

**Name**

David Kirwan

**Company**

TechieCast

**Which of the following categories best describes you?**

Rights-holder

**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 EUCD?**

No

**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?**

Yes

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

Yes

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

Yes

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

Yes

**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

**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 the 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?**

No

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

No

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

No

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**Should section 24(1) CRRA be amended to remove an unintended perpetual copyright in certain unpublished works?**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

Yes

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

Yes

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

Yes

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

Yes

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

Yes

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

Yes

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

Yes

**Does the definition of intermediary (a provider of a "relevant services", 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

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

Yes

**Does copyright law inhibit the work of innovation intermediaries?**

Yes

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

Yes

**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

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

Yes

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

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 CRRA references to "research and private study" be extended to include "education"?**

Yes

**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?**

Yes.

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

Yes

**Should section 2(10) be strengthened by rendering void any term or condition in an agreement which purports to prohibit or restrict than an act permitted by CRRA?**

Yes

**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

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

Yes

**Should the occasions in section 66(1) CRRA on which a librarian or activist 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

**Should the fair dealing provisions of CRRA be extended to permit the brief and limited display on dedicated terminals of reproductions of works in the permanent collection of a heritage institution?**

Yes

**Should fair dealing provisions of CRRA be extended to permit the brief and limited display a reproduction of an artistic work during a public lecture in a heritage institution?**

Yes

**Would the good offices of a Copyright Council be sufficient to move towards a resolution of the difficult orphan works issue, or is there something more that can and should be done from a legislative perspective?**

No

**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?**

Yes

**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 EUCD exception for non-consumptive uses or more broadly for a fair use doctrine?**

Yes

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

No

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

Yes

**Should sections 15 to 18 of the European Communities (Directive 2000/31/EC) Regulations, 2003 be consolidated into our proposed Bill (at least insofar as they cover copyright matters)?**

Yes