

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?

Entrepreneur

Is our broad focus upon the economic and technological aspects of entrepreneurship and innovation the right one for this Review?

Not in my opinion, it criminalises service providers.

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)].

No, and the legislation is poorly formed and can be abused far more than, for example, the US SOPA proposal.

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, with proper and open consultation with ISP's.

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?

No, ISP's are not just one of these of these categories, they are the force under which all of these categories use online services. ISP's provide the internet we use, not contacting them in the consultation process is on a par with decriminalising cannabis without contacting the Drugs Taskforce.

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

ISP's are not included as a higher force which they are.

What is the proper balance to be struck between the categories from the perspective of encouraging innovation?

ISP's should provide details of those sharing music, data, files and other copyrighted materials to An Gardaí Síochána who can pursue a case if they feel it is in the best interest of the state. Free legal aid should be granted to those accused, in all cases, if requested to fight a commercial issue in a civil court. ISP's should be able to refuse access to user information if they feel no crime has been committed, unless requested to provide information through An Gardaí Síochána, "special arrangements" such as the Eircom Agreement should not be allowed and are a breach of a persons privacy rights (accessing their internet usage information).

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

No, it will not solve such an issue, unless it is impartial, which is unlikely to be the case given lobbying powers in commercial stakeholders industries. I fundamentally believe it will not function in the best interest of the people. An Gardai Siochana should be able to adjudicate cases based on their merit for criminal proceedings, if An Gardai Siochana cannot find a breach of a current regulation, worth putting forward to a court in the interest of the people, employment, the state et al. A case should be prohibited.

If so, should it be an entirely private entity, or should it be recognised in some way by the State, or should it be a public body?

No.

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

No.

What should the composition of its Board be?

N/A.

What should its principal objects and its primary functions be?

N/A

How should it be funded?

N/A

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

N/A

What other practical and legislative changes are necessary to Irish copyright licensing under CRRA?

N/A

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

N/A

How much of this Council/Exchange/ADR Service architecture should be legislatively prescribed?

N/A

Given the wide range of intellectual property functions exercised by the Controller, should that office be renamed, and what should the powers of that office be?

N/A

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

Yes, but the act is improper in its function and will bring a mockery of Copyright holders cases unless reformed.

Furthermore, what should the inter-relationship between the Controller and the ADR Service be?

N/A

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?

Gardai should decide the validity of a case based on its merits and the damage done to each party in a dispute.

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?

N/A - No Civil actions should not become criminal actions, wasting the states money for a few, often minor, royalties lost. If a case cannot be delegated in a district court, it should be thrown out.

Whatever the answer to the previous questions, what reforms are necessary to encourage routine copyright claims to be brought in the Circuit Court, and what legislative changes would be necessary to bring this about?

N/A

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 rights-holders and the public interest in diversity?

Yes, ISP's employ more people than the recorded music and film industry in Ireland.

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?

ISP's cannot offer any cloud based services (see Dropbox, etc), as these services may in fact allow copyright material to be shared, and the ISP's to be prosecuted.

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?

Yes, if ISP's cannot offer services for risk of pursuit, they will lose financial. If the law is not in place, Music Industry professionals can still take individuals to court to recover lost revenues, this is purely a lazy mans excuse to protect a dying and low Irish employment industry.

From the perspective of innovation, should the definition of “originality” be amended to protect only works which are the author’s own intellectual creation?

Yes, if an author is not attempting to sue for profit, as some companies have previous done, they will normally be entertained by those breaching copyrights, and content will be removed, and maybe a gratuity paid. Publishers pursuing copyright

infringement is on a par with my neighbour suing me for having toxic waste dumped on my land, yes it affects his houses value, is it my fault or the person who dumped it? ISP's are risking being essentially forced into liability, in a case which will probably end up in Brusses.

Should the sound track accompanying a film be treated as part of that film?

Yes, wholly, taking a seperate suit would be wholly inappropriate and totally contravening neighbours principal.

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

No

Should sections 103 and 251 CRRA be retained in their current form, confined only to cable operators in the strict sense, extended to web-based streaming services, or amended in some other way?

No

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, ISP's are not at fault, hit those committing copyright infringement directly, with criminal sentences if you wish.

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?

Yes

How can infringements of copyright in photographs be prevented in the first place and properly remedied if they occur?

Unless we are to upset Google (re Google Image Search) and potentially lose 1,000's of jobs, this should be dropped.

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

No

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

No

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

Yes it does, no to introduction.

If the copyright community does not establish a Council, or if it is not to be in a position to resolve issues relating to copyright licensing and collecting societies, what other practical mechanisms might resolve those issues?

Those committing crimes should be prosecuted, perhaps under criminal law, as civil suits against eircom and individuals have proven undemocratic to date, due to lack of free legal aid, pigeon-holing of Eircom on issues, etc.

Are there any issues relating to copyright licensing and collecting societies which were not addressed in chapter 2 but which can be resolved by amendments to CRRA?

No.

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

Strengthened

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, Google Image Search for example.

If there is a case for such immunities, to which remedies should the immunities provide defences?

All those who do not directly profit off the provision of such services.

Does the definition of intermediary (a provider of a "relevant service", 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, in no way.

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

Yes

Is there any good reason why a link to copyright material, of itself and without more, ought to constitute either a primary or a secondary infringement of that copyright?

No, absolutely not.

If not, should Irish law provide that linking, of itself and without more, does not constitute an infringement of copyright?

Yes

If so, should it be a stand-alone provision, or should it be an immunity alongside the existing conduit, caching and hosting exceptions?

Yes

Does copyright law inhibit the work of innovation intermediaries?

Perhaps

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

If so, what is the best blend of responses to the questions raised about the compatibility of marshalling of content with copyright law?

n/a

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

Yes

If so, what exactly should it provide?

N/A

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

Yes, consult with Google, Ebay, Microsoft and Facebook, they employ c. 1000% of the current music industry employment in Ireland.

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

Yes

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? - Not being damaging to a brand beyond fair comment

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 the exceptions for social institutions be repealed, retained or extended?

Extended

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

When, if ever, is innovation a sufficient public policy to require that works that might otherwise be protected by copyright nevertheless not achieve copyright protection at all so as to be readily available to the public?

Never

When, if ever, is innovation a sufficient public policy to require that there should nevertheless be exceptions for certain uses, even where works are protected by copyright?

Never

When, if ever, is innovation a sufficient public policy to require that copyright-protected works should be made available by means of compulsory licences?

In the interest of the state, jobs or employment.

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 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?

N/A

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?

N/A

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?

N/A

Should there be exceptions to enable scientific and other researchers to use modern text and data mining techniques?

N/A

Should there be related exceptions to permit computer security assessments?

N/A

What is the experience of other countries in relation to the fair use doctrine and how is it relevant to Ireland?

n/a

(a) What EU law considerations apply? (b) 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?

n/a

How, if at all, can fair use, either in the abstract or in the draft section 48A CRRA [in the Paper], encourage innovation?

n/a

How, in fact, does fair use, either in the abstract or in the draft section 48A CRRA [in the Paper], either subvert the interests of rights holders or accommodate the interests of other parties?

n/a

How, in fact, does fair use, either in the abstract or in the draft section 48A CRRA [in the Paper], amount either to an unclear (and thus unwelcome) doctrine or to a flexible (and thus welcome) one?

n/a

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

n/a

What empirical evidence and general policy considerations are there in favour of or against the introduction of a fair use doctrine?

n/a

(a) If a fair use doctrine is to be introduced into Irish law, what drafting considerations should underpin it? (b) In particular, how appropriate is the draft section 48A tentatively outlined [in the Paper]?

n/a

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

What have we missed?

The rights of ISP's

Do you have any further comments on the Consultation Paper?

No

Do you have any comments on the work of the Copyright Review Committee or on the consultation process generally?

No