

Submission to the Copyright Review Committee

This submission is written by a lay person with no great legal knowledge and no commercial stake in the copyright industry. As such this is more of a brain dump than a well-crafted position paper. Therefore, it may be entirely outside of the scope of the terms of reference of this review or the issues may be covered by other reviews or by existing legislation. Apologies to the committee if this is the case.

A note on the Scope of the Review

I note that the Terms of Reference that have been given to the Committee are somewhat narrow in that you should investigate the balance between protecting creativity and enabling innovation. It is a shame that at no point in the Terms of Reference does the Minister mention the common good as a force that needs consideration in this equation. Both creativity and innovation have become, by and large, the preserve of corporate entities rather than individuals. A review of legislation by the government of the people that focuses substantially on corporate interests rather than how the legislation can be improved for all of society is to be regretted.

Rationale for Copyright

The basis of copyright is a noble one – creative people should have their work protected so they can exploit it as they see fit and that a legal framework exists through which to seek redress if their work is unfairly used. This provides obvious benefits to the creator. Society's benefit comes at the end of the restricted period when the work enters the public domain and all are able to use the work.

Unfortunately, due to the strong lobbying efforts of the copyright industry, often quite separate from the creative individuals, the balance between creator and society has now tilted massively against the public good. How a creator can expect to be able to exploit a work 69 years after their death is beyond me. I would suggest that this period of time be substantially reduced, preferably to a fixed period, perhaps matching that of patents.

Protectionism versus Innovation

I attended the public meeting of the Committee on 4th July in TCD and was somewhat shocked by the protectionist positions being taken up by many contributors from the audience. Legislation should not be used to protect an established industry from innovation. Canal owners and operators attempted to put huge restrictions on the use of rail in the early 19th Century much to the detriment of the public good. Similarly, the committee must not allow the vested interests of the copyright industry to stifle innovation just for their benefit. Time and technology move on and the copyright industry must adapt or die. They must not be allowed hide behind legal protections that are either outdated or ill-suited to the modern world.

Format Shifting and Time Shifting

When I purchase a CD in a bricks and mortar store I am unclear as to what it is that I am actually purchasing. Obviously I don't own the music – the band (or record label more likely) still own that. So I must in some sense be licensing the music. But to the normal punter the terms of this license are unclear. Is this license transferrable? Is it perpetual? Is it revocable? Any update to the copyright provisions should allow me, the end user of media that I have licensed, to use that media as I see fit

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for my own personal use. This should include format shifting – the converting from CD to MP3/OGG or other format for use on computers and media players such as iPods.

Provision should also be made for the practice of time shifting, the art of home taping of broadcast material that has been ongoing since the widespread adoption of VHS in the 80s. In fact, most modern digital TV services (Sky, NTL) provide this service already either through hard-disk recoding of the programme as it is broadcast or “on demand” services. Again, I the end user, should not be committing an offence by using these systems, or by transferring a recording to another device such as my laptop for viewing at a different time and/or location.