

# Why pay when you can copy for free?

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New empirical research identifies successful strategies for the exploitation of television formats. Television formats such as X-Factor or Britain's Got Talent are extremely popular with audiences. Over the last decade, the UK has emerged as the world's major format developer, accounting for between 20-50% of all format hours broadcast annually worldwide.

Yet, there is no such thing as a television format right under [copyright law](#). Any producer is free to develop game, reality and talent shows that are based on similar ideas. “If no such rights exist, then the commercial rate for the format, at least from a legal point of view, is zero”.

How then could format developers, such Endemol or Fremantle become multinational companies, licensing their programmes around the globe? For example, *"Who wants to be a Millionaire"* has been broadcast in 108 territories, local versions of Idols have aired (over 129 series) in 42 territories, receiving about three billion votes.

The research project, funded by The Economic and Social Research Council (ESRC) was led by Professor Martin Kretschmer and Sukhpreet Singh from BU's Centre for Intellectual Property Policy & Management and Jonathan Wardle, from BU's University's renowned Centre for Excellence in Media Practice.

The researchers created a database of 59 reported format disputes between 1988 (when the issue of TV format rights first surfaced in the landmark legal case of *Green v Broadcasting Corporation of New*

Zealand) and 2008.

They then conducted semi-structured interviews with media sellers and buyers at three international television trade fairs (NATPE Las Vegas, DISCOP Budapest and ATF Singapore). The emerging patterns of exploitation were specified through three case studies of successful television formats developed by FremantleMedia Ltd: Idols, Got Talent and Hole in the Wall.

The research found that format developers use three groups of strategies to exploit TV formats internationally.

1. TV format producers formalize and sell know-how which cannot be easily gleaned from watching the show. This knowledge may include how to source contestants and organise audience participation, as well as specific production elements. The format is codified in a so-called ‘production bible’, supplied under confidentiality agreements and licences, and supervised in implementation by ‘flying producers’.
2. Careful management of the brand image makes it difficult to copy a show successfully. Sub-strategies include the registration of relevant trade marks, localisation of the brand, and extending the brand by merchandising.
3. Having an established distribution networks and international production bases allow for speed to market, and retaliatory measures against copycat producers. Retaliation includes the bilateral threat of non-supply of other programmes, and negative reputation effects in the social network constructed around trade fairs.

Professor Martin Kretschmer said: “While certain sectors of the creative industries remain obsessed with the control of copying in the digital environment, television format developers have shown that alternative

strategies can work. Our research is also of value to the Digital Britain report, which once again has aired concerns about the scale of unlawful copying, and raised the prospect of enforcement action involving internet service providers (ISPs)."

Sukhpreet Singh said: "Bournemouth's TV formats research fills a gap in the understanding of how this internationally traded property flourishes in the absence of a specific legal regime governing it. Our model of format rights exploitation can play a role in moderating the demand for stricter global IP rights as it shows, using empirical data, ways to help businesses thrive in the existing as well as emerging creative markets."

The resource is designed for use in higher education (media management and law) as well as by businesses, supporting the competitiveness of the UK formats industry.

Jon Wardle said: "Media Education is constantly evolving. We used to simply study media texts, then we taught people how to make them, increasingly we need to help students think through strategies to exploit and protect ideas. There is a deficit of material on how media companies do this and our project seeks to address that through an online resource."

Source: University of Bournemouth

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