

Implementation of the Hargreaves Review of Intellectual Property & Growth

In 2010, David Cameron instructed Professor Ian Hargreaves of Cardiff University to undertake a review of intellectual property law in the United Kingdom with a remit to examine whether intellectual property law was out of date and harming economic growth and innovation. Professor Hargreaves delivered his report in May 2011 with ten recommendations.

On 3 August 2011 the Government announced that a number of those recommendations are to be implemented.

There has been much comment about the creation of an exception allowing for limited private copying of copyrighted content for personal use. Copyright law in this respect had become very out of date and was out of sync with common practice. Hargreaves found that a significant proportion of the public believed it was already lawful to make personal backup copies and were unaware that this was technically copyright infringement. The changes will provide a more certain legal framework for companies such as Google and Apple, who wish to offer cloud based backup services. However, it is unlikely that the existing rules would have imposed liability on such services for offering a means to store backup copies.

The new rules are also expected to permit the creation of parody videos and music which send up existing content without breaching copyright – the rules are expected to allow parodies such as “Newport State of Mind”, a parody of Alicia Keys “Empire State of Mind”, which was taken down by EMI. The wording of the legislation will be key. If parodies are only to be permitted in very narrow circumstances then the law may not be advanced very far by the changes.

Other recommendations in the Hargreaves review are for a one stop digital copyright exchange for digital copyright material to be offered and licensed, and an intellectual property advisory service to be provided to the Intellectual Property Office (the Government agency which registers trade marks and patents, and issues guidance on other intellectual property rights).

For businesses the latter two reforms are likely to be of more use than allowing private copying and parodies and we await the Government’s approach to the new exchange and the new advisory service.

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