



Chapter 4

Creative Industries in the Digital World

"This is what real revolutions are like. The old stuff gets broken faster than the new stuff is put in place. The importance of any given experiment isn't apparent at the moment it appears: big changes stall, small changes spread. Even the revolutionaries can't predict what will happen."

Clay Shirky, Blog Posting April 2009

AMBITION: TO MAKE THE UK ONE OF THE WORLD'S MAIN CREATIVE CAPITALS

Towards a new framework for content

1. In addition to being a financial services capital of the world, we should aim to be a global centre for the creative industries. In addition to comprehensive participation and comprehensive infrastructure as described in the preceding Chapters, we also need a digital framework for the creative industries and a commitment to the creative industries grounded in the belief that they can be scaled and industrialised in the same way as other successful high-technology, knowledge industries such as bio-sciences have been.
2. The creative industries in Britain start with many of the same advantages that have helped drive our other successful knowledge sectors:
 - **Convenience:** The UK's geographical location makes it accessible from East and West, while Greenwich Mean Time gives us a working day overlapping with major economies on both sides of the world.
 - **Legality:** A strong rule of law is vital for industries that depend on respect for intellectual property.
 - **Accessibility:** The English language is ever more so the international language of both commerce and entertainment.



- **Financials:** A UK base provides businesses with access to capital markets and with experience in funding IP-based businesses.
 - **Human Capital:** Companies in the UK can call on a skilled workforce rooted in an education system that encourages the questioning, original thought vital for creative businesses.
 - **Infrastructure:** Businesses have access to competitive markets providing high spec, resilient, competitively priced bespoke fixed and mobile communications services.
3. The creative industries are a significant source of employment and national wealth creation, as well as almost uniquely delivering cultural and social benefits. They contribute 6.4% of GVA and have grown by an average of 4% over the past decade compared to 3% for the economy as a whole.
 4. The 2008 Report 'Creative Britain: New Talents for a New Economy' was the fourth major policy document on this important economic area, building on the 1999 and 2001 Creative Economy Mapping documents and the 2001 Green paper, Culture and Creativity: the next 10 years. All these signalled the intention of the Government to join up the worlds of education, cultural and creative subsidies, training and trading support to encourage the creative industries to thrive. This work to incorporate the creative industries into mainstream economic thinking has been studied and copied worldwide, and the Budget signalled a new phase of Industrial Activism joining up the work of BIS, DCMS, DWP and DCSF.
 5. A driving consequence of the changes in our communications infrastructure capability, mass participation in Digital Britain, widespread adoption and use of new digital devices and services described in the previous chapters will be a flowering of distribution, production and creation of all sorts of content. This will revolutionise what is bought, searched for, seen, listened to, shared and enjoyed.
 6. This will represent a significant change to the old analogue models of distribution, of monetisation and of participation. Media today is participative, interactive, equal and many-to-many. Where traditionally innovation and creativity was largely the domain of specialist teams in large organisations, today there is a creative revolution which is rooted in the opportunities afforded by connectivity. There is a significant opportunity to take the success of our creative industries into this interactive and participative world.



C&binet and international solutions

C&binet (Creativity and Business International Network) stems from a Creative Britain commitment to initiate the launch of a World Creative Business Conference. C&binet was formally launched in October 2008. The first main C&binet forum will take place on 26-28th October at the Grove in Hertfordshire. It will host up to 400 delegates, mostly chief executives and other senior figures from across the Creative Industries and those industries that support them. This year's conference, entitled "Nurturing Creative Content in the Digital Age", will focus on issues such as paying for creative content online, attracting finance for content creation and international co-operation. The event will be action-focused with outcomes identified for each session that will have benefits beyond the conference. The conference will be streamed fully on the C&binet website (www.cabinetforum.org) and interaction with the event will be encouraged.

We are also aiming for C&binet to play a part in beginning the dialogue on international solutions to some of the barriers facing content generation, particularly illegal peer-to-peer file-sharing. These issues are not just problems for one economy but for all economies that produce creative content, so solutions should be found and agreed that can be implemented across the world.

7. The ambition of Digital Britain is that this country remains a source of innovation in content and applications disproportionate to the relative global size of its overall economy and that the UK market, rights and regulatory frameworks maintain Britain's place as one of the most attractive destinations for mobile investment in content, applications and services.
8. We have a mixed economy of content creation, often taking the best from the worlds of subsidy and commerce. In Chapter 6 we trace the path to develop talent, from school and higher education to lifelong learning for those who become consumers to specialist training and support for those who produce the content upon which the creative economy relies. The Digital World will continue to rely upon the development of these same core creative skills, and many of the basic building blocks in which people develop and enjoy creative content live – our museums, libraries, arts centres, theatres and music venues – look set to thrive in the Digital Age.
9. We have had a series of public policy interventions designed for the linear analogue world. Many of these will need to be radically re-cast for the digital environment, an environment in which the economics of content production and distribution are profoundly different. Limitless perfect digital copies and intense new competition for advertising has challenged old business models. At the same time the social networks and content-rich portals that dominate the Internet today are still, in many instances, groping towards means to monetise creative content, to turn a strong user base into hard currency.



10. These changes are leading to a fundamental change in our corporate media ecology. As Charles Leadbeater put it in an article following our Interim Report:

“Twenty years ago the industries that provided most of our information and entertainment, resembled a few very large boulders strewn over a largely empty beach.

These boulders were the big media companies that came into being because media had high fixed costs – print plants for newspapers and studios for television. They were closely regulated and resources, like broadcast spectrum, were scarce. All that created high barriers to entry. These boulders made their money mainly from advertising and by charging consumers for access to their products, which required controlled access and often physical distribution and storage.

Anyone trying to set up a significant new media business could be seen coming from a long way off. Rolling a new boulder onto the beach took lots of people, money and heavy machinery. In the mid-1980s an entrepreneur called Eddie Shah tried to roll a boulder onto the British beach by setting up a national newspaper based in northern England. That provoked a protracted national strike. Rupert Murdoch caused controversy by moving his boulder – production of his News Corporation newspapers – from one part of London to another. That caused another lengthy dispute. Channel 4 caused a stir by becoming a new boulder on the beach, one which eventually spawned several other mini-boulders in the form of independent production companies. The big advertising agencies – WPP and TBWA – are boulders that service other boulders. The ITV companies have all merged to create an even bigger, arguably even more unsuccessful, boulder. Until recently boulders were the only business in town.

Now imagine the scene on this beach in five years time. A few very big boulders will be still showing. But many have been drowned by a rising tide of pebbles. Every minute millions of people come to drop a pebble on the beach: a blog post, a YouTube video, a picture on Flickr, an update on Twitter. A bewildering array of pebbles in different sizes, shapes and colours are being laid down the whole time, in no particular order, as people feel like it.”

The Digital Revolution: the Coming Crisis of the Creative Class by Charles Leadbeater.

11. Against this background, we aim in this Chapter to address four key issues:
- Restating an explicit recognition of the economic importance of our creative industries.
 - Protecting due reward for creativity in the digital world, meeting the interests of creators, aggregators, distributors and consumers.
 - Extending our public policy framework to embrace interactive content.
 - Ensuring that our existing interventions are 'digital ready'.
12. Government and the wider public sector are both major commissioners of digital content and the repository of a wide range of non-personal data which



can form the basis for a wide range of innovative, interactive content services and applications. These aspects are set out in more detail in Chapter 8.

Protecting and Rewarding Creativity

13. Already today around 7.5%¹⁸ of total UK music album purchases are digital and a smaller but rapidly increasing percentage of film and television consumption is streamed online or downloaded. In Digital Britain, with the Universal Service Commitment delivering video quality broadband and most households having much greater bandwidth, streamed, downloaded or searched-for content will become the norm. User-generated and social content will be very significant; but should not be the main or only content.
14. The popularity of *X-Factor* and *Britain's Got Talent* shows the enduring drawing power of content-creating talent that few people possess. The digital world allows more of that talent to find its way to more consumers and admirers than ever before. But it is not wholly democratic: some have the talent to create content; many others do not. As throughout history, there need to be workable mechanisms to ensure that content-creators are rewarded for their talent and endeavour. And the need for investor confidence is key. User generated videos can be hugely popular, but there remains a healthy appetite for big movies costing many millions to produce.
15. The Government's objective is to see the creation of an effective online download and streaming market of scale, providing content that is highly affordable, easily and conveniently accessible to consumers. Commercial entities from Hulu, to Spotify, to Six-To-One, to FremantleMedia, are trying out different business models to provide such content to consumers.
16. This requires a significant reappraisal of traditional positions by most of the operators in the market. The Government has sought to encourage this in a number of ways: through the major review of copyright, currently being undertaken by the Intellectual Property Office, following the Gowers review; through the Memorandum of Understanding between Internet Service Providers and rights-holders, brokered by the Government in 2008; and by recognising the limitations that need to be placed on 'free' publicly-funded content.
17. But at the moment the content industry faces a significant challenge. At its heart the current model is not working. There are many views on why the model has broken, but the undisputed fact is that a significant proportion of consumers are choosing to access digital content unlawfully, principally via unlawful peer-to-peer file sharing. Creative industries have indicated they suffer considerable losses from unlawful peer-to-peer file-sharing. The BPI claim P2P file-sharing costs the UK music industry £180m pa (2008) while IPSOS gives a loss in the UK for TV and films of £152m (2007). Figures are not available for the losses from unlawful file-sharing in other content industries such as

18 Source: Ofcom (2008)



publishing, business software or computer games but we do know that all are suffering significant losses. It is clear that the scale of unlawful activity is a major concern for those contemplating investment in innovative content models that rely upon any form of payment.

18. This is unacceptable. The Government considers online piracy to be a serious offence. Unlawful downloading or uploading, whether via peer-to-peer sites or other means, is effectively a civil form of theft. This is not something that we can condone, or to which we can fail to respond. We are therefore setting out in this report a clear path to addressing this problem which we believe needs to result in a reduction of the order of 70-80% in the incidence of unlawful file-sharing.
19. But this is not just about taking action against consumers. Most consumers, except the minority of the anarchic or those who believe in 'freedom to' without its counterbalancing 'freedom from', who believe in unsupported rights without countervailing duties, would prefer to behave lawfully if they can do so practically and with a sense of equity. A recent study in Scandinavia has shown that the biggest users of unlawful peer-to-peer material are also the biggest paid-for consumers of music. Where there are easy, affordable and lawful routes consumers will take them.
20. Digital Britain therefore proposes an equitable framework to bring content-creators, rights-holders, aggregators, distributors and consumers together to create workable and effective online download markets of scale.
21. Central to this new proposition is a series of commercial agreements and business models that give the consumer or the fan highly affordable and convenient content. That includes persuasion and information for the lawfully-inclined consumer and parent on how to access this content and straightforward advice on dos and don'ts, since very few people carry around a detailed knowledge of the intricacies of copyright law. That should be combined with effective sanction against the small minority who believe that others should pay for their pleasure. In short, convenience, affordability and equity.
22. The Government believes that there is now an alignment of a range of operators in the market in support of these objectives. Much of this requires action from the creative industries themselves – in particular though information and the provision of attractive content packages, and we expect to see those industries take the necessary action. Commercially-led solutions remain by far the preferred approach. The Government will look to Ofcom to work with Government departments and other regulators to produce guidelines on how technical measures could be sensibly incorporated within bilateral commercial agreements in a way which will not conflict with other policies, such as those covering privacy.
23. For its part the Government will legislate to provide an underpinning for these market models and to create an enforcement climate that will focus consumers on legal sources of content rather than unlawful ones.



THE LEGISLATIVE PROPOSALS

24. **The Government is therefore consulting on a proposal to legislate to give Ofcom a duty to take steps aimed at reducing copyright infringement. In order to fulfil that duty Ofcom will require ISPs to accept two specific conditions. These are the obligations set out in the Interim Digital Britain Report, namely to notify account holders when informed in an agreed format that their account appears to have been used to infringe copyright and an obligation to maintain and make available (on the basis of a court order) data to enable the minority of serious repeat infringers to be identified. This will allow targeted court action against those responsible for the most damaging breaches of copyright.**
25. These obligations will need to be underpinned by a detailed code of practice. We hope that an industry body (the 'rights agency' envisaged in the Interim Report or 'rights authority' as some now term it) will come into being to draft these codes for Ofcom to approve and we would encourage all rights holders and ISPs to play a role in this. Clearly, however, there needs to be a backstop power for Ofcom to impose its own code if it is satisfied that the industry cannot produce, and has no immediate prospect of producing, a code itself. It is important that this notification process should start as soon as possible and we would encourage industry to start working on a code as soon as the legislation was introduced, with the aim of having an agreed code in place for Ofcom to approve as soon as the legislation was passed.
26. There is evidence that most people who receive a notification stop unlawful file-sharing. This is backed up by survey results which found significant numbers of people say they would stop or significantly reduce their file-sharing activity upon receipt of a notification. Separately surveys indicate there is real interest in new business models that offer a similar experience and content to file-sharing. The recent "Copycats" report by the independent SABIP body showed there is still real confusion over what is/is not lawful and demonstrates the need for widespread education as part of an overall approach.
27. But there are also those who believe that notification, education and the ultimate sanction of legal action will not be enough to make the impact on unlawful file-sharing that we need to see. The Government believe that the notification process outlined here should have the effect of significantly reducing file sharing; but if it does not go far enough then further action will need to be taken.
28. For that reason **the Government will also provide for backstop powers for Ofcom to place additional conditions on ISPs aimed at reducing or preventing online copyright infringement by the application of various technical measures.** In order to provide greater certainty for the development of commercial agreements, the Government proposes to specify in the legislation what these further measures might be; namely: Blocking (Site, IP, URL), Protocol blocking, Port blocking, Bandwidth capping (capping the speed of a subscriber's Internet connection and/or capping the volume of data traffic



which a subscriber can access); Bandwidth shaping (limiting the speed of a subscriber’s access to selected protocols/services and/or capping the volume of data to selected protocols/services); Content identification and filtering– or a combination of these measures.

29. These powers should be used if, and only if, the combination of measures set out above has been fully implemented but has not succeeded in significantly reducing the level of unlawful file-sharing. We will ask Ofcom to establish a baseline level of unlawful file-sharing activity at the point at which a code covering notifications and identification of egregious offenders becomes operational, and to make a further measure of unlawful file-sharing activity after the code has been operational for 6 and 12 months to test the efficacy of the notification procedure by the ISPs and the execution of legal action by the rights holders. Other elements of the package such as education and commercial developments would also need to have taken place.
30. If after 6 months there is evidence that the measures set out above, although being effectively implemented, are not having a significant impact Ofcom should consult ISPs and rights-holders on the detail of the additional measures and their operation and work with the industry on drawing up the code of practice changes that would be needed to support them in practical terms in order to facilitate a quick implementation should the need arise. **If at the end of the 12 month period, provided that the combination of measures set out above have been fully implemented and tested and the other factors such as education and commercial developments have been taken forward, it is clear that there has not been a significant reduction in unlawful file sharing Ofcom should move to use its backstop powers to introduce those additional measures. In order to exercise their reserve powers Ofcom will need to consult, and to make an Order in Parliament.**
31. **We are consulting on the trigger mechanism, which we believe needs to give both rights-holders and ISPs strong incentives to make the notification system work.** The Proportionate Notification Response trigger that we propose, should be focused on measuring the efficacy of the scheme involving a notification procedure, legal action and other measures as set out above in relation to achieving the 70% target for reduction in unlawful sharing. We therefore believe that the trigger should be calculated by (a) taking the number of unique individuals notified and (b) assessing what percentage of those notified have stopped unlawful file sharing, either voluntarily or due to prosecution. If that percentage does not exceed or is not significantly close to 70% the mechanism will be triggered (As an illustration: if the baseline unlawful peer to peer universe identified by Ofcom was 100, and notifications were sent to 50% of that universe with prosecutions against serial repeat offenders, the benchmark would be met if there was a 35% reduction in unlawful file-sharing i.e. 70% of 50%).



Legislation to reduce unlawful peer-to-peer file-sharing

The key elements of what we are proposing to do are:

- Ofcom will be placed under a duty to take steps aimed at reducing online copyright infringement. Specifically they will be required to place obligations on ISPs to require them:
 - to notify alleged infringers of rights (subject to reasonable levels of proof from rights-holders) that their conduct is unlawful; and
 - to collect anonymised information on serious repeat infringers (derived from their notification activities), to be made available to rights-holders together with personal details on receipt of a court order.

Ofcom will also be given the power to specify, by Statutory Instrument, other conditions to be imposed on ISPs aimed at preventing, deterring or reducing online copyright infringement, such as:

- Blocking (Site, IP, URL);
- Protocol blocking;
- Port blocking;
- Bandwidth capping (capping the speed of a subscriber's Internet connection and/or capping the volume of data traffic which a subscriber can access);
- Bandwidth shaping (limiting the speed of a subscriber's access to selected protocols/services and/or capping the volume of data to selected protocols/services); and
- Content identification and filtering.

This power would be triggered if the notification process has not been successful after a year in reducing infringement by 70% of the number of people notified.

Other rights issues

FAIR USE

32. A number of people have raised with us during this process whether the current IP infringement framework reflects the digital environment, and whether provisions for 'fair use' by citizens are reasonable. The Government has considered whether, in the round there should also be a modernisation of 'fair use' rights for consumers to reflect the realities of the digital age. The Government has concluded that the scope for such modernisation is heavily constrained within the EU copyright framework. The Government is however considering the scope to amend the copyright exceptions regime where we believe exemptions exist, in areas such as distance learning and the preservation of archive material and intends to announce a consultation on these later this year. Clearly, on the broader question of modernisation of fair use rights, further work remains to be done.



MODERNISING LICENSING

33. The UK copyright framework is 300 years old this year. But it has not stood still. Copyright has had to evolve continually to meet the technological challenges of photography, the gramophone, film, television, the video recorder, the photocopier and latterly the Internet and the World Wide Web. And copyright needs to evolve further in the digital age.
34. The 2006 Gowers Review of Intellectual Property¹⁹ was a groundbreaking exercise, a fundamental review of how the system was working in the digital age. Gowers's frame of reference took the existing international copyright framework at EU and world level as the backdrop, and concentrated on what could be done within the UK.
35. The Gowers Review concluded that while the system was broadly fit for purpose, there were areas for improvement. Since then the Government has been working on implementing the Gowers recommendations (with more than half now completed). In some areas, the process of converting policy recommendations into legislative and institutional change has taken longer than originally anticipated. The challenge however is to get the changes right.
36. But even since the Gowers Review there have been changes in business models and business practice, for example recent developments in music, such as Last FM and Spotify, which show that where the system is failing to serve the needs of users, innovative business models will develop to fill the gap.
37. It is against this background that the Government launched its Copyright Strategy at the end of December 2008. The Copyright Strategy was launched as a debate on the future direction for copyright, with the aim of sparking an open debate on the future of copyright and to move towards a more strategic vision to guide and inform the development of copyright over the coming decades. With this aim in mind, following the launch of an issues paper, four professional stakeholder events were held in London, and several grassroots workshops were held in four cities across the UK in February and March 2009. The output from this first stage of work has now been published on the Intellectual Property Office (IPO) website. The next stage of the process is to start working up solutions to deliver. We intend to continue to consult widely and work with stakeholders across Government.
38. The Copyright Strategy's focus is long term, and global. The Digital Britain report focuses on what needs to be done in the UK. Much of copyright law is an EU competence and the UK must work within that European framework. Nonetheless, the Digital Britain work and the IPO's copyright strategy work have shown that, in addition to completing the work of Gowers in this area, there are changes that could be made at national level which would aid the process of implementing Digital Britain.

19 http://www.hm-treasury.gov.uk/gowers_review_index.htm



Intellectual Property Office's Copyright Strategy

David Lammy MP launched the copyright strategy work in December 2008 so that the UK could build a long term picture for copyright and ensure the system evolves to reflect the digital age.

The IPO has engaged widely with stakeholders, through the Issues Paper that was published in December 2008 and through a series of independently-facilitated workshops for professional copyright stakeholders and also for the "hard to reach" groups, such as members of the public, and in particular artists and consumers.

Work will continue on the strategy throughout the Summer. What is clear though is that changes are needed. Those changes may not necessarily be legislative changes but both within the UK, across Europe and globally there are key improvements that need to be made. Rights clearance and the visibility of rights is a major issue. We must find better ways of navigating the system. We want creators and creative businesses to be paid but we also want to maximise access works. Too often the existing systems seem to be breaking down. This impacts on businesses, who cannot get access to works. It impacts on consumers and wider society as it reduces the pool of content that they can legitimately draw from. It also impacts creativity as untapped opportunities mean less recognition and less reward.

Rights clearance is not the only issue though. The relationship between creators and creative business needs to be a balanced one – there may be steps we need to take here. Equally the societal importance of public policy exceptions must be recognised by the system.

Over the coming months we will be working with stakeholders and across Government as we develop the strategy, exploring how we can make the system work better for those who interact with it. This work will be concluded later in 2009.

ORPHAN WORKS

39. Orphan works are works that remain in copyright where, even after a diligent search, the owner cannot be identified or found. Anyone who uses orphan works on a commercial scale currently risks not only civil but also criminal liability.
40. It is frequently assumed that orphan works consist of largely forgotten books in the stacks of public libraries and second-hand bookshops. The British Library for example estimates that some 40% of their archive count as orphan works. This represents an enormous cultural heritage to which the public cannot get access. Mass digitisation projects, which could put forgotten works back digitally onto the cultural map, are thwarted because of the orphan works problem.



41. But orphan works are not limited to ancient books. The BBC estimates that around 1 million hours of programmes sits in its archives, where the complexity associated with identifying, checking and clearing rights will require imaginative new solutions in order to be addressed. Photographers are concerned that photographs posted on websites frequently lack identifying metadata, and hence the evidence of ownership is lost. Orphan works are being created in growing numbers. Not only are creators losing a source of income, but important cultural assets remain under lock and key because of the legal difficulties associated with using these works.
42. The digital age has ushered in new marketing opportunities for creators and rights holders, and with that the possibility to carve out ever more sophisticated rights and sub-rights over creative works. So rights have grown in both diversity and volume. If the copyright system is not to inhibit the move towards a fully Digital Britain, it is right that the framework should keep pace in order to reflect these developments.
43. Following work done by the European Commission (The EU's High Level Expert Group on Digital Libraries), much work has been done on proposals for "voluntary" schemes, based on the grant by collecting societies of licences for commercial and non-commercial use. Voluntary in this context means operating within the current legislative structure and without specific Government endorsement or approval. But the operators of schemes cannot avoid criminal liability, and the Government cannot absolve them from such liability, without change in UK legislation. **In order to pave the way for a more effective framework to deal with orphan works, the Government proposes to introduce legislation to enable commercial schemes for dealing with orphan works to be set up on a regulated basis.**
44. **As such a scheme would enable the operators of orphan works schemes to grant rights without the consent of the rights holder, appropriate safeguards will need to be put in place. The form of the new legislative provisions will be outlined fully as work progresses on how such schemes might be administered. However, the expectation is that anybody wishing to use orphan works will be expected to secure an appropriate permission from the Government first, and permission will only be granted where the proposed operator can satisfy the Government that the business methods and procedures involved satisfy key minimum requirements, including making appropriate searches for the true owners and making provision for the reimbursement of rights holders who are subsequently found and claim for the use of their work.**
45. This work will also explore the extent to which powers to grant rights over certain works could be exercised by collecting societies or equivalent bodies through an extended collective licensing arrangement as operates in the Nordic countries. This would permit collecting societies or equivalent bodies, subject to appropriate safeguards, to assume a mandate to collect fees on behalf of rights holders who have not specifically signed up to that society.



46. These provisions, which have operated in Nordic countries for many years, would help streamline the problem of rights clearance. If a rights holder wishes to opt out of an extended collective licensing system, then they will have that option – thus maintaining control over their exclusive right. It will extend the ability of consumers to enjoy cultural works and it will collect royalties for the benefit of creators. That is good for creators and simpler for consumers and businesses.
47. The Government intends that any new powers for collecting societies should be balanced with appropriate responsibilities. This will require institution of the necessary provisions to ensure that the balance between consumer and rights holder interests are maintained. These provisions should include adherence to agreed Codes of Practice, including greater transparency and improved complaints handling procedures to give aggrieved users, whether members of the societies, consumers or businesses more effective redress short of having to go to the Copyright Tribunal.

MATCHED PENALTIES FOR ONLINE AND PHYSICAL COPYRIGHT INFRINGEMENT

48. The Interim Digital Britain Report clearly identified the need for an enforcement framework which is the product of the digital age; it needs to recognise the rapid growth in digital accessibility and outlets and the parallel growth in online IP crime. At the same time, the current criminal legislation presents an anomaly in failing to recognise the growth in online Intellectual Property (IP) offences.
49. Recommendation 36 of the Gowers Review called for the matching of penalties for both online and physical copyright infringement by amending section 107 of the Copyright, Designs and Patents Act 1988 (CDPA), backed up by custodial sentences.
50. In line with an agreement between Ministers in both DIUS and MoJ and a commitment in Creative Britain (2008), the Intellectual Property Office in August 2008 launched a consultation document: "Taking forward the Gowers Review of Intellectual Property: Penalties for Copyright Infringement". The consultation invited responses based on three main options to introducing exceptional summary maxima (above £5,000) in the Magistrates Courts for IP offences.
51. The consultation ended on the 31 October 2008. Many responses endorsed the option to introduce exceptional statutory maxima of £50,000 for all IP offences and as a result of this support it is intended that this option will be adopted. The need for securing implementation on matched penalties has also been emphasized during a recent Lords debate on digital piracy.
52. **The Government therefore intends to address this issue in line with the other legislative changes detailed in this report.**



A ROLE FOR RIGHTS-BASED FUNDING MECHANISMS?

53. The Interim Digital Britain Report noted the impact of the changing economics of the digital market on the funding of content. Ofcom estimates that total spending on UK originated content was £314m lower in 2008 than in 2004. The Government invited views on possible alternative funding mechanisms for content in the digital age. Three credible possible approaches have been put forward by industry:
- Retransmission: removal of section 73 of the Copyright, Designs and Patents Act (CDPA);
 - Reuse: charge consumers for the right to copy using recording equipment; and
 - Micropayments: pay-per-view charges for on demand audio-visual content, which we cover later in this Chapter.

RETRANSMISSION (SECTION 73)

54. Section 73 exempts cable broadcasters from paying a copyright fee for the retransmission of certain wireless broadcasts within a limited geographical area, provided that they are:
- Received wirelessly and immediately retransmitted by cable; and
 - Retransmitted in the area for reception of the original broadcast.
55. It was created to encourage infrastructure firms to lay cable networks and to allow diffusion services to operate, ensuring access to Public Service channels for as much of the population as possible, with households in remote areas not obliged to pay more than those in urban areas.
56. Section 73 provides that neither the copyright in the wireless broadcast nor any underlying copyright is breached for the retransmission of specified wireless broadcasts by cable operators.
57. Section 73 only relates to cable operators, and does not provide any retransmission exemption for satellite or other platform operators. BSkyB, for example, has a commercial agreement with the wireless channels listed under section 73 to retransmit their live broadcasts over its satellite platform.
58. Some industry participants believe that Section 73 should be removed with a 'must offer' provision enacted to ensure continued provision of public service content over cable networks. The 'must offer' would enable broadcasters to agree terms with cable operators through a commercial negotiation, within reasonable bounds, and generate incremental revenue that could be reinvested into content creation. Oliver & Ohlbaum estimate that the UK could generate c.£83m pa by 2012 and c.£90m pa by 2015 through retransmission fees.



59. Satellite operators provide a useful case study as there is no Section 73 provision. A fee is paid to the broadcaster for retransmission of copyright material, and in return the broadcaster must pay a carriage fee to the satellite operator. This is arranged through a commercial negotiation between the operator and broadcaster. It is understood that the current arrangements for BSkyB in the UK transfers no value between the operator and broadcaster, either because the retransmission fee equals the carriage fee, or because the fees have been negotiated to zero. It is likely that a similar situation may result for UK cable operators, generating no additional revenues for the UK television industry.
60. Section 73 only applies to cable operators, so its removal offers limited potential for incremental revenues given that there is currently only one national cable operator in the UK (i.e. Virgin Media). There are further challenges relating to the BBC's ability to accept commercial funding and advertiser-funded broadcasters charging to broadcast their adverts on a subsequent platform.
61. The Government therefore remains unconvinced that the removal of section 73 will generate the necessary future revenues to fund content creation in the UK, without unacceptably adverse consequences.

REUSE – THE RIGHT TO RECORD

62. Recording equipment (e.g. PVRs, DVD Recorders) enables consumers to record copyright material that can be viewed at the leisure of the consumer over an indefinite period of time. The market for recording equipment is growing, and forecasts suggest that consumers are increasingly turning to time-shifted and non-linear viewing.
63. Industry participants argue that consumers should pay for a 'right to copy', reimbursing the copyright holder for the privilege of (a) retaining a recording of the material, and (b) being able to watch the material outside of the linear broadcast window.
64. The UK music industry already has a well established licensing regime for audio copyright material, and it is argued that this should be replicated for visual content.
65. A system of reuse charges already exists in Europe, generating €568m in 2004 across the 22 EU states that employ it. Most of this income is recycled back to the copyright holder, with a proportion retained for national cultural initiatives. Oliver & Ohlbaum estimate that a similar system in the UK could generate c.£176m pa by 2012, and c.£206m pa by 2015 in reuse charges.
66. In the UK, however, broadcasters already benefit from substantial public intervention of a kind not available in a range of other EU States e.g. the TV Licence fee, direct Government grants and regulatory assets (e.g. spectrum allocation, EPG position). While the Government recognises that a reuse system has the potential to generate significant incremental revenues for UK content,



it is not persuaded that in the current economic climate it would be right to add to the retail cost of recording devices. **Government will keep this issue under review and will invite Ofcom to assess the cost/benefit and framework required for the introduction of 're-use' fees for private copying and format shifting.**

Interactive content: converting creativity into value

INNOVATION IN CONTENT CREATION AND MONETISATION

67. The yield on high-priced inventory based on geographic or demographic monopoly access is being rapidly diminished by structural as well as cyclical changes. The ability to create new monetisation models is critical. It is also necessary to find new payment methods suitable to an era of multiple small on-demand purchases rather than single, larger purchases of the physical version of the audio-visual product.
68. Content providers are experimenting with a wide range of business models, from embedded and behavioural/targeted advertising, pay-per-use (though there are few successful examples of models that do not include an element of platform aggregation, such as Apple iTunes or the iPhone App Store) others are experimenting with "freemium" models, whereby content is initially offered for free and supplemented with a tiered pricing structure for premium use. This allows the content provider to take the best of both worlds by attracting mass audiences at one end, while at the other end retaining dedicated users who would be willing to pay for additional features.

New Business Models

Spotify

Spotify is an innovative digital music service that provides free and legal access to a vast library of albums and artists from across the world, while allowing music to be shared with friends via email or instant messenger.

The service is primarily funded through advertising embedded into the music stream, but also offers a premium paid-for 'day pass' and monthly subscription. By April 2009 Spotify had reached 1 million UK users.



Habbo (Sulake)

Habbo is one of the world's leading virtual worlds for teenagers. It allows users to create their own activities, interiors and games by collecting and trading virtual items, such as furniture, which provide 'status' to users.

Entry to Habbo World is free and users purchase virtual items using real money through a number of different payment methods, including Premium SMS, credit cards and single or multi-purpose prepaid cards. Premium SMS has proved the most popular due to the age group of users, but Sulake are now looking to move towards a differentiated micropayment service.

The site is further supported by advertising, including sponsored events and branded virtual items, providing an innovative and effective way for advertisers to engage with teenagers.

Habbo boasts 132 million registered users worldwide, of which 16 million are based in the UK, and this has helped to drive revenue growth of over 20% per annum since 2005.

Guardian Open Platform

Open Platform is a suite of services that allow partners to build new and innovative content and applications that piggy-back on core content and data from the Guardian's archive. Launched in March 2009, the platform had granted over 300 API licences within 6 weeks with 45 sites and services now live in the public domain. The service will remain in beta while the infrastructure costs and revenue models are finalised.

The service is offered for free, allowing developers to trial small-scale applications and experiment with no charge or commitment. The Guardian envisages that usage will remain free for most users, as they will likely extend the Guardian's reach into markets where its content is not currently available or in demand.

For users who drive substantial amounts of traffic, or who can demonstrate the creation of new revenues as a result of using Guardian content and data, it is envisaged that a shared advertising model will be deployed. As the Guardian has the scale to supplement small publishers, and already has the advertising platform, a shared revenue stream should benefit the user more than their own ad network, while providing revenue to Guardian New Media to offset the infrastructure costs.

Finally, for conventional publishers who wish to use Guardian content to supplement their existing products, the current models of paid syndication will remain.



The British Library

Containing 750,000 million pages, the British Library’s newspaper collection is held in hard copy and/or microform for preservation purposes. To provide greater access to and preservation of this precious part of our collective history the British Library aims to undertake mass scale digitisation. For example, in one partnership with the Joint Information Systems Committee (JISC) and a commercial partner, over two million out of copyright newspaper pages have been digitised and made fully searchable online. Content is drawn from some 49 19th century titles. Available via the 19th century newspaper service <http://newspapers.bl.uk/blcs/>

The service is available free of charge to Higher Education and Further Education institutions. There is also a separate paid for service for individuals, and a commercial, subscription-based service for non-UK markets. The service is available free of charge in the Reading Rooms at the British Library’s own sites. This mix of ‘free and fee’ access models allows both the Library to receive royalties which can be ploughed back into Library activities, including future digitisation. This service has already transformed online access to newspapers, and the chosen hybrid business model demonstrates the benefits of a public/ private partnership for large-scale digitisation.

69. The Government is today publishing a research report which it commissioned from Analysys Mason to help inform what, if any, industrial activism by Government would be appropriate in the nascent interactive media sector.
70. Given the rapid growth of the market, its fluidity (to the point where very few operators, have clear monetisation strategies), the central thrust of the research is that the emphasis should be on giving businesses the necessary freedom to innovate and continue exploring new opportunities.

Analysys Mason

Analysys Mason was commissioned by DCMS to assess the drivers of and barriers to creative ambition in Digital Media in the UK. Through an extensive programme of interviews with industry players and stakeholders, Analysys Mason articulated the following findings:

1. Despite a cyclical downturn observable at the moment, innovation funding does not appear to be a structural issue, besides areas of public-service provision already identified by Ofcom in the recent PSB review. This assumes that the current level of funding already provided through the PSBs, public sector procurement and the finance community is sustained.



2. While current revenues available online are limited, market players are continuing to pursue new monetisation options, and some interviewees believe there exist significant opportunities in this respect.
3. There is potential for changes in the rights regime to enhance the exploitation of traditional content in the online world.
4. The development of common standards for delivery of online content has the potential to deliver significant benefits to content producers.
5. Given its scale in the online market, public sector investment in online content (including multimedia and interactive websites) may provide a significant stimulus to the market.
6. The Government can act to lower regulatory barriers to a more dynamic online content sector, but intervention must be considered carefully to limit market distortions.

Most respondents expressed strong views that the Government should not impose additional regulatory burden unless absolutely necessary, and should not in any case substitute itself to the market and try and "pick winners".

The market for New Media in the UK is still in its infancy. As such, it is difficult to ensure that issues identified are truly non-transitory market failures. As the market matures, however, Government should remain vigilant to ensure the best possible outcome for the sector and the economy as a whole.

The Government does have a role to play, however, in ensuring that dialogue between different players in the value chain is well-informed and constructive, and that the environment in which UK companies evolve is as favourable to innovation as possible, particularly where such innovation can generate international revenues for UK firms.

71. The Analysys Mason Report did not see the case for the sort of large scale intervention that a small number of other governments have embarked on. It has, however, identified a limited number of issues where focused and targeted steps by Government could help this nascent market to develop further. This includes targeted support for innovation.

DIGITAL TEST BEDS TO TRIAL NEW PRODUCTS AND BUSINESS MODELS

72. Across the UK individual and corporate innovators are undertaking research, trials and market experiments with their own money to establish what might work in the new digital age. All business models will, for obvious reasons, be based around where an individual or firm can gain advantage. But that leaves a wide range of cross-sectoral issues that require cooperation or where no one party has an interest in driving to a solution. In these circumstances Government may have a role in bringing the parties together in a 'safe harbour'



for pre-competitive innovation or in addressing wider social barriers to take-up that would otherwise act to frustrate the market.

73. **These models are the Digital Test Beds for Digital Britain.**
74. The research by Analysys Mason has highlighted the difficulties in trialling new business models involving the use of IP: *“Rights holders find it hard to understand what business models will enable them to protect and monetise their rights online, and they are concerned that making rights available for use in unproven models may lead to piracy and generally a loss in the value of their rights.”*
75. NESTA, has already undertaken some useful work on in this area, and together with a cross-sector range of partners, will launch later this year through its Connect Programme a new £1.5m trial of innovative digital projects which have participation and user-centred business models at their heart. A major research and networking effort will ensure that the lessons from experimentation are disseminated widely across the UK.

NESTA’s Connect Programme

NESTA’s Connect Programme is leading a new experimental initiative to test the potential of collaborative and user-centred business models made possible by digital technology. The Programme will be open to partners from all sectors and will manage a portfolio of experimental activities such as:

1. Rapid prototyping for social change: Social Innovation Camp is a process which creates prototypes of socially-oriented web services over the course of a dynamic weekend. The Programme will partner with Social Innovation Camp to develop a new longer-term process which takes high-potential ideas to investment-readiness.
2. Digital innovation in finance: This initiative will identify and support new opportunities for how digital tools can radically change the nature of financial services, as UK-based businesses such as Zopa are beginning to demonstrate.
3. Showcasing and thought-leadership: the Programme will showcase and celebrate the best ideas and projects based on collaboration and participation. This will be supported by practically-oriented research that addresses how our most pressing social and commercial challenges can be tackled using participatory and grassroots approaches.

Source: NESTA

76. As recommended by NESTA in their submission to Digital Britain, a number of Next Generation Digital Test Beds will be established across the UK providing a forum to develop and trial end-to-end online propositions, to understand how users respond to these new or alternative offerings, and to



- investigate the working relationships that will be most successful, profitable and robust in the future.
77. These would comprise trial zones providing low cost, low risk opportunities for industry to experiment with new ideas in real world environments, and collect data to probe the performance of these ideas. On an individual basis, participating companies would be able to trial and optimise their own products and business models pre-launch or while under development. Collectively, the Test Beds would bring together participating companies from across the value chain (including network owners, operators and content providers) to learn from each other, share experiences and collaborate on cross-industry initiatives. The Test Beds will involve thousands of real Internet users, forming a balanced and representative population encompassing personal and business environments.
 78. **The Technology Strategy Board will lead and co-ordinate the necessary investment for Next Generation Digital Test Beds and has allocated an initial budget of up to £10m for this purpose.**
 79. Four initial areas have been identified, where industry partners are willing to take the action forward. All are in the cross-cutting and pre-competitive stage of innovation. They are:
 - New monetisation methods for online content, such as on demand video and music, through micropayments as discussed below, embedded or personalised advertising or other means.
 - Alternative business models to encourage the sharing and exploitation of intellectual property to reduce incentives for piracy and other illegal use by maximising the opportunities to monetise these popular methods of acquiring content.
 - New models of identity management, security and privacy and new ways to design security and resilience into systems from the start, to help reinforce consumer confidence and trust in their privacy and security and hence their readiness to engage willingly with the new business models, applications and services.
 - Context and content-aware network operation where knowledge of the nature and ownership of data traffic enables its intelligent management, to improve quality of services and to enable monetisation, protection and security models as above.
 80. These Test Beds will not necessarily be restricted to wireline Internet access, but may extend to include service delivery through televisions and set-top boxes, mobile devices and phones, and could also be used to trial automated systems such as smart meters and buildings monitoring.
 81. The Test Beds will operate at multiple sites across the UK with different characteristics, reflecting the real-world situation. They will include fibre-connected home users, as well as wireless, satellite and ADSL-connected groups.



This will allow behaviour over different access networks to be compared side by side. To represent the future mix of access types, the Test Beds will particularly need participation of people within the current next generation broadband areas set up by regional agencies and by commercial infrastructure owners. In addition, the trial scope will take into account participating users' mobile access to services and content.

82. The Test Beds will record consumer, network and revenue stream data from controlled experiments, such as introducing new services, changing network operating characteristics, or altering the way providers are rewarded for their services. Many thousands of users will be needed to form a representative population. Analysis of this data will provide direct feedback to the participating businesses on the relative success of different approaches; by subsequently disseminating this understanding across the industry, other players in the UK marketplace will be guided in their own development efforts.
83. Industrial partners will be recruited for the construction and operation of the networks. The Digital Communications Knowledge Transfer Network (KTN) and ICT KTN will assist the Technology Strategy Board in assembling the necessary consortia, including infrastructure owners and operators and service platform providers, and the Creative Industries KTN will have an important role in engaging content creators and owners. Initial indications are that there is considerable enthusiasm from business to participate.
84. Among the first such partnerships could be the project to explore how micropayment mechanisms could evolve for video on demand content. The success of Virgin Media's on demand service demonstrates that there is a clear and substantial market for VOD delivered to the television. Virgin's television subscribers account for approximately a quarter of monthly views on the BBC's iPlayer, with 52% of Virgin households using the service. Channel 4's experience has shown that consumers regard catch-up and on demand viewing via the television as significantly more appealing than via the PC, with 4oD TV achieving 5 million monthly viewers compared to the 2 million of 4oD Catch-Up.
85. Catch-up services have traditionally been positioned as 'add-ons' to linear television, provided free to the viewer and only available after the primary broadcast. Yet as the service evolves, offering improved convenience, quality, a wider library of content and the potential for interactivity, on demand viewing may be elevated to a superior service from which broadcasters could earn a return.
86. However, the experience of Channel 4's video on demand service, 4oD has shown it is difficult to establish a pay-per-view model for on demand content. When it was launched in 2006, 4oD charged consumers 99p per show to view or rent. Combined with a time-consuming billing process, the service achieved less than 1000 views per day.
87. FremantleMedia proposed in their submission to Digital Britain a micropayments system for on demand viewing whereby viewers are charged as



low as 5-10p per programme. This equates to the equivalent revenue generated per viewer hour from advertising on the primary channel, and sets a price level capable of competing with free. Indicative research conducted by FremantleMedia on consumers' willingness to pay suggests a high level of acceptance of a pay-per-view model, particularly in the range of 20p and below.

88. Setting prices at such a low level poses challenges for the billing mechanism. It is also unlikely that for such small sums of money, consumers would willingly establish billing relationships with multiple suppliers. The challenge would be to establish a single billing agency, capable of providing an open and transparent service to all rights holders that is independent of industry participants and that would develop low-cost billing relationships with UK consumers for on demand content. The agency would be designed to support a wide range of pricing strategies controlled by the rights holder, and offer the simplest possible user experience through 'single-click' payment.
89. The Technology Strategy Board will work with industry partners to assess the feasibility of such a system.

EXTENDING EXISTING INTERVENTIONS TO INTERACTIVE CONTENT

90. In Animation, Computer Generated Imaging (CGI), electronic games and other interactive digital media applications, the UK has over the last 15 plus years more than punched its weight in global markets, whether in terms of awards and recognition or its creative excellence and in jobs and wealth from its business innovation. Businesses that employed two or three people at the beginning of the last decade are now multi-million businesses employing hundreds of very high-skilled digital creatives. They combine skills and disciplines in a way that few have before: the CGI for the anti-hero in the most recent *Batman* film came out of London and from designers who combine the talents and skills of artist, mathematician and computer programmer. Hollywood may still lead the world in movies, but much of the 'soft infrastructure' comes out of British creative digital talent.
91. The challenges and opportunities for this important sector of creative Digital Britain are well exemplified by the changing fortunes of the UK electronic games industry. The global games market is rapidly expanding, with a compound annual growth rate of 10.3% and projected worldwide sales of \$68.4bn by 2012.²⁰ The UK video games industry is currently highly placed in the global games marketplace:
 - UK is the world's third largest games producer by revenue behind only the US and Japan;²¹
 - In 2008 UK-developed games software generated more than £2bn in global sales;²²

20 PWC: Global Entertainment and Media Outlook 2008-2012

21 Games Investor Consulting

22 Games Investor Consulting



- The turnover of the UK games market (games consoles, software and accessories) is on an upward trend, increasing significantly from £2.18bn in 2006, then £3.356bn in 2007 to £4.034bn in 2008;²³
- There are currently 10,000 games developers, predominantly graduates, working in the UK and according to industry figures they each generated £124,000 in global sales in 2007 (compared to £49,000 for each worker in the UK film industry);²⁴
- The UK games development sector has a worldwide reputation for creative and highly skilled workers, producing global successes with the production of original content such as Grand Theft Auto, Tomb Raider, Lemmings, Lego Star Wars and LittleBigPlanet.

92. This position of strength is being challenged in three key ways.
93. Firstly, while the UK offers many benefits to investors, it is competing for investment against lower-cost countries. Some established UK companies have located investment overseas, in countries such as South Korea and China, to exploit these lower costs. Some locations, including provinces in Canada, also offer sector-specific support for video games developers.
94. UK games development is predicted to drop gradually down the world rankings. In 2009, on our current trajectory, the UK is expected to fall to 5th behind Canada and, for the first time, South Korea. China will climb fast up the global rankings to appear in 6th place in 2009 and 4th by 2010.²⁵ While our major competitors' territories will grow, analysts claim the 8% growth rate in the UK's development employment since 2006 will not be maintained.
95. Secondly, there is a shortage of skills. Instability and lack of adequate skills provision threatens to undermine the growth of the UK games industry, damaging the UK's position in this growing sector. UK studios are expressing concerns about the loss of experienced staff, targeted to move to companies in the US and Canada. Companies are also actively avoiding recruiting from many of the UK's Higher Education games courses, most of which they regard as inadequate, preferring maths and science graduates, exacerbating the shortage.
96. Thirdly, there are few indigenous UK IP owners. Although the UK games development community is recognized for its ability to create original IP, most independent studios do not have access to adequate support in order to maintain ownership of this content, and have to relinquish often 100% of the IP rights to (mainly) non-UK publishers, in return for initial investment.
97. These risks are offset to an extent by new business models and opportunities emerging for developers.
98. It's no longer just about high-end, boxed games. New routes to market are offered on the back of the growth of online delivery – such as PC and console

23 ChartTrack/ELSPA

24 Games Investor Consulting

25 Games Investor Consulting



- down-loadables – as well as new platforms like the iPhone. There have been over a billion content downloads on the iPhone since launch and games are the most popular category. In the top 100 iPhone applications, 60% are games.
99. We need to ensure that UK-based games businesses are well placed to develop for the new markets and delivery channels and able to effectively monetise these opportunities.
 100. **Digital Britain recommends three actions to address the challenges identified above to this important interactive digital sector.**
 101. In film a system of cultural tax credits has long helped to sustain a wide range of films that speak to a British narrative, rather than the cultural perspectives of Hollywood or multinational collaborations. Other countries such as Canada, for similar reasons, extend the model of cultural tax relief beyond the film industry to the interactive and online worlds. CGI, electronic games and simulation also have a significant role in Britain's digital content ecology and in our international competitiveness. Each of these has the same capability as the more traditional sectors, such as film, to engage us and reflect our cultural particularism. They may in future have a cultural relevance to rival that of film. **The Government has therefore committed to work with the industry to collect and review the evidence for a tax relief to promote the sustainable production for online or physical sale of culturally British video games.** This work will balance any potential support with the need for fair competition and ensure value for money for taxpayers.
 102. Our objectives are to:
 - Support the creation and retention of new IP and technology in the UK and the emergence and growth of new companies;
 - Maintain a critical mass of UK creative and technical expertise to facilitate the production of culturally British video games;
 - Encourage the production of culturally significant video games that may otherwise not be made in the UK.
 103. The Government has committed to work with the industry to collect and review the evidence balancing any potential support with the need for fair competition and ensuring value for money for taxpayers.
 104. **Secondly, in relation to skills, the measures set out in Chapter 6 on skills for Digital Britain are clear recognition by the Government of the importance of this issue. The forthcoming Higher Education Framework and its shift in incentives from purely demand-led emphasis in courses towards meeting recognised skill gaps; developing and promoting Graduate and post-Graduate courses that combine 'hard' excellence in Science, Technology and Mathematical skills with the 'softer' excellence in business and creative skills mark a sea change in the Government's approach to the Skills for Digital Britain.**



105. **Thirdly, and linked to this, we will examine the options arising from a feasibility study into a new Usability Centre for Video Games.**
106. The feasibility study, commissioned by the North West Regional Development Agency together with industry partners, conducted preliminary research into the industry appetite for a video games centre of excellence in the UK. The Report proposes a model of support which combines usability testing, applied research, internship training and public interface components in a single facility to be based in the MediaCity complex in Salford. Locating the Centre within MediaCity would exploit the benefits of co-location with the BBC, particularly in relation to their Children’s and Sports Department, Interactive Education and Literacy Department and key parts of the Corporation’s R&D operations, all of which will be based there. The Centre would be a national resource with companies from any part of the UK able to use the available facilities.
107. The primary aim of such a Centre is to address issues around skills development offering graduates the work related training necessary to enable them to secure their first job in the industry and helping to bridge the current gap. The opportunities offered would build on existing training and skills work such as that established by the University of Abertay, Dundee, who have demonstrated how to successfully equip graduates for work in the industry.
108. We will work with industry and expedite the collection of further evidence in order to ensure the scope of the proposal meets the industries’ needs. We will also consider whether or not there is a case for providing funding from the Strategic Industry Fund following the development of a business plan.

Virtual worlds

Virtual worlds are online simulated persistent environments where users are able to interact with each other in real time using 2-D or 3-D graphical representations of themselves (ie avatars). There are many types of virtual worlds already – for entertainment, for social interaction, for work collaboration, for education.

The potential reach and scale of virtual worlds is exciting. For example, Habbo, the virtual world for 8-14 year olds has had 130 million registered users and receives 2.7 billion visits per month from young people across Europe, Asia and the Americas.

Virtual worlds may offer business benefits and opportunities in relation to enhanced interaction with customers, efficiencies, environmental gains, international collaboration and knowledge transfer.



In public policy terms virtual worlds offer interesting scope – for example for citizen engagement and for education – but also significant challenges given that they operate across national boundaries.

Both those that develop virtual worlds and those that use them may have to deal with legal uncertainties when local laws and customs – for example on commerce, taxation, data privacy, child protection – vary. Governments need to ensure that any regulatory responses are appropriate for these emerging technologies that are by their very nature trans-boundary. Governments also need to ensure that these virtual worlds do not become a low-risk haven for crimes such as money-laundering.

The UK has taken a leading role in initiating international discussion on the public policy implications of virtual worlds, for example with a highly successful workshop for OECD member countries – on Innovation and Governance in Virtual Worlds – staged jointly with the OECD’s Committee for Information, Computer and Communications Policy in March 2009. As a result the OECD member countries have now proposed that OECD should commence a major study on virtual worlds. BIS has been asked to draft the Terms of Reference for this work and present these at the OECD Working Party on the Information Economy meeting in June.

DIGITAL BRITAIN: FILM, CINEMA AND LITERATURE

109. The public policy objectives in film remain the same in the digital world as in the analogue: widening the audience for cultural film and enhancing the sustainability of culturally-specific British films. But the emergence of digital technology in recent years has provided a vital opportunity to create a dramatic change in the cinematic experience, through greater access to an even wider range of films and other cultural experiences such as opera and music concerts. Crucially, it allows the deployment of new and developing technologies such as the re-emergence of 3D film.
110. Uniquely amongst audiovisual media, film has a dedicated social and communal space in which to be exhibited – the cinema. It has occupied a vital part of the cultural lives of the people of this country for over a century, and in recent years cinema attendance has been growing steadily, along with the range of films that people have been watching.
111. However, the technology used in the cinema has hardly changed in the last hundred years. The majority of cinema screens still operate 35mm celluloid film projection equipment, which is only designed to show one particular format and must be physically transported to and from locations as needed. This restricts access to content and so limits the democracy of distribution; only those producing 35mm output can screen their content via the cinema.



112. The cost to cinema chains – large and small – and independent exhibitors of this “digital switchover” have for a long time been prohibitive. Whilst exploitation of the digital model would and does offer significant savings, such as the cost per copy of a film, each digital projector can cost up to £80,000.
113. Schemes have been developed to promote the take up of the technology. The UK Film Council’s £12m Digital Screen Network equipped around 240 screens (approximately 8% of all screens) in over 210 cinemas with state of the art digital projection equipment. The larger cinema chains are already beginning to implement their own digital conversions, and so the UK’s position at the forefront of European digital cinema looks set to continue.
114. We also note the importance of the BFI National Archive in ensuring the richness of the film and television collections in the UK. Following the last Comprehensive Spending Review, £25 million was awarded in support of a Strategy for UK Screen Heritage, to realise the huge potential of both the BFI’s own and the numerous other regional collections. The BFI have now established a programme office to deliver that strategy to ensure that the public are able to access, learn about and enjoy their rich screen heritage wherever they live and wherever the material are held. The Government is greatly encouraged by the progress of this venture.

LITERATURE

115. PLR is a small public body that oversees the Public Lending Right which makes compensatory payments to EU authors (including writers, translators, editors and illustrators) for the free loan of their books through UK public libraries. It’s a popular scheme and an interesting relationship between public and private sectors, linking public libraries and rights holders.
116. The key issue is the scope of their primary legislation (1979), which talks only of “books” and excludes by omission other formats of publication such as audio books and e-books, which are becoming increasingly relevant to public libraries. The Government have received formal proposals from the APPG on Writers to make such changes to the PLR Act. The Government is sympathetic to these representations and will consider an early legislative opportunity to make this modest but useful intervention ‘digital-ready’.
117. Much as the digitisation of the music and audio-visual industries led to radical change in those industries, so the introduction of e-books as a mass-market consumer offer is likely to have a significant impact on the publishing industry. Such devices are beginning to be available in the UK and e-books are available to download to other handheld devices such as the iPhone and the Nintendo DS. Following the lead of sites such as Amazon, Borders, the bookseller, has recently launched a new section of their website making over 45,000 e-books available in the UK.



118. The arrival of e-books provides further choice for consumers. Over time, the technology will of course develop and more and more services, such as newspaper downloading to e-readers, will become the norm. It is important that industry sensibly manages that development, learning from the many experiences of other industries, in particular the question of open versus proprietary standards, the effective use of Digital Rights Management technologies for industry and consumer and the appropriate pricing of digital products to reflect consumer expectations.
119. The example of e-books highlights one aspect of a much broader issue: that of inter-operability. In networks and in devices, consumers will increasingly come to demand seamlessness, in which the content they seek is available and consumable over whatever platform and device they wish to use. This is the promise of convergence. While many business models have been built on exclusive access to services and content, a gradual breaking down of technical standards barriers through inter-operability will ensure that short term customer gain does not freeze out the long term development of a converged market.



CASE STUDY

Retirees: Lee Masefield

Richard and Lee Masefield, retired farm-owners in Sussex, both have mobile phones. But they are rarely switched on. Most of the time, the handsets are kept in the car for emergencies.

"I hate to see people on phones all the time, especially texting. It stops people actually talking to each other," says Lee, who moved to the UK more than 40 years ago after growing up on a farm in Australia.

While mobile phone use is frowned upon in their farmhouse, the grandparents – whose three children have all left home – have begun using the Internet and emails to keep track of their family. Lee also admits to the "occasional bits of online shopping, but we're not madly keen on it".

She also does not like personal music players or video games, describing them as a waste of time. "People should just get out and play sport."

When they do use the Internet, it's mainly to check the weather or to research a book Richard is writing. Yet digital technology has not been ignored altogether. Lee says the retired couple have signed up to Skype, the Internet telephony service.

