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September 2019

All-Party Parliamentary Intellectual Property Group

Protection and Enforcement of Intellectual Property Rights

Evidence and recommendations

During 2019, the All-Party Parliamentary Intellectual Property Group (the Group) has been looking at the enforcement and protection of Intellectual Property (IP) rights. In particular, the Group wanted to hear from those public bodies tasked with enforcement to better understand the work they do, the progress that has been made, the challenges they face, and the steps that could be taken to better enforce IP rights.

The Group has previously heard from many organisations and companies who either own intellectual property or represent owners of IP. In our meetings this year, we wanted to hear directly from those publicly funded bodies that have either a statutory duty to detect and prosecute those that are engaging in IP crime or have a role in co-ordinating IP enforcement.

As part of our investigation, we spoke with the following:

- Huw Watkins MA, Head of Intelligence, Intellectual Property Office
- Detective Superintendent Peter Ratcliffe, Head of Funded Units, Economic Crime Directorate, City of London Police
- Gavin Terry, Lead Office for Intellectual Property, Chartered Trading Standards Institute
- Kristin Jones, Head of the Specialist Fraud Division at the Crown Prosecution Service
- Giles York QPM, Chief Constable, Sussex Police and National Police Lead for Intellectual Property

We are enormously grateful to the witnesses, who gave their valuable time to talk to us and provide such insightful and useful evidence. It is clear that there are many individuals and bodies with a significant commitment to detecting and prosecuting IP crimes. We recognise that there are many conflicting priorities on the time and resources of the organisations we heard from, but are pleased that IP crime remains important to them.

Impact of IP crime

The Group was pleased to hear the progress that was being made in the detection and prosecution of IP crimes. A number of witnesses highlighted that IP crime is not victimless, as is often presumed, but has a real link to other forms of criminality. Giles York was particularly lucid in explaining its link to public safety and also to serious and organised criminality. York explained how the same smuggling

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routes used for counterfeit products were also used for other contraband including weapons and drugs demonstrating the link to serious and organised crime.

PIPCU

The Group has, in the past, been critical of the lack of long-term, multi-year funding for the Police Intellectual Property Crime Unit (PIPCU), based within the City of London Police. We understand that the Intellectual Property Office (IPO) is in the process of putting this long-term funding in place and we welcome this significant step. The Group believes this will enable much longer term planning of investigations and enable greater focus on detection as opposed to continually having to focus on funding processes.

IPO

The IPO's enforcement strategy clearly has co-ordination at its heart, given that it is not an enforcement body in its own right. We recognise the limitations that this forces on the IPO. Given the enforcement strategy also has an international aspect to its work, particularly with Europol, it will be vital that whatever form of Brexit takes place, this international co-operation continues. We will be following this process carefully to ensure such co-operation continues.

Trading Standards

It is clear that there remain huge challenges to the work of Trading Standards, given the funding cuts they have faced and extra duties that they have been given in recent years. We recognise that Trading Standards have a variety of critical roles to play in protecting the public from a range of threats. Clearly some Trading Standard departments have lost all their IP expertise and others continue only due to the dedication and interest in IP of individual officers. It is clearly for local authorities to decide the priorities for funding in their communities but it is disappointing to see many Trading Standards departments reducing their commitment to detecting IP crime. As a Group we wonder whether, as with PIPCU, there might be an opportunity to create a more central group of Trading Standards Officers who could lead on IP enforcement to at least ensure further knowledge and enforcement effort is not lost.

Crime Prosecution Service

The Crown Prosecution Service was very interesting in outlining how it was tackling IP crime and the assorted types of offences they were now employing in their prosecutions. Of particular note was their use of the Fraud Act and how they were looking at how legislation and laws around financial institutions and laws governing the flows of money might be used in the future. Some years ago we know there had been criticisms of the approach and priority given to IP crimes by the CPS. We were impressed that they have clearly stepped up a gear and are now taking the issue more seriously, being inventive in how to bring successful prosecutions.

Digital environment

All the witnesses highlighted the ongoing challenge of detecting IP criminality in the digital environment, both for digital and physical products. We have heard many times the issues that the digital eco-system creates for IP enforcement. There are many different views about how IP infringement online could be approached and the responsibilities that should be borne by participants in the digital ecosystem. This is an issue we intend to return to in more detail in the next 12 months.

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Summary

1. We welcome the long-term funding for PIPCU that has been put in place by the IPO
2. We think some centralised IP function for trading standards is worth exploring
3. We look forward to hearing more about how the CPS is looking at using other legislation to tackle IP Crimes
4. We hope that international co-operation around IP enforcement can continue post-Brexit
5. We recognise that online IP infringement continues to be a major concern and will return to this issue in more detail in the future