

Branding

in a modern economy

Conference Report

Co-ordinated and prepared by Speechly Bircham LLP



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Foreword

The branding conference was inspired by The Rt Hon David Lammy MP, Minister for Higher Education and Intellectual Property, who is leading the initiative to develop the agenda for brands as an economic driver in the UK.

The 'Branding in a Modern Economy' conference took place at the BIS Conference Centre, 1 Victoria Street, London on 11 November 2009.

The conference's objective was to create a dialogue which would advance understanding of brands and their relevance to Government policy, leading to the development of policies which will enhance the contribution of branding to the UK economy.

The Intellectual Property Office was delighted to host this important conference. Thanks go to partners: the British Brands Group, the CBI, the Whitehall and Industry Group, the Design Council and the Institute of Practitioners in Advertising (IPA).

Speechly Bircham LLP recorded the conference and workshops, collated the material for, and facilitated the drafting of this report.

A special thank you goes to the organisations and individuals who generously facilitated and took part in the workshops and to the delegates who attended the conference for their thought, care and engagement in the debate which made this report possible.

The introductory paper published by the Intellectual Property Office and copies of the speakers' presentations may be accessed via the IPO's website: <http://www.ipo.gov.uk/pro-types/pro-tm/t-policy/t-policy-branding.htm>

Note: two presentations, (2) Branding: enhancing the performance of smaller businesses – Richard Reed, co-founder, Innocent Drinks and (2) Driving export performance through branding – Simon Anholt, Member, FCO Public Diplomacy Board, were given without the use of slides.

This conference contributes to the Creative Britain initiative.



Summary

Brands are yet to be fully appreciated for their importance and contribution to the UK economy. For brands to achieve their greatest potential in terms of growth, job creation and durability of wealth generation, Government needs to prioritise policies and initiatives that encourage brand investment and discourage practices which undermine the returns on such investment. Furthermore, establishing the reputation and character of the UK in relation to branding goes hand in hand with the success of the businesses and brands within its borders.

The mobility of intangible assets, such as brands, provides their creators with a wide choice of jurisdictions in which to locate them. As manufacturing moves from West to East, the retention of wealth generated by innovation and brand building in the UK becomes particularly important. To do this, the UK must place a high level of emphasis on the regulatory, fiscal and policy environment that will make the UK globally competitive.

Establishing the UK as the best location for brand creation and development is essential to the nation being competitive on the global stage. Acknowledgment of the importance of brands is a pre-requisite for encouraging inward investment, innovation and the choice of the UK as a good place to grow a branded business. An attractive and stable regulatory and fiscal policy environment which encourages entrepreneurship and does not excessively regulate or stigmatise those who do not succeed is essential to attract and retain the best brands and maximising commercial opportunities.

A marketplace hostile to parasitic copying, counterfeiting and plagiarism is important to the development of a modern economy oriented to the creation of value and the growth of international trade. Government needs to consider whether to provide resources to those charged with enforcing regulations or to empower those who have the interest and the resources to enforce the law. It is important that Government is perceived as standing robustly against plagiarism and counterfeiting.

Access to swift, reliable, cost effective and consistent legal remedies is essential to facilitate the growth of brands and to encourage investors to back new ventures. Investors will be discouraged by the risk of brand propositions being unduly and unfairly attacked by plagiarism and counterfeits and by slow, uncertain and expensive enforcement regimes.

Government occupies a pivotal role in directing education, resources and policy to provide future business people and entrepreneurs with all of the educational advantages that the nation can provide, thus creating the necessary consumer understanding, innovation, marketing and brand development skills required.

The post-recession environment presents a defining opportunity for Government to lead education policy initiatives that develop insight and knowledge, that nurture, inspire, incentivise and reward creativity, innovation and brand development.

Brands must have a champion at the heart of policy making. The Intellectual Property Office is probably best suited to this role but continued efforts should be made to co-ordinate the services offered by the IPO with those offered by the UK Companies House with the aim of providing a 'one-stop shop' for all new businesses.

The role of SMEs played a significant part of the discussion and it was felt that more needs to be done to encourage such companies to consider brands, and the intellectual property rights (IPRs) that underpin them, at a much earlier stage of their development. A one-stop approach to register companies and IPRs would be helpful and the provision of funding, brand-building advice and training needs to be better structured and communicated.

UK brands are an influential force in export markets, not only in terms of the balance of trade but affecting the image and reputation of the UK abroad. A positive image for creativity and well-designed products and services creates a halo effect which improves the competitiveness abroad of a wider range of UK outputs. These forces need to be recognised and incorporated into UK export policy. At the same time, the UK's brand-building creative industries are world class and represent important export potential in their own right.

Social responsibility of brands and altruism are recognised as essential attributes of modern businesses and brands provide a powerful incentive for products and services to align closely with societal needs, whether in relation to health, the environment, social behaviour or other areas. The regulatory and policy environment that encourages these characteristics is an essential part of establishing the UK as a market in which such forces are recognised and encouraged, fuelling the country's position in the vanguard of the post-Copenhagen world.

Important notice

This report summarises the discussions and issues debated at the 'Branding in a modern economy' conference. The inputs recorded were derived from speakers and individuals who expressed their opinions and shared their thoughts during the four workshops.

This report is a synopsis of the ideas, concepts and principles expressed at the conference. It does not represent a consensus of those attending and not all the ideas expressed were majority views.

Any suggested outputs or recommendations arising from this report are those of the conference only and have not yet been subjected to the usual process of policy scrutiny or consultation.



1 Introduction

The conference participants were invited to generate recommendations for improving the UK's economic, commercial and legal environment in relation to branding.

The participants debated what they considered would be necessary to create a world class environment in which to create and build brands.

Branding creates enormous value for companies and plays a significant economic role by generating value added, creating new markets and jobs, commercialising innovation, driving exports and delivering global competitiveness.

The conference explored four main ideas:

- The core characteristics of the UK's inherent strengths in brand building and the potential contribution of branding to the UK economy;
- The role of public and economic policy to establish and support conditions in which brand-focused businesses may thrive;
- The strengths and weaknesses of the current legislative regime in relation to the protection of brands; and
- The practical next steps to leverage the potential from branding to the UK.

2 Themes

The discussions and debates consistently identified a number of key themes:

- 1 It is perceived that Government's appreciation of the significance and contribution that brands make to the UK economy has been less than optimal. The value that brands bring to the UK economy needs to be better understood.
- 2 The significance of brands and their importance to economic growth needs to be reflected in any consideration of the UK's economic position. Government should embrace policies which mould the economic, commercial and legal environments in the UK so as to provide incentives for the creation and growth of brands and wealth generation.
- 3 Government plays a key role in championing global recognition of the UK's position as an international centre of excellence for the creation and development of brands through its brand-building creative industries.
- 4 Recognition of UK-centric brands enhances the UK's reputation and goodwill internationally which attracts investment and trade.
- 5 International recognition of UK brands positively influences the UK's reputation internationally, increasing accessibility to markets for all UK businesses resulting in improved export performance.
- 6 Brands are a significant driver in the UK's emergence from the recession.
- 7 Policies and incentives should provide know-how and education to maximise the potential of the UK's established brands and encourage the development of new and emerging brands.

3 What is a brand?

The invitation to the conference described brands as reputational assets based on powerfully-held beliefs, which drive consumer understanding of value, purchasing decisions and loyalty in the marketplace. Over a million people are employed in the UK in the creation and building of brands, delivering some £15 billion annual investment to the UK economy.

Based on differentiation and added value, brands support effective commercialisation of innovation and enhance the close alignment of business with society. Brands represent a strong force in both consumer and business-to-business markets. Brand reputation crosses borders and sectors and is relevant to products, services and corporations. Brands act as an organising principle, influencing how businesses structure and manage themselves. Brands act as a link between national corporate and social characteristics.

Brands are more than logos, trademarks and corporate identity. The iconography of a brand is imbued with the character, principles and reputation of its creators, the personality of its leaders and employees, its business practices and its social responsibilities. Good news travels fast; bad news travels faster.

The consistency of a brand's ethics and principles are tested by consumer communication across social networks and by a myriad of communication techniques. The brand, it is often said, lives in the mind of its customers and those who choose to engage with it. A new consumer or business partner may choose a branded product or service because of the character, reputation and personality which its icons come to represent. A brand does not live in a vacuum. A brand must always deliver on its promise. It is dynamic, a living thing which changes. It is constantly judged and must be the subject of constant development.

Brands create an emotional relationship with their consumer stakeholders; a 'loyalty beyond reason'. Brands have personality, create value and have longevity.

As assets, brands have no single legal foundation. They are established and protected by an alchemy of interlocking legal rights, the relative importance of which vary with the nature of the product or service. Patents, trade marks, trade secrets and goodwill all require careful documentation, registration where applicable and enforcement to keep brands undiluted, differentiated and valuable. A brand's value far exceeds the value of its constituent parts.

A brand's identity is determined by the relationship the brand creates with its current and potential consumers. Aspiration and reputation play an important role in understanding brand value. Brands support predictable revenue streams. They create trust in those who have never purchased their service or product and create a residue of value which can be bought, sold or licensed.

Brands encourage innovation, in part because consumers expect them to continue to deliver their promise in a world where technology and competitive responses continually change. Brands help to commercialise innovation because consumers imbue new products and services with the character of the brand's reputation long before the products have even been developed or marketed. Consistency and delivering on a promise make a brand a valuable asset which opens up wider commercial opportunities.

Brands concern themselves with the art of understanding what the consumer wants before the consumers themselves realise they need it. Richard Reed, CEO of Innocent Drinks, quoted Henry Ford in his speech to the conference delegates, 'If I'd built what people said they wanted, I would have made a faster horse'.

4 The facets of a brand

The contributors identified a brand as:

- 1 The means by which one entity differentiates its products or services from those of another.
- 2 An encapsulation of trust and reputation which drives revenue and wealth creation.
- 3 An essence which captures the value and spirit of innovation and enables that innovation to be recognised and commercialised.
- 4 A bundle of messages and concepts conveyed to and perceived by the consumer.
- 5 A distillation of the core values of a product or service which informs all business decisions. When a company's actions and its products (or services) are aligned with the core brand values, then consistency and stability of revenue tend to follow.
- 6 That which opens opportunities for companies, allowing evolution and diversification both in products and markets, and creates the ability to influence.
- 7 Facilitating and supporting innovation, goodwill and reputation which encourage consumers to give new products from the same origin an opportunity.

5 Investment in and derived from brands

The contributors agreed that strong brands facilitate investment.

Internal investment: strong brands attract the best talent. Companies that invest internally in talent recognise that investing in training and the retention of staff supports the business ethos and enables the business to 'be the brand'. Such investments define a culture which differentiates it from competitors.

The brand promise: aligns significant internal investments, notably in research and development, innovation, process engineering, product quality and consumer understanding, to name just some. This is the virtuous circle of branding. Brands attract investment talent and consumers alike.

External investments: Branded companies invest in the legal structures which preserve them as distinct from their competitors, such as patents, trade marks and designs as well as trade secrets and copyright. These maintain the exclusivity of the product or services.

Character and values: Branded companies communicate the values, ethos and character of their products and services through investments in advertising, communication and marketing.

Communication of brands: acceptance of Corporate Social Responsibility (CSR) is a key area of investment. Companies are increasingly judged by the extent to which they are willing to act as good corporate citizens.

6 Encouraging brands to be based in the UK

Brands can often locate themselves in whichever country they desire. They are likely to favour those countries which offer financial incentives for the creation and growth of brands and which provide affordable and adequate protection via the bundle of IPRs that underpin them. A supportive public policy and economic environment (including the tax regime) will also be a factor.

The value of brands can be recognised by the market capitalisation of their owners or by the value they achieve when sold. The legal protection of a brand is essential to prevent discounting of that value on sale, merger or acquisition. Poor legal protection, variable tax and regulatory regimes and inconsistent competition laws will undermine the attractiveness of a market for brand assets and therefore have a detrimental impact on wealth generation and growth.

Brands, and notably the intellectual property that underpins them, are able to move their fiscal homes much more easily than the fixed assets of traditional manufacturing industries which are tied to physical locations. This mobility of value is a key consideration in economic legal and fiscal policy considerations.

For brand owners, protection of the brand equates to protection of the investment that is placed in that brand. According to Interbrand's list of the top 100 global brands of 2009, the UK is only home to only 4 of the top 100 brands globally.

Entrepreneurs rely on a strong market for the brands that they create to justify the investment. Investors in listed companies require the protection of the brands they invest in to ensure consistent growth.

7 New business needs and new regulation

The contributors noted that businesses may spend less on brand-building activities in times of recession and that any investment made in such times is likely to be highly focused.

Investment in advertising is likely to decline, but new cost effective methods of communication and new business models have changed the way in which brands communicate.

Social networking and consumer-to-consumer communication has assumed a greater role in brand formation and development. An example was given of the Coca-Cola branded pages on Facebook, which began life as fan pages but resulted in collaboration with the company.

This shift in communication patterns is likely to lead to new threats to brands, with an inevitable loss of control. The internet and social networks have opened up horizontal (particularly consumer-to-consumer) communication, rather than top-down, or one-to-many, communication. Branded companies are therefore losing the ability to directly control their brand image which is instead being determined increasingly by the consumer. Consumer preference and brand behaviour, both positive and negative, are communicated much more rapidly than ever before.

The conference heard of the importance of branding in investment decisions; Warren Buffet was quoted as putting 'brand as his top consideration' in such decisions.

Contributors predicted a greater recognition of brands as assets in the future and some cited Kraft's acquisition of Cadbury in support of this.

As brands are being created, sold and acquired, Government policy and thinking needs to recognise that brands are a valuable and significant class of asset, which is a repository of wealth and an engine for growth.

The fundamental shift towards an economy based on value added innovation and creativity requires Government understanding, support and consistency of policy.

8 The importance and value of branding

The contributors considered that intellectual assets are not universally recognised in the UK as being as important as, or of comparable value to, physical assets.

The contributors perceived that there was a deep-seated lack of understanding which pervades Government and financial institutions. There is a similar perceived lack of understanding and recognition of the role of branding in the economy and the impact that brands have upon the economy. It was noted how few Government policies or statements make reference to or take account of branding.

The legally protectable part of a brand is delineated by a bundle of IPRs. The ability to protect a brand is not sufficiently recognised because both the legal rights and their interactions are not understood as well as would be desirable. Increased availability of information concerning the techniques available for protecting a brand via associated IPRs will enhance brand owners' ability to protect their brand and build value. Easier access to information concerning the international protection of brands in relation to exports and market expansion would prove beneficial.

Output 1: Research

The contribution that branding makes to the UK economy requires both quantification and clarification, ideally via a Government-supported study. Once this contribution is better understood, a programme to acknowledge and articulate its importance may well be required within Government departments and amongst key institutions.

Output 2: Research

Branding is cross-sectoral and a review of policies affecting branding is required across wider industry, incorporating relevant regulatory regimes to assess whether they make the UK a better place for brands. This should be done in full consultation with industry.

Output 3: Research and education

Awareness of the importance of intellectual property rights in relation to brands in the post-industrial economy requires improvement. Their financial role, not least as assets that can securitise loans, needs particular focus, development, explanation and promotion.

9 Branding and innovation

The conference keynote speaker identified the close link between branding and innovation. Brands must differentiate themselves and add value to deliver the brand promise. Evolving technology and competitive pressure increases the need to innovate. As the keynote speaker stated: 'Necessity is the mother of invention. Brands need it most, so they drive more innovation.'

Brands have a unique and proven ability to differentiate themselves in highly commoditised environments, in which innovation plays an important part. Most significantly however, branding plays a key role in commercialising R&D and innovation, providing a crucial platform for the realisation of revenue from concepts. Design links innovation and creativity, turning inventions into marketable propositions. Design and brand presentation are therefore key qualities of brands.

The environment for branding in the UK is inextricably linked to the environment for innovation. Any analysis of the UK as a place in which to create and build brands needs to include an assessment of the UK's innovation performance. Identifying how to remove barriers to bringing innovations to the market and facilitating innovators to earn a fair return on such investments is a key consideration.

Output 4: Research and policy

The UK environment for innovation needs to be included in any assessment of the UK as a market in which to create, build and sustain brands.

10 Consistency across agencies

It was acknowledged that the increased co-operation between the Intellectual Property Office and Companies House should continue as this is helpful for business start-ups.

Participants considered that registering trade mark rights should become part of the routine of incorporating a company at Companies House. The ultimate aim should be to produce a 'one-stop shop' for start-up businesses, to register both the company and its intellectual property. Such an initiative would help protect intellectual assets and would encourage start-ups to consider branding at an early stage of development.

Business advisors and consultants should be encouraged to 'signpost' the areas where other specialist advice is needed so as to ensure that SMEs have full advice both on the commercial benefits of the branded business model and the value to them of their intellectual assets.

Output 5: Policy

The IPO should be encouraged to continue its policy of greater co-operation with Companies House with the aim of providing a 'one-stop shop' for start-up businesses, to ensure that understanding the value of intellectual property rights, and possible registration, becomes part of the process of registering a company.

11 Education

It was recognised that despite the substantial value of brands in many sectors of the economy, there is very limited access to information and little education available as to why building a brand may be valuable and a key driver of business success. Know-how as to how a brand might be built and protected, what skills and resources one needs to build a brand and how a brand might be valued is desirable.

Government could play a key supporting role in the development and co-ordination of awareness of the techniques and principles of brand building for SMEs, thus accelerating growth and wealth creation.

Educating smaller brand owners and entrepreneurs on the scope of the IPRs available was considered a priority by the conference participants. Government could play an important role in co-ordinating and helping increase awareness of what constitutes a brand, the function of a brand, how a brand is created and valued, and how important branding is to a company's development and international expansion.

It was suggested that availability of information, will help provide SMEs and micro companies with the knowledge needed to develop their businesses and exploit and protect their products and services as extensively as possible.

Knowledge of intellectual property law and regulation forms the central pillar of a brand and is a pre-requisite to enable a brand owner to protect its identity and safeguard the investment behind it.

SMEs need more than just information however. They require practical business support. The Business Simplification Programme, for example, has shown that practical support and practical application of the knowledge spoken of above produces tangible results for SMEs.

A valuable educational tool for SMEs could be provided through case studies of SMEs who have reappraised their brand and accessed a business support programme to improve the value of their business. Such case studies will help show the practical value of branding, encouraging SMEs to invest in their brands and to consider how those brands might be best used and promoted.

Output 6: Education and policy

Existing educational tools on branding need to be reviewed and organisations identified that can assist with the task of educating, with a particular focus on reaching start-up and smaller businesses. A review of educational activities in other countries may provide valuable benchmarking. Provision of practical programmes for business support to SMEs would be desirable.

Output 7: Education and policy

UK business and MBA courses could include a compulsory module on branding and the intellectual property rights that underpin a brand.

12 Careers

Government policy should have as an objective the development of entrepreneurs by providing them with the practical skills and opportunities needed to produce the next generation of brand builders.

Government should promote a culture in which informed commercial risk-taking is a necessary part of economic growth, the skills required to assess and calculate risk should be promoted and the absence of commercial success should not be stigmatised to the point that it discourages entrepreneurial spirit. There was a strong consensus that Government should be wary that strident media calls to manage financial institutions should not spill over into regulating the commercial sector which relies on rewarding entrepreneurs. It is necessary to recognise that not all businesses will succeed and not every vision will catch the moment. However, the nation will be judged by those that do.

A question arises as to whether entrepreneurial skills are developed through nature or nurture. There is a myriad of examples of successful entrepreneurs not succeeding academically and it is important that the education system recognises these talents. Entrepreneurship should be recognised as a viable and desirable career aspiration. Appropriate practical training should be available. Government policy could build upon the UK's individualistic culture which praises and rewards individual achievements.

Britain should celebrate its innovation heroes by celebrating their status. Conference participants suggested introducing a National Prize for Innovation as a means of recognising, rewarding and publicising innovation.

Communication across industry sectors should be encouraged in order to stimulate entrepreneurship and to ensure that ideas are shared across different sectors of the economy.

Conference participants suggested that a Government initiative similar to the 'Investors in People' scheme would help to raise awareness of the benefits of branding as a part of entrepreneurship. Such a scheme would help to improve the chance of a start-up obtaining funding and would increase awareness of how such funding can be accessed.

Participants suggested that Government researches the viability of creating an intellectual property charter mark, to signpost excellence in intellectual property management and development. This would increase consumer awareness and enable start-up brands to secure themselves in a competitive marketplace.

Marketing as a profession is currently neglected in the UK and is inadequately promoted as a credible career choice. Marketing skills should be integral to the skill set of a potential brand builder. An MBA is considered to be a pre-requisite for a brand manager in the US. China has also adopted the approach of incorporating intellectual property strategy into all MBA syllabuses and intellectual property is taught in Chinese primary schools. The Chinese Prime Minister correlates the future with intellectual property, recognising its economic importance.

Output 8: Education and policy

The role of entrepreneurship in education requires review and the further steps identified that will encourage young entrepreneurs and SMEs, providing them with the necessary skills, both as entrepreneurs and brand builders.

13 Scope of intellectual property rights in the UK

The crucial link between successful brand-building and IPRs was emphasised, with the financial dimension (in terms of supporting and encouraging investment and enabling trade) and consumer dimension (in terms of trust and confidence) being of particular importance.

There are however some constraints on the scope of IPRs in the UK in comparison with other jurisdictions. The conference noted that the UK judiciary, for example, require encouragement to recognise the value and role of brands and their associated IPRs.

Recent European Court of Justice judgments have recognised that trade marks have a function which extends beyond that of a badge of origin but this perception of the role that trade marks and designs play in modern branding and the economy is inconsistent with that of the UK Courts. The UK judiciary increasingly appear out of step with European jurisprudence.

The conference considered that the law is frequently out of date and difficult to apply to evolving technology and business methods. There is a mismatch between the concerns of brand owners and the legislation that is available to protect their brands. The result is that brand owners often feel powerless to address practices that free ride or unjustifiably seek to destroy brand value, in contrast to the situation in other jurisdictions.

14 Access to information on IPRs

The participants considered that there is a lack of readily available information about the IPRs that are available to brands and which are relatively inexpensive to create. As a result there tends to be a lack of understanding about the levels of protection and enforcement that are available.

The UK has a wealth of business resources, such as case studies, branding advice and mentor programmes, but these are not being used to their full potential and not as accessible as would be desirable. SMEs are often unaware that these resources exist and of the importance of taking advice early, rather than waiting for things to go wrong.

Output 9: Policy and education

There is scope to improve the availability and accessibility of information that explains the variety of intellectual property rights available in the UK, the differences between them, the connection between rights and brand value, and how rights create trading opportunities (e.g. franchising and licensing).

15 Protection and enforcement of IPRs

Whilst recognising that there tends to be a lack of understanding about the levels of protection and enforcement that are available to brands, participants also suggested that the current regime for the protection and enforcement of IPRs is perceived as inadequate. The remedies available to redress intellectual property infringement need to protect brands at every stage of their development but also need to encourage investment in new brands and products, and encourage brands to locate in the UK.

The remedies available at present in respect of intellectual property infringement fail to penalise and discourage future infringements. It was suggested that criminal sanctions be strengthened and adequate funds made available to ensure swift and certain redress for key intellectual property infringement, for example counterfeiting.

Output 10: Legislation

Stronger punitive remedies need to be considered in respect of intellectual property infringement to discourage persistent infringement and ensure that infringement is not merely a commercial risk worth taking.

The conference participants identified some specific regulatory failings in the protection of brands and the enforcement of IPRs. These include packaging products that mimic familiar brands (parasitic goods) and comparative advertising which is not objective and justifiable.

Some participants recognised that the UK is perceived as providing inadequate redress for unfair competition as compared with other European countries where specific protection for 'unfair competition' is available.

The conference considered that it is clear that the reputation of business, the investment in those businesses and the consumer interest are prejudiced by unfair commercial practices, yet the UK law does not currently offer satisfactory remedies. The difficulty for companies to object to such practices was cited in support of this. It was also observed that trade bodies have very limited rights to take action on behalf of their members.

Output 11: Legislation

The regulatory regime needs to be reviewed in relation to the tools brand owners have to safeguard brand investments and distinctiveness against attack. A comparison with other jurisdictions would be valuable.

Participants observed that some Government policy appears to promote populist free-trade and the short term consumer benefit of cheap, albeit plagiarised, goods to the detriment of longer-term consumer benefit and the growth of brands.

A further example of poor regulation was the self-regulating provisions of the CAP Code which do not apply to important marketing vehicles such as packaging and in-store communication. Regulation of marketing and branding needs to afford established brands the protection they need to preserve their reputation but also needs to enable new brands to enter the market and create a platform for investment and innovation.

Output 12: Policy and legislation

Clarify the law and regulatory regime in respect of marketing practices, for example, providing guidance on what constitutes a legitimate advertisement and packaging design.

16 Costs of enforcing IPRs

Participants commented that the judicial process is perceived as being too slow and costly and consequently does not afford effective protection for IPRs and brands, particularly for investors, SMEs and growth businesses.

Output 13: Law and procedure

The cost of intellectual property rights enforcement in the UK needs to be assessed relative to other countries as one measure of the competitiveness of UK's IP regime. Government should seek ways to reduce costs of enforcement, providing a greater range of remedies whilst deterring infringements.

It was suggested that enforcement costs could be reduced through an assessment of the type and scope of evidence that could be admitted in cases of intellectual property infringement and increased powers to enhance access to justice by small businesses.

Clearly defining the evidence that is central to an intellectual property claim will reduce the time and money spent in gathering evidence.

Participants noted that it is not particularly expensive to protect or secure IPRs in the UK, for example, through trade mark registration.

17 Counterfeiting

A significant number of conference participants considered that key aspects of policy in relation to anti-counterfeiting were inadequate.

Participants noted that Government policy in relation to counterfeiting continues to be hampered by the growth of online trading and a perception that the benefits to the consumer outweigh the damage being caused to brands and investment. There was no perceived incentive for online portals and auction sites to discourage counterfeiters and plagiarists.

Output 14: Education

An educational program needs to be developed with stakeholders to reduce consumer demand for counterfeit goods. Increasing awareness about the links between counterfeiting and organised crime and the detrimental economic effects of counterfeiting on investment, jobs and the economy should be part of that programme.

18 Enforcement agencies

Many essential elements of intellectual property right enforcement are vested in agencies which do not have adequate resources to give IPR enforcement the efficacy or the priority which it deserves.

Legislation places the obligation to enforce legislation in the hands of these agencies. However there is a lack of co-ordination, resources and sometimes skills to deal with enforcement of IPRs and the tools with which to do so (e.g. Proceeds of Crime Act 2002) are often not used effectively or at all.

19 A consistent strategy for UK brands

It was noted that there is currently a lack of clear leadership in respect of the development of brands and branding as a force in the UK economy. There is an absence of clear strategy and policy. Furthermore, the contributors considered that Government needs to develop a clear export marketing policy which takes account of the role of branding.

It was noted that there are presently no natural clusters of industries in the UK to which brands can attach or in relation to which UK brands can be marketed.

20 A voice for brands in government

Participants considered that brand owners need a voice within Government through which they can channel their concerns at policy level. This should not be the job of a politician. Rather, it should rest with a body that has a long term vision. A single body needs to be the designated champion who drives IPRs reform and innovation, elements integral to branding.

It was proposed that the Intellectual Property Office or a BIS main department were best placed to become the UK brand champion in Government. Both have an established remit involving innovation and intellectual property, though it is noted that it was the Intellectual Property Office that was hosting this important conference. It was proposed that assistance can be provided by BIS sponsored organisations such as the Design Council.

The conference considered that there may be a perception by parts of Government that brands mean only luxury goods. Efforts should be made via communication with industry to educate Government ministers and departments as to the broader application of branding to the service industries and business as well as consumer products.

Further, the conference considered that there is an important role for a voice for brands within the business world as distinct from within Government.

Output 15: Policy

A strong voice for brands is needed within Government. The IPO and BIS are the departments to be considered for the role. Such a voice would champion the economic importance of branding, oversee the policy and regulatory regime relevant to brands, and co-ordinate skills development and awareness-building.

21 Communication

Industry forums and inter-interest group discussions should be encouraged to allow for 'cross-fertilisation' of new ideas and technologies. A clear dialogue between Government and industry forums in relation to the environment for brand building is a priority.

Ideas do not have to be new, just newly applied (unexpected connections) in order to be innovative.

Output 16: Communication

It is recommended that regular meetings are held, chaired by the IPO or industry, between a diverse mix of industry and Government departments to allow for cross-fertilisation of new ideas and technologies related to innovation and brand building.

22 The UK brand

Collectively, brands establish the status and reputation of a nation. Brands may compete against one another, but nationally they also complement each other. The way in which Government conducts itself and the policies which it pursues both at home and abroad have a significant effect on a brand owner's ability to compete internationally. National image will become increasingly important in the global marketplace and other countries are now working assiduously to consider how to market themselves so as to attract brands and associated investment. Government should consider the benefits it should offer so as to attract brands which collectively contribute to the UK's national identity.

The conference considered that the UK brand can act as an efficient vector of national identity. It would be beneficial to identify those industries which have the most economic potential to be the global industries of the future. Incentives should be considered for companies in these industries to encourage them to develop strong international and global brands. Examples of this approach have been seen in France's subsidies to the film industry and Canada's incentives for the computer games industry.

Output 17: Regulation and policy

Consideration should be given to the identification of potential future international and global brands and the support they need to achieve international success, generating economic wealth and enhancing the UK's international reputation.

23 Opportunities for and needs of SMEs

SMEs account for 51% of GDP and employ over 13.5 million people. They also represent a key area for growth, with 60% of SMEs expecting to grow in the next two to three years. Furthermore SMEs are responsible for 65% of new patents and technical innovations in the UK.

Understanding the characteristics of SMEs is a pre-requisite for devising ways in which to support them in the creation and development of their brands. Generally, SMEs have limited staff, expertise and funds to devote to what are perceived as 'non-essential' business costs.

Empirical data has shown a close correlation between those SMEs that invest in intellectual property advice and protection at an early stage and those that survive and grow, yet the majority of SMEs do not apply for IPRs, indicating a potential opportunity.

It was acknowledged that SMEs have different business needs to their larger corporate companions. A 'one size fits all' approach is not effective. SMEs instead need specialist and tailored services. Participants recognised that it would be beneficial to delineate a regime tailored to the business needs of SMEs, to ensure that there is an affordable and effective system within which brands can be established and protected.

A shortfall in understanding of branding when setting up a business can significantly delay growth and may lead to significant problems.

The system by which brands can be developed should be easy to navigate. Tool kits and guides would be valuable.

Output 18: Policy and legislation

Policy and legislation which addresses the needs of SMEs for affordable and effective protection of their intellectual property is sought. The cost of enforcement should not be an obstacle to development. Both registration and enforcement costs for SMEs need to be reduced wherever possible.

24 Funding for SMEs

Funding for brand creation start-ups and development should be more visible and distributed more quickly. There should be more information available to explain where and how funding can be accessed. Funding needs to be for longer term investment rather than quick returns.

As a continuation of this theme, it was suggested that Government consider setting up a seed funding body, designed to provide not only access to start-up and research and development funding, but also practical expertise. A similar idea has been enacted in Chile, where entrepreneurs have access to the expertise of leading CEOs. This built on a theme raised by one of the conference speakers who identified the limited access to initial funding as a major inhibitor to branded business creation.

Output 19: Funding

It is recommended that funding for brand development start-up companies should become more accessible and visible, which in turn would present a relevant opportunity to promote branding. There is a range of funding schemes for SMEs but no clear understanding as to how and where these can be accessed and on what criteria.

25 Financial incentives for brands

Brands are a particularly mobile economic activity and therefore unusually sensitive to tax pressures. It would therefore be beneficial for Government to compare the financial incentives and tax regime offered by the UK with those offered internationally, in particular by other countries which are centres of excellence for branding. There need to be competitive economic and fiscal incentives for brands to start up in the UK, grow within the UK and be domiciled in the UK. The UK tax regime is a key tool to achieve this and make the UK internationally competitive.

Output 20: Funding

The UK needs to be competitive in encouraging and providing financial incentives for companies to invest in brand development in the UK.

One example of a more favourable tax regime is Spain. When a corporate takeover includes the acquisition of intellectual property, the acquisition of that intellectual property is tax deductible, whereas in the UK it is not. This creates an uneven playing field in Europe and invites brands to choose other European countries as their fiscal home.

The conference participants highlighted the example of Turkey. Under the Turkish tax regime, Turkish brands which undertake research and development in Turkey and then export their products abroad can claim a 50% refund of their R&D budget from the Turkish Government. If Government does not recognise this disparity there is a danger that the drift will accelerate.

Output 21: Taxation and policy

The UK tax regime needs to be internationally competitive to encourage companies to be domiciled in the UK and to hold their IP assets in the UK. It is recommended that Government undertakes a comparative review of the fiscal incentives offered in other countries, particularly in those which are recognised as centres of excellence, such as the US, Germany and France. The output from this review may form a more active part of Government strategy to make the UK a more attractive home for brand development.

26 Exporting brand-building creative services

The reputation of leading UK brands which export their goods and services provides a halo effect for other brands which choose the UK as their home. There was a call for a clear policy lead from Government to provide strategic support for exports, encourage excellence and positively enhance the halo effect for all UK brands.

A major theme of the conference was the value to the UK of its brand-building creative industries and the potential for the UK to become more widely recognised internationally as a leading hub of creative excellence. Already the UK's design and advertising industries are a significant success story and so the foundations have been laid for further promotion and championing overseas.

The development of an independent international brand-focused creative league table would indicate the UK's relative strengths in brand-building expertise. This would be a valuable promotional tool while indicating close international competitors and spurring further improvement.

At the same time the UK should not rest on its laurels and ensure that the education system recognises the value of creative industries, encourages the development of relevant skills and promotes these industries as rewarding career paths.

Output 22: Education

The role of the creative industries in the UK's education system requires evaluation, to assess the extent to which it encourages the development of relevant creative skills and promotes the creative industries as a career path.

Next steps

This Conference Report summarises the key themes raised at the conference 'Branding in a modern economy', whether during the presentations or the workshops that followed. It has been co-ordinated and prepared by Speechly Bircham LLP as part of its valuable contribution to the conference. This report will be presented to the Intellectual Property Office and to the Minister for Higher Education and Intellectual Property, The Rt Hon David Lammy MP, and a formal response invited.

It is recognised that the report comprises the input only of those who attended the conference. Where others have an input they wish to make, or where those who attended the conference wish to provide further thoughts, the Intellectual Property Office would be happy to receive this. Further suggestions and comments should be sent to:

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Concept House
Cardiff Road
Newport
South Wales NP10 8QQ
brandingintheeconomy@ipo.gov.uk

It is intended that the conference and this report will be a defining step in the development of a strategy and series of targeted, prioritised initiatives to make the UK a competitive and effective market in which to create, build and sustain brands.

Appendix 1: Conference programme

- 0900 **Chairman's introduction**
Rita Clifton, Chairman, Interbrand
- Introduction by the Minister**
Rt Hon David Lammy MP, Minister for Higher Education and Intellectual Property, Department for Business, Innovation & Skills
- Branding in a modern economy**
James Hallatt, VP and General Manager, GlaxoSmithKline Consumer Healthcare
- The contribution of branding to the UK economy**
Professor Christine Greenhalgh, St Peter's College, Oxford
- The UK's position as a place to create and manage brands**
Nick Kendall, Group Strategy Director, BartleBogleHegarty
- 1100 Act of remembrance
Coffee
- 1140 **Branding: enhancing the performance of smaller businesses**
Richard Reed, co-founder, Innocent Drinks
- Driving export performance through branding**
Simon Anholt, Member, FCO Public Diplomacy Board
- Branding and Government policy**
Andrew Layton, Director, Trademarks and Designs, Intellectual Property Office
- Chairman's closing and pre-workshop remarks**
Rita Clifton, Chairman, Interbrand
- 1315 Lunch
- 1430 Workshops
- 1600 **Summary and next steps**
Sean Dennehey, Intellectual Property Office

Appendix 2: Workshop programmes

Workshop 1

Government policy in leveraging branding in the UK economy

Organised with the support of the Whitehall & Industry Group

Chaired by: Mark Gibson, Chief Executive, Whitehall & Industry Group

Facilitated by: Gill Riches, Whitehall & Industry Group

Contributors:

Akzo Nobel

Alliance Against IP Theft

Bailiwick of Guernsey Intellectual Property Office

British Brands Group

Department for Business, Innovation & Skills

Brand Finance

British American Tobacco

Charles Russell

East Midlands Development Agency

Food and Drink Federation

Inngot UK Trade & Investment

Intellectual Property Institute

Intellectual Property Office

Michael Hutchings

MJI Business Solutions

Mountainview Learning

Munich RE Group

Northwest Regional Development Agency

SSL International

The British Library

Total UK

Ummah Foods

Workshop 2

The UK as a market in which to create, build and sustain brands

Organised with the support of the CBI

Chaired by: Sara Draper, Head of Knowledge Economy, CBI

Facilitated by: Katherine Woods, Meeting Magic

Contributors:

Akzo Nobel

Aston Business School

Brandright

Clifford Chance

Department for Business, Innovation & Skills

Elicit Consultancy

Field Fisher Waterhouse

GlaxoSmithKline

Hammonds

Harbottle & Lewis

Hogarth Chambers

Intellectual Asset Centre

Intellectual Property Office

ITMA

Lewis Silkin

Linklaters

Lovells

MJI Business Solutions

Nelsons

OFT

Procter & Gamble

QinetiQ

Reckitt Benckiser

Remploy

RGC Jenkins

Richemont International

Siegel+Gale

Siemens

Workshop 3

Supporting smaller businesses to create, build and sustain brands

Organised with the support of the Design Council

Chaired by: David Godber, Deputy Chief Executive, Design Council

Facilitated by: Fiona Myles, Myles Consulting

Contributors:

ACID

Bailiwick of Guernsey Intellectual Property Office

British Council

Business Link

IDEAS21

Intellectual Property Office

IPA

Kingsley Napley

Lil-lets

Nelsons

NESTA

Serle Court

SABIP

University of Oxford

Vivaldi Partners

Workshop 4

Enhancing the UK's export performance through branding and the UK's brand-building creative industries

Organised with the support of the Institute of Practitioners
in Advertising

Chaired by: Janet Hull, Consultant Head of Marketing, IPA

Facilitated by: Brendan Bolger, Sense Worldwide

Contributors:

AkzoNobel

Brand Finance

Branding for Talent

CIPA

D&AD

Imperial Tobacco

Intellectual Property Office

IPA

Jones Knowles Ritchie

Maclay Murray & Spens

Nelsons

pi global

RGC Jenkins

UK Film Council

UK Trade & Investment

Wolff Olins

Wunderman

Appendix 3: Contributors to the conference

AkzoNobel	Field Fisher Waterhouse	OFT
Alliance Against IP Theft	Food and Drink Federation	pi global
Anti Copying in Design	GlaxoSmithKline Consumer Healthcare	Procter & Gamble
Aston Business School and Lugano University	Hammonds	Redwood Technologies
Bailiwick of Guernsey Intellectual Property Office	Hogarth Chambers	Remploy
BartleBogleHegarty	ICI Paints	RGC Jenkins & Co.
Boulton Wade Tennant	IDEAS21	Serle Court
Brand Finance	Imperial Tobacco	Siegel+Gale
Branding for Talent	Inngot	Siemens
Brandright	Innocent	Speechly Bircham LLP
British American Tobacco	Institute of Practitioners in Advertising	SSL International
British Brands Group	Institute of Trade Mark Attorneys	Start Ups
British Council	Intellectual Asset Centre	Strategic Advisory Board for Intellectual Property
Business Link	Intellectual Property Institute	Symphony Environmental Technologies
CBI	Intellectual Property Office	The British Council
Charles Russell	Interbrand	The British Library
Chartered Institute of Patent Attorneys	Jones Knowles Ritchie	Three New Square IP Chambers
Clifford Chance	Kingsley Napley	Total UK
D&AD	Law Society	UK Film Council
Department for Business, Innovation & Skills	Lewis Silkin	UK Trade & Investment
Department for Culture, Media & Sport	Lil-lets	Ummah Foods
Design Council	Lovells	University of Oxford
Diageo	Maclay Murray & Spens	Vivaldi Partners
East Midlands Development Agency	Mars	Whitehall & Industry Group
Elicit Consultancy	MJI Business Solutions	Wolff Olins
FICPI-UK	Mountainview Learning	World Trade Mark Review
	Munich RE Group	Wunderman
	Museum of Brands	
	Nelsons	

Appendix 4: Organisers

Host

Intellectual Property Office
www.ipo.gov.uk

Partners

British Brands Group
www.britishbrandsgroup.org.uk

CBI
www.cbi.org.uk

Workshop owners

CBI
www.cbi.org.uk
Design Council
www.designcouncil.org.uk

IPA
www.ipa.co.uk

Whitehall & Industry Group
www.wig.co.uk

Recorders and report preparation

Speechly Bircham LLP
www.speechlys.com

Facilitators

Meeting Magic
www.meetingmagic.co.uk

Myles Consulting

Sense Worldwide
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Conference designers

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