

## DAIRE GARVEY

I'd like to give you my opinion on copyright as a private citizen. Overall I think the interests of the public and the common good have been ignored by legislators who have been captured large media interests. There is no rational reason for copyright to last 70 years after the death of the original author. For two generations of the author's descendants to make money off a work they did not create should never have been considered legitimate. To me the author's descendant's argument seems like a red herring, it is immortal media companies that hold most important copyrighted works.

It seems to me that very little of what mankind has produced in the last century belongs to the public, and we are much poorer for it. Will these works ever belong to the public, like Mozart's music? When 70 years or 95 years isn't enough to protect Mickey Mouse, will the limit be extended further, ad infinitum?

I would like to see copyright greatly reduced to be roughly the same as patents, and for exactly the same reasons that patents aren't given for 70+ years.

In addition I think strong protection should be given to private, non-commercial use of copyrighted material. In Spain for example, making private copies of copyrighted work for non-commercial home use is protected, and we should do the same here. In my view this type of use should constitute fair use.

I would also like fair use in general to be given wide latitude and protection. Parodies, re-mixes, "mash-ups" and other transformative works are important creations in their own right and should be protected from copyright holders.

For incidents of genuine copyright infringement, I believe the necessary legislation is already in place for rights holders to seek redress through the courts. Specifically in the case of infringements on the Internet, copyright holders can already bring a case and subpoena the contact details of the person they allege has infringed their copyright from the ISP. The copyright holder can then take that person to court. I see absolutely no reason why this isn't sufficient.

Large media companies like EMI are lobbying for other companies to be forced to protect their bottom line, and I think that is unfair. An ISP is a conduit, they should

have zero liability for any traffic over their network. In my opinion they are not in any way an “intermediary” in the meaning of the EU Directive quoted on your website. If ISPs can be considered as “*services are used by a third party to infringe a copyright or related right*” then so can the ESB for the electricity service they supply to the copyright infringer’s computer and network connection.

It would be different if the ISP was actually running a illegal video download service and had thousands of videos stored on company servers, but this is never the case with companies like UPC, Eircom etc. It’s utterly senseless to expose an ISP to court injunctions because of the actions of their users, it would be like bringing Vodafone to court because a drug dealer used their network to organise a murder.

I said above that I couldn’t see a reason why the current legislation isn’t enough for large rights holders like EMI, but there is one, albeit an illegitimate one. If EMI’s business is obsolete or run so badly that it cannot offer products or services that the public want to buy, then their reason for competing in the courtroom instead of the marketplace becomes clear.

The government should step back and stop trying to pick winners and losers. Government should focus on protecting the privacy of citizens and promoting the common good. The shrill warnings of companies like EMI should be ignored. Money not spent on CDs is instead spent on mobile phone credit, Bluray Discs, iPhone Apps, Facebook credits etc. No money is “lost”.

If EMI’s entire back catalogue up to the 1980s entered the public domain tomorrow, what negative effect would that have on our economy? None! More jobs and businesses might well be created to market and sell the music more efficiently than EMI ever did. New works based on the music could be created and sold also. Of course EMI could still sell the same music, using their trusted brand, and add value with newly copyrighted extras.

Last time I looked, Penguin Classics was doing just fine as a publisher of books that are out of copyright. Let us not forget that the concept of a company that makes money selling copies of recorded music is an invention of only the last 100 years or so, and only ever gained prominence in Europe, North America and a few Asian countries. For the rest of humanity, and pretty much all of history, musicians have made their living through performance.

Finally, any legislation that benefits these rights holders at the expense of the common good will simply end up on the wrong side of history. The power of technology in the hands of the public means that rights holders will have no choice but to genuinely compete by bringing better value, choice and user experience than can be achieved through file sharing. If they do not they will be left behind. File transfer started off as fringe activity for the technically inclined, but now anyone can do it. The same will happen with strong encryption, proxies and anonymizing networks like TOR.

By contrast, Netflix is now the no.1 source of data traffic in the US and iTunes for some time has been the no.1 seller of music in the US. The demand for good service is there. The market can offer genuine solutions. For their own good, and for the common good, companies like EMI must be denied special treatment.