

Copyright Review Submission : Literary Best Practices

Introductory

1. The benefits of Fair Use in Literature .
2. How Fair use is being discussed in the US and globally.
3. Artists making use of CC licences to set their own copyright (weblogs, *Scribd* and social media)
4. Derivatives (including Theatre, translation, musical adaption)
5. Protecting rights and digitisation of original works.

A generation has passed since the first uses of digitisation for literary output, Kenneth Goldsmith launched UBUWEB as an online resource for the collation of poetry archives and digitising artistic media. This vast resources is used in much the same manner as Reed, BBC, Youtube and other archival open systems use digitisation for mass literary dissemination, archive and encyclopaedias. There does not appear to be a similar set of systems in place in Ireland, and whilst we may have recourse to projects in Europe, the onus is on academic and art organisations to begin retaining digital and voice materials for a generation who are both used to and quite dependant on the web as a means of sourcing information in specialist areas.

The Benefits of Fair Use in Literature.

Literature and art-work lend themselves to digitisation with great facility and this issue is currently being discussed at the Social-media centre and the American

Poetry Foundation. Poets and artists who are familiar with the evolution of form lead these discussions and are using copyright systems such as CC (creative commons) to set their own permissions regarding how original materials are used online. To that end I am excerpting here the link and opening paragraphs of these discussions:

[Code of Best practices in Fair Use for Poetry](#)

[Poetry Foundation Discussion](#)

Embracing the overarching value of access to poetry as its theme, the group saw that business, technological, and societal shifts had profound implications for poets publishing both in new and in traditional media, and also that poets have an opportunity to take a central role in expanding access to a broad range of poetry in coming months and years. Almost immediately, the group's conversation focused on barriers to poetic innovation and distribution caused by clearance issues. Some of these clearance issues develop from the business structures underlying poetry publishing, but a significant number, the group discovered, relate to institutional practices that might be reconsidered, including both poets' and publishers' approaches to quoting and other types of possible fair use. Soon after its first meeting, the group began discussing the possibility of developing "best practices" for poets and publishers.

(From : <http://www.centerforsocialmedia.org/fair-use/related-materials/codes/code-best-practices-fair-use-poetry>)

This code of best practices helps poets understand when they and others have the right to excerpt, quote and use copyrighted material in poetry. To create this code, poets came together to articulate their common expectations, facilitated by Patricia Aufderheide, director of the Center for Social Media; Katharine Coles, director of the Harriet Monroe Poetry Institute at the Poetry Foundation; Peter Jaszi, Professor of Law in the Washington College of Law at American University; and Jennifer Urban, Professor of Law at the University of California Berkeley.

(from : <http://www.centerforsocialmedia.org/fair-use/related-materials/codes/code-best-practices-fair-use-poetry>) (from : *Poetry Foundation discussion Doc. excerpted*)

Discussions on the development of policy in the area of the arts should , by necessity, be lead by those people who understand the form of the work and how it lends itself to derivation. The problem with this is that there is not a related discussion happening in Ireland and there should be. The RIA and the Arts Council should be consulting at a wide level amongst members about copyright and digitisation. It is not. If artists fail to lead on the issues raised in US and European universities, they are in danger of being left-out of policy initiatives in this very crucial area.

How Fair Use is being discussed in the US and Globally.

Rights of access to information and education resources are currently being discussed on varieties of social media and web-logs. The general feeling is that there is an entitlement

to access and knowledge, that people should be developing skills in digital areas and that best-practices should as a matter of course be evolving with the technologies. As stated above these first manifestos and skill began a generation ago and only now are many government becoming familiar with the huge watershed that has occurred in information resources and the inherent fault-lines that occur in copyright issues. Because of this Code-writers, bloggers and artists have begun making use of the copyrights available in order to set their own levels of access. In blogs , for instance, writers can choose to set up permissions based in how they wish their work to be used. This is part of the next paragraph , so I will just add in the link [here](#).

Artists making use of creative commons licences.

Currently in ireland there is an open discussion in UCD regarding the design of the new [CC3.0](#) , this is one of a few licences available to originators of works. I use the [CC-BY-ND](#) , as I do not wish for derivatives to occur, unless the original work is unchanged. evidently in poetry the core work must remain intact but translations will contain variants defined by the subjectivity or experience of the translator (or adaptor) of the original work. Advice to poets and artists in terms of fair use has always seemed to follow the US system and that is not to disseminate more than about 10% of a published work and to always include full attribution under copyright law. Unpublished writers, unless they so choose, should not really publish too much online because it weakens the publishers /artists rights to actually make money /royalties from the work. Again it is up to the artist to decide how much of their work they wish to make available to others and to decide how to use technology to achieve that.

Derivatives in artistic work.

Derivatives occur in artistic creation, I have discussed this in a limited manner on my own weblog, citing *Poetry Foundation* documents as source. Derivatives in literature include, theatrical adaptations, photography, translations, musical and other adaptations including multi-media. The issue here is correct attribution and the artist setting up copyright permissions using what is available in terms of licencing (discussed above, Creative Commons licences). CCs allow the originator of a creative work to set permissions for adaptation and derivation. I use them as do many other people and thereby register my work and how it can be used. I have also discussed the issue of fair use with artists who allow me use and attribution of their original works on my blog-space. This is a cooperative way of bringing works to public knowledge but is not (afaik) a matter of policy. These copyright issues regarding setting permissions have been debated, as I stated at the outset over a generation. In Scribd, for instance, one can upload and share original works and make use of the licencing that is available on-site and which amounts to cc variants, including use of Cut and Paste permissions.

It is of incredible importance that people who are using web to transmit work have the knowledge of how their work is utilised, therefore their understanding as originators should be paramount in the setting of policy, to that end advocacy agencies have begun and generated discussions on how art works online and how attribution is protected. There really can be no discussion on the issue without adequate input from originators of works.

(*Discussed here* <http://poethead.wordpress.com/2011/03/23/poetry-and-digitisation-how-derivatives-occur/>)

Excerpted here :

Digitising bodies of works and how derivatives occur

Digitisation is widespread, many authors will need to learn to establish their rights on blogging platforms, and indeed how to use such services as Scribd. Not all original works are necessarily confined to publishing contracts. Thus we have access to licensing services like Creative Commons.

Literary and poetic work is meant to be shared and to be accessible, for that reason innovating is necessary, but there are conventions and respects for authorship in place, which take cognisance of the rights of ownership to original works. Some issues in the GBS row which were not fully discussed were concerned in the area of pictorial, collaborative translation, and forewords! A book or piece of digital-work does not come in snippets and it is really up to the author if they wish snippets to be made available to online communities. Using CC is one way of doing so.

Libraries are mostly works of collaboration and are already digitising at that level!

The ideality of a library making original works available online is a wonderful one in many ways, everyone has seen how vulnerable libraries are to attack, to cuts and to censorship. The idea of building up a digital library should be based in the highest understanding of the merits of literary and artistic works, and to the best in copyright law which takes cognisance of the author's rights to ownership. This would mean involving authors at a level of understanding which is evinced in my first link above, to the Poetry Foundation.

By C Murray (<http://poethead.wordpress.com/2011/03/23/poetry-and-digitisation-how-derivatives-occur/>)

Digitising Original works.

This section echoes the above sections, we have seen recently huge problems in relation to the Google Book Settlement, deposit libraries, the Berne Convention, and orphan works. Information on how it impacts the originator was produced by Poetry Ireland (in seminar) amongst other stake-holders. What is clearly not understood by corporate entities is that convention of intellectual property right and access are already in place and that works (in toto) often include a deal of collaborative work which means ownership can be cooperative or joint. The facilities for digitising should be localised to the universities, the libraries, the publishers and those agencies who retain expertise in the areas of the arts where digitising is necessary. Evidently permissions cannot be had all the time but as it is the estates and originators of works have given lifetimes to creating bodies of work, their expertise in issues regarding transmission should not be under-valued in any way. The Steinbeck estate was a prime-mover in the legal action against google. Our estates include those of writer's surviving families and of trusts charged with perpetuation of original works.

Summary.

The views of those who are working on fair-use must take into account the work of the artist, the independence of the artist and their intellectual right to use their work in whatever manner they choose. The point just made also applies to those people who design and create computational programmes or code. We must lighten the weight of distrust or misuse of creative thinking to a point wherein it can thrive, or else our younger generation of artists will seek to live and produce in societies which take cognisance of their creative processes and reward it with adequate protection and permission to use it as they choose. There is more expertise available than what I am writing, but I do speak of the issues with a knowledge in the area from working with poetry and literature. The most crucial thing to any artist is that their work is reacted to, shared and adapted from (even if it only a cartoon, or attribution by way of a URL link).

The fact that others who do not have an expertise in the area but know how to generate cash or profit from original work must be aware of the process of creating original works and how historically we have used and built upon other's works, from Dante, to Joyce, to the Homeric classics to pop-music. Cultural expression should always be of vital importance and there is a very real danger of stymying it for a whole generation if the issue of copyright is approached in a manner that does not recognise its validity and its originality in our (or any given culture).

Copyright, C Murray (2011)

I shall be editing and adding this to my blog later in the year.