

Impact case study (REF3b)

Institution: Bournemouth University
Unit of Assessment: UOA36
Title of case study: Facilitating a proposed amendment to parody copyright law by evidencing the economic, social and cultural potential.
1. Summary of the impact (indicative maximum 100 words)

Parody of music videos, television shows and other media is not permitted under UK intellectual property law. In 2011, the Intellectual Property Office (IPO) commissioned Bournemouth University (BU) to study the economic effects of parody on commercial rights holders. The research found the process does not have negative impacts on the market and in many cases contributes to the commercial success of original works. The study identified further social and cultural benefits. In 2012, the Government adopted BU's recommendations to change the law and proposed a copyright exception for parody, making it exempt from copyright laws.

2. Underpinning research (indicative maximum 500 words)
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The underpinning research was initiated in December 2011, following a successful bid to the IPO to conduct a study supporting the Government consultation on the Hargreaves Review of Intellectual Property. The successful bid was led by Erickson (BU 2010–2013), with co-applicants Kretschmer (BU 1999–2012) and Mendis (2011 to present) and produced two government reports (P1&P2) and a further paper bringing together of the legal analysis and the empirical data (P3).

The purpose of the research was to assess the economic impact commercial rights holders would experience if their work could be freely parodied under copyright law. The government had no rigorous evidence on the potential commercial effects of such a copyright exception, so could not make a sound policy judgement.

The commissioned research was the first large-scale empirical study of the economic effects of parody carried out in the UK. The BU team undertook a comparative study of commercial music videos and amateur parodies on YouTube, selected for its status as the leading online video platform. The researchers sampled 8,299 pieces of user-generated content relating to top-100 charting music singles in the UK for the year 2011 to determine whether economic effects were caused by the presence of parody (P1).

The study noted that parody was a fluid and changing communicative process, so researchers selected videos that were tagged and defined as such by the uploading user. Four different categories of parody emerged: Target parody, which targeted a particular person or organisation; Weapon parody, which drew attention to a third party such as a political group; Self-parody and parody that had no obvious purpose. All videos were new work using original work for a new purpose.

The study yielded the following findings:

- Parody and remix are significant online consumer activities: On average, there are 24 user-generated parodies available for each original commercial music video. Parodies in this study had 655 million viewers.
- There is no evidence for economic harm to rights holders through either substitution or reputational damage: The presence of parody content is correlated with larger audiences for original music videos.
- New creative input by parodists is considerable: Most added original new video recordings, and in 78% of all cases the parodist appeared on camera.
- There exists a small but growing market for this type of online parody: Parody videos in the study generated up to £2million in revenue through advertising, a portion of which was shared with creators and rights holders. The BU research valued advertising revenue at

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£10s of millions.

P2 offers a comparative legal review of the law of parody in seven jurisdictions and P3 reviews the previous findings and analyses their relevance for copyright policy.

On the basis of this evidence, the research team recommended that the IPO and the Government move ahead with a planned copyright exception for parody, on the grounds that it would offer small but measurable economic benefits to both rights holders and parodists, in addition to other social and cultural benefits.

3. References to the research (indicative maximum of six references)
Key Publications:

P1. Erickson, K. (2013). *Evaluating the impact of parody on the exploitation of copyright works: An empirical study of music video content on YouTube*. London: Intellectual Property Office UK. Report no. 2013/22. Available from: <http://www.ipo.gov.uk/ipresearch-parody-report1-150313.pdf> [accessed 21 November 2013].

P2. Mendis, D. and Kretschmer, M. (2013). *The treatment of parodies under copyright law in seven jurisdictions: A comparative review of the underlying principles*. London: Intellectual Property Office UK. Report no. 2013/23. Available from: <http://www.ipo.gov.uk/ipresearch-parody-report2-150313.pdf> [accessed 21 November 2013].

P3. Erickson, K., Mendis, D. and Kretschmer, M. (2012). *Copyright and the Economic Effects of Parody: An empirical study of the YouTube platform and assessment of regulatory options*. London: Intellectual Property Office UK. Report no. 2013/24. Available from: <http://www.ipo.gov.uk/ipresearch-parody-report3-150313.pdf> [accessed 21 November 2013].

Supporting Grants:

G1. Intellectual Property Office UK (2011). *Government Consultation on Hargreaves Review of Intellectual Property: Work Package 4, Parody, Caricature and Pastiche* (£16,650). Researchers: Erickson, Kretschmer and Mendis.

G2. ESRC (2013). *Valuing the Public Domain: Collaboration and Knowledge Exchange to Develop Policies for the Commercial Use of Public Domain Works* (£103,000). Researchers: Kretschmer and Erickson.

4. Details of the impact (indicative maximum 750 words)

The most direct and immediate impact of the research was to shape the language of the new legislation to create a copyright exception for parody, based on empirical evidence. Being the first rigorous academic study in this area in the UK, the findings of the research were instrumental to the policy process.

Impact took place through a consultative process with policymakers at the IPO. Following completion of the reports the research team presented the findings to the Government and other stakeholders at a series of meetings in London. These included the Copyright Research Expert Advisory Group (CREAG) at the IPO offices in June 2012 (R1) and an ESRC-sponsored Festival of Social Science conference on Copyright policy held in Bournemouth in November 2012 (R2). The findings were peer reviewed by an expert panel and published on IPO.gov.uk in January 2013 (R3–5).

The BU research team recommended that UK policy adopt the widest possible exception to parody permitted under EU provisions. Such a copyright exception would allow both commercial and non-

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commercial parody, and would adopt a wide definition to include a range of different forms of parody expression.

The BU research was heavily cited by the Government in its legislative impact assessment in 2012. The IPO wrote: “The research carried out by Bournemouth University found that there is no demonstrable harm to the popularity (and by inference reputation) of original works arising from spoof or parody videos. [...] An evaluation of potential substitution and dilution effects found that in neither case was there compelling evidence that the parody is damaging to the original in terms of the copyright owner’s ability to attract and monetise an audience for their original copyright work on the online platform.” (R6).

In December 2012, Business Secretary Vince Cable announced that the Government plans to reform the Copyright regime in the UK, introduced in the Enterprise and Regulatory Reform Bill. On 31 July 2013 the Government published a draft of their proposed changes to the law, including the exemption from IP copyright on the grounds of parody (R7).

Societal impacts of the proposed copyright exception

The proposed exception for parody will have significant and widespread effects for a range of beneficiaries including UK media businesses, technology providers, fans and consumers. The new law will grant the ability to anyone to create parodies of existing work, without requiring permission from rights holders. Such an exception would enable parodies of popular music, film, art and literature. While the research clearly shows that there are minimal economic downsides for rights holders, the potential benefits in terms of freedom of expression and economic growth, are considerable.

The BU research cites advertising revenue value from this activity at tens of millions of pounds, but the original Hargreaves report values it as billions, taking into account growth of the creative industries, the ‘up-skilling’ of young people and other economic factors.

This type of activity gives young people the opportunity to train themselves in digital literacy, creating an excellent skills base for the UK and helping to place us at the competitive edge of the creative industries. The videos in the study also gave voice to minority racial and sexual orientation groups, enabling vocalisation of marginalised viewpoints in the public sphere and encouraging freedom of speech.

The study showed retail sales of original records were higher when heavily parodied. As this does not necessarily show it was a result of the parody, less popular content was also studied. Findings showed heavily parodied work out-performed those not parodied; suggesting parody acts as a discovery mechanism for lesser known artists.

These impacts are widely acknowledged, often by the original rights holders themselves who sometimes gain revenue from the parody. This is evidenced by the fact that original rights holders have not contested the proposed change in law and generally do not enforce their copyright by demanding parody material is taken down.

Evidence-based policy making

This body of research has advanced the role of transparent, evidence-based policy in the regulation of Intellectual Property. The experience gained on the part of the IPO in commissioning, evaluating and disseminating the findings has strengthened the credibility of academic research as a tool for sound policy planning. The IPO has recognised the importance of empirical research to inform IP policy and has requested that key researchers (Erickson and Kretschmer) undertake embedded placements with the IPO in 2013 to assist with implementation of IP policy. In order to support that effort, the IPO has contributed £51,000 to an ESRC Knowledge Exchange activity by Kretschmer and Erickson on IP and policy. The purpose is to amplify the relationship between

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academics and policy officials initiated during the parody research study, and extend the role of empirical research to answer further IP regulatory questions.

While reach of the impact is currently limited to the UK, the European Patent Office in Alicante has shown interest in the work and it is being presented at various conferences. This further verifies the importance of this research in evidencing the significant social and cultural opportunities for the range of beneficiaries the proposed copyright exception for parody would bring.

5. Sources to corroborate the impact (indicative maximum of 10 references)**Erickson was invited to take part in the following public policy events as part of the consultation process:**

R1. Minutes from the 5th meeting of the copyright research expert advisory Group (CREAG), 14 June 2012: <http://www.ipo.gov.uk/eag-copy-20120614.pdf>.

R2. November 2012: ESRC Festival of Social Science: *What Constitutes Evidence for Copyright Policy?* Executive Business Centre, Bournemouth UK.

The following reports were published on the IPO website in January 2013:

R3. Report 1 (P3) <http://www.ipo.gov.uk/ipresearch-parody-report1-150313.pdf>

R4. Report 2 (P2) <http://www.ipo.gov.uk/ipresearch-parody-report2-150313.pdf>

R5. Report 3 (P3) <http://www.ipo.gov.uk/ipresearch-parody-report3-150313.pdf>

R6. The Government legislative impact assessment (2012): www.ipo.gov.uk/consult-ia-bis1057.pdf

R7. Intellectual Property Office announcement, 31 July 2013: <http://www.ipo.gov.uk/techreview-parody.pdf>

The following individuals can be contacted to corroborate the impact claim:

R8. Chief Economist, Intellectual Property Office. Contact details available.

R9. Executive Director, Open Rights Group UK. Contact details available and letter confirming view and referencing the BU study available online <https://www.openrightsgroup.org/ourwork/letters/letter-to-lord-younger-on-copyright-reform-and-parody>