

Submission to the Copyright Review Committee

**From the Irish Screenwriters and Playwrights Guild and the Screen
Directors Guild of Ireland**

June 29th 2012



1.1 Introduction

This submission is made jointly by The Irish Screenwriters and Playwrights Guild and the Screen Directors Guild of Ireland who are representative organisations for writers and directors.

1.2 Copyright Council

The Irish Screenwriters and Playwrights Guild and the Screen Directors Guild of Ireland welcome the proposal for an establishment of a Copyright Council of Ireland as an important resource for the Irish authors of audiovisual work and the copyright community. We consider it very important that any such Council should include representatives of the creators of copyright from all sectors of the arts, and not only representatives of rights holders, among its members.

1.2 Digital Exchange

We agree with the view that inefficiencies in the licensing system can inhibit innovation for those using copyright material and support at the level of general principle the idea of a “one stop shop” to facilitate simpler rights clearance procedures.

The intended European Union Directive on the governance of Collective Management Societies may eventually contribute to increased transparency in the management of funds intended for distribution to rights holders and creators, but in the interim creators would be concerned that a “one stop shop” system may contribute to lack of clarity for creators concerning the management of their rights and consequent remuneration. Consequently we would argue again for the inclusion of creators’ representatives in any such structures.

1.3. Rights Holders

We are disappointed to see the consistent use of the word ‘rights holders’ and not enough of the word ‘creators’. It is the creators who are the innovators in the creative industries. Irish copyright practice tends to divest the creator of involvement in the exploitation of their creation. Buy out contracts in the audiovisual sphere are particularly extreme examples of a process in the Irish creative industries that limit innovation by creators by excluding them in large measure from any share in the economic life of what they create. Waivers of moral rights, which are entirely ubiquitous in the film and television industries in Ireland, further limit the engagement of creators with creative and economic life of their work.

Incentivizing Creators (often referred to as innovators in the Copyright and Innovation Consultation Paper) by means of clear and actual remuneration for their copyrighted work, guaranteed by an unwaivable right to equitable remuneration, is the essential process to guarantee innovation by Irish creators and more Irish generated copyright.

1.4 Beijing Treaty on Audiovisual Performances

As the members of the Committee will undoubtedly know two significant international processes are moving towards conclusions which will almost certainly each require amendment to the Copyright and Related Rights Act in the coming years.

Firstly the **Beijing Treaty on Audiovisual Performances** was adopted by the Diplomatic Conference of WIPO on June 24, 2012. The text is available here http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=208966

The conference was attended by 156 member states, 6 intergovernmental organizations and 45 non-governmental organizations. This is the highest level of participation ever at a WIPO Diplomatic Conference. 122 countries signed the Final Act of the treaty, and 48 countries have signed the treaty itself.

The treaty extends to performers in audiovisual productions moral rights of paternity and integrity and economic rights to be compensated for the use made of their contribution to audiovisual productions, including in the online environment.

Agreement on the treaty comes at a time when many business interest groups in the Internet economy and civil society groups call on governments to weaken creators and performers intellectual property rights and portray them as a barrier to access to culture and innovation on the Internet.

In our view the successful conclusion of the Beijing Treaty makes clear that access to culture and respect for the moral and economic rights of creators are not mutually exclusive concepts. International processes are in fact moving towards formalising remuneration processes for creators and performers as the best means of ensuring equity and fairness in online distribution in particular.

1.5 EU Green Paper

In parallel the European Union is discussing the **GREEN PAPER on the online distribution of audiovisual works in the European Union: opportunities and challenges towards a digital single market** (COM(2011) 427 final) published by the European Commission in July of last year (http://ec.europa.eu/internal_market/consultations/docs/2011/audiovisual/green_paper_COM2011_427_en.pdf) as part of its consultation process.

The Education and Culture Committee of the Parliament is close to finalising an “own initiative” report (rapporteur Jean-Marie Cavada) which will be submitted to the Parliament for their approval during the Autumn term of the Parliament.

The current draft <http://www.europarl.europa.eu/committees/en/cult/draft-reports.html> calls for remuneration of creators for the use of their making available right in the online environment.

It is probable that the Commission will come to the Council and the Parliament with a proposal for a Directive on the subject of audiovisual distribution online either this year or early next year. What is striking from our perspective is the determination shown by both Commission and Parliament that creative innovation must be recompensed.

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