

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?

rights-holder

User

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

Yes, the reason copyright law exists is to promote innovation and creativity. This should always be the core focus.

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)].

I think Irish copyright law, pre-controversial SI, is generally quite good and clear.

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. Clarity is important. Judges should be able to uphold clear laws, rather than loosely interpret them as they personally feel.

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?

Rights' holders could do with being broken down into creators/artists and the non-creative publishers.

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

The open-source developer community could fall under entrepreneurs, but they are non-commercial and are a collaborative community rather than a single person/business.

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

The primacy of the promotion of innovation and creativity over commercial interests. There is no reason why presumption of innocence or the right to a fair trial should be withheld.

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

I fear it would be dominated by the heavy-handed and misguided recorded music industry, in which case, no.

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?

A private entity risks being overrun by the most litigious and resourceful sections of the

copyright community, pushing aside other members.

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

All interested parties should be represented.

What should its principal objects and its primary functions be?

To allow smaller bodies (individual artists) to have the full remedies in law available to them, regardless of their legal/financial resources. Ensuring copyright is used to promote innovation and creativity, and not abused by its members for other purposes (censorship, commercial panacea, bad-faith hindering of innovation/creativity)

How should it be funded?

One source might be the resources currently used for expensive litigation.

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

Absolutely.

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

I would welcome a voluntary collective licensing scheme as an optional extra on broadband bills as a way of licensing music downloading.

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

Possibly, depending on its scope and powers.

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

Video is increasingly being consumed in a similar fashion. Other media should be dealt with differently.

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. This would allow a fair hearing and due legal process for low-scale copyright infringers.

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?

I don't see the benefit to creators nor the public in affording copyright to non-creators for the best part of a century after the creator's death. That said, this would be hard to change due to international treaties etc.

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?

The fact that Joyce's works only came into the public domain this year, seventy years after his death. I fail to see how posthumous protection of one's work is an incentive to innovate or

create.

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?

I'm unsure of how Digital Rights Management is dealt with under current legislation, but it certainly stifles legitimate use of digital works.

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

Most types of editing are uncreative and do not deserve protection. Others, such as creating mash-ups, are and do deserve encouragement.

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

Music written for the film, yes. A compilation of songs, no.

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?

Yes

Is there any evidence that it is necessary to modify remedies (such as by extending criminal sanctions or graduating civil sanctions) to support innovation?

Large-scale infringement as a commercial enterprise should be criminal. I don't believe cutting internet access or blocking websites supports innovation.

Is there any evidence that strengthening the provisions relating to technological protection measures and rights management information would have a net beneficial effect on innovation?

It would certainly encourage innovation on methods to counteract those measures.

Should the special position for photographs in section 51(2) CRRA be retained?

Yes

Is it to Ireland's economic advantage that it does not have a system of private copying levies; and, if not, should such a system be introduced?

In relation to physical media, I believe that this is already outdated. The system is also inherently unfair, both for consumers and small creators.

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?

ISPs could tender an offer to the various existing collecting societies of collecting a voluntary collective license fee. Select users could use software similar to Last.fm to record what works are being consumed, to ensure that the proper artists get their fair share.

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?

If there is a case for such immunities, to which remedies should the immunities provide defences?

Conduits shouldn't be forced to install filters (as upheld in Scarlet case). ISPs shouldn't be held responsible for their users' communications (offline paralled: post office, road network).

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?

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

Yes. Linking is fundamental to the internet. An infringement occurs when an unauthorized copy is made.

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

It could be included as an immunity along with the other ones

Is there a case that there would be a net gain in innovation if the marshalling of news and other content were not to be an infringement of copyright?

Headlines and quoting paragraphs (with links to source) should be fair dealing. Copying entire articles is an infringement.

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

No, a linking immunity would cover this case.

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, with protections against DRM

(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? - unsure

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

(h) demonstration or repair of equipment? - unsure

(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"?

as long as this does not adversely affect commercial value

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

Yes

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

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

Publishers who wish to sell publications in Ireland should be obliged to provide the legal deposits an archival copy. These should be available within the physical library, as well as to staff and students of university libraries.

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

Yes

What have we missed?

Region-locking may disadvantage Ireland.

Do you have any comments on the work of the Copyright Review Committee or on the consultation process generally?

I am happy with the process and the work being done.