

14th July 2011

For the attention of the Irish Copyright Review Group.

My name is Kevin Flanagan I am an artist and a part of Saor Cultur Eire a loosely knit network of Irish artists and technologists concerned over current trends in copyright legislation both nationally and internationally. I have started a new job recently, unfortunately this has meant that I have not had the time to give my full attention to writing this submission for the review and as such I will have to keep short.

Copyright is an exclusive monopoly granted by government for a limited time to enable creative people, artists, musicians and writers etc to earn fair remuneration for their labour.

The ability to fully exploit the fruits of one's labour in order to earn a decent wage and to sustain a creative practice is naturally desirable. This the most common understanding or logic for the existence of copyright seems reasonable to most people. However copyright law is more complex.

The digital age and the Internet has brought about a massive transformation in the way culture is produced and shared. Key to this transformation is the low cost of access to computers with multimedia tools and the ease at which people can publish creative works online to a potentially global audience. Prior to the digital revolution such feats were a capital intensive affair and could only be achieved with economies of scale afforded by large media organisations. The Internet poses a radical challenge to these older business models and disrupts the cultural dominance they once enjoyed. Their response has been a massive investment in lobbying governments world wide for enhanced copyright protectionism. Protections such as 3 strikes are detrimental to the public good and personal privacy.

It is an extremely worrying state of affairs when cloaked in the seemingly noble almost romantic pursuit of protections for artists the so called creative industries lobby governments and corporations (Google) to censor without due process digital content in particular remix culture they say infringes their copyright. Freedom of expression is the guarantee of a free society. In such a society censorship cannot be tolerated. Under today's circumstances copyright law functions as a tool for just that.

Remix the culture of sampling audio visual content whether for the purpose of creating abstract works or for parody is a contemporary cultural form that is under constant attack. It is in fact being actively written out of our shared cultural history.

The Hitler Downfall videos are one such example of an Internet meme that having gained popular momentum took on a life and meaning of its own. The scene from the movie "Downfall" where Hitler loses his

temper has been remixed hundreds if not thousands of times and each time the subtitles are changed to tell a different story.

Yet almost as soon as a new remix is online it is the target of a take down notice upon the request of the often self appointed copyright police effectively censoring any alternative encounter that departs from that of the sacrosanct original.

While this form of creative expression might seem unique to our times it is worth noting that no artist has ever existed in a vacuum. The culture of the present is always built on and inspired by the culture of the past. The culture of our future is rooted in our present.

Remixes are rarely created with commercial interest in mind. People usually make them for fun, or to make a point or often times just because they can. Like all culture some of its good and some of its bad. Nevertheless it is an important part of how people express themselves in the modern world and it should be respected as such. The difficulty arises when the likes of Google or Youtube put clickable ads beside remixed videos turning the free labour of user generated content into a source of private revenue. It is to be expected that copyright holders should be troubled by this and want their piece of the pie and if they cannot get the pie they will instead use legal means aka copyright to limit Youtube's ability to exploit the work. So who suffers here? It is of course the remix artists whose works are taken off-line. We too are at a loss as the diversity our shared cultural domain and history is diminished as the result of what is essentially a commercial dispute.

Big media should stop attacking fans and instead focus their efforts on promoting the merits of their product on the market rather than on seeking government protections and extensions of their power to monopolise and censor culture.

As a member of Saor Cultur I support the introduction of Fair Use in Ireland. The pros of digital technology out weigh the cons. The proof is in the pudding. The majority of the population now have greater access to quality information and educational resources than at any other time in our history. The ability of educators to exploit these knowledge resource to their fullest should be supported and encouraged by the state.

Protections for the works of artists who remix existing culture for the purpose of cultural commentary, parody or in order to create new works that make a distinct departure from the source material should be included. This is an important part of the diversity of our cultural life and it needs to be respected as such.

Any review of Irish copyright law that looks at implementing Fair Use should look beyond the obvious benefits of digital innovation and give equal consideration to the benefits Fair Use would bring to the general public by enriching Irish education and culture.

I find it hard to believe that the issue of filesharing is absent from the review groups agenda.

For the record Saor Cultur oppose the introduction of 3 Strikes in

Ireland by the state and particularly by private arrangements between companies. 3 Strikes the policy of monitoring users online activities and cutting them off the Internet for file-sharing represents an attack on personal privacy and on our rights to communicate. Internet access is essential for modern life, for communications with family and friends, for work, for learning, for keeping informed, for dealing with government and for doing business. 3 Strikes is an over the top and excessive response to non-commercial Internet file-sharing. We support and wish to bring to the reviews attention the recent findings of the United Nations report that declares Internet access an essential human right.

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf)

I would like the Irish Government to ensure our freedom of expression and our rights to private and secure communications by banning ISP's from implementing any kind of filtering, monitoring, web blocking or censorship.

Thank You