

CONFIDENTIAL

Qa 06178

To: PRIME MINISTER
From: JOHN SPARROW

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Prime Minister:
Agree to
proposed remit
8 December 1982
JH
8/12

Intellectual Property

- CPRS work Programme file - attached*
1. When we met on 30 November to discuss the CPRS and its work programme, I was under the impression that we had cleared the remit on Intellectual Property with you. In fact, I find that the process of consultation outlined in Tim Flesher's note of 12 October has only recently been completed, and I attach a copy of the final form of the remit hereto.
 2. The background note makes it clear that the study is addressing the general framework and climate within which intellectual property is recognised, protected and exploited; a wider range of issues than those raised during your meeting with Sir Austin Bide on 12 October. However, within the study, we are particularly considering whether British business enjoys advantages or disadvantages with respect to its competitors abroad. We shall submit the report to you by next May.
 3. The remit has been agreed with the Secretaries of State for Trade, Education and Science, Industry and Foreign and Commonwealth Affairs, and with the Home Secretary. In addition, we have had helpful comments from the Lord Chancellor and the Lord Advocate that we will take account of in the study.
 4. I am sending copies of this minute to all these Ministers, and to Sir Robert Armstrong.

PS.

Att

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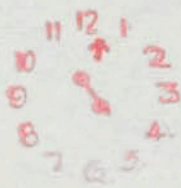
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- 8 DEC 1982



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REMIT - INTELLECTUAL PROPERTY

As part of its work in the general area of the competitiveness of British industry and the exploitation of innovation; the CPRS is asked to examine:

- i. whether Government, directly or by the framework that it provides, adequately encourages awareness of the potential economic value of intellectual property both as a traded commodity and otherwise;
- ii. the different approaches to these matters by our major trading competitors and elsewhere, and whether there are applicable lessons for the United Kingdom;
- iii. whether the present structure for the protection of intellectual property, including legal rights and their enforcement, and the methods of Government policy formulation, are best suited to the national interest both at home and abroad;
- iv. whether the present methods of protecting intellectual property are, on balance, well suited to encouraging exploitation;

and to make recommendations.

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BACKGROUND NOTE - INTELLECTUAL PROPERTY

1. The future prosperity of the United Kingdom depends as much on the value of intellectual property (eg inventions, designs, software, and know-how generally) as it does on physical property (eg natural resources, buildings and machinery). The remit is intended to allow a report on the framework and climate within which intellectual property is recognised, protected and exploited. Thus the study will range wider than specific methods of protection such as the patent system. Without entering the debate about what general economic measures will best stimulate innovation, the study will consider whether our methods of dealing with intellectual property are well suited to exploitation.
2. Attitudes to intellectual property are very different from those relating to physical property. The first part of the remit, concerned with the awareness of the value of intellectual property, will allow CPRS to consider attitudes within the legal system, the education system, business and Government. The extent to which the United Kingdom is organised to become aware of ideas developed abroad will also be considered.
3. The second part of the remit, concerned with different approaches to intellectual property, will allow an appraisal of the practices and experience of other countries and hence conclusions about what may be best for the United Kingdom's interests. The likely impact of changes to the international order which registers and protects intellectual property will also be considered. These changes are being brought about by international agreement but also by unilateral domestic legislation, particularly in developing countries.
4. The extent to which the present structure is best suited to the national interest will be studied against the perspective established above. The CPRS will consider, in particular, whether British business enjoys advantages or disadvantages with respect to its competitors abroad. There could be two main aspects, concerned respectively with the establishment and definition of intellectual property rights and with the enforcement of those rights.

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4.1 Whether the relevant public agencies and professional bodies are sufficiently responsive to changing external circumstances should be assessed, as should the adequacy of the policy-making mechanisms within Government. The Department of Trade has the lead but the stance taken by the other Departments and the resources that they devote to this area should be considered, as should the strength of the United Kingdom's representation in international fora. Industry itself has a number of channels of representation which may or may not be adequate and coherent.

4.2 Questions about the enforcement side would concern the extent to which national laws are compatible and comprehensive and whether British policing, legal processes and traditions hamper enforcement. The ability of British businessmen to enforce their property rights abroad and whether useful channels of advice exist will also be considered.

5. Finally, given that the protection of intellectual property is mainly of value in so far as it encourages exploitation of ideas, the remit allows conclusions to be drawn on whether present methods are a help or a hindrance to exploitation. A wide range of industries, with very different markets and product lifetimes, currently attempt to operate under one system. Some attempt should be made to assess whether, on balance, more flexibility or new attitudes to protection would be beneficial.



10 DOWNING STREET

From the Private Secretary

MR. SPENCE

The Prime Minister has now seen Mr. Sparrow's minute of 8 December on intellectual property. She has agreed to the proposed remit for the CPRS study of intellectual property attached to the minute and she has noted that the CPRS intends to submit its report by next May.

I am sending a copy of this minute to the Private Secretaries of the Ministers to whom Mr. Sparrow copied his, and to Richard Hatfield (Cabinet Office).

Tim Flesher

9 December 1982

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Trade
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