

Name

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

User

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

Should any amendments to CRRA arising out of this Review be included in a single piece of legislation consolidating all of the post-2000 amendments to CRRA?

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?

No

In particular, is this classification unnecessarily over-inclusive, or is there another category or interest where copyright and innovation intersect?

entrepreneurs could be just businesses

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

individual's civil rights must not be inferred, over-inclusiveness is to be avoided, the creators should have the flexibility to choose to renounce claims for each work to be put into the public domain

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?

public body

Should its subscribing membership be rights-holders and collecting societies; or should it be more broadly-based, extending to the full Irish copyright community?

full community

What should the composition of its Board be?

rights-holders and collecting societies, businesses (like ISPs and other affected entities), state appointed judges/public officers, citizens, 25% each

What should its principal objects and its primary functions be?

Arbitration

How should it be funded?

50/50 state and collection societies

Should the Council include the establishment of an Irish Digital Copyright Exchange (Exchange)?

Yes

What other practical and legislative changes are necessary to Irish copyright licensing under CRRA?

None

Should the Council include the establishment of a Copyright Alternative Dispute Resolution Service (ADR Service)?

yes, main purpose

How much of this Council/Exchange/ADR Service architecture should be legislatively prescribed?

as above 25%

Given the wide range of intellectual property functions exercised by the Controller, should that office be renamed, and what should the powers of that office be?

No

Should the statutory licence in section 38 CRRA be amended to cover categories of work other than “sound recordings”?

yes, videos, everything else is a quotation

Furthermore, what should the inter-relationship between the Controller and the ADR Service be?

controller presides over the ADR

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

Whatever the answer to the previous questions, what reforms are necessary to encourage routine copyright claims to be brought in the Circuit Court, and what legislative changes would be necessary to bring this about?

expedited reviews, uncluttered legislation

Is there any economic evidence that the basic structures of current Irish copyright law fail to get the balance right as between the monopoly afforded to rights-holders and the public interest in diversity?

Yes

Is there, in particular, any evidence on how current Irish copyright law in fact encourages or discourages innovation and on how changes could encourage innovation?

Discourages

Is there, more specifically, any evidence that copyright law either over- or under-compensates rights holders, especially in the digital environment, thereby stifling innovation either way?

overcompensates in digital environment but not as bad as in other European countries

From the perspective of innovation, should the definition of “originality” be amended to protect only works which are the author’s own intellectual creation?

Yes

Should the sound track accompanying a film be treated as part of that film?

no, it's a separate work of art

Should section 24(1) CRRA be amended to remove an unintended perpetual copyright in certain unpublished works?

Yes

Should the definition of “broadcast” in section 2 CRRA (as amended by section 183(a) of the Broadcasting Act, 2009) be amended to become platform-neutral?

No

Are any other changes necessary to make CRRA platform-neutral, medium-neutral or technology-neutral?

No

Should sections 103 and 251 CRRA be retained in their current form, confined only to cable operators in the strict sense, extended to web-based streaming services, or amended in some other way?

No

If the copyright community does not establish a Council, or if it is not to be in a position to resolve issues relating to copyright licensing and collecting societies, what other practical mechanisms might resolve those issues?

none

Has the case for the caching, hosting and conduit immunities been strengthened or weakened by technological advances, including in particular the emerging architecture of the mobile internet?

Strengthened

If there is a case for such immunities, has technology developed to such an extent that other technological processes should qualify for similar immunities?

No

Does the definition of intermediary (a provider of a “relevant service”, as defined in section 2 of the E-Commerce Regulations, and referring to a definition in an earlier - 1998 - Directive) capture the full range of modern intermediaries, and is it sufficiently technology-neutral to be reasonably future-proof?

Yes

If the answers to these questions should lead to possible amendments to the CRRA, are they required or precluded by the E- Commerce Directive, EUCD, or some other applicable principle of EU law?

include fair use

Is there any good reason why a link to copyright material, of itself and without more, ought to constitute either a primary or a secondary infringement of that copyright?

NO

If not, should Irish law provide that linking, of itself and without more, does not constitute an infringement of copyright?

Yes, please

If so, should it be a stand-alone provision, or should it be an immunity alongside the existing conduit, caching and hosting exceptions?

stand alone

Does copyright law inhibit the work of innovation intermediaries?

currently yes, but not as bad as in other EU countries, ISPs should be immune from their user's infringements

Should there be an exception for photographs in any revised and expanded section 51(2) CRRA?

Yes

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

yes

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? - yes

(c) reproduction or communication for the sole purpose of illustration for education, teaching or scientific research? - yes

(d) reproduction for persons with disabilities? - yes

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

(f) religious or official celebrations? - yes

(g) advertising the exhibition or sale of artistic works? - yes

(h) demonstration or repair of equipment? - yes

(i) fair dealing for the purposes of caricature, parody, pastiche, or satire, or for similar purposes? - yes

Should CRRA references to “research and private study” be extended to include “education”?

Yes

Should the education exceptions extend to the (a) provision of distance learning, and the (b) utilisation of work available through the internet?

yes to both

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

Yes

Should the exceptions for social institutions be repealed, retained or extended?

Extended

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

yes, if public domain / open access afterwards

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?

News and education

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?

News and education

When, if ever, is innovation a sufficient public policy to require that copyright-protected works should be made available by means of compulsory licences?

any state owned and political activity, if the people fund it it has to be public domain / Open access

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?

yes, not yet

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

yes, absolutely necessary for future access. there are already digital works lost forever

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?

yes, as long as it cannot replace the original effect, smaller size or obfuscation

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?

Yes

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?

yes, as long as it cannot replace the original effect, smaller size or obfuscation

How, if at all, should legal deposit obligations extend to digital publications?

no storage necessary, but open formats (PDF without DRM would be OK)

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

Should there be exceptions to enable scientific and other researchers to use modern text and data mining techniques?

YES

Should there be related exceptions to permit computer security assessments?

no, not necessary

(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?

(b) fair use

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

enables research

Is the ground covered by the fair use doctrine, either in the abstract or in the draft section 48A CRRA [in the Paper], sufficiently covered by the CRRA and EUCD exceptions?

yes