



**Speech by Michel Bongi, IFRA Chairman
Kangaroo Group
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Thank you to the Kangaroo group for organizing this event and giving me the chance to speak with you on this important and complex issue of Intellectual Property Protection.

I will outline some **challenges** we are facing in this area and our **views** on the recent Commission Communication on IP and the Internal Market. I will explain our industry's continuous approach to building trust in **the safety** of the materials we use. Then I will share some ideas on how we think we might be able to work together to carry on building trust whilst also **protecting our intellectual property**.

A. Innovation and Creativity are the hallmarks of the fragrance industry

As an innovative industry we constantly look forward. Our **raison-d'être** is to delight consumers and to create moments of happiness for them. We also intend to **create wealth** in the communities we operate in. We have a responsibility to provide fulfilling and interesting **jobs and livelihoods** for our direct employees and those in downstream industries. We look forward to ensure our industry is sustainable.

We are constantly looking at ways to exploit our creations. We are fortunate that our business is as much **a science as an art, an act of creativity**. As I will explain shortly this duality has advantages and disadvantages from an Intellectual Property point of view.

Our innovation pipeline has three main components enabling us to operate a sustainable business model:

- firstly, the development of new substances;
- secondly, the development of new delivery technologies;
- and finally, and most importantly, the fragrance compositions.



The first component, the development of **new substances**, enriches the perfumers' palette and feeds their creativity. We achieve this in two ways: by extracting new ingredients from nature and by creating new synthetic molecules, some of them nature-identical. Combining Nature and Science enables our industry to innovate and satisfy demand sustainably.

These new molecules are relatively straight forward with regards to intellectual property. They can be patented.

In this respect we welcome the recent Communication from the Commission on the Single Market for Intellectual Property Rights and the aim to create unitary patent protection within the framework of enhanced cooperation. Such a move will boost innovation.

The second component of our innovation pipeline is the development of **delivery technologies** that release fragrance at the right time, thus enhancing performance like bloom and substantivity, key consumer demands around the world. Delivery technologies can also be patented.

The purpose of these first two components (new substances and delivery technologies), is **to enhance the performance of the final and most important element of our innovation, the fragrance compositions**, created by our expert perfumers. These are not so straightforward from an intellectual property point of view.

A fragrance composition is difficult to protect. In theory it could be copyrighted but it is in practice generally considered an artisanal creation rather than an art form. It would also be complicated to do on a European basis let alone globally, as copyright laws are not harmonized.

The most effective way, in our view, to protect the intellectual property of fragrance compositions is through the continued use of **Trade Secrets**. The exact content of a fragrance composition is only known fully by the fragrance house that created it and is only shared with third parties under strict confidentiality agreements.

Again, we welcome the comments in the Commission Communication recognizing trade secrets as **a valuable intangible asset**, which are lacking an internal market approach. A number of Member States have specific civil law provisions on trade secrets. However, a significant number do not. We would very much like to see a harmonized approach to trade secrets protection across the EU.



B. Societal dimensions

Intellectual property is not limited solely to technical and legal concepts. It also has **societal elements** too. As a global association we see societal trends developing across the world and one such trend is **the 'Right to Know'**.

There is a very current case in Europe, which illustrates this trend well. Two NGOs have lodged a complaint with the European Court of Justice against ECHA, the European Chemicals Agency. The case suggests that there is a conflict between the Aarhus Convention and REACH and asks that ECHA is forced to disclose all names of legal entities and tonnages and also tries to limit the exceptions for business and intellectual property reasons.

This case shows that the balance between the 'Right to Know' and Confidential Business Information is clearly under threat.

In principle we accept the need for people to know what is in their products. It is generally understood that consumers are more aware of health and environmental issues and they wish to make informed choices.

We believe **that trust in a product** can come from the knowledge that the materials are used safely and sustainably, not through the disclosure of the specific fragrance composition.

C. IFRA approach to risk management

To this effect we have always taken a pro-active approach, continuously analysing and reviewing the safety of our materials.

For the past 40 years or so, **IFRA has been managing risks by issuing Safety Standards** to its members and advising the industry's customers. We work with regulators and stakeholders including EU Scientific Committees.

We also have **a Code of Conduct** that specifies how we expect our members to behave. In recent years, we even embarked on a global **Compliance programme** to ensure the Safety Standards are being followed, checking finished products chosen randomly every year.

This self-regulatory approach has gone a long way in building trust in the safety of our fragrance compositions. However, we can see a trend gathering pace for industry, not just our industry, to disclose all contents for all products.



This disclosure trend has the potential to harm our ability to remain a sustainable business, to foster innovation, to create fulfilling jobs for our employees.

A fragrance composition can contain anything from 50 to 250 different materials. It is unlikely that a long list of chemical names would mean anything to a consumer and disclosing such things would not enable them to make more informed choices. It would just make for a more informed competitor or counterfeiter.

D. A probable way forward

There are three key areas we would like to share with you today.

Firstly, better regulation.

We have a vision of smarter and faster regulation. We already lead our industry with an effective self-regulatory approach. Perhaps there could be closer partnership and alignment between our approach and that of regulators. We envision greater exchange of data and possibly even legislation based on our Standards.

Such a close partnership would improve trust and consumer protection. The need for full disclosure of our trade secrets would not be required as the safety assessments would be adequately robust.

Secondly, new and better ways to communicate safety to consumers.

We could explore alternative ways to provide ingredient information in order to strengthen trust and provide useful information. Systems of intelligent labelling and websites could provide all the information required on individual ingredients.

Thirdly, a harmonised legal framework on Trade Secrets.

We envision a harmonised legal framework across the EU for trade secret protection. This would enable us to continue to innovate and add value to the broad range of consumer products which rely on fragrance to be effective and enjoyable.

In this respect I would like to address directly the Members of the European Parliament here today and **ask that they consider making a report on the recent Commission Communication on IP and the Internal Market.**

These are just some of our initial thoughts on how we can work together to ensure that the fragrance industry continues to create works of art, bringing joy and benefits to people's everyday lives.

I thank you all again for having made the time today and for your kind attention.