



Rialtas na hÉireann
Government of Ireland

**Consultation related to the Future of Media
Commission Report Recommendation 6-9 on the
Copyright Directive (EU) 2019/790 with particular
reference to Article 15 - *Protection of press
publications concerning online uses***

Department of Enterprise, Trade and Employment
December 2023

Section A - Overview

1. Background

The Future of Media Commission was established by Government in September 2020, tasked with developing recommendations on sustainable public funding and other supports to ensure media in Ireland remains viable, independent and capable of delivering public service aims. The Commission's report¹, which was published on 12 July 2022, contains a total of 50 recommendations, which in effect constitute a strategic agenda for transforming Ireland's media sector. Recommendation 6-9 refers to Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market² (hereinafter referred to as the "DSM Copyright Directive"). The DSM Copyright Directive was finalised on 17 April 2019 and published in the Official Journal of the EU on 17 May 2019.

The Minister for Enterprise, Trade and Employment transposed the DSM Copyright Directive into national law by signing the EU (Copyright and Related Rights in the Digital Single Market) Regulations 2021, Statutory Instrument No. 567 of 2021³, on 12 November 2021. The Regulations are, therefore, applicable from that date.

Recommendation 6-9 outlined that an assessment of the impact of the DSM Copyright Directive should be carried out by the Department of Enterprise, Trade and Employment. This relates, in particular, to Article 15 of the DSM Copyright

¹ [FOMC Report published July 2022](#)

² [DSM Copyright Directive](#)

³ [S.I. No. 567/2021 - European Union \(Copyright and Related Rights in the Digital Single Market\) Regulations 2021 \(irishstatutebook.ie\)](#)

Directive as transposed by way of Regulation 13 of S.I. No 567 of 2021, i.e.,
Protection of press publications concerning online uses.

2. Reason for the Public Consultation

The main aim of the consultation is to seek views on how Article 15 of the DSM Copyright Directive (as transposed by Regulation 13 of the Statutory Instrument) is operating in practice. The replies from stakeholders will help inform the Department as to how the legislation is operating in practice. A report on the outcome of the consultation will be published on the Department's website in due course.

The Department welcomes all submissions to this public consultation and looks forward to continuing the constructive and informative dialogue already maintained with stakeholders, on the DSM Copyright Directive, since before its transposition two years ago.

3. Recommendation 6-9 of the Future of Media Commission Report

The relevant text of Recommendation 6-9 is as follows:

“The review should include an assessment of the actual and forecast economic benefits flowing to Irish publishers as a result of negotiated agreements; the views of publishers and platforms regarding the conduct of negotiations; the experience of individual publishers and collectives in regards to negotiations; the experience of local and national publishers; and the degree of transparency and consistency in agreements across qualifying media organisations.”

Key questions are set out under Section C below. Please answer all relevant questions, bearing in mind that all submissions will be treated as being in the public domain unless confidentiality is specifically requested (as set out under Section B – Information on the Consultation Process) below.

Section B - Information on the Consultation Process

1. Submissions

The Department invites submissions on the issues raised in questions 1-9 outlined below.

Respondents are requested to make their submissions in writing and by email to copyright@enterprise.gov.ie

The closing date for submissions is **5pm on Thursday 29th February 2024**.

Any questions regarding the consultation should be emailed to copyright@enterprise.gov.ie

2. Confidentiality of Submissions

Contributors are requested to note that it is the Department's policy to treat all submissions received as being in the public domain unless confidentiality is specifically requested. Respondents are, therefore, requested to clearly identify material they consider to be confidential and to place same in a separate annex to their response, labelled "confidential". Where emails include automatically generated notices stating that the content of same should be treated as confidential, contributors should clarify in the body of their emails as to whether their comments are to be treated as confidential.

3. Relevant provisions of the Freedom of Information Act 2014

Respondents' attention is drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Acts. Therefore, should you consider that any information you

provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with any potentially affected respondent regarding information identified as sensitive before deciding on any Freedom of Information request.

4. General Data Protection Regulation (GDPR)

The Department of Enterprise, Trade and Employment is subject to the provisions of the GDPR in relation to personal data collected by it from 25 May 2018. Any personal information which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 to 2018.

Section C - Questions

General

1. Name (and contact details if you wish)
2. Are you:
 - a press publisher;
 - a local or small press publisher;
 - an “information society service provider”, as defined by Article 2(5) & (6) of the DSM Copyright Directive (EU 2019/790);
 - an organisation representing press publishers;
 - a body/entity operating under the European Union (Collective Rights Management) (Directive 2014/26/EU) Regulations 2016; or
 - other – please describe?
3. If you are providing a submission on behalf of an organisation, who does your organisation represent?

Regulation 13 - Protection of press publications concerning online uses

4. Does Regulation 13 of the European Union (Copyright and Related Rights in the Digital Single Market) impact or place obligations on you/your organisation directly? What are these obligations?
5. Have you engaged in negotiations in relation to the rights of publishers of press publications as outlined in Regulation 13? If so, in your view, have these negotiations been conducted in a fair and constructive manner?

6. If negotiations have resulted in an agreement in relation to the remuneration due to the press publisher for the use, by the information society service provider, of the relevant press publications; is the agreed remuneration fair and adequate in your view?
7. If negotiations have resulted in an agreement, has there been a sufficient degree of transparency, from the information society service provider, in relation to specific information on the use of the relevant press publications (if included in the agreement) in your view?
8. If parties to negotiations failed to reach an agreement on the amount of appropriate remuneration due to press publishers for the online use of their press publications by information society service providers, what were the barriers to reaching an agreement, in your view?
9. Is there any other information in relation to negotiations or any resulting agreement that you wish to add?