

Taking forward the Gowers Review of Intellectual Property: proposed changes to copyright exceptions

Response of the Open Rights Group

Detail of Respondents

Prepared by: Becky Hogge, Michael Holloway, Fernando Barrio, Wendy Grossman, Owen Blacker, Jordan Hatcher

Responding on behalf of: The Open Rights Group

Address: Open Rights Group
7th Floor
100 Grays Inn Road
London WC1X 8TY
United Kingdom

Telephone: +44 (0)20 7096 1079

Email: info@openrightsgroup.org

Website: <http://www.openrightsgroup.org>

Introduction

The Open Rights Group exists to defend the interests of citizens and consumers in the digital age. We submitted a detailed response to the Gowers Review of Intellectual Property in 2006, and have since vocally supported many of that Review's recommendations, most notably those around balance and flexibility. We agree with Ian Fletcher, Chief Executive of the UK Intellectual Property Office (UK IPO), that the Gowers Review of Intellectual Property represents a significant step forward in policy making around intellectual property.¹

In discussions about copyright reform, the interests of citizens and consumers are often poorly represented. This is understandable — rightsholder groups have a clearly identifiable stake in copyright policy and the resources to invest in advocating for that stake; consumers' and citizens' interests in copyright policy are more diverse and diffuse. Even so, it is essential that copyright be framed with the interests of both groups in mind. As Andrew

¹ We refer to Ian Fletcher's recent remarks at the Westminster eForum's seminar on Intellectual Property and the Future of Copyright.

Gowers observed in 2006:

The ideal IP system creates incentives for innovation, without unduly limiting access for consumers and follow-on innovators. It must strike the right balance in a rapidly changing world so that innovators can see further by standing on the shoulders of giants.

Ensuring a healthy tension between rightsholders' desire for increased protection and consumers' and citizens' desire for access will have two beneficial effects. First, it will ensure the legitimacy of copyright law in the minds of consumers — for, as we observe below, the enforcement of the private use of copyrighted works relies as much on a social contract as on anything else. Second, it will ensure that rightsholders innovate in step with technological change. We note that changes to copyright policy in the past decades have broadly been made in favour of rightsholders and suggest that this review presents an opportunity to “health-check” the tension between consumer and rightsholder interests.

For all these reasons, we have chosen to focus our response on the sections of this consultation where we feel consumers' and citizens' interests are likely to be least represented: format shifting and caricature, parody and pastiche. We also include a brief submission on extending the exceptions for research and private study.

We welcome the opportunity to respond to this consultation and commend the work of the UK IPO in producing a consultation document that is both thorough and well-focused.

Format-shifting exception (recommendation 8)

What impact would the introduction of a format shifting exception have? What costs or benefits would accrue to right holders and users of copyright works?

The most prominent and identifiable positive impact of the proposed format shifting exception would be to bring the law into line with common practice. As the UK IPO notes in its partial impact assessment, the evidence available indicates that the vast majority of UK consumers have copied their own privately-owned CDs into digital formats, with a significant proportion having format-shifted their entire CD collection.

Bringing the law into line with practice holds obvious benefits for consumers, but it also delivers benefits to rightsholders. To the extent that private use of copyright material is

difficult to regulate, enforcement of copyright is based on a social contract. That contract relies on copyright law being realistic and easy for consumers to understand.

As the UK IPO notes, there is a distinct lack of evidence that current consumer practice around format shifting has a negative impact on sales of recorded music. This is in contrast to the evidence presented by the recorded music industry about the negative impact on sales of illicit sharing of copyrighted materials across peer-to-peer networks (although we note in passing that this evidence is not uncontested²). We note reports of evidence recently commissioned from the University of Hertfordshire by British Music Rights, which state that “the online problem is potentially dwarfed by ‘offline copying’” and that “[t]wo-thirds of people... surveyed copy five CDs a month from friends”³. Notwithstanding the fact that we can expect the relationship between this activity and music sales to be non-trivial, such activity clearly lies beyond the scope of the proposed exception.

Regulating private consumer use of copyrighted material in line with the evidence will serve to advance and enrich the social contract at the heart of copyright enforcement, increasing opportunities for truly harmful consumer practice to be successfully checked. In this context, we ask that the UK IPO stand firm in its demand for evidence of harm associated with format shifting before conceding to rightsholder demands for compensation with regards to the new format shifting exception. We have seen no convincing evidence of harm to date. Indeed, we believe that format shifting can drive demand.

Consumers have engaged in format shifting since well before the dawn of the digital age. They copied music from vinyl records onto audiocassettes and 8-track tapes so they could listen to it on portable players or in cars. In a related practice, time shifting, viewers recorded TV programmes on videotape to watch broadcasts at more convenient times. Such activity has driven demand for audio and audio-visual works, both by expanding opportunities for people to consume these works and by introducing new channels through which rightsholders can offer purchased works (for example, cassette tapes sold at petrol stations, or local video shops selling or renting non-broadcast materials). We see the future as no

2 Ray Corrigan, Senior Lecturer in Technology at the Open University, observes that:

The studies that are available are often contradictory. So for example Oberholzer and Strumpf (2004) concluded that Napster had little effect on music sales, yet Blackburn (2004) concluded that it had a substantial effect. The only thing we really know is that internet music swapping, the volume of which we can only guess at but again do not know, has a non-trivial relationship with music sales.

Available at <http://b2fxxx.blogspot.com/2008/04/due-to-popular-demand-text-of-mondays.html>

3 Allen, K (7 April 2008) “Home copying — burnt into teenage psyche” *The Guardian*, available at <http://www.guardian.co.uk/technology/2008/apr/07/digitalmusic.drm>

different.

New business models are more likely to succeed if they complement and respond to existing consumer practice. Because of the fragility and built-in obsolescence of many portable media devices, consumers tend to hold “permanent collections” of recorded music — at present either physical collections of CDs or collections of digital music on non-portable storage devices such as media centres — and “disposable collections”, which represent a selection of this permanent collection device-shifted to portable media players for convenience.

As before, this practice presents the recorded music industry with a variety of channels through which to offer its products to consumers — selling straight in to the permanent collection and offering convenient “top-up” services that target the disposable collections of consumers on the move. In this respect we note both the continued positive impact of attractive physical product on the recorded music industry’s bottom line and its current experiments with delivering products through a variety of digital platforms and services.

An exception for format shifting is likely to continue to support this approach. In this respect, we note that the consultation is silent on backup copies. Given the centrality of backup to this model of practice, we believe this is a mistake. We recommend that the UK IPO consider framing the exception in terms of transferring content from one supporting medium to another, rather than in terms of transferring content from one format to another.

It is vital to note one aspect of format shifting to which we see no reference in the UK IPO’s consultation document. Because of the physical laws governing sound and light and the capture of sound and light it is highly unlikely that technologies will emerge in the short, mid, or even long term that will allow consumers to make copies of audio, audio-visual and visual works that are of better quality than the originals. We accept that we are now living in the age of the perfect copy, however the age of the *better* copy appears presently to be beyond the laws of physics

What this means is that when the next revolution in audio fidelity comes along, an exception for format shifting is highly unlikely to prevent a repeat of the spike in sales witnessed in the 1990s when consumers were motivated by the better sound quality offered by CDs to re-purchase some or all of their permanent collections in that format.

Do you agree with the conditions proposed? Would a requirement to dispose of a format

shifted copy if the original was given away or sold or otherwise disposed of, be practical or enforceable? What alternatives can you suggest to address the problem of original copies going back into circulation after copies have been made?

The exception should be understood as a straightforward and unequivocal consumer right with no ambiguous provisions or limitations. As we note above, to the extent that private use of copyright material is difficult to regulate, enforcement of copyright is based on a social contract. That contract relies on copyright law being easy for consumers to understand. We agree that the exception should not cover selling or making copyrighted material publicly available, whether over a peer-to-peer filesharing network or by some other means. We also agree that the exception should not cover third parties or commercial enterprises.

We do not think that an exception for “personal, private use” fully reflects the reality of consumers’ lives, and would prefer to see the exception framed in terms of domestic use, so as to incorporate the realities of format shifting in the context of family-owned computers, media centres, and car stereos. We would prefer to see terminology such as that adopted in the Culture, Media and Sport Select Committee’s 2007 report *New media and the creative industries* which recommends “a new [exception] permitting copying within domestic premises for domestic use (including portable devices such as MP3 players, and vehicles owned or used regularly by the household)”⁴.

A requirement to dispose of a format shifted copy if the original is given away, sold, or otherwise disposed of would be neither practical nor enforceable. This proposal appears to stem from a presumption that every person choosing to listen or watch lawfully purchased content in a different medium is a potential copyright infringer. We see no evidence that this is the case. The problem of original copies going back into circulation after copies have been made is a hypothetical scenario. It can be argued that any restriction to a right should be put into practice only when sound and independent evidence is present, which is not currently the case.

Should further conditions be imposed? If so, what are these?

The exception should be understood as a straightforward and unequivocal consumer right with no ambiguous provisions or limitations. As we note above, to the extent that private use of copyright material is difficult to regulate, enforcement relies on copyright law being realistic

⁴ Select Committee on Culture, Media and Sport (May 2007) *New media and the creative industries*, available at <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmcmums/509/50902.htm>

and easy for consumers to understand. No further conditions should be imposed on consumers.

With respect to rightsholders, we are concerned by statements put forward in the consultation paper with regards to technical protection measures (TPMs). Paragraph 114 of the consultation paper states that “The exception would not affect right holders’ ability to incorporate DRM or technical protection measures into their work”. It seems odd that, after extensive consultation on the exception, not to mention democratic debate in Parliament during the legislative process, the UK IPO would be happy to see this exception overridden by technical fiat.

DRM and technical protection measures already have a poor record for respecting exceptions in copyright law. We share the view of the National Consumer Council, that technical protection measures, including DRM, should only receive anti-circumvention protection⁵ if they meet certain standards. We would hold compatibility with exceptions in copyright law as one such standard.

Should the non-infringing acts differ depending on the class of work concerned? Should the proposed format shifting exception be limited to recorded music and film or should it also apply to other works? If so, which ones? What impact would the introduction of a format shifting exception have on particular sectors of the creative industries?

Non-infringing acts should not differ depending on the class of works concerned. While the Gowers Review’s discussion around recommendation 8 focused mainly on music and to some extent on film, there are compelling reasons for the exception to apply to all kinds of works. This will serve both to future-proof the law in the face of rapid technological advance and media convergence, and to reinforce understanding of the new exception in the minds of consumers, with all the benefits to consumers and rightsholders this brings, as outlined above.

Unless the UK IPO is presented with verifiable, independent evidence of actual harm to the audio-visual and visual media sectors, harm that could be directly associated with this exception, it should opt to apply the exception to all classes of works. It should not limit the exception on the basis of theoretical future harm, or harm associated with uses of copyrighted works not associated with this exception (for example, photo-sharing websites).

⁵ Article 6 of the European Copyright Directive requires Member States to prohibit the circumvention of technical protection measures designed to protect copyrighted works. Sections 296ZA – ZF of the CDPA 1988 were introduced to implement this article.

How many format shifts should be allowed? Should the exception allow additional format shifts to take account of changing technology? Should more than one copy be allowed to address the technological process of transferring content?

As noted above, the exception should be understood as a straightforward and unequivocal consumer right with no ambiguous provisions or limitations. Given the conditions set out above, in particular those conditions which specify that format-shifted copies should be for domestic use, should not be made available to the public, and should not be made by third parties or commercial enterprises on behalf of consumers, limiting the amount of permitted format shifts would serve no positive purpose for either rightsholders or consumers. Such limitations would put the exception in danger of not being future-proof.

Should the exception apply to works:

- 1. published after the date the law changes;*
- 2. purchased after the date the law changes; or*
- 3. copied after the date the law changes?*

What would be the practical implications of the above options? Can you think of any alternatives?

Option 3 — allowing consumers to format-shift works after the date the law changes — appears to us to be the only realistic option. We agree with the UK IPO that any other option would only serve to undermine the exception's stated key goal — to bring the law in line with current practice. In fact the correct option would be to go beyond Option 3 and make all format shifted copies (if done privately or within the household) lawful, whenever they were actually made. This brings the law in line with reality (and all realistic expectations of enforcement action), which can be the only sensible way forward.

Should the corresponding provisions of the CDPA relating to performers' rights be amended?

There is no reason not to amend the corresponding provisions of the CDPA relating to performers' rights. Unless they are amended, the exception will be rendered useless for consumers.

Should the beneficiaries of the exceptions be able to make use of the remedy in the CDPA

where technological protection measures prevent the exercise of permitted acts?

The remedy in the CDPA where technical protection measures prevent the exercise of permitted acts is wholly inadequate. We share the view of the National Consumer Council, that technical protection measures, including DRM, should only receive anti-circumvention protection if they meet certain standards. We would hold compatibility with exceptions in copyright law as one such standard.

Do you agree with our assessments of the three step test?

We support the UK IPO's assessment of the three step test.

Extending the exception for copying for research and private study (recommendation 9)

We recommend that the exception for copying for research and private study be expanded to cover all classes of works. We further recommend that this exception should not be limited to any particular field of study. Unless the UK IPO is presented with verifiable, independent evidence of actual harm to the audiovisual and visual media sectors, harm that could be directly associated with expanding this exception to cover sound recordings and film, harm that outweighs public benefit, it should opt to apply the exception to all classes of works. It should not limit the exception on the basis of theoretical future harm, or harm associated with uses of copyrighted works not associated with this exception (for example, onward transmission of works, or copying for research and private study outside of fair dealing norms).

As to whether different approaches should be taken to this exception for research and private study respectively, in the context of this Government's commitment to "lifelong learning", we believe there should be no difference in approach.

The remedy in the CDPA where technical protection measures prevent the exercise of permitted acts is wholly inadequate. We share the view of the National Consumer Council, that technical protection measures, including DRM, should only receive anti-circumvention protection if they meet certain standards. We would hold compatibility with exceptions in copyright law as one such standard.

With respect to this area of the consultation and to the Amendment of Library Privilege

Exceptions to Extend Permitted Acts for the Purposes of Preservation (recommendations 10A and 10B) we support the five principles set out by the British Library and incorporate them here by reference.⁶

Caricature, parody and pastiche exception (recommendation 12)

What impact would the introduction of an exception for parody have? What costs or benefits would accrue to right holders and users of copyright works?

Parodies are works created to mock or comment on an original work, its subject, or its author, by means of humorous or satirical imitation. Parody is an essential part of a healthy culture and it is a popular means for artists and other creators to communicate criticisms or other messages to the public.

Parody is a cornerstone of UK culture. From Monty Python to *The Office*, irreverent satire of daily life is one of the UK's most recognisable exports, and political parody, from *Spitting Image* and *Drop the Dead Donkey*, to *Bremner, Bird and Fortune* and the pages of *Private Eye* has long both entertained and formed a pillar in political debate. Parody is an often overlooked but crucial element in any democracy, given its ability to deliver political critique in an engaging and popular way. Historical works of parody and pastiche, such as Cervantes's *Don Quixote* and Jane Austen's *Northanger Abbey* have gone on to form part of the literary canon.

As Alistair Beaton, writer of *Spitting Image* and *Not the Nine O'Clock News* recently observed⁷: "In other countries you get locked up as a satirist and in Britain the Minister writes to you asking if he can borrow his puppet." Because of its long history of cultural importance, many in the UK would be surprised to discover that there is currently no exception for parody, caricature, and pastiche in UK copyright law. As the UK IPO rightly observes, if copyright law is to be understood and respected by the general public, it is important that it matches user expectations.

In this sense the introduction of an exception for parody might be expected to have very little impact, as it would simply bring the law into line with practice. However, if no exception for parody is introduced, and as enforcement regimes for copyright offences are inevitably strengthened, there is a risk that the tension between common practice and the law will

⁶ See <http://www.bl.uk/ip/pdf/digitalexceptions.pdf>

⁷ Interview for Radio 4's *Today* programme on 7 April 2008.

heighten. This is particularly so since digital technology and the world wide web are providing more and more opportunities for what Andrew Gowers called “follow-on innovators”. It is likely that the hit parodies of the future — “hits” in the sense of both social impact and contribution to the creative economy — will be made by individuals publishing their work online. Already, a search on YouTube for the word “parody” returns over 400,000 videos. Increasing the costs to these individuals will only serve to chill this innovation without bringing any benefits to rightsholders in the underlying works.

As Lloyd L Rich observes:⁸

A parody, because it is a method of criticism, must inevitably make use of another creative work. This inherently creates a conflict between the creator of the work that is being parodied (as no one likes to be criticized, made fun of or ridiculed) and the creator of the parody. It is also highly unlikely that a copyright owner will grant permission or a license to a parodist to use their copyright protected work in creating a parody.

We agree with Rich’s observation that licensing is not an adequate model for parody. We note the body of evidence on parody submitted by the Open Rights Group to the UK IPO in 2007 and incorporate it here by reference. We further note that in some cases, copyright law has been used to suppress freedom of expression, not because acts were not likely to be covered by exceptions to copyright law, but because these exceptions were framed in such a way as to make fighting for them in court an uncertain and potentially costly exercise^{9,10}. We therefore urge the UK IPO to frame the exception for parody as unequivocally as possible.

8 Rich, Lloyd L (1999) *Parody: Fair Use or Copyright Infringement?*, available at <http://www.publaw.com/parody.html>

9 The submission to the Gowers Review from the BBC’s legal team has this to say with regards to a related case, on fair dealing, (*Fraser Woodward vs BBC*, judgement 23 March 2005):

Copyright infringement was claimed when photographs were commented on and shown, without permission, in a programme about the tabloid press and celebrity photographers. The damages claimed were £15,000, but the claimant’s lawyers’ costs were estimated at the early allocation stage as over £152,000. Had the BBC lost the case, we could have faced a bill of over £300,000 if an uplift of 100% had been applied. The BBC fought the case (and won) on the point of principle that the ability to rely on fair dealing (whether for the purposes of criticism or review, or reporting current events) is a vital editorial freedom without which copyright works could only be used on the owners’ terms.

10 The US Chilling Effect Clearinghouse, which exists “to help you understand the protections that the First Amendment and intellectual property laws give to your online activities” lists 59 cease and desist notice letters relating to the Church of Scientology sent under the US Digital Millennium Copyright Act spanning 2001–08. For details visit <http://www.chillingeffects.org/search.cgi?search=scientology>

It is vital for the UK IPO to act now to bring copyright law into line with practice; to protect the creative economy; and to nurture the democratic society.

Should the corresponding provisions of the CDPA relating to performers' rights be amended?

Yes, the corresponding provisions of the CDPA relating to performers' rights should be amended. Not doing so would only serve to confuse those who wish to take advantage of the exception, potentially stifling creativity and freedom of expression.

Should the beneficiaries of the exceptions be able to make use of the remedy in the CDPA where technological protection measures prevent the exercise of permitted acts?

The remedy in the CDPA where technical protection measures prevent the exercise of permitted acts is wholly inadequate. We share the view of the National Consumer Council, that technical protection measures, including DRM, should only receive anti-circumvention protection if they meet certain standards. We would hold compatibility with exceptions in copyright law as one such standard.

Do you agree with our assessments of the three step test?

We agree with the UK IPO's assessment of the Berne three step test. We particularly commend the IPO's recognition that parody is an important part of the tradition of freedom of speech which contributes to the cultural diversity of the UK. We would add to this that parody also contributes significantly to the UK creative economy, and forms a significant part of the UK's export in creative goods, which, as the DCMS *Creative Britain* paper indicates, make up 4.5% of all UK exports¹¹.

Could an unlimited exception undermine the interests of owners of copyright in the underlying work by allowing advertising or the endorsement of products which are contrary to their commercial interests? If so, would framing the exception as a 'fair dealing' exception address the problem adequately?

Other rights, such as trade mark rights and passing off, can be expected to protect the interests of copyright holders in respect of a parody exception. As observed in the UK IPO's interpretation of the Berne three step test, with which we are broadly in agreement,

¹¹ DCMS/DBERR/DIUS (February 2008) *Creative Britain: New talents for the New Economy* Available at <http://www.culture.gov.uk/NR/ronlyres/096CB847-5E32-4435-9C52-C4D293CDECFD/0/CEPFeb2008.pdf>

commercially successful parody should present no conflict with normal exploitation of the underlying work, nor should it prejudice the rightsholder's legitimate rights.

Framing the exception as a “fair dealing” exception would therefore add an extra layer of confusion and complication to the publishing or exhibiting process for parodists and the organisations which might potentially fund their work. Indeed, the commercial interests of the rightsholder in the underlying work should not be the only factor taken into consideration in framing a new exception for parody — parodists themselves, as follow-on innovators, can make a significant contribution to the creative economy. In this respect we draw the UK IPO's attention to the Computer and Communications Industry Association's recent study of the great value of the US's much broader fair use exceptions to the US economy¹². It is up to the UK IPO to ensure that any exception for parody is framed in such a way as to draw out the maximum possible benefits for the creative economy as a whole.

Should the exemption for parody include a requirement to acknowledge the underlying work and its author?

Parody inherently involves attribution — a parody only works when its audience are familiar with the original. We therefore share the UK IPO's view that the exemption for parody should not include a requirement to acknowledge the underlying work and its author. If attribution is deemed to be desirable at a later stage, any requirements should be appropriate to the medium.

Is the ordinary meaning of the terms caricature, parody and pastiche sufficient?

A parody is a work created to mock or comment on an original work, its subject, author, or wider social context by means of humorous or satirical imitation. A caricature exaggerates, distorts or over-simplifies the essence of a work to create an easily identifiable likeness. A pastiche is an imitation or remix of a well-known work, usually a respectful or affectionate one. We agree with the UK IPO that the ordinary meaning of the terms parody, caricature, and pastiche is sufficient, and that an explicit definition is not required in framing an exception for parody.

¹² Rogers, T & Szamosszegi, A (2007) *Fair Use in the US Economy: Economic contribution of industries relying on fair use* Computer and Communications Industry Association. Available at <http://www.cciainet.org/artmanager/uploads/1/FairUseStudy-Sep12.pdf>

Is there any reason for excluding particular classes of work from the exception?

We agree with the UK IPO that there is no reason for excluding particular classes of work from an exception for parody. We further note that the past limitation of exceptions to particular classes of work has been a contributory factor to the disconnect between users' expectations and the law itself, a disconnect that has in part led to this review.

Applying exceptions to all classes of work is the fairest option for all stakeholders — rightsholders, parodists, and their respective investors and audiences — as well as being the least burdensome to administer and the easiest to understand.

Should the exception only apply to certain exclusive rights of a copyright owner or to all such rights? If the exemption is to be limited, how should it be limited and why?

We agree with the UK IPO that the exception should apply to all exclusive rights of the copyright owner.

Again, applying the exception to all exclusive rights of the copyright owner is the fairest option for all stakeholders — rightsholders, parodists, and their respective investors and audiences — as well as being the least burdensome to administer.

Should the exception explicitly state that it only applies where the underlying work has been made available to the public?

A parody only works when its audience are familiar with the original. A requirement that the exception should only apply to a work that has been made available to the public therefore seems unnecessary and could be harmful.

Should the exception only apply where the parody relates specifically to the underlying work?

In the 2000 case of artist Damien Hirst and the British toy manufacturer Humbrol, where Hirst created a 20ft enlargement of Humbrol's Young Scientist Anatomy Set and called it *Hymn*, the artist eventually paid an undisclosed sum to two charities as part of an out-of-court settlement. That this sum should have been donated to charity — rather than to the manufacturers — only serves to back up our contention that using Humbrol's copyrighted work to create a parody did not adversely affect sales of the underlying work. It can further be assumed that Norman Emms, the designer of the original toy to whom Hirst made a

goodwill payment, would have been unlikely to consider enlarging his original design and displaying it as public art. By contrast, Hirst's incentive to create further parodies can be assumed to have been adversely affected by this experience with the law. In this respect it is worth noting that Hirst sold Hymn to art collector Charles Saatchi for a reported £1 million.

It is likely that limiting the exception to cases where a parody relates specifically to the underlying work would make the exception less useful to parodists and their investors while delivering no added benefits to rightsholders. Parodies that use an underlying work in order to launch a critique of wider society are increasingly commonplace and should not be excluded from this exception.

Closing remarks — Transformative use

We commend the UK IPO for producing a consultation document that is both thorough and well-focused. We look forward to contributing further to this consultation during its second phase.

In closing, however, we note that the UK IPO has chosen not to address Gowers recommendation 11 — “propose that Directive 2001/29/EC be amended to allow for an exception for creative, transformative or derivative works, within the parameters of the Berne Three Step Test” — at this stage. We regret this, as we believe that proper implementation of an exception for transformative works holds great potential for the creative economy in the digital age. We believe the time is right for the UK IPO to progress this recommendation, since Commissioner Viviane Reding has raised the prospect of such an exception at European level¹³. We would be pleased to discuss further potential implementation of recommendation 11 with the UK IPO.

About the Open Rights Group

The Open Rights Group is a grassroots digital rights advocacy group based in the UK. It aims to increase awareness of digital rights issues, help foster grassroots activity and preserve civil liberties in the digital age. It is funded by individual donations and small grants. A copy of this response will be published on the Open Rights Group website under a Creative Commons licence.

¹³ See Murray, Jim, Commissioner Reding answers European consumers' questions, BEUC in Brief No 60, July 2007, available at <http://docshare.beuc.org/Common/GetFile.asp?PortalSource=483&DocID=10095&mfd=off&pd oc=1>