

**Submission to the House of Commons Business, Innovation and Skills Select
Committee Inquiry into the Digital Economy**

Introduction and Executive Summary

1. The Publishers Association (“The PA”) welcomes the opportunity to contribute to the Committee’s inquiry into the digital economy.
2. The PA is the leading representative voice and trade organisation in the UK for book, journal and electronic publishers. Our membership of over 100 companies includes publishing companies in the academic, educational and trade sectors and comprises small and medium enterprises through to global companies.
3. Publishing is both a digital and international business with 35% of our combined revenues now coming from digital sources and over 40% from international trade. In addition to this over £1 billion is derived from learned journal publishing. Publishers are, therefore, an integral part of the digital economy.
4. We do not intend to answer all of the questions posed as many are not directly relevant to our business, but we appreciate this opportunity to respond to those questions relevant to three specific areas, which are barriers to success, the intellectual property framework and a digitally skilled workforce. In summary our views on this points are:
 - The major barriers to UK business success in the digital economy is unfair competition and the potential for a dominant role of online platforms.
 - The IP framework is sufficiently robust in providing protection but that more needs to be done to support enforcement of the rights which authors and publishers enjoy.
 - The importance of ensuring the UK has a digitally-skilled workforce.

Response to Consultation Questions

What are the major barriers to UK business success in the digital economy? What steps could the Government take to help businesses to overcome these barriers?

5. UK publishers continue to operate highly successfully in the digital economy, although different parts of the business are developing at different rates given the varying conditions and consumer demand. So whereas some areas of fiction are reporting digital sales approaching 50% of the total, other sectors – such as children’s books – are still developing with only 5% of the market digital. Overall, for the UK books market of £3.2bn, some 17% is accounted for by digital sales. Given that this figure was negligible six years ago, this has been a swift and highly successful transition.

6. In the world of academic journals, the digital economy has been a reality for well over a decade and around 90% of revenues in this £1bn sector are derived from online products and services.
7. Despite these successes, barriers and challenges persist, in the absence of which it can be argued that publishing could have performed even more strongly in the digital economy. The central area for concern has been in the competitive conditions of the e-book retail market. The book retail market in the UK suffers from an imbalance for authors, publishers and booksellers. The routes to market for e-books are too narrow and too few, and the online market for print books is similarly restricted, creating a potential for adverse effect on competition within both markets, and ultimately restricting consumers' choice of retail opportunities.
8. We therefore welcome the European Commission's formal investigation into Amazon's e-book distribution in the English and German language markets, as launched in June 2015. It is particularly welcome that this investigation will encompass certain terms included in Amazon's contracts with publishers which require publishers to offer Amazon the same terms as they offer other e-book retailers. In launching the investigation the Commission's statement reflected concerns around barriers to entry. It said:

The European Commission has opened a formal antitrust investigation into certain business practices by Amazon in the distribution of electronic books ("e-books"). The Commission will in particular investigate certain clauses included in Amazon's contracts with publishers. These clauses require publishers to inform Amazon about more favourable or alternative terms offered to Amazon's competitors and/or offer Amazon similar terms and conditions than to its competitors, or through other means ensure that Amazon is offered terms at least as good as those for its competitors.

The Commission has concerns that such clauses may make it more difficult for other e-book distributors to compete with Amazon by developing new and innovative products and services. The Commission will investigate whether such clauses may limit competition between different e-book distributors and may reduce choice for consumers.

9. The PA is not engaging with the European Commission in this investigation and nor would we be able to make any further comment on it in the course of this Select Committee's inquiry.
10. This potential abuse of market power is also being considered by the Commission in its proposals for the completion of a Digital Single Market. The Communication issued by the Commission in May 2015 rightly acknowledges the way in which online platforms are playing ever more central roles in our social and economic lives, but notes way in which some have moved from being merely 'platforms' to become players competing in many sectors of the economy. The Commission believes *"the way they use their market power raises a number of issues that warrant further analysis beyond the application of competition law in specific cases"*.
11. We encourage the Select Committee to recommend that the UK government supports the European Commission in both of these endeavours to cultivate a fair market place which works to benefit of consumers and authors in the e-book and physical book markets.

Does the UK's Intellectual Property regulatory regime provide effective protection for the digital economy and sufficient scope for innovation and competition?

12. Intellectual Property (IP), and most especially in our sector copyright, underpins creativity and remains a vital component for UK businesses, including publishing, to thrive. As such, the greatest assistance any government could give the creative industries is to ensure IP across the whole UK is valued, and that a legal framework exists which allows IP to be monetised and the rights which underpin it enforced.
13. The ability of the author to choose how they present and disseminate their work is paramount and it is therefore essential that the government supports a copyright framework which ensures these choices are respected and upheld in both the physical and online world.
14. It is paramount that authors are rewarded and recognised for their work. At the same time, publishers who invest in those works need to be incentivised and given the means to support new talent. Copyright allows IP and creative endeavour to be turned into financial reward. It ensures that works – of all kinds – are produced and disseminated to their widest possible audience of readers, libraries and many more, and should be resolutely supported.
15. Publishing is one of the biggest success stories of the digital age and, as the statistics noted above demonstrate, has been able to embrace the digital shift swiftly and effectively. As the industry inspires new advances in technology, such as e-books, online learning platforms and research collaboration tools, it is crucial that publishers and authors are given a suitable framework which promotes creation and growth while protecting investment and reimbursement. While the development of ebooks has remained relatively unscathed by online infringement (in the most recent (the fifth) IPO Online Copyright Infringement Tracker Report¹, 20% of UK internet users confess to accessing works illegally online but within that figure, only 1% accessed ebooks illegally. For users who access ebooks online, only 6% did so illegally) online piracy remains an ongoing problem. This can be seen by the fact that since March 1st 2015 the Publishers Association Copyright Infringement Portal has sent over 300,000 takedown notices to websites hosting infringing content.
16. The publishing industry plays a lead role in supporting copyright, raising awareness of the value of IP and helping tackle infringement. The PA works closely with the Intellectual Property Office and the new City of London Police IP Crime Unit (PIPCU) to combat online infringement.
17. The review of IP undertaken in the last Parliament led to a number of reforms which have helped modify the UK copyright framework into the digital age. For example, the education exception now, quite rightly, includes provision for teachers to scan limited parts of work for the purpose of illustration and make these available online.
18. We see it as vital that this framework is supported and enforced. We recommend that the Select Committee should ensure the Government continues to:
 - Support efforts to tackle copyright infringement, especially online, by committing to the long term funding of PIPCU.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449592/new_OCI_doc_290715.pdf

- Work with industry programmes and initiatives to boost understanding of the importance of respect for copyright and other forms of intellectual property within schools and the wider population.
 - Ensure that copyright is recognised by the investment community and monitor the value of IP in publishing and the creative sector.
19. It is also clear that legitimate online platforms and intermediaries could and should do far more to protect users and creators from copyright infringement.
20. Search engines remain the first port of call for a significant number of people when looking for content online, and while not directly responsible for piracy, have the potential to play a significant role in reducing online copyright infringement. Research commissioned by the Motion Picture Association found that 74% of people accessing pirate sites for the first time did so via a search engine. Similarly, the increase of social networks as a means to discover and access content is creating further challenges for the publishing industry in its attempts to protect its authors' works.
21. The Select Committee should recommend that:
- Search engines be required to delist sites which are the recipients of multiple take down requests.
 - Search engines also be required to block access to sites which have been the subject of Section 97A blocking orders. These sites have been found by the High Court to be facilitating access to illegal content on a substantial scale and therefore search engines should also be required to block access by their users.
 - Similarly, sites which the Police Intellectual Property Crime Unit (PIPCU), after careful consideration of the evidence presented to them, have deemed to be infringing on such a scale as to warrant inclusion on its Infringing Website List should be excluded from search results.
 - Google be requested to stop its continuing practice of directing people to the *ChillingEffects.org* website when links to infringing content have had to be removed. Stopping criminals from making money is not a 'chilling effect' – on anything other than criminality – and we believe it is wrong for consumers to be encouraged to infer that stopping copyright infringement is somehow an attack on freedom of speech. If we are able to have a thriving creative content sector where authors receive payment for their work it is vital that all links in the online value chain uphold and support intellectual property law.
 - Online platform providers who have received a notice be required to not only take down infringing material but also have a duty to ensure that the infringing content stays down and does not get uploaded immediately with a slightly changed URL.
 - Social networks be far more transparent as to their policies regarding the promotion of illegal content via their services and far more robust in the enforcement of these policies. The PA issues numerous take down requests to Facebook in relation to infringing books being offered on the site. While these requests may only relate to 30% of the content on one group's page, they relate to 100% on another. Individual infringing posts are removed but any sanctions against the wider group, which can be focused solely in making infringing content available, are rarely seen.

What actions could the Government take to ensure the availability of a workforce with the skills to support businesses in the digital economy?

22. It is essential that the UK Government fosters a strong workforce to ensure that the UK digital economy continues to thrive. As has been seen with the introduction of a series of tax breaks for the film, television and video games sectors, the tax system has the potential to help the creative industries grow while delivering real economic and employment benefits to the country.
23. We believe that by using similar fiscal levers, the next generation of digital workers can be developed.
24. It is increasingly clear that the future success of the UK economy depends upon a skilled, vibrant digital workforce. Publishing is one of the creative industry sectors which can foster and develop these talents. As noted, third of the industry's revenues are derived from direct sales and licensing of digital products and services. Many companies have programmers in place to attract this new skills audience into the sector but such measures are out of reach to many companies, especially small and medium size enterprises (SME).
25. The publishing industry has a strong outreach with the higher education sector in recruiting people into publishing and every year accepts thousands of people into the workforce in digital and innovative jobs.
26. The UK Government holds a legitimate role in helping the sector's SME bases in reaching out to and nurturing digital talent. It can do this through developing existing skills programmes and linking incentives to develop publishing skills through the taxation system.
27. Digital skills in the workforce could be greatly enhanced through the development of relevant apprenticeship schemes. Whilst we support the government's aim to increase the number of apprenticeships in the economy we have concerns that development of the scheme does not recognise the needs of the creative sector.
28. The Government's Consultation document on the apprenticeship levy begins with an encouraging call for employers to be in the driving seat of skills development and to be at the heart of the system of provision. It then goes on to outline a system which in many respects would be deeply unsuitable for some companies. This tension can only be resolved through a far greater level of flexibility in how the programme may be implemented. In particular, we believe the following principles should apply:
 - Contributions to the levy from creative industries employers should be invested for the benefit of creative industry companies;
 - Levy funding should initially at least be diverted to develop the new standards required for apprenticeship delivery and to create a quality assurance process, and to maintain a strong evidence base of labour market information to inform activity;
 - Flexibility is key. Consideration should be given to the creation of "degree apprenticeships" for those companies and sectors looking to develop under-graduates in their workforces.

- Given the challenging costs and timescales for developing the new Apprenticeship Standards, it is a concern that the necessary infrastructure will not be ready in place by April 2017. Consideration needs to be given to having flexible transition arrangements in place, such as a “rolling start” to the programme to allow less well developed sectors time to catch up. This should be covered in a three year pilot period, running until 2020.
29. The PA will continue to work with Creative Skillset in developing an appropriate model for our and other sectors and we hope to continue the dialogue with the Government to ensure that the system is designed in a flexible way. We acknowledge the need for simplicity in what promises to be a large system.
30. The Committee should recommend:
- The introduction of a digital skills tax incentive, focused on SME’s engaged in developing copyright works, which would see a reduced employers’ National Insurance contribution when they take on a specified number of young people into digital-skills-focused roles.
 - Support for new SMEs by providing subsidies or funding for SME’s actively seeking to provide digital skills training, workshops and seminars for their employees, both old and new to the company.
 - The development of a Government facilitated partnership scheme whereby larger organisations can assist SMEs to develop their digital skills base by sharing resources or sponsorship.
 - Continued engagement with the creative sector in the development of the apprenticeship levy with a recognition of the need for flexibility in the design of the scheme.

Endnote

31. If the Committee requires additional written evidence or would appreciate the opportunity to talk directly to publishers on these matters please do not hesitate to get in touch. We would also be available to provide oral evidence if so required.

Susie Winter
Director of Policy and Communications
The Publishers Association
020 7691 9191
swinter@publishers.org.uk

29 October 2015