

## THE ARTS COUNCIL

The Arts Council is the national agency for funding, developing and promoting the arts in Ireland.

The Arts Council makes the following submission to the Copyright Review Committee as part of the consultation process on the Review of the Copyright and Related Rights Act 2000.

- It is the strong belief of the Arts Council that the arts are one of Ireland's greatest assets. Ireland has a reputation internationally for its arts. This reputation continues to grow and is one of the few aspects of our national identity that has not suffered reputational damage over recent years. Underpinning that reputation is the work of Irish artists (Irish copyright creators). The Arts Council strongly advocates for all measures that allow artists to share in the economic life of what they create. Through the artists' tax exemption scheme, the film relief scheme and Arts Council subsidy the Irish government and the Irish tax payer have helped to foster and develop the arts. However, exploiting the copyright that they have created is one of the few ways in which artists can earn an income directly from their art practice in a commercial world and thereby continue to work, create and innovate.
- The Arts Council would assert that copyright is an incentive to creativity, entrepreneurialism and innovation. Copyright is an asset upon which many of our creative industries are based. The protection to investment (financial and creative) that copyright provides is an incentive to creativity, innovation and risk taking. The Arts Council would also advocate that Irish artists and the work (ie copyright) created by Irish artists is one of Ireland most significant assets and brands. Copyright is the foundation upon which it is possible for artists and other creators to develop and thrive. In light of this we would be concerned if the implication of 'removing barriers to innovation' would somehow imply that the rights copyright creators and holders should be diminished. It is acknowledged however that certain change may provide for improved access to copyright material by potential users and that this would be to the benefit of users and rights holders. Areas that may need consideration would include the issue of orphan works and digital rights management. In such instances the Arts Council would advocate that the limited rights and protections afforded to copyright creators must be maintained.

- The Arts Council would not support the introduction of the 'fair use' doctrine as practiced in the US. Fair dealing is the established practice in Europe and it provides for an appropriate balance between rights holders and the public good. Current legislation on fair dealing is clear and has not prompted significant legal dispute. The American style fair use provides for open ended interpretations meaning that clarity can only ever be sought via lengthy and costly legal proceedings. This is the clearly documented experience of the American system which favors large companies who have the resources to enter into such legal processes. Copyright creators including small enterprises and individual creators are severely and unfairly disadvantaged through this system which provides little incentive to the creators of copyright.
  
- The Arts Council would advocate that a review of the Act is an opportunity to incorporate the Artists Resale right into legislation which would supersede SI 312/2006. In doing so the Arts Council advocates for compulsory collective management, a lower threshold of €1,000 and the extension of the right to heirs of deceased artists in line with Directive 2001/84/EC.