

The Charter on Intellectual Property Summary

Introduction

The Charter on Intellectual Property will set out *public interest* criteria for copyright, patents and trademarks.

It will provide a set of principles for a fair, transparent and user-friendly system in a sustainable creative economy.

Why A Charter?

Having ideas is a basic human instinct, essential to everyone's personal development and a healthy open society. Good ideas take account and even depend upon what people have imagined, created and thought in the past. So creativity requires access to other people's ideas, and sharing them.

Many people also want to own ideas. Owning ideas in the form of intellectual property is a fundamental factor in art, invention, innovation and enterprise. It is a key factor in social and economic development worldwide. Intellectual property is the currency of the creative economy.

These two principles of having and owning ideas should be in balance so they mutually support each other. But in recent years, they have fallen seriously out of balance. Ownership, especially commercial ownership, has become dominant. Right-holders' interests have been given priority. The public, the user, the consumer, is losing out.

We need to remind ourselves what the public interest requires. What is the best way to encourage creativity and innovation? What are the basic principles of intellectual property rights? What legal form should they take?

We believe the purpose of IP laws is to encourage creativity and innovation and to promote a sustainable creative economy. It does this by allocating private property rights, usually for a limited term.

In passing and enforcing these laws, policy-makers should ensure that the two principles of creativity and reward complement each other. The public interest requires them to be in balance. Creative people and investors benefit from strong rights and fixed terms; but they also want freedom to work in the public domain and share the public commons.

These two views are in conflict in numerous arenas. There is a continuing dispute about patenting human genes. Health workers and pharmaceutical corporations fight bitterly about how to enable people suffering from AIDS in

developing countries to get access to life-saving drugs. Many people (teachers, children) are confused about how much material on the Internet can be used in the classroom.

One principle underlies all these disputes and legal wrangles: the public interest. Yet no government has a 'public interest' test of new IP law. No-one asks, 'Is it fair?'

It is time to assert the public interest as the dominant priority in intellectual property law.

Organisation

The idea for the Charter emerged from the CODE <www.cl.cam.ac.uk/CODE> conference held in Queens' College, Cambridge, 2001; a meeting hosted by the Center for the Study of the Public Domain<www.law.duke.edu/cspd/>, Duke University, in London 2003; and a meeting on Intellectual Property & the Public Domain (IP&PD) hosted by the Center and Arts Council England <www.artscouncil.org.uk> held in London in January 2004.

The Charter will be prepared by a Steering Group of people from the arts, creative industries, human rights, law, economics, science, R&D, technology, the public sector and education, assisted by a small secretariat.

We will hold consultations, commission research, collect evidence and participate in debates worldwide.

The Charter itself will be short and simple so as to be understandable by everyone without any legal training. We're calling it a Charter to emphasise the public nature of what we are doing.

The IP Charter Project is hosted by the Royal Society of Arts, London, and the Charter Office is based at the RSA in London.

There are proposals to set up a unit to monitor the implementation of the Charter and to hold an international conference in 2006.