



Copyright Review,
Room 517,
Department of Enterprise, Jobs and Innovation,
Kildare Street,
Dublin 2.

12 July 2011

Ref: Copyright Review

Dear Sir/Madam,

Thank you for including us among the stakeholders for this review. TV3 believes that the ownership and exploitation of copyright material will be key to the recovery of the Irish economy and that this, consequently, will impact the Irish nation as a whole. In respect of the broadcasting environment, where broadcasters are the creators, as well as the users, of intellectual property, there are very specific issues that arise in the context of an ongoing review.

We note, in particular, that the Review Committee has been tasked with ensuring that there are no fetters to innovation in the Irish copyright framework. The independent broadcasting sector in Ireland, over the past 15 years, has been an exceptional success story for the following reasons:

In the first instance, the sector employs over a thousand people directly and a significantly large number of people indirectly, in the form of independent television and radio production, advertising and media firms and PR and ancillary related activities. This is particularly remarkable in the context that Ireland only moved away from statist, monopolistic broadcast provision in the 1990s (early part of the decade for radio and latter part for television).

Secondly, TV3, in particular, has repatriated large elements of the audience that was going to UK broadcasters. In 1997 (the year prior to TV3's launch) the four UK terrestrial channels commanded a 30.9% share of the Irish 15+ audience, whereas in 2010 the same four channels only commanded a share of 41.3%. Furthermore, It should also be noted that over the past 2 – 3 years, TV3 has been the only Irish terrestrial channel (in fact the only terrestrial channel in Europe) to grow its audience share.

There is one specific aspect of Irish copyright law (as currently drafted) that has a negative impact on the Irish media industry:

Collective Rights Licencing – ss.38 and 150 – 156 of the Copyright and Related Rights Act 2000

The Review Committee will undoubtedly be aware of the CISAC decision of the Court of Justice in the period 2008/09. In short, this decision allows for a free market for users of copyright material, allowing them to purchase necessary rights (i.e. music and music video rights) from any provider in the EU.

Due to technological differences in the various member states, rights tend to be licenced differently from territory to territory. The continued existence of territory-specific rights holders who are not competing effectively is a massive strain on the activities of those who must purchase these rights, such as broadcasters and online content providers. As such, we believe that there should be an EU-wide rights aggregator to ensure rights are licenced in a fair, reasonable and non-discriminatory manner, effectively putting an end to any monopoly of rights. We would submit that the US model of rights licencing would be appropriate at EU level.

Accordingly, TV3 would ask that the decision of the Court of Justice in the CISAC case be fully incorporated as soon as possible into Irish primary legislation, to allow for the continued growth and development of the Irish media sector in its widest possible sense.

If you have any further queries on the information herein, please do not hesitate to contact me.

Yours sincerely,



David McMunn
Director of Government, Regulatory and Legal Affairs