Exploitation of TV Formats
An empirical study
“If no such rights exist, then the commercial rate for the format, at least from a legal point of view, is zero” (McInerney and Rose, 1999).

**Aim:** Develop theory at the linkages between the disciplines of law, marketing and media economics which all appeared to offer different answers to the paradoxical observation motivating this research.
Global format business exceeds €9 bn!

IPRs protect creators & owners of creative output from copying – not so easy for TV formats!

**Problem of Legal Protection**

- A TV format is a packaged idea of a TV show sold from one territory to another where it is remade as per local preferences.
- The ‘actual’ programme is not sold but several constituent elements are!
- IPRs [copyright, trademark, design rights] & other legal remedies [passing off] - prove ineffective in protecting ideas, leading to format imitation!
Endemol’s licensed Russian version, ‘Bolshoy Brat’ ran only 1 season in 2005!

Unlicensed Russian version ‘Za Steklom’ (Behind the Glass) ran for at least 3 seasons from 2001!

Endemol could only threaten to sue, not known if there was a ‘behind the scenes’ understanding.
Format Disputes per year

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- **Mid 90's Take off of multi-channels - more content needed**
- **2000 State of confusion - FRAPA set up**
- **2006? UK rejection of Format Right legislation**
- **Around 2003 - Internet really takes off – easy copying…**
Methodology

- Database of reported format disputes (1987-2007)
- Content analysis of cases and dispute reports.
- Trade fair observations (includes 46 semi-structured interviews with industry professionals in 3 international trade fairs.)
- Embedding in Fremantlemedia London (creation of 3 case studies).
Model of TV Formats Exploitation

(Kretschmer and Singh, 2013)

**Distribution Dynamics & Industry Conventions**
- Industry Conventions / Gentleman’s Agreements
- Retaliation / Refuse Sales / Block Out
- Speed to Market / Local Bases Worldwide
- Trade Fairs / Promotions / Stamp of Originality

**Managing the Brand**
- Localisations / Cultural Adaptation
- Brand Innovation / Brand Extension
- Brand Identity / Style Guides / Design Manuals
- Sell Taped Versions / Stimulate Demand

**Formalizing & Transacting Know-how**
- Production Elements / Music, Graphics, Software
- Production Consultancy (Flying Producers)
- Format Bibles / Technical Know-how

**Self-Regulation (Registration & ADR)**
- H
- H
- L/M/H

**Trade Marks & Design Rights**
- M/H
- M/H
- M/H
- L/M/H

**Confidentiality / Non-Disclosure Agreements**
- M/H
- H
- L/M/H

**IP & quasi-IP Strategies**

**Level of Format Distribution**
- L Low
- M Mid
- H High

**Market Based Strategies**

**Generic Capabilities**

**In-house Legal Team / Deterrent Letters / IP Rhetoric**
Hierarchy of Format Protection Strategies

- Industry Conventions / Gentleman’s Agreements
- Speed to Market / Local Base
- Retaliation / Refuse Sales / Block
- Flying Producer System
- Brand Innovation / Brand Extension
- Localisations / Cultural Adaptation
- Production Elements / Music, Graphics
- Brand Identity / Style Guides / Design
- Mediation / Trade Association
- Format Bibles
- Confidentiality / NDAs
- Trade Fair Promotion
- Sell Taped Versions / Demand Creation

LEVEL OF DISTRIBUTION / RESOURCE INTENSITY:
- HIGH
- MID
- LOW

COMPLEXITY OF PROTECTION STRATEGY:
- HIGH
- MID
- LOW

RCUK Centre for Copyright and New Business Models in the Creative Economy