

MR DIMITER GANTCHEV:

Thank you, Richard. Good evening, everyone and thanks for being with us at this hour.

Being in Hong Kong, of course I would like to start by congratulating our hosts with the election of Mrs Margaret Chang as the Director-General of the WHO yesterday, the World Health Organisation, a sister organisation to WIPO just across the road. I am happy that she has been chosen. I think it's also a sign of appreciation for Hong Kong.

What I am going to do in my short presentation today is to try to present, maybe for some, a more orthodox perspective. I am going to say several things about the context of the measurement. I am going to say a few things about why intellectual property is a concept that can be used in measuring creativity; and finally, I would like to say a few things about what the World Intellectual Property Organisation is doing in this field and what kind of results we have achieved.

So, first of all, the context. Usually measurement is associated with the will of governments to see what is the kind of economic impact that creative industries are producing. In other words, are creative industries the driver of the economy? That is very often the leading factor behind any measurement exercise that would be undertaken on a government level.

Of course, as we heard, creativity can be measured through a set of indicators. Depending on the approach, we may have different methods, and always the difficulty is how to strike the balance between the subjective and the objective, how to choose between the qualitative and the quantitative indicators. But I must say that the robustness of the method often decides whether the method will be used by policy makers in their decisions.

What I am going to talk about today is a method through

which we can assess the impact of creativity, not by looking at creativity itself but by looking at the kind of impact that it produces on society. So why would intellectual property be an appropriate concept and is it appropriate to study creativity?

Well, I will start off with what one of the commentators said: that the purpose of intellectual property is actually to protect and promote creativity. So there we have the basic premise of intellectual property which is quite appropriate for this measurement exercise.

Of course, intellectual property has different forms. One of the most often quoted and very relevant forms is copyright as a concept and copyright, of course, aims at protecting expressions of creativity, not just ideas but the expression of creative ideas according to certain criteria. As a mechanism, this is an equilibrium, it seeks to establish an equilibrium between the public interest to have access to cultural goods and products at no cost; and between the private interest of the creator to be rewarded in whatever he has invested in, his creative expression, and this equilibrium is achieved through an exclusive property right on the one hand and through the systems of limitations and exceptions which exist in copyright.

Of course, the world of intellectual property is a world which is developing now. While we see a tremendous explosion of the demand for intellectual property protection, a 20 per cent increase in demands for patents at the end of last year, at the same time we also see as a result of the globalisation an anti-intellectual property movement so it is not a world without questions.

What are the pros of using the intellectual property approach? Well, my first argument will be that it is a quite well-defined concept. We have seen that there can be different approaches to creativity. We don't have yet a unified definition of what is creativity, whereas copyright

seems to be quite a well-defined concept. I do know what is protected under the national law of copyright and I can easily identify what would be the scope of my research, what would be the scope of the measurement I will undertake.

Secondly, copyright is appropriate as a concept because on the one hand it provides a financial mechanism for rewarding creators. There is an incentive system which is involved so they are interested in using the system on the one hand. But it also has another function, it has a dual function.

Copyright as a legal framework provided the framework in which the markets for cultural goods and products will operate. So if we didn't have copyright it would have been so much more difficult to trade in cultural goods and products.

It could be clearly identified as an economic category. It does have economic characteristics. It has functions, consequences and there is every economic category that has to meet certain conditions for efficiency, but perhaps we cannot go into that in detail today.

In other words, copyright can be used as a mechanism to assess employment, value added exports product and other indicators which are giving us an idea of the impact which is produced by creativity or industries that operate on the basis of creativity.

There are some cons, of course. Copyright is not a perfect concept and the first downside of this approach is that it is only a partial approach. It tells us part of the story, not the whole story. It is based, basically, on production measures, not on consumption measures, and it does not tell us enough about creativity itself. But, as I said, we are looking at the kinds of impacts that are produced.

Of course, some products and services are left outside the scope of this survey because they may be creative but for one reason or another they don't fall into the category of protectable goods and services. Also, some creative

activities that are taking place in the informal sector cannot be taken into account, being to a copyright based measurement exercise.

Finally, copyright, of course, is a system that is aiming at protecting creators. However, the system is often designed by policy makers, not by the creators themselves, so there is a conflict of interest here, maybe, to some extent.

On the next table, which is not mine -- I have reproduced it from Stewart Cunningham's paper -- you see the various definitions that you have for creative industries, copyright industries, cultural industries, and I think we could add at least 10 more. You have some examples on the screen which are these industries. Without going into this table, the only thing I want to say is that all of them are protected or protectable under copyright. So copyright can serve, actually, as a measure to approach most of the elements in these industries which are expressed in different wording.

What is the approach that the World Intellectual Property Organisation is taking towards the measurement, because here we are talking about measurement today.

Several elements: the first one is that we are moving from the less determined system of creative industry to a more determined system of copyright industry and that will do for practical reasons because we know exactly what is the scope of the survey that we are going to carry out.

The second element which, as I already mentioned, we do know that this is not a very holistic and very comprehensive approach because some activities may be left outside. Social and cultural impacts will not be studied through this exercise. However, we believe that on the economic side there will be quite robust results.

The approach, of course, is selective. Only some creative activities are taken into account because we want to measure something and we would like to be very solid in

our measurement.

Finally, we must always keep in mind that the creative industries are not the fire brigade; they cannot solve all problems in society. This is a fact of growth, this is a driver in the economy, but there are also other important sectors so we cannot say that everything is due and resulting from creative activities.

Now, what is the World Intellectual Property Organisation doing in this field? We did publish a methodological guide which offers some guidelines on how to carry out similar surveys in a more or less harmonised approach so that we can meaningfully compare the results of these surveys across countries.

We have introduced the new classification of these industries, core industries, as Richard said yesterday, the ones that depend fully on copyright protection. Also, interdependent industries, in other words the facilitating industries such as manufacturing of musical instruments, for example, a third category of a partial industry where copyright plays a certain role but their contribution cannot be entirely attributed to copyright.

Finally, the so-called distribution industries, a non-dedicated group of industries, which help us to get the product to the consumer and, of course, there we take only a weighted percentage of their contribution.

So these studies have been going on in a number of countries. We have got about 20 surveys now which are ongoing or have been completed. We cooperate with the other UN agencies and with a lot of NGOs also in terms of spreading the word about this possible analysis because our guidelines have been tested, actually, so we do have some results.

On the screen you see two of the publications which are put on display also outside our room: the guide on how to survey those industries and the first publication of the first

five national studies that have been carried out on the basis of this guide.

Empirical research is very important. When we pretend to do a measurement we have to have some results that we can come up with, so here are some of the results that we have been able to obtain in the last few years. In red you will see the results that are not yet final so they need to be double-checked before we can publish them. But on the whole you see a very huge contribution of the copyright industries or the creative sector in the United States, 12 per cent of the gross domestic product and over 8 per cent of the employment in this country which makes these industries more important than the social health care system and many other sectors in terms of jobs that they are providing.

You also will see that on the average this contribution is 6.7 per cent from these nine surveys that we have carried out so far and they are a contribution, too, in terms of employment, being 6.4 per cent which also ranks them higher than many of the traditional sectors.

Our studies also confirm the trend of these industries growing at a twice faster pace than the rest of the economy. You see on the screen some of the countries where we are going to undertake surveys. As of September, I can tell you, we are also going to carry out a similar survey in China. That's what we have agreed with the National Copyright Administration of China. Of course, some countries are doing individual studies because the guide is published. It's out there; anybody can go and try it.

We are talking about measurement today so I would like to keep the focus on measurement and I would like to say two things here. The first, of course, is what are the major challenges to the systems that we have today? Since I am proposing to use intellectual property as one of the measurement approaches, very briefly, one of the major challenges that we have today is between the inherently

international character of the IP system versus the diversity of the national circumstances around the world. We do have a problem there: how do we apply internationally harmonised norms into a very specific interests national environment. That is what we see in a number of countries, most of them developing countries.

We also have another problem, how do we deal with the multilateral? Are we going to go on with the multilateral or is it more likely to see a multitrack system? That is something which is also going to affect our approach and the possibility of using it as a harmonised approach throughout.

Of course, we have the deepening divide in the knowledge economy which is something which is often in debate. However, development is a problem which is preceding intellectual property and probably intellectual property can attribute only partially to the solution of this problem. But one could not expect intellectual property to solve all the problems with the knowledge economy and the digital divide that we are facing today.

In terms of the tool which is the second side of the measurement challenges, I believe that at least one of the previous speakers in this excellent panel that we heard referred to the satellite accounts for culture which have been successfully established and are operational in a number of countries; this is a good example of how can we collect information on a more regular basis, more structured information that can allow us to carry out surveys without investing an enormous amount of time and money into those surveys.

The second element is, of course, how do we record in the system of national accounts the intangible assets? I think our colleagues from the United Nations Statistical Department can tell us more about that. It seems that the AFRA test achieved some results recently so probably this will make it easier for statisticians.

We do plan to spend more time on the qualitative side, what are the social and cultural impacts of intellectual property. This is the subject of a number of studies that the World Intellectual Property Organisation has commissioned.

Finally, I have just put as a signalling red lamp, we are studying the positive contribution of copyright in creativity but what about the negative impacts? How do we estimate those negative impacts? How do we estimate copyright piracy? This is another important project on which we are going to produce some guidelines in the beginning of next year.

My conclusion is that number one, a partial approach, as I would call the intellectual property based approach, can show us very important results and can review important aspects of creativity. My second conclusion is that the economic approach, which I am arguing today, is an approach which has multiple advantages and first and foremost because it opens the door for policy interventions and provides robust data which is comparable across countries and among sectors.

The intellectual property approach, as you have seen, has already demonstrated some significant results which do prove that these industries are a factor of growth and they should be seriously taken into account and harnessed to the extent possible.

We do need international cooperation, however, if we want to move forward and to develop all appropriate international tools which could make our task of analysing these industries much easier.

Finally, picking up also from the previous panel, creativity is a large concept. I think that we need to continue to conceptualise on it so we all have a similar understanding of what do we mean by "creativity" so that we can measure it properly. Thank you.