

**Name**

Peter Bardon

**Of the six categories into which the Paper classified the first round of submissions, which one (if any) best describes you?**

rights-holder

**Is our broad focus upon the economic and technological aspects of entrepreneurship and innovation the right one for this Review?**

Yes

**Is there sufficient clarity about the basic principles of Irish copyright law in CRRA and EUCD? [Note: CRRA is the Copyright and Related Rights Act, 2000; and EUCD is the European Union Copyright Directive (Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society)].**

Yes

**Is the classification of the submissions into six categories – (i) rights-holders; (ii) collection societies; (iii) intermediaries; (iv) users; (v) entrepreneurs; and (vi) heritage institutions – appropriate?**

Yes

**What is the proper balance to be struck between the categories from the perspective of encouraging innovation?**

Those whose business models involve the exploitation of others rights should not be permitted to start up without obtaining permission of the rightsowners.

**Should a Copyright Council of Ireland (Council) be established?**

Yes

**If so, should it be an entirely private entity, or should it be recognised in some way by the State, or should it be a public body?**

Not private

**What should its principal objects and its primary functions be?**

protection of copyright owners

**Should there be a small claims copyright (or even intellectual property) jurisdiction in the District Court, and what legislative changes would be necessary to bring this about?**

Yes

**Should there be a specialist copyright (or even intellectual property) jurisdiction in the Circuit Court, and what legislative changes would be necessary to bring this about?**

Yes

**Does copyright law inhibit the work of innovation intermediaries?**

No

**In particular, should Irish law provide for a specific marshalling immunity alongside the existing conduit, caching and hosting exceptions?**

No

**Does copyright law pose other problems for intermediaries' emerging business models?**

Only if they wish to use copyright material and refuse to build proper compensation into their business model

**Should the definition of "fair dealing" in section 50(4) and section 221(2) CRRA be amended by replacing "means" with "includes"?**

No

**Should all of the exceptions permitted by EUCD be incorporated into Irish law, including:**

(a) reproduction on paper for private use? - yes

(b) reproduction for format-shifting or backing-up for private use? - no

(c) reproduction or communication for the sole purpose of illustration for education, teaching or scientific research? - no

(d) reproduction for persons with disabilities? - no

(e) reporting administrative, parliamentary or judicial proceedings? - yes

(f) religious or official celebrations? - no

(g) advertising the exhibition or sale of artistic works? - no

(h) demonstration or repair of equipment? - no

(i) fair dealing for the purposes of caricature, parody, pastiche, or satire, or for similar purposes? - no

**Should CRRA references to "research and private study" be extended to include "education"?**

No

**Should broadcasters be able to permit archival recordings to be done by other persons acting on the broadcasters' behalf?**

No

**Should there be a specific exception for non-commercial user-generated content?**

No

**68. Should section 2(10) be strengthened by rendering void any term or condition in an agreement which purports to prohibit or restrict than an act permitted by CRRA?**

No

**When, if ever, is innovation a sufficient public policy to require that works that might otherwise be protected by copyright nevertheless not achieve copyright protection at all so as to be readily available to the public?**

never

**When, if ever, is innovation a sufficient public policy to require that there should nevertheless be exceptions for certain uses, even where works are protected by copyright?**

Never

**Should there be a specialist copyright exception for innovation? In particular, are there examples of business models which could take advantage of any such exception?**

No

**Should there be an exception permitting format-shifting for archival purposes for heritage institutions?**

No

**Should the occasions in section 66(1) CRRA on which a librarian or archivist may make a copy of a work in the permanent collection without infringing any copyright in the work be extended to permit publication of such a copy in a catalogue relating to an exhibition?**

No

**Should the fair dealing provisions of CRRA be extended to permit the display on dedicated terminals of reproductions of works in the permanent collection of a heritage institution?**

No

**Should the fair dealing provisions of CRRA be extended to permit the brief and limited display of a reproduction of an artistic work during a public lecture in a heritage institution?**

No

**Would the good offices of a Copyright Council be sufficient to move towards a resolution of the difficult orphan works issue, or is there something more that can and should be done from a legislative perspective?**

Yes

**Should there be a presumption that where a physical work is donated or bequeathed, the copyright in that work passes with the physical work itself, unless the contrary is expressly stated?**

Yes

**What is the experience of other countries in relation to the fair use doctrine and how is it relevant to Ireland?**

Fair use in the USA has been used to exploit and abuse copyright owners rights and small owners cannot fight big corporations

**(a) What EU law considerations apply? (b) In particular, should the Irish government join with either the UK government or the Dutch government in lobbying at EU level, either for a new EU CD exception for non-consumptive uses or more broadly for a fair use doctrine?**

No

**How, if at all, can fair use, either in the abstract or in the draft section 48A CRRA [in the Paper], encourage innovation?**

Only by unfairly exploiting copyright owners

**How, in fact, does fair use, either in the abstract or in the draft section 48A CRRA [in the Paper], either subvert the interests of rights holders or accommodate the interests of other parties?**

It allows big corporations to build their business models without regard to those who own the copyright

**What empirical evidence and general policy considerations are there in favour of or against the introduction of a fair use doctrine?**

Bad experience of copyright owners in the USA

**Should the post-2000 amendments to CRRA which are still in force be consolidated into our proposed Bill?**

Yes

**Should sections 15 to 18 of the European Communities (Directive 2000/31/EC) Regulations, 2003 be consolidated into our proposed Bill (at least insofar as they cover copyright matters)?**

Yes