

## Blog: Post-implementation Review by Florian Koempel



A new set of copyright exceptions were introduced in 2014. These new exceptions were based on a review of intellectual property by Ian Hargreaves, a journalist then and now a Professor. He analysed the existing copyright regime stressing the need for economic evidence for any changes to the law. Ideally, changes positive for the UK economy.

After a six-month consideration of the UK intellectual property framework (which is a considerable achievement given the complexities of our IP system), Ian Hargreaves recommended the introduction of various exceptions to copyright as well as the creation of a Digital Copyright Exchange. He and his economic advisor, Ben Mitra- Khan, concluded that the implementation of his ten recommendations would add between 0.3 and 0.6 per cent to annual GDP growth – up to £7.9 billion per annum. Pars pro toto, he suggested that a new parody exception might benefit the economy by up to £600 million per annum, partly due to internet, TV and radio producers who are able to produce “new types of entertainment programmes”. Mind you, the United Kingdom was globally renowned for its humour and parody even before the introduction of the Hargreaves’ exception.

Be that as it may, the copyright exceptions were adopted and they became law in 2014. This was duly followed by a review of the impact of the exceptions in 2020. For the policy aficionados, this process is called the post-implementation review and needs to happen five years after the introduction of new legislation. This [review](#) concluded that the policy objectives have been met based stakeholder responses. Well, the British Copyright Council was dubious in its [response](#); so were most rightholders.

Five years after the changes to exceptions were introduced, it should have been possible to assess whether the exceptions have generated the economic benefits envisaged. Many rightholders were concerned at the time about the accuracy of the economic evidence presented. This review would have been the ideal opportunity to convince those who still feel burnt by the process about the justification of the changes; with the additional benefit of hindsight. Intriguingly, the post-implementation review did not compare the actual economic impact of the exceptions with the original economic proclamations provided by Ian Hargreaves and his supporters. Though it is possible to do this by looking at the review documents and original impact assessments. For example, the review of the parody exception appears to record a net zero outcome (this is somewhat different to the purported £600 million).

We hope that future changes to legislation will be truly evidence based and not leave a - surely unwarranted – taste of ideological motivation. We particularly welcome the recent paper by the Policy and Evidence Committee under the stewardship of [Dr Lee Edwards](#), LSE, reinforcing the need for solid economic evidence for policy making.

We all moved on from those dark times, not quite the sunlit uplands yet but we all agree on the need for genuine economic evidence. Even if copyright protects creativity and culture; more important than pure economic considerations. But after all, Hargreaves’ review of Intellectual Property is today just a faint reminder of the world Peter, Susan, Edmund and Lucy found behind the cupboard in Professor Kirke’s House.