

Name

Leigh Walsh

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

rights-holder

user

Gigging musician, who the interests of EMI does not represent in the slightest.

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

No. It is out of touch with the reality of creative media and those involved have refused to listen to the wider public on any of these issues. It is purely bending towards corporate issues, and will, in fact, harm innovation.

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)].

No. It is left too vague and open for abuse.

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?

Vastly expanded "Fair Use", which isn't contained in the "Irish SOPA" document at all.

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, as I believe it drives focus away from the end user and creator of media/"innovator" as the driving force.

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

See above.

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

Should focus on creator and user.

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

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?

No.

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

No.

What should the composition of its Board be?

No.

What should its principal objects and its primary functions be?

No.

How should it be funded?

No.

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

No.

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

Dump existing copyright laws, replace with Creative Commons law. This would cause Ireland to become a world leader in creativity and innovation.

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

No.

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

No.

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”?

No.

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

No.

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?

No.

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?

No.

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?

Again, current Copyright law is vastly outdated and does not apply to the digital age. It is necessary to revise it according to modern principles such as the Creative Commons.

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 believe so - a lot of electronic artists for example find it difficult to get off the ground because of the costly nature of using samples in their music. By favouring corporations here, Ireland is clamping down on innovation and creative arts. Many music venues have been shutting down recently, which would have been traditionally populated with smaller artists. These kinds of laws attack the smaller artist. This book makes a good argument for the general case of copyright law hurting productivity - <http://www.free-culture.cc/>

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?

Yes. Nobody with any real knowledge on the subject would claim strict copyright encourages innovation. Please watch this documentary, as it explains it quite well - <http://www.youtube.com/watch?v=5SaFTm2bcac> Also - <http://www.free-culture.cc/>

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?

See above.

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

It depends how "intellectual creation" is defined. It is my belief that innovation takes place on the shoulders of those that went before.

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

Yes.

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?

Probably.

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

Again, look to the likes of the Creative Commons license, a copyright created for the digital age.

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?

Preferably; abolish them.

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

Yes. Again, please watch the documentary versus the Amen Break, and read the online book "Free Culture" - <http://www.free-culture.cc/>

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?

No, precisely the opposite. Refer to the materials I have linked you.

How can infringements of copyright in photographs be prevented in the first place and properly remedied if they occur?

I'm not sure.

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

again, I think the whole thing needs to be rewritten, so these questions are somewhat irrelevant.

If so, should a similar exemption for photographs be provided for in any new copyright exceptions which might be introduced into Irish law on foot of the present Review?

I don't know.

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?

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?

First, use Creative Commons licenses. Then decide what to do based on that.

Are there any issues relating to copyright licensing and collecting societies which were not addressed in chapter 2 but which can be resolved by amendments to CRRA?

Yes, the concept of "Fair Use" in general, especially when it comes to sampling in music.

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?

I don't understand this question, sorry.

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

I don't understand this question, sorry.

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

Are these even real questions? Honestly?

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?

No. There are so many different methods of digital distribution nowadays that it needs to be redefined.

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. This would be too easily abused by paranoid corporate interests.

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

It depends on the nature of infringement. Again, I would favour a Creative Commons model.

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

Not this again.

Does copyright law inhibit the work of innovation intermediaries?

Probably.

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?

Yes, absolutely. It is ridiculous that you can't even copy/paste a news article for fear of infringement.

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

Yes. Again, smaller musical acts.