

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

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 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 so.

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, as long as we ensure that overlap between these categories is common. In my case, I am approaching this discussion as both a rights-holder (as an inventor of open-source software) and a user (as a consumer).

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

There is another class of "rights-holder" which doesn't have exactly the same mindset as (i) above -- that is, developers of open source software and creators who give away their works at no cost, under specific licensing terms. These can be highly innovative and creative, and have a strong interest in a healthy copyright law which both protects their works appropriately without rendering this licensing system inoperable.

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

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

I feel strongly that all 6 categories of interested parties need to be represented by this council. In my opinion, the purpose of copyright is for the public good, to benefit society as a whole, not just the rights-holders. Staffing a Copyright Council from the rights-holders alone will fail to take into account the views of the other categories. At the very least, open source developers, and other rights-holders who create works and disseminate them at no cost, such as the Creative Commons project, should be represented in this body.

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

Yes, I agree with this.

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?

Based on <http://www.irishtimes.com/newspaper/breaking/2012/0101/breaking4.html> ('EU copyright on Joyce works expires'), it seems likely that changes which improved clarity regarding unpublished works could encourage innovation, in the form of allowing their publication: "The legal position over [some of Joyce's unpublished manuscripts] remains unclear". <http://www.irishtimes.com/newspaper/opinion/2011/0616/1224299000027.html> ('Joyce enters the public domain') goes into more detail, with an opinion that "prospective publishers" "may still proceed with caution". In my opinion, the lack of clarity here stifles innovation and over-compensates rights holders.

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

Yes, particularly given the Joyce situation mentioned above.

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?

Not that I know of.

Should the definition of "fair dealing" in section 50(4) and section 221(2) CRRA be amended by replacing "means" with "includes"?

Yes

62. 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
- (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? - Yes
- (g) advertising the exhibition or sale of artistic works? - Yes
- (h) demonstration or repair of equipment? - Yes
- (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"?

Yes

Should the education exceptions extend to the (a) provision of distance learning, and the (b) utilisation of work available through the internet?

Yes

Should broadcasters be able to permit archival recordings to be done by other persons acting on the broadcasters' behalf?

Yes

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

Yes

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

Yes, I think this is a fantastic idea.

Should the occasions in section 66(1) CRRA on which a librarian or archivist 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 display on dedicated terminals of reproductions of works in the permanent collection of a heritage institution?

Yes

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

Yes

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

I think it is important to bear in mind that some digital publication may be rendered impossible if there are stringent legal deposit obligations. For instance, a hobbyist making works available for free online may not be able to afford to make physical copies of their work and send it to a deposit office, or may find that the bureaucratic overhead of doing so (physically or digitally) may be a "chilling effect" on their creativity.

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

What have we missed?

Open source. There is a class of rights-holder, like myself, who have chosen to make their works available for no immediate monetary gain, and instead allow them to be used by anyone as long as they accept certain stated licensing terms. We are indeed rights-holders, but we don't share many of the desires of the "rights-holder" category described in the paper, I feel. Some data: in particular, I have found in the past that by deferring monetary gain by allowing free use of my works, I have secured greater gain in the long run by indirect means. As an example, one piece of software which I wrote ("SpamAssassin") became one of the most widely-used pieces of email filtering software in the world, filtering email for an estimated 150 million people worldwide. Once it was established and successful, I could make a career from developing custom proprietary additions to the open-source core, in a way that was compliant with its licensing. I have no doubt this would not have been possible had I charged for it. Are there parts of this consultation that should be amended to take open source models into account? And again, should "open source rights-holder" be a category unto itself?