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Assessing the UK Government Response to the Hargreaves' Review

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[By Dr Luke McDonagh]

The UK Government's response to the Hargreaves' Review includes the approval of a number of THE reports recommendations, the main ones being the acceptance of the need for a new procedure to clear and license orphan works, and the acceptance that some form of Digital Copyright Exchange is required.

With regard to orphan works, the Government agreed with Professor Hargreaves that there is a problem with the current system. The Government has promised to bring forward detailed proposals in the Autumn in order to allow for both commercial and cultural uses of orphan works, "subject to satisfactory safeguards for the interests of both owners of 'orphan rights' and rights holders who could suffer from unfair competition from an orphan works scheme".

The UK has also, in principle, endorsed the idea of the Digital Copyright Exchange; something which, depending on how it is implemented, may create controversy amongst rights-holders, particularly if it is perceived as being a back-door registration system. The Government has stated that the purpose of the DCE would be to make it easier for rights owners to "sell licences for their work and for others to buy them, with quicker, less burdensome (and increasingly automated) transactions". The Government is planning to examine in detail how to set up the DCE, including engaging with collecting societies on this issue.

Regarding the report's other recommendations; the Government has accepted that there should be a private copying exception, in line with the wishes of consumers. Importantly, the Government has accepted that there should also be a 'parody' exception under copyright. This is to be welcomed as there had previously been serious doubts over the legality of many parodies under the CDPA. Interestingly, the Government has additionally backed the idea of a specific exception allowing 'data mining'. With respect to these potential new exceptions, the Government has stated its aim to secure the enactment of these flexibilities at the EU level, where this is necessary, in order to enable greater adaptability to new technologies.

Overall, the Government's acceptance of many of the Hargreaves' principles has been welcomed by some parties, such as the British Library, and greeted cautiously by others, particularly rights-holders. It is difficult to analyse the response properly until the full measures are outlined in detail. One thing is certain - the majority of the measures are clearly aimed at encouraging economic growth in the technology sector.

The full government response can be viewed here; <http://www.ipo.gov.uk/ipresponse>

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