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**National Titles:**

Irish Independent  
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Irish Daily Star  
Evening Herald  
The Sunday Independent  
Sunday World  
The Sunday Business Post  
The Sunday Tribune  
Irish Mail on Sunday  
Irish Daily Star Sunday  
Irish Farmers Journal  
Irish Daily Mail  
Irish Daily Mirror  
Irish Sun  
Irish News of the World  
Irish Sunday Mirror  
The Sunday Times

**Chairman:**

Paul Cooke

**Local & Regional Titles:**

Metro Herald  
Evening Echo  
Western People  
Kildare Nationalist  
Laois Nationalist  
Carlow Nationalist  
Waterford News & Star  
The Kingdom  
Sligo Weekender  
Ennisconry Echo  
Roscommon Herald  
Wexford Echo  
Galway Echo  
New Ross Echo  
Lucan Gazette  
Blanchardstown Gazette  
Dundrum Gazette  
Swords Gazette  
Castleknock Gazette  
Malahide Gazette  
Clonsilla Gazette  
Dun Laoghaire Gazette  
Ennisconry Guardian  
Galway Guardian  
New Ross Standard  
Drogheda Independent  
Fingal Independent  
Carlow People  
Wicklow People  
The Argus  
Ely People  
The Corkman  
Wexford People  
The Kerryman  
Sligo Champion

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# Submission on the Review of the Copyright and Related Rights Act 2000

On behalf of National Newspapers of Ireland  
and NNI Local & Regional Newspapers

13 July 2011

## **1. Introduction**

- 1.1 The National Newspapers of Ireland (“NNI”) and NNI Local and Regional Newspapers together represent 16 national daily, Sunday and weekly newspapers and 34 local and regional newspapers with a combined weekly circulation of almost 5.8m copies. This means that over 300m newspapers are sold annually in Ireland. Their production, distribution and sale accounts for thousands of jobs and millions of euro in direct and indirect tax revenue for the country.
- 1.2 Additionally, our members operate online news websites attracting millions of unique users and also offer mobile news services via “apps”.
- 1.3 Some 4,000 people are employed by the newspaper industry in Ireland with several thousand more part-time and spin-off jobs in related sectors such as design, printing, distribution, IT, recycling, advertising and PR. NNI newspapers alone account for €700m annual turnover and an annual payment to the exchequer of €100m in taxes.
- 1.4 Newspapers – national, regional and local - are a major contributor to the cultural, social, economic, intellectual and political life of Ireland. The free flow of information of all kinds is clearly critical to the functioning of Ireland as a modern democracy where freedom of expression is fully safeguarded. Newspapers provide the diverse and insightful news and analysis necessary to inform citizens and foster the democratic debate. They are, together with other media, guarantors of an objectively informed public and of democracy.
- 1.5 When considering the efficacy of existing copyright laws it is vital to remember that there simply would not be a newspaper industry in Ireland without the protection of copyright law. The range and diversity of newspapers in Ireland is a testament to the value of copyright protection.

## **2 Innovations in the media industry**

- 2.1 In recent years, the newspaper industry has progressed through a period of enormous innovation and rapid change.
- 2.2 The internet has dramatically changed media production and consumption. Information and news is much more accessible than ever before and, as a result, consumers now demand content across multiple platforms. Whilst consumers remain loyal to the “traditional” printed newspaper, they also want access to the same quality content through “apps” on their phone, iPad or on their PC with ePapers and websites.
- 2.3 In responding to the demands of their readers, Irish publishers have continued to invest in staff development and training to provide the reader with the highest quality editorial content and journalism and have also invested enormous sums of money in innovative production methods and delivery to give the reader access to a better quality print and digital product.
- 2.4 Publishers, who have invested huge sums in generating content, developing editorial systems, as well as training and retaining their journalistic staff, honing their skills and expanding their knowledge, are keen to ensure that the profession of journalism and the great tradition of writing in Ireland retains its value and that the content generated by those journalists is protected, whether it appears in print or digital format.

- 2.5 Newspaper publishers have consistently adopted a facilitative approach to the dissemination of newspaper content. Section 23(2) of the Copyright and Related Rights Act 2000 is a unique provision in the context of Irish copyright law which permits journalists to reproduce their work, which has already been published by their newspaper or periodical employer, other than for the purposes of making available that work to newspapers or periodicals. This provision is a departure from the traditional rules regarding copyright in the employer/employee context and is unique in its impact on the owners of copyright in newspapers and periodicals alone.
- 2.6 A further challenge for publishers is to develop a business model that allows for revenue to be generated from digital content. The existence of so-called ‘free’ online news is undermining efforts by commercial news companies to devise a workable business model for digital provision. For some time now concerns have been expressed about third-party web operators using content without consent or compensation.
- 2.7 Through the activities of ‘news aggregators,’ content is available across the internet not just at its source site and is routinely used without reference to and in breach of the publisher’s copyright and often without the publisher’s knowledge, assistance or consent.
- 2.8 Newspaper publishers are faced with the challenge of balancing free availability against the exposure and traffic generated by these websites. At the heart of this situation is protecting valuable content from unlawful use to allow the continuation of a sustainable business model for news generation.
- 2.9 “Content is the emperor” is a well-known expression and the reality is that without high quality content, there wouldn’t be any need for multi-platform delivery options. Irish publishers have always invested heavily in content generation and, in recent years as stated earlier, they have invested millions in innovative delivery options for their content. Not only must that investment be protected but its potential as a revenue stream in a digital context must be exploited. Currently however the activities of third party automated news sites are impeding that opportunity and, if that is allowed to continue, news publishers will simply not be in a position to sustain their business. There is a real danger that long established sources of independent news will be curtailed. The potential reduction in sources of news would diminish democratic society.

### **3 The evolution of copyright legislation**

- 3.1 Copyright Legislation of one kind or another has been around since the arrival of the printed word. From the beginning it was recognised as fundamental to the protection of the creative process that once it became possible to easily disseminate the produce of a persons mind that person would have to be afforded the opportunity to protect it from unfair or improper exploitation by others.
- 3.2 Further, it is beyond debate that the existence of copyright has been a prime driver in the evolution of our society since its infancy in the early 18th century.
- 3.3 It was of course also recognised from the very earliest times that there had to be certain limits to the universal applicability of copyright protection in the interests of society as a whole. Thus, there has always been available a fair dealing defence of some type. However, of course as is clear from any examination of any copyright legislation anywhere, the use which is exempted is always non-commercial. The person making use of the Copyright material is not making a profit from it.

- 3.4 A comparative study of the evolution of copyright law in the UK, the US and France is provided at Appendix 1 to this submission. This study illustrates that, from its genesis, copyright law in all of these countries has sought to promote and protect innovation of creators and to reward creative effort.
- 3.5 In addition to national legislation there is of course a plethora of international treaties such as the Berne Convention, The Universal Copyright Convention, The TRIPS Agreement of 1994 and The WIPO Copyright Treaty of 1996, and then in Europe, the various EC Directives of which, of course, the most important is The Copyright Directive of 2001. The sheer scale of these other layers of regulation only serve in their own way to underlying the fundamental importance of Copyright to modern society.
- 3.6 The Copyright and Related Rights Act of 2000 marked a fundamental reorganisation and codification of Ireland's copyright law and took the opportunity to bring it into line with the country's international obligations and, in particular, the Copyright Directive of 2001 (the final text of which was in circulation prior to the passing of the Act of 2000), so that the Act merely anticipated what would be coming in the new Directive.
- 3.7 Echoing the situation in Europe the 2000 Act expressly caters for the digital age and the internet in particular. The internet was already an established worldwide phenomenon at that time and the main players such as Google, Yahoo etc. were already well established and pursuing their own commercial interests.
- 3.8 At the time of the lengthy consideration, of the provisions of the Copyright Directive there was no suggestion that it might be appropriate to grant any kind of special fair dealing exception to those operating internet services per se.
- 3.9 Indeed, it is noteworthy that Article 5(1) of the Directive expressly protected internet service providers and the like by declaring that transient or incidental acts are reproductions of copyright would not constitute an infringement of copyright so long as those reproductions have "no independent economic significance."
- 3.10 Later in these submissions, reference is made to Section 29(1) of the English Copyright Designs and Patents Act of 1998 which protects generally use for research or "non commercial purpose". Clearly, similar clarification would be helpful in Ireland's legislation.
- 3.11 Whether or not existing copyright legislation needs adjustment is a matter under more or less constant review, particularly at European level. An analysis of the current European thinking on this topic is provided at Appendix 2 to this submission. This analysis illustrates that protection of newspaper content is central to that thinking and that a system of licensing which facilitates dissemination of content in return for reasonable reward is the way forward.

## **4 The current situation**

- 4.1 Currently, providers of content over the internet such as Google, Yahoo and others routinely facilitate the free availability of the entirety of the content of Ireland's newspapers in a clear ongoing breach of copyright. None of these organisations have done the newspaper industry the courtesy of even consulting with it about this matter. What is clear, given the unusual terms of reference which this committee is expected to address, is that those who are promoting change are seeking to immunise themselves from legitimate complaint and avoid paying anything at all for the use and abuse of Ireland's newspaper content. The real purpose is to gain further commercial advantage and not to foster or encourage innovation. On the contrary, the type of change which appears to be in contemplation can over time only undermine and diminish the amount of innovative independent articulate and varied commentary which is essential to the functioning of our society.

## **5 The focus of this current review and its terms of reference**

- 5.1 Whilst NNI welcomes a review of the current copyright legislative framework, the basis upon which this review is being conducted, and the terms of reference, are in themselves a concern. It appears that a key focus of the review is to identify any areas of copyright legislation which "are perceived to create barriers to innovation". This has arisen (it appears from the official announcement by the Department of Enterprise, Trade and Innovation) as a result of "a perception in certain industries that national copyright legislation does not cater well for the digital environment and actually creates barriers to innovation and the development of new business models". It is peculiar that there is no reference whatsoever to the specific industries, or the specific businesses within those industries, which have such a perception, given that the review appears largely to have arisen in order to address their views and that perception.
- 5.2 That view (that copyright creates barriers to innovation) is ill-founded in a number of respects.
- 5.3 Firstly, this concept that intellectual property is a barrier to innovation is simply wrong. Copyright, and other intellectual property rights, are in fact precisely the opposite - they are about valuing and protecting innovation. The very function of recognising intellectual property rights is to facilitate, encourage and preserve innovation.
- 5.4 So it is with the copyright owned by the members of the NNI in their content. Our members, and newspaper publishers worldwide, constantly look to innovate in the way in which their news content is put together and disseminated. This has never been more so than the last decade, where our members have put effort and investment into developing a number of different ways in which their news content can be made available digitally to readers.
- 5.5 More generally, the concept that technology industries and the creative sectors (such as the members of the NNI) are in a direct conflict or tension (as predicated in the terms of reference) is false. No evidence whatsoever appears to be relied upon by the review committee in putting forward the terms of reference which assume that false dichotomy. Instead, the terms of reference have been drafted in such a way that weight is given to what is stated to be a perception in certain industries, but not the contrary perception which arises in many other industries. It is of concern that (on the basis of the wording of the terms of reference) the committee is not seeking any actual evidence to prove or disprove the dichotomy.

- 5.6 In reality, the relationship between technology and creativity is symbiotic. Intellectual property in fact drives innovation. Technology exists to disseminate content. Prime in that is news content. If there was no content, there would be far less need for technical innovation. In the case of news publishers (both nationally and across Europe) rather than eschew the internet and other forms of digital transmission, the industry has embraced them.
- 5.7 In that context, to frame copyright protection as a “barrier to innovation” is ill-founded. Relying on such an ill-founded premise for the purposes of this review, and the terms of reference, jeopardises the possibility for a full, meaningful review of the current copyright legislative framework and appears to serve only the purposes of a narrow segment of the technology sector which seeks to rely on the premise in order to advance their own economic cause by obtaining a loosening of copyright protection.

## **6 An examination of the appropriateness of the US style “fair use” doctrine in an Irish/EU context.**

- 6.1 Numbered paragraph 3 of the terms of reference states that the current review will result in an examination of the US style “fair use” doctrine to see “if it would be appropriate to an Irish EU context”. Consideration of the introduction of the “fair use” doctrine to Irish national copyright law can only be predicated on the assumption that copyright law constitutes a barrier to innovation, and that a solution is required in that regard. For the reasons identified above, copyright law does not constitute a barrier to innovation and therefore such a solution is not required. It is indicative of the apparent pre-judgement inherent in the manner in which the terms of reference have been framed that the introduction of the “fair use” doctrine into copyright law is the only specific proposed alteration to copyright law raised in the terms of reference.
- 6.2 In practice, the current Irish copyright legislative framework affords considerable flexibility and facilitates a healthy and competitive market place for content providers and technology industries alike.
- 6.3 There is nothing in the Irish copyright legislative framework which prevents content owners from being very permissive with regard to onwards dissemination of their content. This is evidenced in practice by the successful and very broad licensing regime which members of the NNI participate in, whereby third parties are authorised to disseminate and reproduce newspaper content on foot of a licence which is inexpensive and easily obtained from Newspaper Licensing Ireland Limited. This licensing regime applies not just to the hard copy paper format newspaper, but also to the on-line, digital version of newspaper content made available by publishers.
- 6.4 In relation to the consideration of the US “fair use” doctrine, introduction of such a doctrine would considerably dilute the protection and rights afforded to creators such as members of the NNI. Such loss of protection for NNI members would undoubtedly hugely impact on the newspaper sector and have very significant negative economic impact on newspapers. Put simply, if newspaper publishers cannot rely on a certain degree of copyright protection for their work, the impetus to invest in their business, and to disseminate content (particularly on-line) proportionately reduces. Introduction of the “fair use” doctrine would only serve those in whose commercial interest it is to see copyright protection diluted and diminished. It would run directly contrary to the interests of the newspaper industry and those employed within it.



- 6.5 Furthermore, even apart from the reasons as to why the “fair use” doctrine should not be introduced into Irish law, to look at this the other way- it appears that there is no evidence whatsoever to suggest that the introduction of a “fair use” doctrine would be in any way appropriate or would be necessary to achieve the “optimum copyright position for Ireland” referred to in the announcement by the Department of Enterprise, Trade and Employment of this review.
- 6.6 A fair use defence is considerably less certain in its application. The lack of clarity in the US fair use defence is very unhelpful. It has resulted in relentless litigation which has failed to lend clarity to the defence. It is important that this be avoided in this jurisdiction where clarity is fundamental to the ability of the newspapers to protect their copyright in an efficient and appropriate manner. If the circumstances of protection are legislatively blurred it is those with the deeper pockets who benefit from the threat of protracted and expensive litigation.
- 6.7 In our view, whilst there is a desirable change to copyright law in relation to the “fair dealing” defence, it is not the introduction of a “fair use” doctrine. Instead, we believe that the existing fair dealing defence should be amended so as to explicitly ensure that the defence is not available for persons dealing with a work for commercial purposes. It is submitted that that is clearly the intent of the current legislative provision. Clarifying the provision in this way would reflect the applicable approach in the United Kingdom, where Section 29.1 of the Copyright, Designs and Patents Act 1998 (United Kingdom), as amended reads:
- “Fair dealing with a literary, dramatic, musical or artistic work for the purposes of research for a non-commercial purpose does not infringe any copyright in the work provided that it is accompanied by a sufficient acknowledgement.”*
- 6.8 Amending our law so as to explicitly exclude the availability of the fair dealing defence when the dealing has been for commercial purposes would serve as a useful clarification to the benefit of rights holders, whilst not altering the fact that the available fair dealing defence would be extremely broad.

## **7 Copyright protection in the digital context**

- 7.1 We identified above that copyright protection is not a barrier to innovation. It is important to make a separate, but related, point on behalf of the NNI members. Based on the law as it currently stands, technology companies are not in fact being precluded from innovating. All they have to do is seek a licence. Their refusal to do this or make any contact whatever with publishers whose material they are commercially exploiting indicates an improper contempt for the legal framework which is itself the main instrument of innovation.
- 7.2 The reality is, that once our members put their newspaper content online, it is used, reproduced and disseminated by technology companies in a way which constitutes a flagrant breach of copyright. This includes well established, household name technology companies, and not just smaller “rogue” companies.
- One need only look at any of the main internet search functions (such as Google, Yahoo and others) and the search results will involve reproduction of extracts from our members’ content, the publication of which extracts constitute “copying” for the purposes of our Copyright and Related Rights Act 2000. Despite the fact that this involves infringement of our members’ copyright, no payment whatsoever is received by our members for use of its content.

- A further example is the reproduction and dissemination of newspaper content by aggregator websites. This “scraping” of our members’ websites by hundreds if not thousands of technology companies constitutes an infringement of copyright. These companies offer content generated and owned by our members for free to their users thus preventing our members (the rightful owners of the content) from exploiting the revenue opportunities that exist in the digital sphere. How can our members hope to charge for the content and earn a reasonable return if others, having effectively stolen it, are offering it for free? Whilst efforts are being made by Newspaper Licensing Ireland Ltd to licence these activities, to date such activities are being carried out in breach of copyright law.
  - Similarly, the proliferation of “news” websites which have cropped up rely on reproduction of our members’ content without our members’ permission and without payment to our members. These websites exist only, and are able to have content on their website only, by infringing our members’ copyright and by breaching the terms and conditions of our members’ websites. Given that they do not need to generate content of their own, they do not make anything like the investment into the economy that our members do and fundamentally being parasitical they make no contribution to the proliferation of independent news content and add nothing to the rich mixture of mental product which is essential to our society (for example, they employ nothing like the number of people employed by our members in order for our members to produce their original content).
- 7.3 The point is, therefore, that whether it be through inadequate protection in the current copyright legislative framework or through lack of enforcement options when copyright is infringed in the digital context, technology companies have routinely abused copyright and in doing so have not demonstrated that this is in any way necessary to drive innovation. On the contrary, the abuse of newspaper copyright is clearly intended to provide a commercial return for those who abuse it.
- 7.4 It is somewhat galling that those same technology companies would now seek to argue that the existing Irish copyright framework is restrictive. To amend copyright law for those who do not observe the existing framework would be unacceptable. To the extent that the terms of reference of this current review have been drafted having regard to the preference of those technology companies, it is essential that the debate and review of copyright legislation is broadened.

## **8. The Submission of Newspaper Licensing Ireland Limited**

- 8.1 The NNI endorses the content of the submission made by Newspaper Licensing Ireland Limited. The two submissions should be read in conjunction with each other and are complementary.



## **Executive Summary**

- **Copyright law in its current format is not a barrier to innovation – it is an instrument of innovation.**
- **A review of existing copyright legislation should involve a wider, more comprehensive scope than envisaged by the terms of reference of this review.**
- **The US style “Fair Use” doctrine is not suitable to the Irish/EU context. Its introduction would precipitate uncertainty and promote expensive and lengthy litigation.**
- **The existing “Fair Dealing” defence should be clarified to reflect the position set out in section 29.1 of the Copyright, Designs and Patents Act 1998 (United Kingdom) – that commercial use cannot benefit from the defence.**
- **Many members of the digital industry are flagrantly disregarding their existing copyright obligations and now seek to tailor the legal framework to suit their own commercial objectives.**

## Appendix 1

In England, the first Act of Parliament recognising the right of an author to authorise the printing of his works was in 1710. Numerous other Acts of Parliament followed in the 19<sup>th</sup> century extending the scope of copyright with the then legislation being revised and consolidated by the Act of 1911.

In the United States copyright legislation, modelled on the English Act of 1710 was introduced in the original States before the War of Independence. So, for instance, there was the Massachusetts Law of March 17<sup>th</sup> 1783. Telling, in its preamble it declares:-

- “1. Improvement of knowledge, progress of civilisation, public good and advancement of happiness depend on the efforts of persons working in the arts and sciences.*
- 2. Such persons are encouraged to produce if their products are legally secure.*
- 3. The labour of a man’s mind is his property.*
- 4. Security of property is a natural right of all men.”*

Indeed, the United States Constitution expressly recognised the importance of copyright at Articles 1, Section 8, where it is provided:-

*“To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writing and discoveries.”*

One of the earliest pieces of legislation passed by the new American Congress was its Copyright Act of 1790.

In France, (as in other European States at the time), performance and printing of authors’ works was controlled by Royal Decree and regulation. However, the French Revolution brought immediate fundamental change and the Revolutionary Decrees of January 1791 and July 1793 established copyright on a statutory basis for the first time. The speeches made to the French assembly at the time of the introduction of this legislation are now famous. So, Le Chapelier, reporting for the 1791 Decree stated:-

*“The most sacred, the most personal of all properties is the work which is the fruit of a writer’s thought, and that as it is just that men who cultivate the domain of thought should draw some fruits from their work, it is necessary for during their whole life and some for some years after their death no one should without their consent dispose of the product of their genius.”*

The foregoing clear articulation of the need for copyright protection remains as valid today as when first stated some hundreds of years ago.

## Appendix 2

### Current European thinking

In October 2009 the European Commission launched a reflection on a digital single market for creative content online “IP/091563”. It stated:-

*“In Europe the cultural and creative sector (which comprises public content such as books, newspapers and magazines, musical works and sound recordings, films on demand and videogames generates a turnover of more than €650 billion euro annually and contributes to 2.65 of the EU’s GDP employing more than 3% of the EU workforce. European policy makers therefore have the responsibility to protect copyright, especially in an evolving economic and technological environment.”*

*“Copyright and the internet are two powerful engines for driving creativity and innovation for the benefit of all Europeans. They should be combined in the new project of a competitive and prosperous and digital single market. Such a digital single market can only be built with content creators onboard; and with the generation of digital natives as interested users and innovative consumers.”*

(Viviane Reding, the EU Commission for Information Society and Media).

Among the matters identified as important at this time were:

1. Make sure creativity is rewarded so that creators, rights holders, and Europe’s cultural diversity can thrive in the digital world;
2. Give consumers clearly priced legal means of accessing a wide range of content through digital networks anywhere, anytime;
3. Promote a level playing field where new business models and innovative solutions for the distribution of creative content across the EU. On May 24<sup>th</sup> 2011, the Commission published a communication called “A Single Market for Intellectual Rights Boosting Creativity and Innovation to Provide Economic Growth, High Quality Jobs and First Class Products and Services in Europe.”

At Page 2 this stated-

*“Putting in place a seamless integrated single market for Intellectual Property Rights (IPR) is one of the most concrete ways to release the potential of European inventors and creators and empower them to turn ideas into high quality jobs and economic growth. This communication presents the Commission’s overall strategic vision for delivering the true single market for Intellectual Property that is currently lacking in Europe – a European IPR regime that is fit for tomorrows new economy, rewarding creative and inventive efforts, generating incentives for EU based innovation and allowing cultural diversity to thrive by offering additional outlets for content in an open and competitive market.”*

At Page 4 it goes on –

*“The case does not need to be made anymore – IPR in their different forms and shapes are key assets of the EU economy” and goes on –*

*“1.4 Million SMEs operate in the creative industry... IP based industries represent above average potential for growth and job creation. According to the European Competitiveness Report 2010, creative industries account for 3% of employment (2008) and are among the most dynamic sectors in the EU. A number of employees in the creative industries in the EU 27 was 6.7million in 2008. Overall, employment in creative industries increased by an average of 3.5% a year in the period 2002-2007 compared to 1% a year for the total EU economy. Most of the new jobs in the EU created over the past decade were in the knowledge based industries where employment increased by 24%. In contrast, employment in the rest of the EU economy increased by just under 6%.*

*An indicative 2002 survey of the .....companies estimated that anywhere from 45 % to 75% of the wealth of individual companies derives from their IPR. In 2009, it was estimated that intangible assets represented about 81% of the value of the standard .....500 market. The value of the top ten brands in each EU country amounted to almost an average of 9% of GDP per capita in 2009. IPR incentivise and protect investment in technical research and development (1.9% of EU GNP in 2008). Copyright based creative industries (comprising software and data based production), book and newspaper publishing (according to the Federation of European publishers) book publishing employs 135,000 people fulltime and contributes approximately €24billion to EU GDP, music and film contributes 3.3% of the EU GDP (2006).”*

Dealing with the necessity for a comprehensive framework it states at Page 9-

*“The internet is borderless but online markets in the EU are still fragmented by multiple barriers. Europe remains a patchwork of national online markets and there are cases where when Europeans are unable to buy copyright protected works or services electronically across a digital single market. Technology, the fast evolving nature of digital business models and the growing autonomy of online consumers, all call for a constant assessment as to whether current copyright rules set the right incentives and enable right holders, users of rights and consumers to take advantage of the opportunities that modern technologies provide.*

*Authors and other creators expect a fair return for the use of their work, be they books, newspaper articles, sound recordings, performances, film or photographs. This is also true of publishers and producers who provide investments to produce and disseminate creative works. The potential exists to increase authors and creators returns if a proper copyright environment facilitates the licensing and dissemination of works in a digital single market.”*

Dealing with European heritage it states at Page 13.

*“Journalists are authors and their work is important not only because they report, comment on and interpret the world we live in but also because freedom of the press is living testimony to Europe’s pluralistic and democratic society. Protecting authors’ rights for journalists and ensuring that they maintain a say over how their works are exploited is therefore central to maintaining independent, high quality and professional journalism. Publishers themselves play an important role in dissemination the work of writers, journalists, researchers, scientists, photographers and other creators. In this respect it is important to safeguard the rights that journalist and publishers have over the use of their work on the internet, in particular in view of the rise of news aggregation services. The Commission will continue to examine these issues in the light of new legal and technical developments.”*

While this recent document from the Commission does not itself discuss their use it is quite clear that the thinking at European level is that the protection of copyright in newspapers remains crucial and any change in the law which would compromise that protection is unthinkable.

It is clear indeed that what is in mind at European level is entirely consistent with the position adopted by National Newspapers of Ireland and newspaper publishers in other jurisdictions, namely to make their material available to those which wish to reproduce it over the internet for commercial gain on a licence basis, so that they pay a reasonable remuneration for using the product of the newspapers endeavours.