



Welcome

Intellectual Property & Intellectual Capital
For your business and the Guernsey Economy.

John Ogier, Intellectual Property Economist



BUTTERFIELD



Intellectual Property & Intellectual Capital : For your business and the Guernsey Economy.

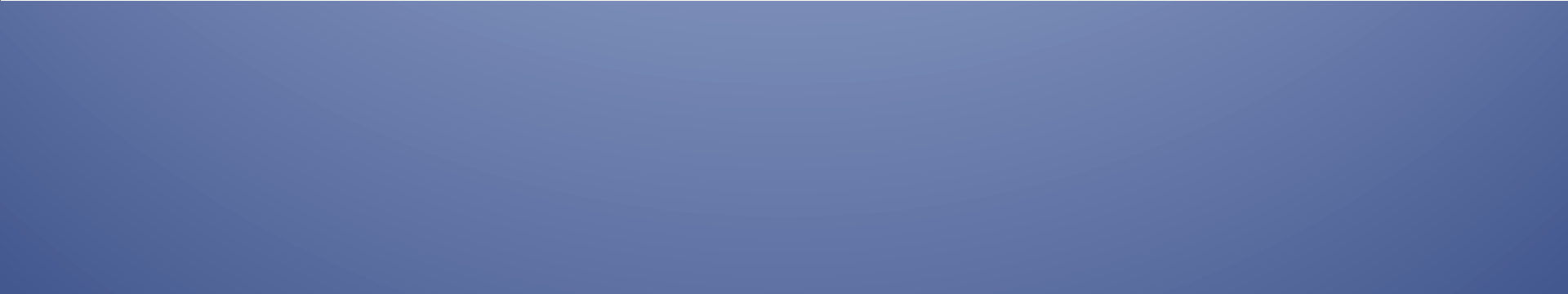
J. P. Ogier.

Intellectual Property Economist

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9th July 2021

IPD



7 Common IP / IC myths.

We do not have any IP or IC.

The IP / IC is unseen and should remain “out of sight and out of mind.”

It’s just for the lawyers.

It cannot be reliably valued.

We will build the business / the technology first.

It’s not a priority concern for the Board.

IP / IC is a specialist niche subject not relevant to States policy or Economic development strategy.

Today 80% of company value is in intangible assets and 20% in the tangible assets.

The 80 : 20 rule

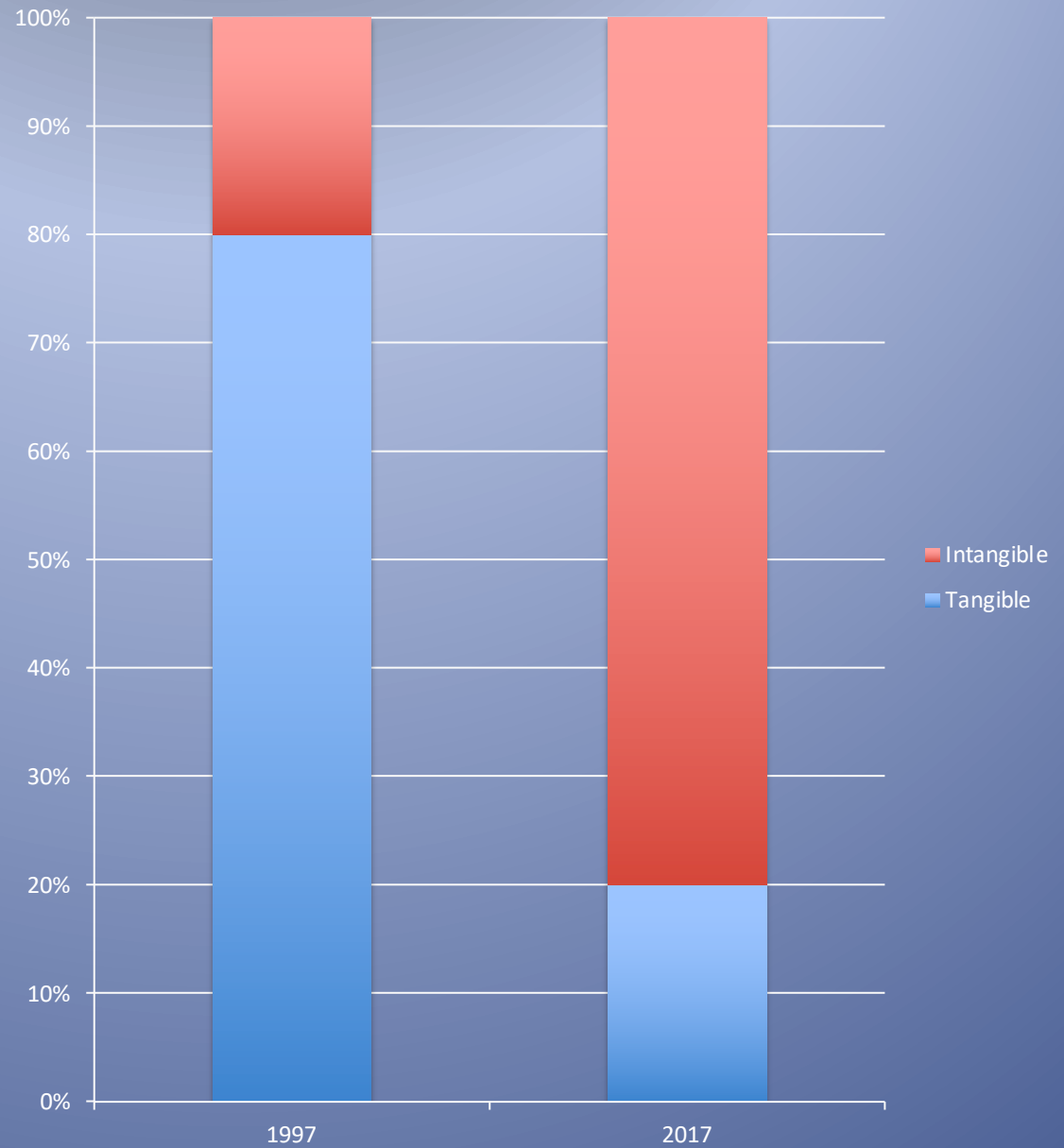


Table 1 UK Market sector Investment; Tangible & Intangible £bns
(2011).

Source Estimating UK investment in intangible assets and intellectual property rights IPO 2014

Tangible assets	£bns	Intangible assets	£bns
Buildings	50.6	Own account software	13.2
Plant & Machinery (incl. IT hardware and CT)	35.0	Purchased software	11.0
Vehicles	4.2	Scientific R&D	15.9
		R&D in social sciences and humanities	0.9
		Financial product innovation	1.8
		Design (own account; purchased)	15.5
		Artistic Originals (Film; TV& Radio; Music; Books; Misc. Art)	5.8
		Mineral Exploration	0.8
		Branding (Advertising; Market Research)	72.6
		Training	33.6
		Organisation (Own account; Purchased)	25.5
All tangibles	89.8	All intangibles	137.5



IP Portfolio

- Trade Marks
- Patents
- Copyright
- Performance rights
- Design rights (registered and unregistered)
- Integrated circuit rights
- Database rights
- Trade secrets
- Image rights
- Bio-tech and plant variety rights
- Geographical Indicators
- Format rights (not presently in legislation)



IC Portfolio

Strong in Human Capital, Business technology, Market position, Environmental and Societal impact and Values.

- Personality
- Know how
- Show how
- Innovative and creative talent

- Brand
- Critical technology (FRAND)
- First to market
- Sensory appeal
- Exclusive licenses.
- Regulatory approval

- Positive environmental and / or social impact

TRUST

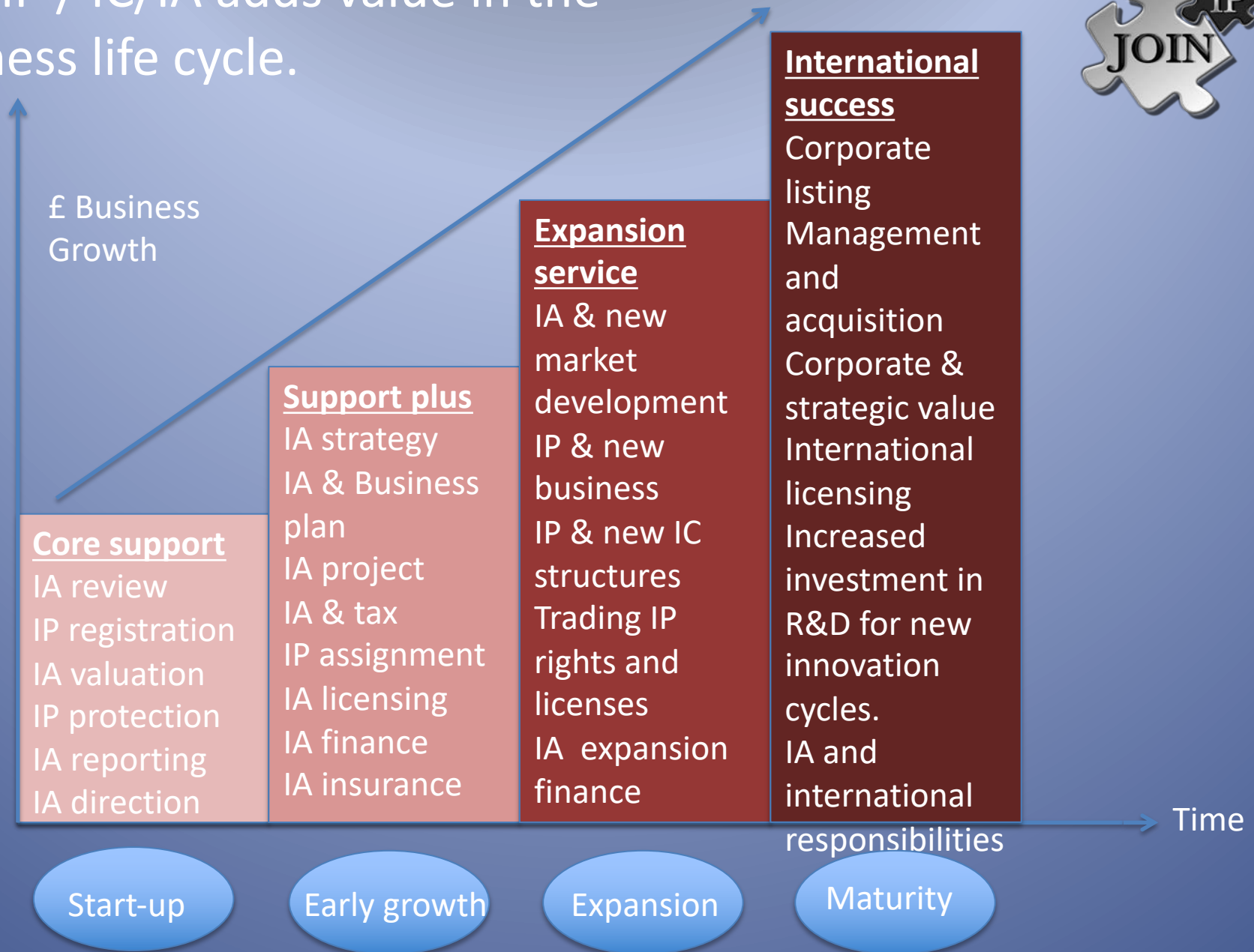


Making the
intangible
visible
 $IP + IC = IA$

- IA Audit
- IA Valuation
- IA Insurance
- IA Licensing
- IA Registration
- IA Protection
- IA Structuring
- IA Taxation
- IA Strategy
- IA Corporate Governance



How IP / IC/IA adds value in the business life cycle.





IA Portfolio in the business

- How the rights work in the current value stream of the business.
- Synergy and counter synergy in the product and IP lifecycles.
- IA Risk and insurance.
- IA in strategy and policy.

IA Valuation

Identify purpose of valuation

Methodologies:

- Income and IP contribution approach
- Relief from royalty
- Market approach
- Historic or replacement cost

IA in strategy, innovation and value realisation.

- IA in company strategy
- Exploitation of IP through licensing, assignment, direct exploitation
- Innovation investment for long-term returns and value
- Raising finance and capital
- Risk reduction
- Structuring and capital reserves.
- Registration and renewal of rights



Objective

- Better understanding of IA portfolio.
- Identified IA value
- IA alignment with company strategy
- Greater value realised from intangible assets and reduced risk

Case Study 1 - Fund Investment in a Global Technology Audio Company

Purpose: Valuation to Assist PE Fund Decision in Further Investments in its Portfolio Company

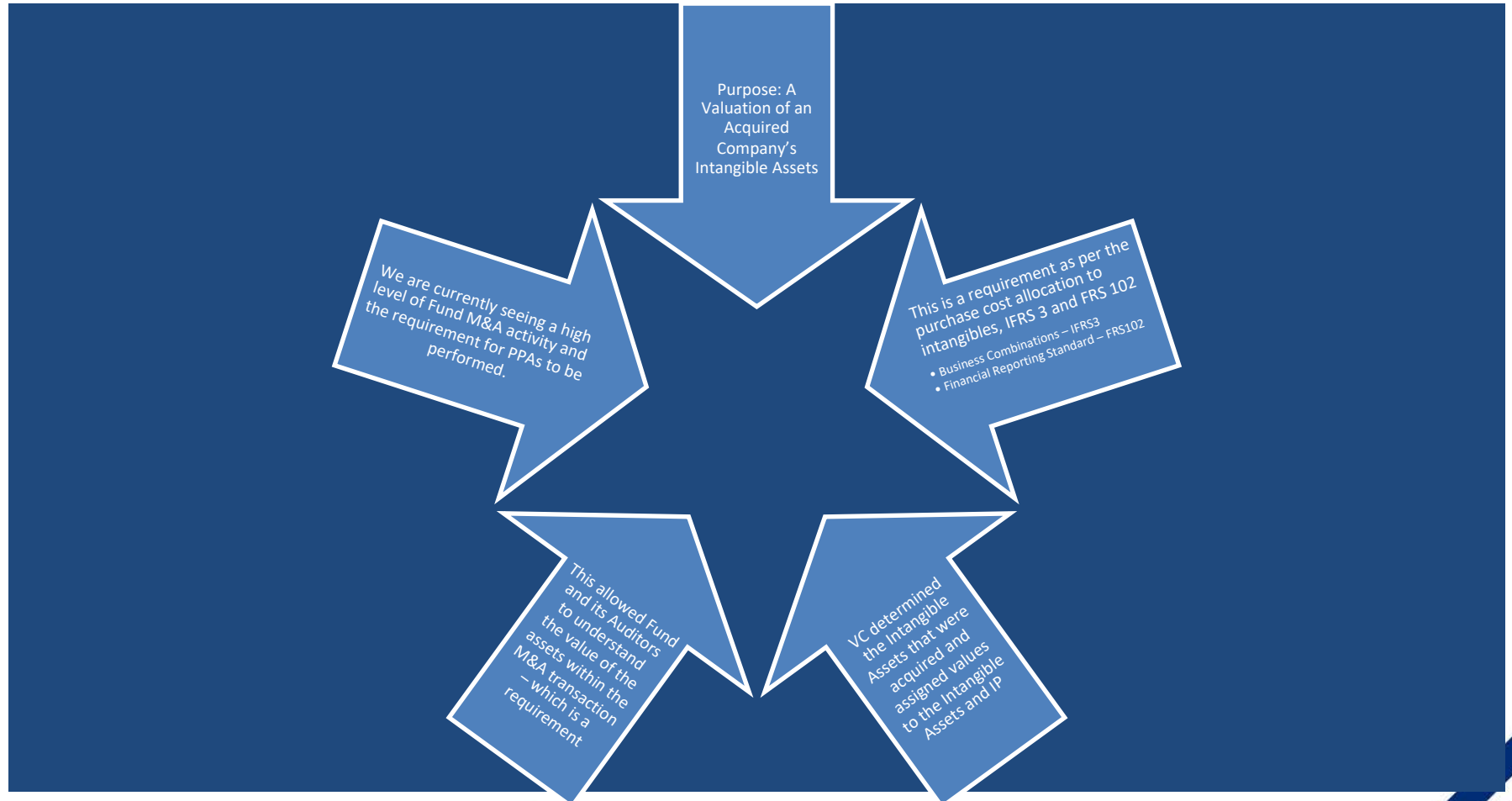
The valuation assisted the Fund to:

- Understand its Portfolio Company's value & its IP assets value
- Better manage its IP assets
- Support the investments made and track the Company and IP value increase on an annual basis and report back to investors, LPs

A Valuation of the Technology (Patents, Processes) and Brand Assets was performed by VC

The Fund Board and Executives better understood the value of the Portfolio Company and the value of its most important assets- IP Assets

Case Study 2 - Fund Acquisition (M&A) of a Leading Technology Company



Intangibles and Corporate Governance

- VW cars use of NOx emissions test defeat device.
- Class action by 91,000 owners or lessees of VW, Audi, Skoda & Seat cars.
- Significant impact on VW brand.
- A 30% fall in share price and 50% lower car sales the following year (2015).
- VW Chairman, Hans Dieter Pötsch priority “win back trust”.



A new challenge for the board is to meet the higher expectations of accountability for the company's activities, finance, ethics and impact of the IPRs the company controls.

**Associate Professor
Dr Janice Denoncourt**



Governing IP-Rich companies effectively

- In July 2018, the UK's Financial Reporting Council (FRC) introduced its '**Guidance on Board Effectiveness**'
- Important features of corporate governance are to ensure an adequate and appropriate system of controls to safeguard assets.
- '**Technology**', '**IP**' and '**brands**' need to be PRIORITISED at board level.
- Directors need to understand the firm's IP rights and strategies individually and collectively make decisions in the best interests of the company as required by ss172-174 Companies Act 2006.



A sound understanding at board level of how value is created over time is key in steering strategies and business models towards a sustainable future.

This is not limited to value that is found in the financial statements. An understanding of how intangible sources of value are developed, managed and sustained...is increasingly relevant to an understanding of the company's performance and the impact of its activity.

The UK Financial Reporting Council *Guidance on Board Effectiveness* (s13)



Going International with IP.



IP rights are national. WIPO along with WTO and international treaties provide international agreements under which rights are protected and administered internationally.



Guernsey and the international treaties

The Berne Convention*.

TRIPS*.

The Paris Convention*.

The Hague Agreement.

The Nice Agreement.

The Madrid Protocol*.

The Marrakesh Treaty.

The Rome Convention.

The Trade Mark Law Treaty.

The Singapore Treaty.

The Brussels Convention.

The WIPO Copyright Treaty.

The WIPO Performances and Phonograms Treaty.

Patent Co-operation Treaty.

The Beijing Treaty.

The Budapest Treaty.

UPOV 1991.

The Patent Law Treaty.

Note * means in effect in Guernsey

TRIPS enabled the Extension of WTO to Guernsey



WORLD TRADE
ORGANIZATION

- TRIPS : An Agreement on Trade-Related Aspects of Intellectual Property Rights is an international legal trade agreement between all the member nations of the World Trade Organisation (WTO) has been extended to the Bailiwick of Guernsey with effect from 1/1/2021.
- IP will form a key part of the FTA's currently being negotiated by the UK. Guernsey can by active participation also benefit from these agreements.

The importance of Substance.

OECD BEPS: Base Erosion Profit Shifting aimed at international tax avoidance by multinationals

EU Code of Conduct.
Low / zero tax regimes.

1. Where is the mind, the activity, the creative work, the research and development, the governance, the realized value located?
2. Is the value in the accounts for the costs and profits of the organization a true and fair account of the substance in that jurisdiction?
3. The importance of early location for your IP rich business.

IP/IC Horticulture and plant technologies



- Guernsey Clematis & IP.
- A World Specialist in Clematis
- Producing 2 million plants pa.
- Plant Variety Rights and Plant Patents.
- TradeMarks in the Raymond J. Evison brand and in the trade names for the varieties.
- Copyrights in printed material including posters and books.
- Know how and Show how.
- License agreements for growing and marketing.



IP/IC IT, Finance and telecommunications

- First Central Insurance & Technology Group headquartered in Guernsey, is a global top 10 seller on price comparison websites.
- First Central Group operates an online motor insurance firm utilizing technology that links different locations through Sure International's high-speed broadband and data centers. This provides a gateway to First Central's range of consumer-orientated business.
- The IP and IC will include:
 - Brand with trade-marks, reputation and market knowledge.
 - Know how and Show how.
 - Copyright & Data base right.
 - User licenses to use the technology-based platform.

sure International


Sure Customer Case Study
First Central Insurance & Technology Group
Delivering the flexibility of the Cloud to a growing national business

First Central Group are an innovative and agile insurance and technology group

Challenge
To reduce the number of data centres used by its network and deliver a flexible private cloud environment for its insurance business.

Solution
A pair of resilient vCloud instances in Tier 3 data centres on Jersey & Guernsey, connected by ultra fast fibre.

Benefits
The solution has delivered faster more resilient service at significantly lower cost and with almost unlimited scalability.



"The combination of Sure's technologies and expertise have delivered the solutions First Central needs to compete effectively in the highly competitive motor insurance market."

John Davison - CIO at First Central Group

First Central
Insurance & Technology Group

IP/IC Funds and the Music industry.

- Hipgnosis a UK investment trust domiciled as a company in Guernsey, raised £1.1bn has proved a “hit” with investors with its investments in music royalties.
- The fund provides a route for performers and more widely the music industries, to realise a capital return from creative talent, while providing investors with an investment that is not linked to classic industrial economic cycles.
- Although the IP in copyrights and performers rights do not reside in Guernsey, the company is domiciled in here and illustrates the potential of a pure IP Investment Fund.



Music fund raising up £250m

An investment fund that buys catalogues of music rights is to raise £250 million for acquisitions (Simon Duke writes).

Hipgnosis Songs Fund is placing new shares to institutional investors at an 8 per cent discount to last week's closing price. It will drum up a further £4 million from a retail offering through the Primary Bid platform. The fundraising comes just two months after Hipgnosis tapped shareholders for £200

million. It has since spent nearly all the proceeds on a spree of takeovers, including the rights to the musical output of Blondie, above. Hipgnosis, founded by Merck Mercuriadis, said it was in talks to buy 50 catalogues and will pay just over 18 times the annual income from the songs.

than Levner.

the people are happy they stick around and they perform better for our clients. There is a direct link. So I guess you could say our strategy for success and client retention is very much about looking after our people and making sure they're happy, contributing and healthy.

There are lots of small details, whether it's printers at either end,

(Picture by Steve Sarre, 24504148)

rubbish bins and recycling at the ends so that people get up and walk rather than just have their own place.

At the same time we recognise that our clients are institutions with very high standards and they're under tremendous pressure. So you will see in our boardrooms they are more traditionally kitted out with all the latest tech.

royalty fund a smash hit for investors

continues to break new ground with this stellar fundraise," said Mariana Enevoldsen, director, Eстера International Fund Managers (Guernsey).

"We are thrilled to continue to support the investment adviser and the fund as they move forward, proving the power of music investment."

Merck Mercuriadis, founder of The Family (Music) Limited, said: "Less than a year ago, we set out to demonstrate to the financial community that proven hit songs are as predictable and reliable as gold or oil."


The scale of investment launch was "not only a confidence in Hipgnosis, but an acknowledgement of the profit songs all over the world."

Mr Mercuriadis added: "To streamlining, the music industry once again, has its best friend in front of it and our aim is to highlight the fact that great songs, their creators, are its most valuable currency while delivering a great return for our investors."

'Less than a year ago, we set out to demonstrate to the financial community that proven hit songs were as predictable and reliable, and therefore as investable, as gold or oil'

Merck Mercuriadis, founder of The Family (Music) Limited

Newspaper articles the Times and Guernsey Press



Easy to use financial modelling software

Unlimited exploration of your business's future

Start free today

IP/IC and technology based businesses

- Entrepreneur and businessman Barrie Baxter came to Guernsey with his technology to internationalise his business, Brixx technology because of Guernsey's IP environment. Specifically the ability to register, protect and license the business method patent that underpins his technology.
- The Guernsey registered patented Brixx technology is now selling in 76 countries worldwide with some 12 thousand customers. Current growth rate 75% month on month.

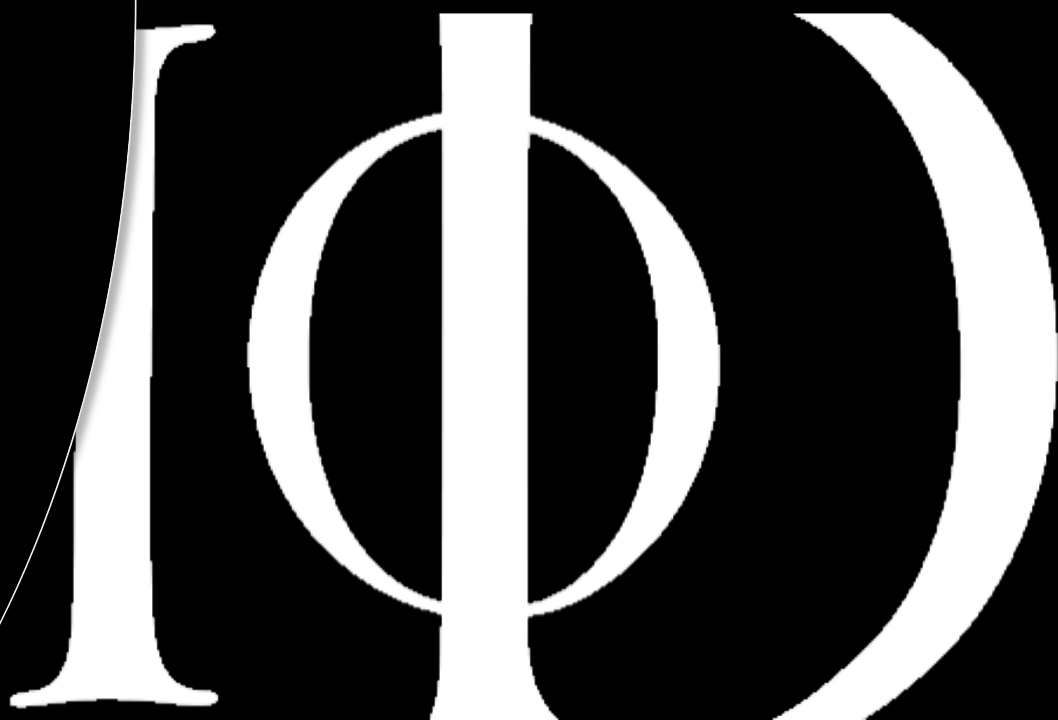
Guernsey Investment Fund – an introduction



The Guernsey Investment Fund PCC Limited was launched in 2018 with the aim of achieving long-term capital growth through investments in the Bailiwick of Guernsey. Source Locate Guernsey.

The States of Guernsey has underpinned the fund with a commitment to invest up to £25m into the technology and innovation cell. This cell will comprise of significant IP and IC assets.

-
- What is the IP / IC / IA in the IoD?
 - Where is the substance located at National or Branch?
 - How is this best protected and licensed?
 - What opportunities does this present for the future strategy of the IoD nationally and internationally?





Why Guernsey

- Stable and secure jurisdiction.
- Government accessible to business.
- Compliant and transparent :OECD “whitelist”, FATF highest regulatory standard.
- Internationally digitally connected in GMT zone.
- Professional service center across legal, banking, insurance, investment, trusts.
- Intellectual Property Rights (IPRs) legislation now supported by International IP Conventions.



Guernsey strong IP Ecosystem.



ip an[®]

World IP Day 2019
Houses of Parliament.

IP and Economic Strategy

- April 2019 the then IP Minister Chris Skidmore MP, gave a strong presentation for innovation and IP in the Government's industrial strategy.

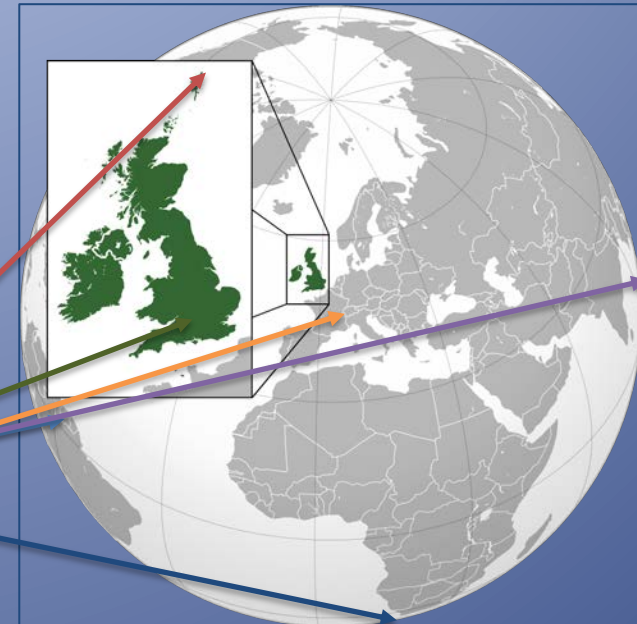
Intellectual Property along with Human Capital and related Intangible Assets are now the leading asset class in business, commerce and World Trade. They are not geographically constrained or limited.

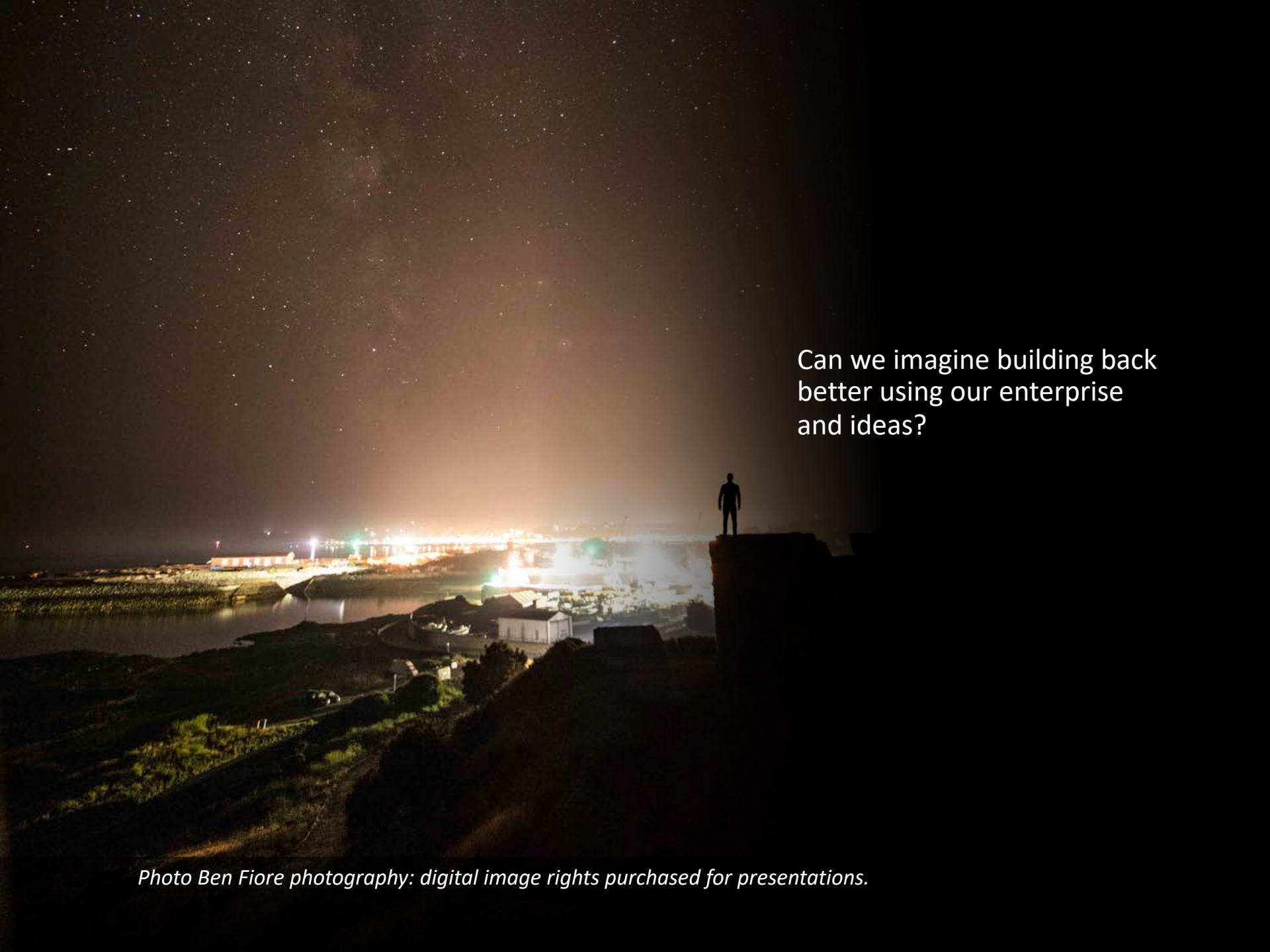
They are central to:

- Innovation
- Digital
- Data
- Technology
- Future finance
- Plant bio-tech
- Creative industries
- The knowledge economy
- International scalability of business.

Guernsey needs to develop an economic strategy to deliver Economic Growth. Intellectual Property along with Human Capital and related Intangible Assets are the 21 century drivers.

Guernsey can be complimentary to the UK's IP / innovation industrial strategy to fulfill it's "Global Britain" ambitions



A night photograph showing a coastal town illuminated by lights, with a person silhouetted on a cliff edge in the foreground. The sky is dark with visible stars. The town's lights reflect on the water in the harbor. The person is standing on a dark, rocky outcrop, looking out over the town and the sea.

Can we imagine building back
better using our enterprise
and ideas?

Photo Ben Fiore photography: digital image rights purchased for presentations.

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Questions



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