small British companies with a legitimate case for inclusion in the Supplier Recognition Scheme are being prevented from publicising their involvement to protect huge multi-national companies.

PLASA operates across the live events, entertainment and installation industries representing the leading providers of entertainment technologies, including professional audio, AV, lighting, projection, staging, special effects and related disciplines. The professionals in this sector rank among the most talented in the world, maximizing developments in technology and communications to produce highly innovative and ground-breaking products.

Our Members’ were central to the success of the Opening and Closing Ceremonies, as well as the success of the competition events at the Olympic Park and other venues. They developed the most memorable moments in the ceremonies; from the fiery appearance of the iconic Olympic rings in the Opening Ceremony, to the 70,500 LED Tablets placed at every seat to integrate the audience into the projection element of the shows.

Yet, many of our Members are now prevented from registering with the Supplier Recognition Scheme because they fall under the broad categories of “industrial and commercial equipment and systems” (which includes “industrial lighting fixtures and systems”) and “audio, video and audio-visual equipment, recording devices, navigation equipment and cameras”.

These arbitrary categories need to be urgently refined and reduced, to ensure the greatest numbers of British firms are able to publicise their work at the Games. This measure is designed to protect multi-national companies at the expense of those British companies who worked so hard to make the Games a success. Our members work in the creative industries. They are not competitors to Panasonic and GE, the firms these rules are trying to protect. However, the lack of nuance in the scheme is automatically ruling them out of building on their successes.

Far from allowing British firms to publicise their involvement, the Supplier Recognition Scheme is making it as difficult as possible for suppliers to gain the acknowledgment they deserve. This needs to be resolved urgently, before the benefit of the Olympic Legacy is lost for these suppliers.

Annex 2

Letter to PLASA from Rt Hon Hugh Robertson MP, Minister for Sport and Tourism, DCMS, 25 April 2013

Thank you for your further letter of 4 March, to the Rt. Hon Maria Miller MP, on behalf of your members who wish to promote their work on London 2012 both at home and abroad.

In my reply to you in October, I mentioned that we wish to do all we can to ensure that London 2012 suppliers can showcase what they have achieved in helping to stage the Games. Every London 2012 supplier played an important part in the success of the Games and we recognise that many suppliers want to be in a position to share their experiences when bidding for and working on future projects.

As you may know, all suppliers continue to be able to make limited factual references to the work they have undertaken on the Games, under a protocol operated by the London Organising Committee of the Olympic and Paralympic Games (LOCOG) since 2007 and updated in 2010. Under that protocol, all suppliers can, for example, make reference to their 2012 work in client lists and pitch and tender documents.

Since the Games, the British Olympic Association (BOA) has worked intensively with the International Olympic Committee (IOC) to identify the maximum scope for suppliers to be able to promote the goods and services they provided to the 2012 Games. This resulted in the new Supplier Recognition Scheme (SRS), launched by the BOA in January 2013. In developing that scheme, the IOC and BOA had to strike a balance between the interests of London 2012 suppliers both in the UK and globally and the need not to infringe the rights of worldwide Olympic sponsors, whose support is essential to the future of the Olympic and Paralympic movement.

This does mean that certain categories of business are excluded, but I am satisfied that the IOC and BOA have sought to keep those exclusions to a minimum. What's more, the BOA is very willing to reconsider applications and in a number of cases, where clarification has been provided, have been able to overturn their decision and approve a licence application.

As far as the entertainment technologies sector is concerned, I understand from the BOA that a number of 2012 suppliers have been issued with a licence, while others have been excluded. That this is so reflects the fact that the scheme distinguishes between suppliers who provided audio, video and audio-visual equipment, and those who provided services in relation to that equipment—services such as installation, production or engineering services. In order to ensure that the rights of worldwide Olympic sponsors are not infringed, the former category is excluded from the SRS, whereas suppliers in the latter category remain eligible. All can continue to make factual statements regarding their supply to the Games, for example, in client lists and pitch and tender documents.

I understand that the fact that exclusions must remain in place is a frustration for some suppliers, but given the rights of the worldwide Olympic sponsors some limitations on the Recognition Scheme are inevitable. I would strongly encourage any supplier who is in doubt about their eligibility to contact the BOA for clarification.

I hope it is clear from this letter that the BOA and IOC have tried to be as flexible as possible in order to support suppliers, given the legal constraints upon them.

The BOA will continue to consider applications on a case-by-case basis to establish whether suppliers are eligible for a licence, and are very willing to discuss, explain and provide clarification on individual applications. So far, since 27 January 2013, some 537 licences have been granted, 118 refused, and 44 are under consideration.

Thank you, again, for writing, with all my very best wishes.
