

**Professor Lionel Bently**  
*Herchel Smith Professor of  
Intellectual Property Law*



Mr David Lammy MP,  
Minister of State for Higher education and  
Intellectual Property,  
Department of Innovation, Universities and Skills



**Faculty of Law**

24 February 2009

Dear Minister,

**Open Letter re. Proposed Copyright Term Extension for Sound Recordings**

We are writing because of the sudden, and unexplained, change of Government position in relation to copyright term extension for sound recordings.

In 2006, the Government received the recommendations of an independent and comprehensive review of intellectual property policy, commissioned by the then Chancellor Gordon Brown. The review, led by Andrew Gowers (a former editor of the Financial Times) took "an evidence-based approach to its policy analysis", supplementing a formal call for evidence with commissioned external expertise.

**The review examined several extension options, including the increase to 70 years, and explicitly rejected extension as being a bad deal for the UK in cultural and economic terms. The Government, led by the Treasury which was then headed by Gordon Brown, clearly supported this view.**

What then occasions a sudden volte-face two years later and only a few weeks after statements from the Department for Innovation, Universities and Skills (DIUS) indicating support for the original decision? We are not aware of any new evidence that has come to light, and the only independent study available since then, that of Professor Hugenholtz at the University of Amsterdam, has also been highly critical of extension.

There has been some talk of 'moral arguments' for extension but it is hard to discern a compelling 'moral' case for a proposal whose prime effect is to benefit major label shareholders and a few, already highly successful, artists while imposing significantly greater costs on new creators, the general listening public and the custodians of our cultural heritage.

**As Gowers concluded, and the Government has until now consistently reaffirmed, policy-making in this area should be evidence-based and designed to promote the broader welfare of society as a whole. Policies that appear to reflect nothing more than lobbying will only perpetuate the "marked lack of public legitimacy" which the Gowers report lamented — and discourage those who wish to contribute constructively to future Government policy-making in these areas. We therefore call on the Government to present any evidence that has led to this change of policy.**

Yours Sincerely,

**Professor Lionel Bently, and Dr Rufus Pollock**, Centre for Intellectual Property and Information Law, University of Cambridge

**Professor Martin Kretschmer, and Professor Ruth Towse**, Centre for Intellectual Property Policy & Management, Bournemouth University

**Professor Nicholas Cook**, AHRC Research Centre for the History and Analysis of Recorded Music, Royal Holloway, University of London

**Professor P.A. David**, Emeritus Professor of Economics and Economic History, University of Oxford

**Professor Graeme Dinwoodie**, Chair in Intellectual Property Law, Queen Mary College, University of London

**Professor Johanna Gibson**, Director Queen Mary Intellectual Property Research Institute, Queen Mary College, University of London

**Professor John Kay**, Chair, British Academy Copyright Review

**Professor Paul Klemperer**, Edgeworth Professor of Economics, University of Oxford

**Professor Hector MacQueen, and Professor Charlotte Waelde**, SCRIPT/AHRC Centre Intellectual Property & Technology Law, University of Edinburgh

**Professor David M Newbery**, Professor of Economics, University of Cambridge

**Dr Mark Percival**, Queen Margaret University, Edinburgh, Chair, International Association for the Study of Popular Music (UK/IRL)

**Dr Martin Cloonan**, Senior Lecturer, University of Glasgow, ex-Chair, International Association for the Study of Popular Music (UK/IRL)

**Professor Danny Quah**, Professor of Economics, London School of Economics

**Professor David Vaver**, former Reuters Professor of IP and IP Law and Director of the Intellectual Property Research Centre, University of Oxford

**Richard Chesser**, Chair, Trade and Copyright Committee, International Association of Music Librarians (UK/IRL)