

14 July 2011

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

Dear Sir,

I am writing to make two basic points that may not have been made elsewhere. These are principally related to Minister Sherlock's appeal for empirical economic information.

1. The direct financial benefit of allowing fair use, or something like it, needs to be considered on the basis of exports (and related to that, GDP) foregone as a result of not having a fair use regime in place. Exports have certainly been forgone, because major video website operators have preferred to host in the United States rather than in Ireland. If these services were located in Ireland, it would certainly increase the level of Irish exports and GDP. YouTube is just one example of a company that might relocate servers depending on the local legal situation. YouTube is thought to have running costs of around \$700m/year. If only ten percent of this one provider's operations were shifted to Ireland from the United States, it would result in expenditure of \$70m in the Irish economy.

2. Some forum participants at the meeting on 4 July have brought up issues that are not really relevant to this discussion. The following are issues that I think should **not** be taken into account in the economic calculation of whether to introduce fair use

- **difficulties with enforcement.** Creators complained that they were unable to enforce their rights in relation to their work, either in Ireland or in other countries. This really has nothing to do with whether fair use is introduced in Ireland. In general, the difficulties will still be the same with or without. This issue should be addressed separately (indeed, part of the issue is being addressed separately, as part of a different consultation).

- **revenue loss to Irish creators in international markets.** This loss is of no significance, since the loss is the result of the copyright law in the foreign jurisdiction, not in Ireland. The presence or absence of a fair use defence in Ireland will make no difference whatsoever to these revenues.

- **revenue loss to Irish creators within the Irish market.** There are the cases where revenues might be lost for Irish creators in relation to the Irish market, certainly. However, it is hard to see how the revenue lost would amount to more than 10,000 euros per day, or a few million euros per year. It would have no effect on exports - in fact the balance of payments would be impacted positively, because foreign rights owners' revenue from Ireland would be diminished. This is a tiny amount in the overall context.

It is important that the potential changes are considered in a measured way rather than in an emotional way and this is why I highlight the above issues.

Yours Faithfully

Antoin O Lachtnain