



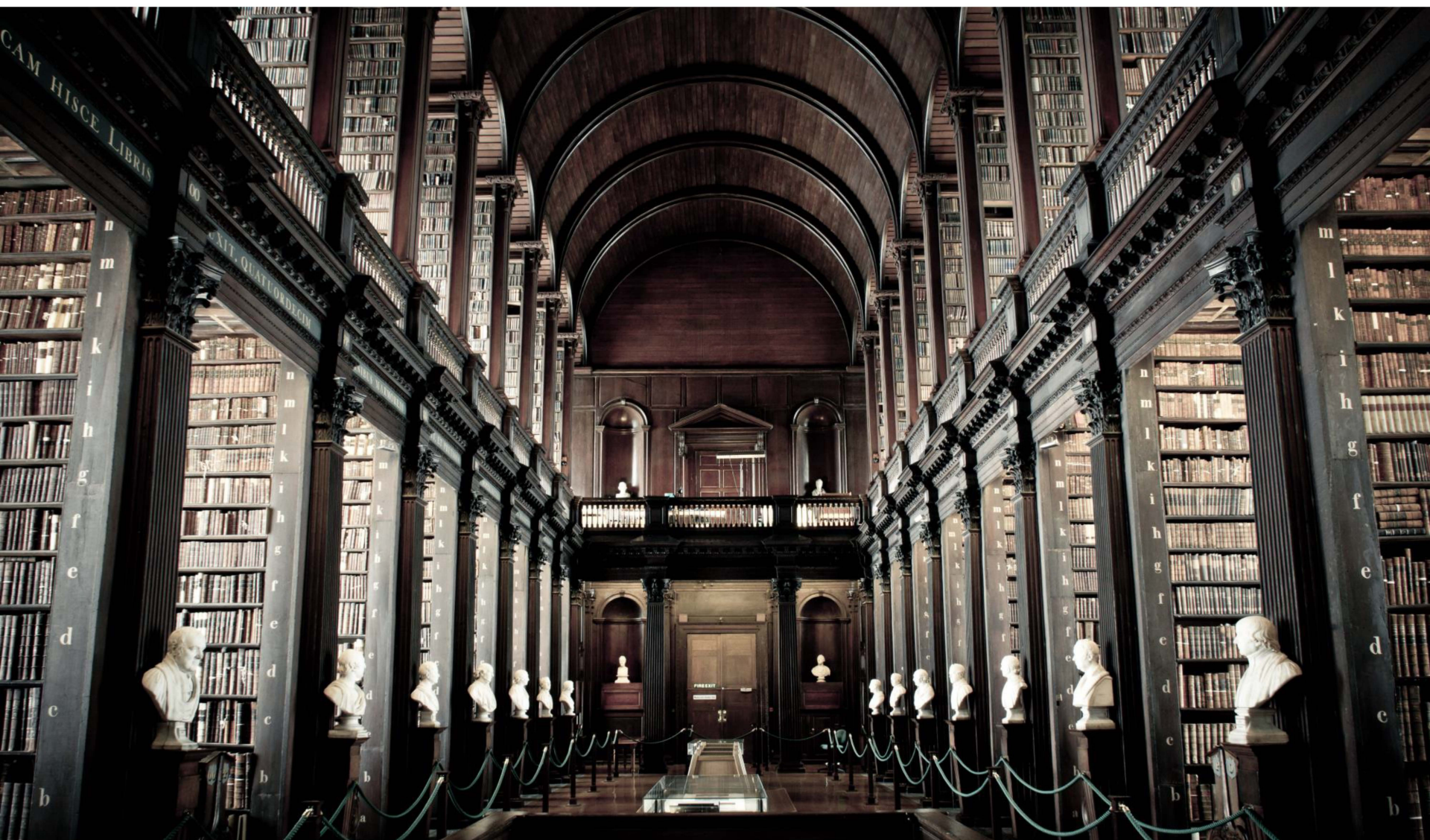
Ministerstwo
Administracji
i Cyfryzacji



Incentivizing Digital Innovation in Europe The Example of Irish Copyright Reform

Eoin O'Dell, School of Law, TCD
Chair, Copyright Review Committee



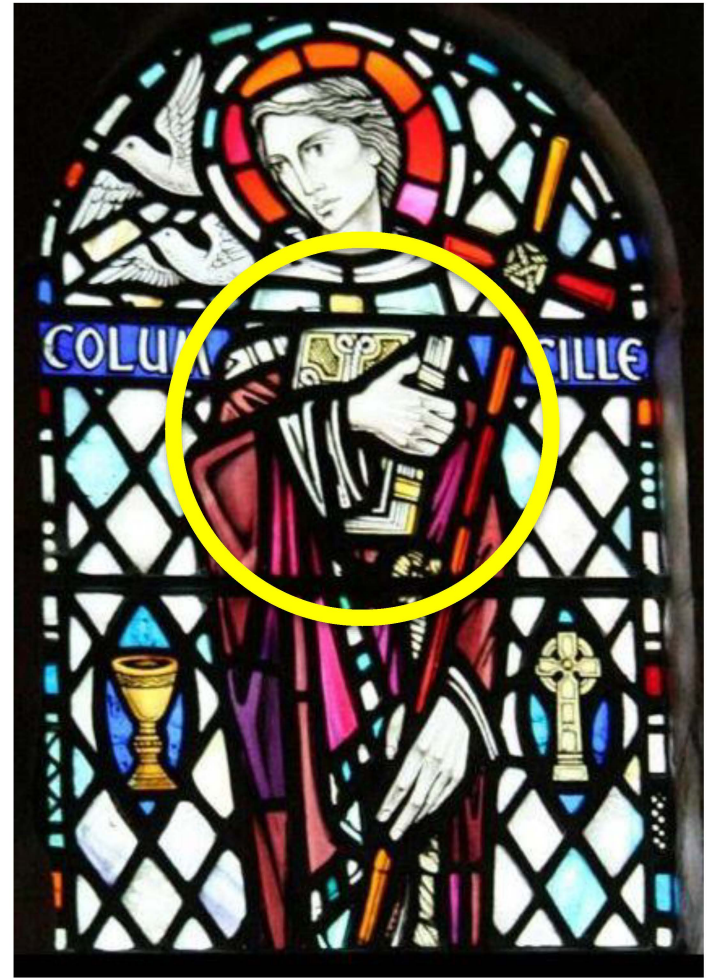




the Book of Kells



Image: <http://www.davidrumsey.com/maps4671.html> and <http://www.clker.com/clipart-map-pin-green.html>





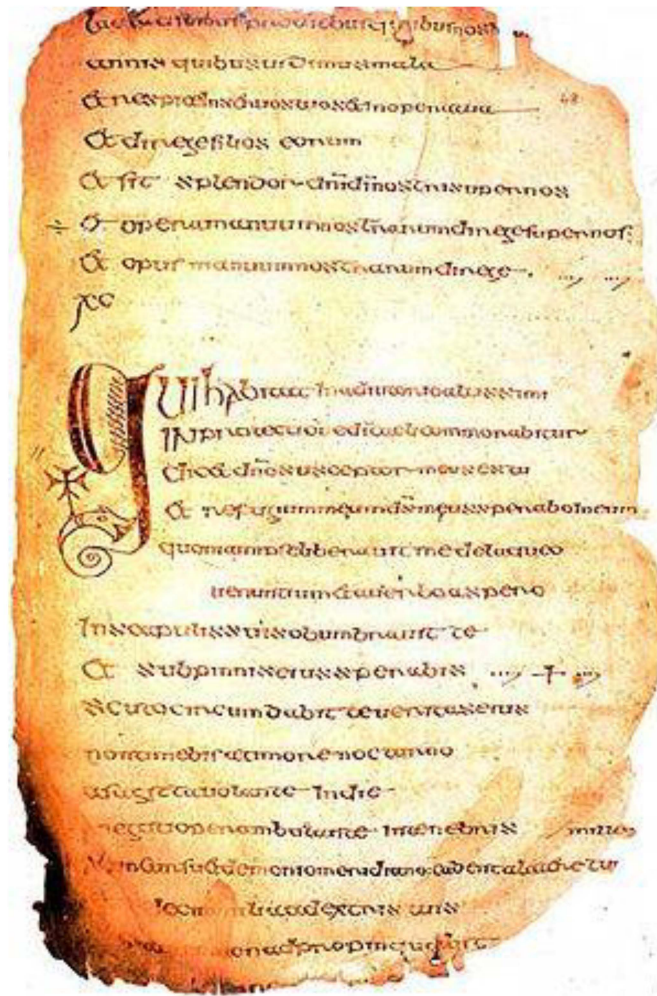
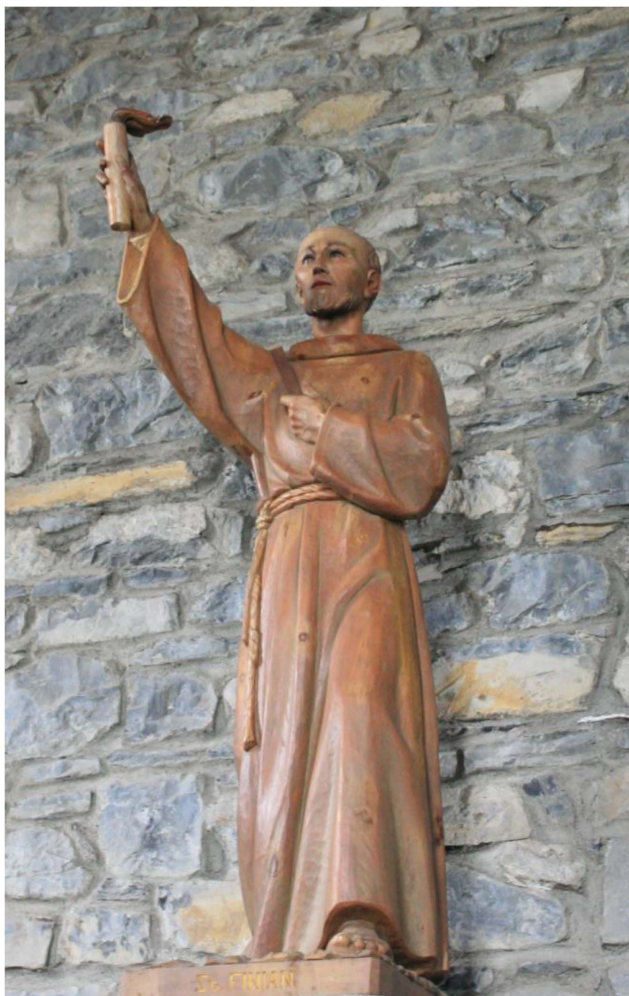


Image: http://commons.wikimedia.org/wiki/File:Clonard_Church_of_St_Finian_Statue_St_Finian_2007_08_26.jpg & by kind permission of the RIA

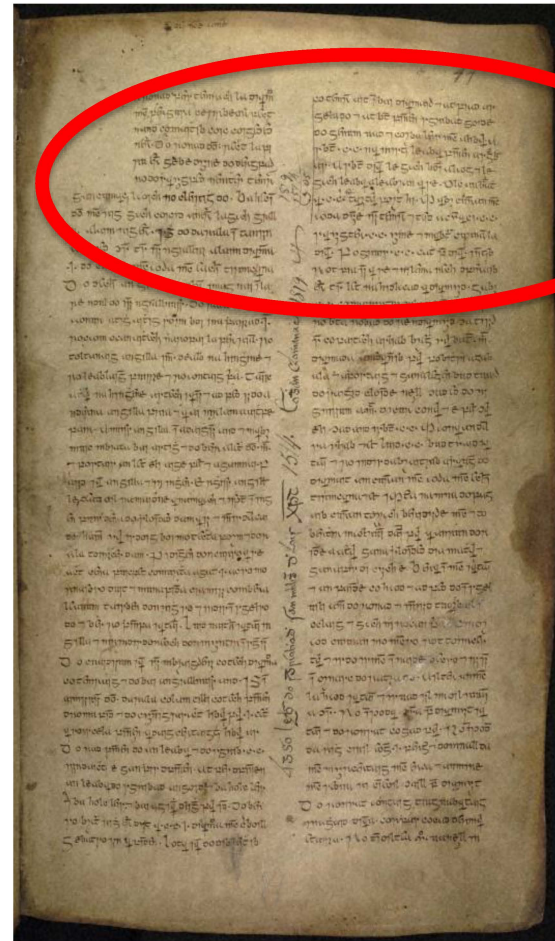
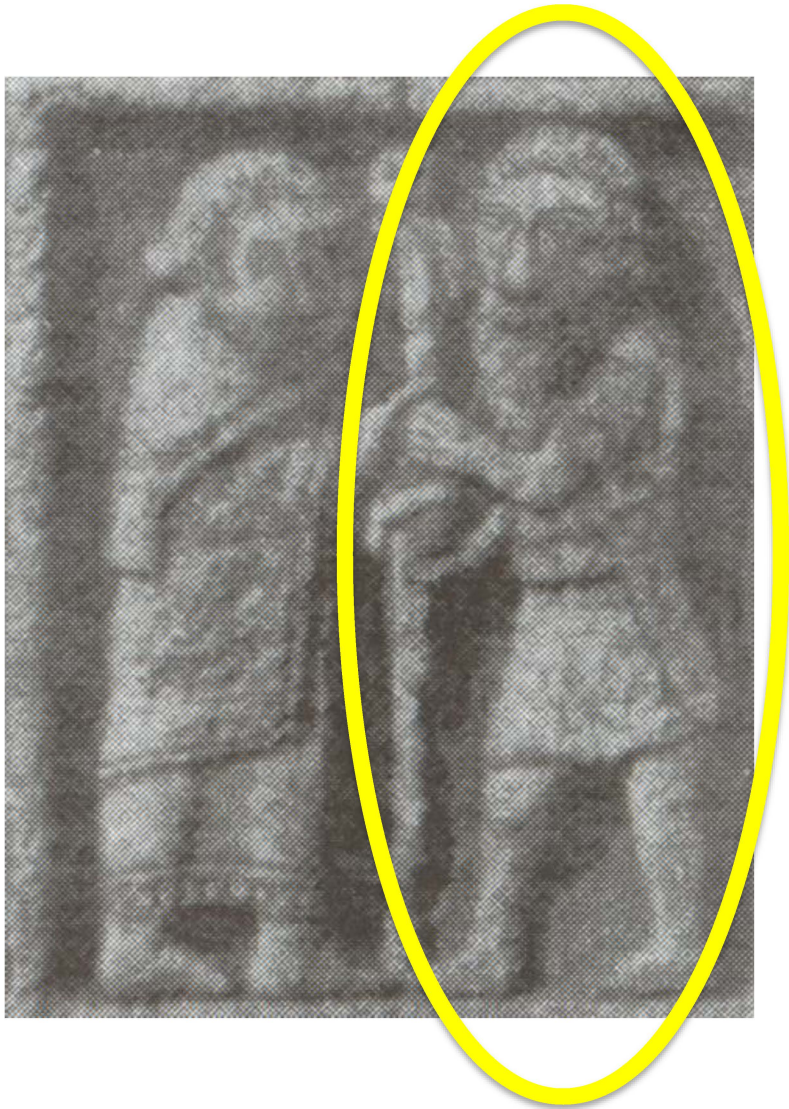


Image: http://en.wikipedia.org/wiki/File:Cross_of_the_Scriptures_detail_-_Crawford_plate_146.png & by kind permission of the RIA

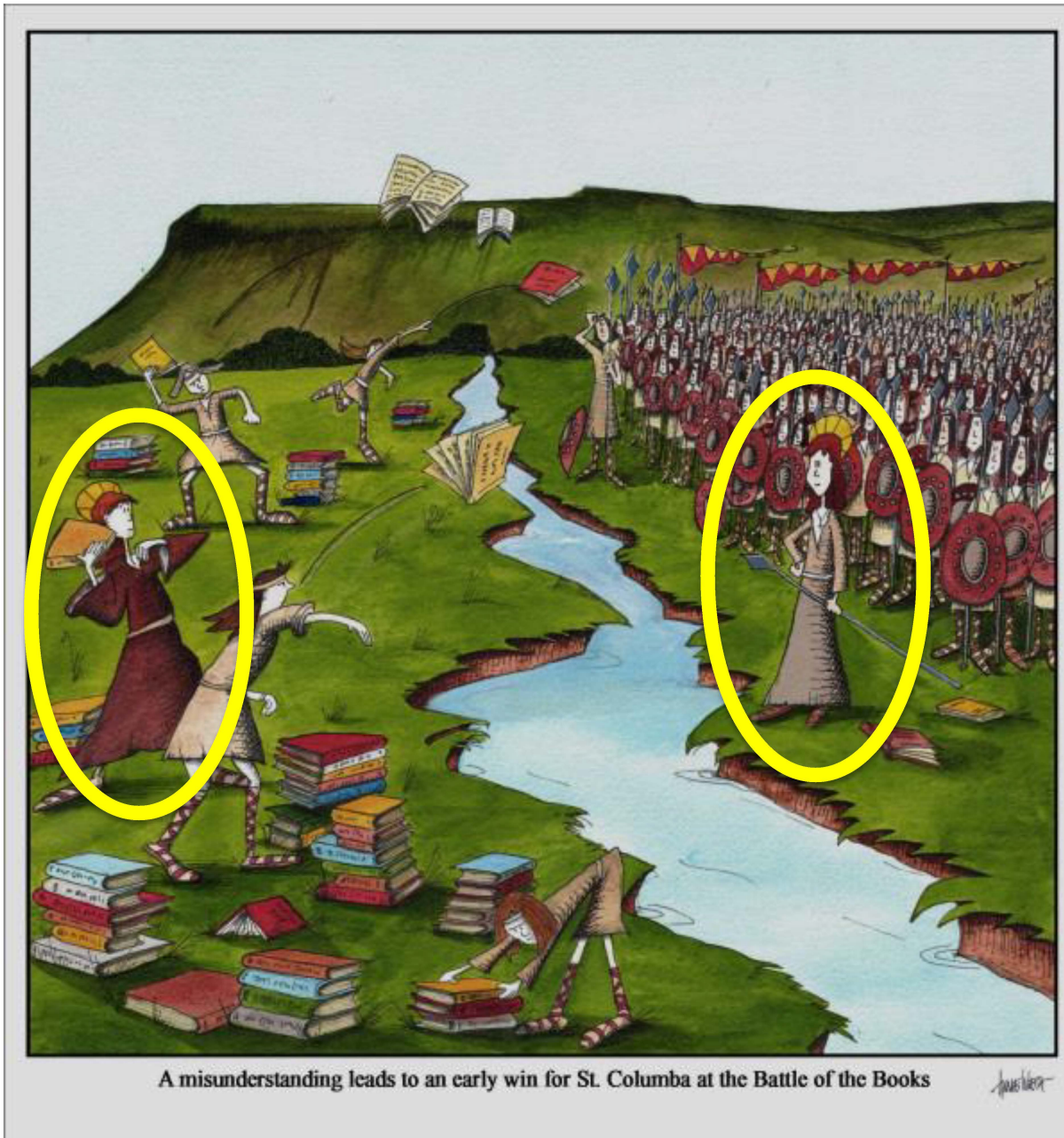




Image: <http://www.davidrumsey.com/maps4671.html> and <http://www.clker.com/clipart-map-pin-green.html>



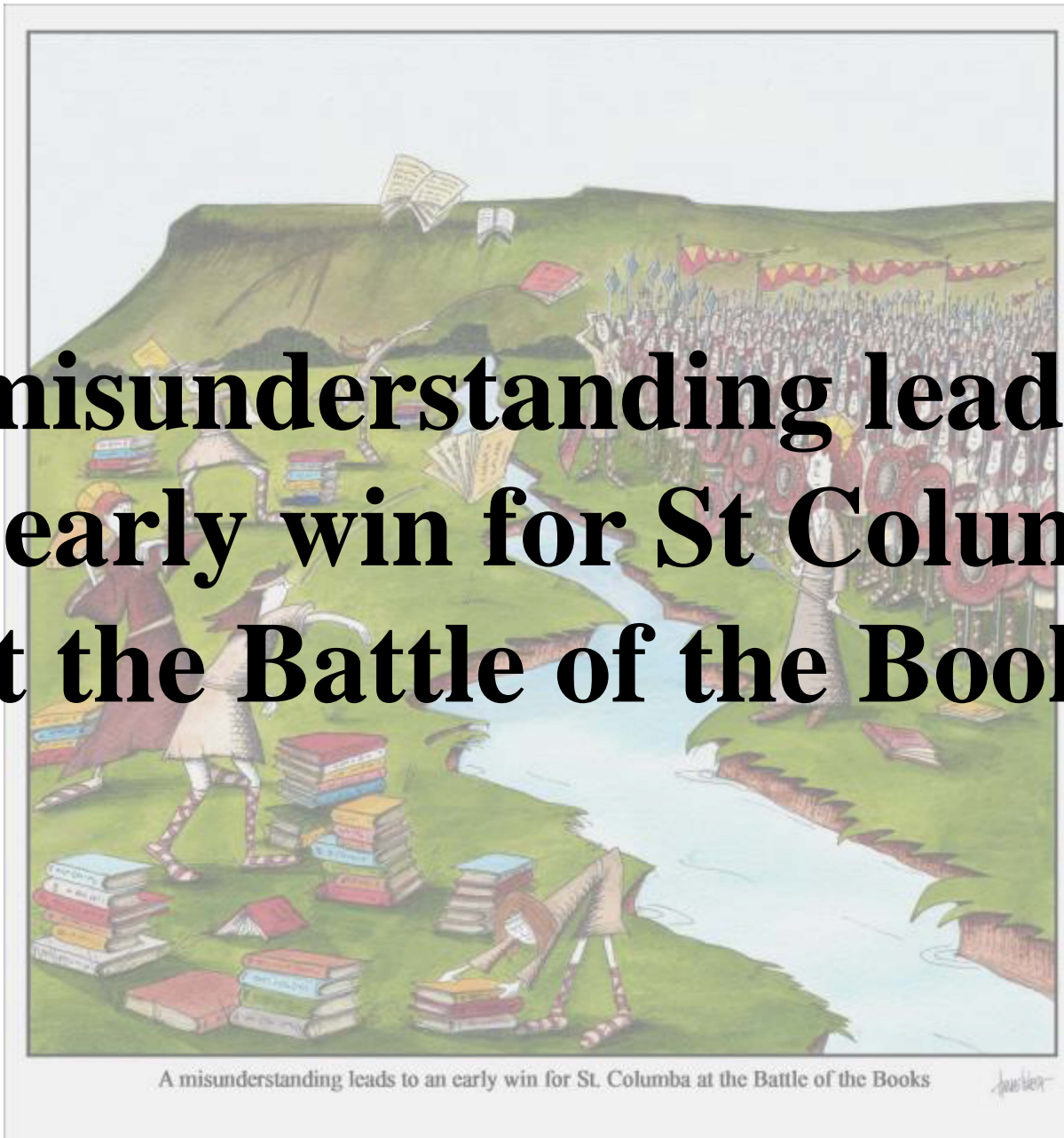




A misunderstanding leads to an early win for St. Columba at the Battle of the Books

Handwritten signature

A misunderstanding leads to an early win for St Columba at the Battle of the Books



A misunderstanding leads to an early win for St. Columba at the Battle of the Books

Annie West





Image: <http://www.davidrumsey.com/maps4671.html> and <http://www.clker.com/clipart-map-pin-green.html>



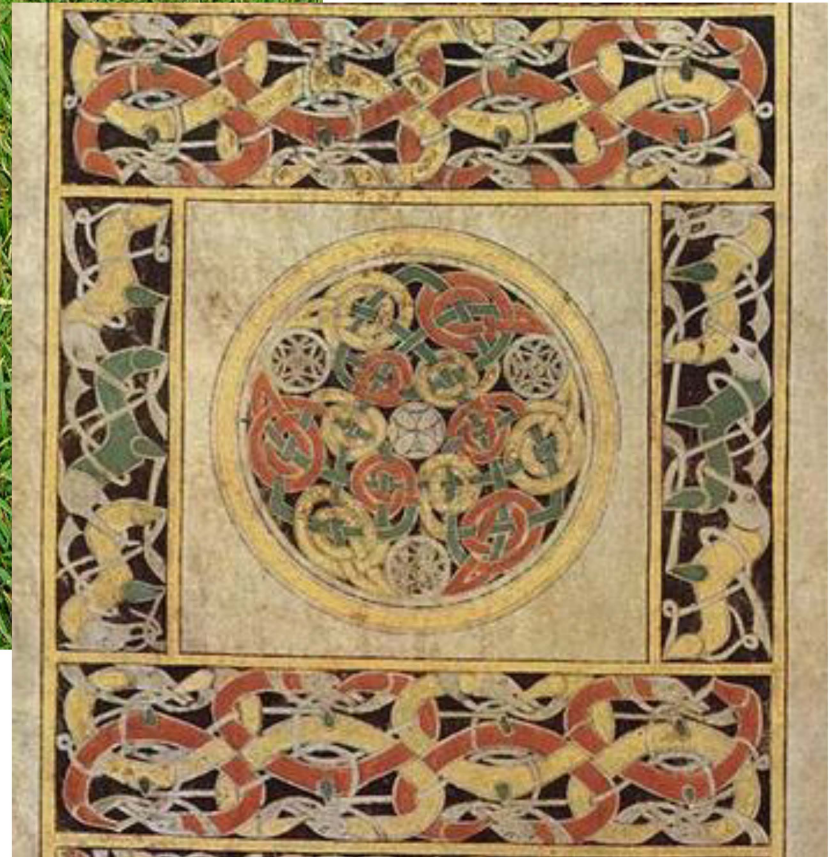


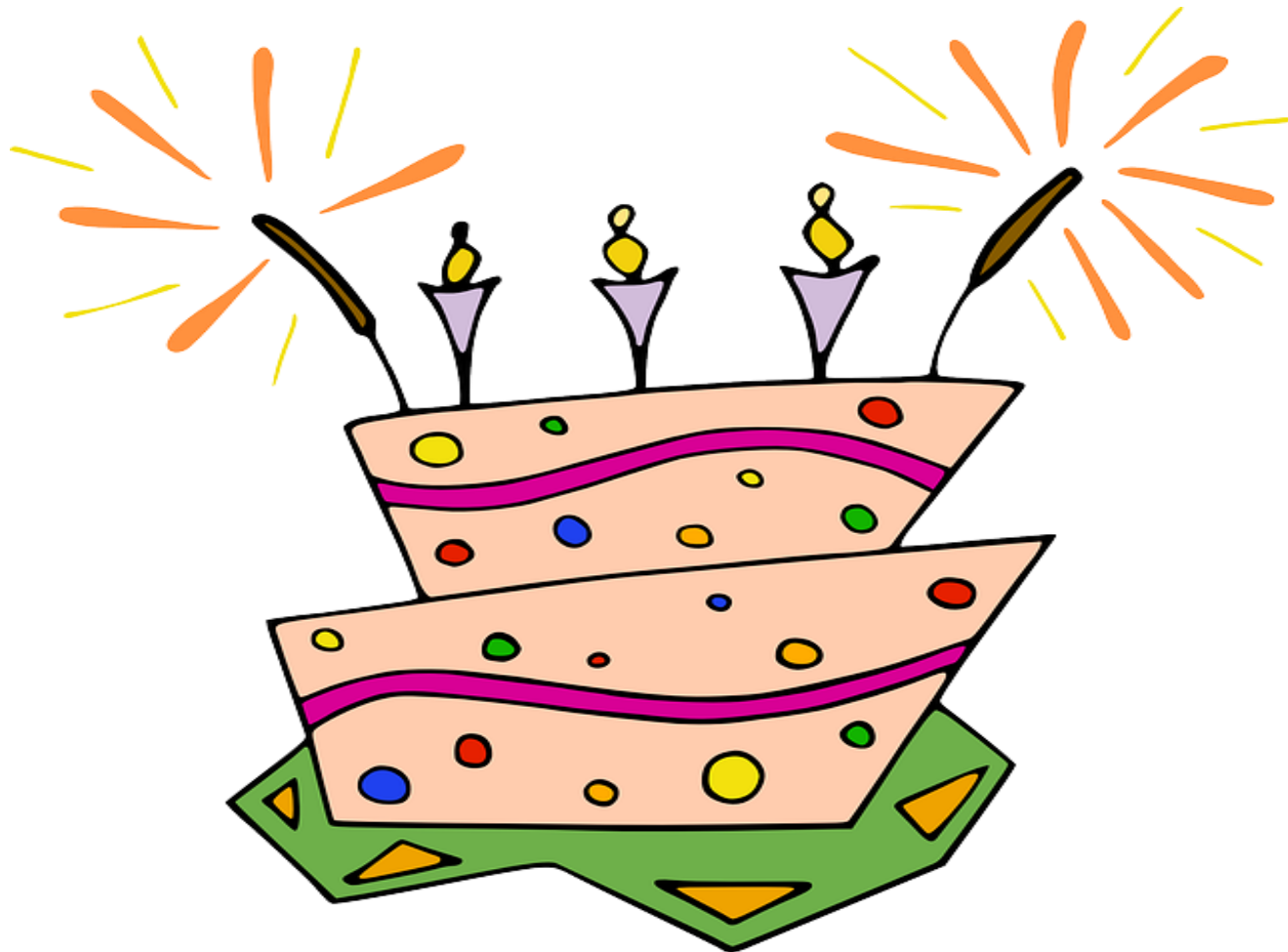


Image source http://www.gaeltacht.eu/images/irish_monasteries.jpg via <http://www.gaeltacht.eu/fceltes.html>

Copyright Review Committee



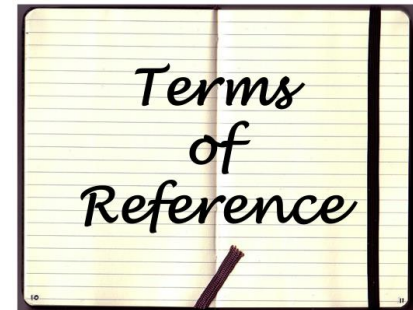
Established 9 May 2011



Terms of Reference

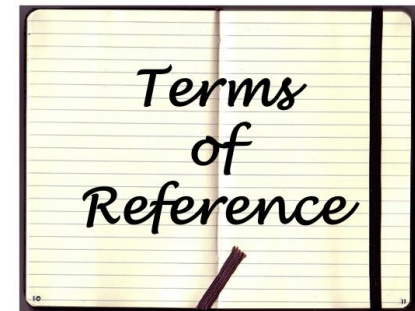
Terms of Reference

- 1 Examine copyright legislation to identify **barriers to innovation**
- 2 Recommend solutions
- 3 Examine **fair use**
- 4 Make EU Recommendations
(if necessary)



Innovation

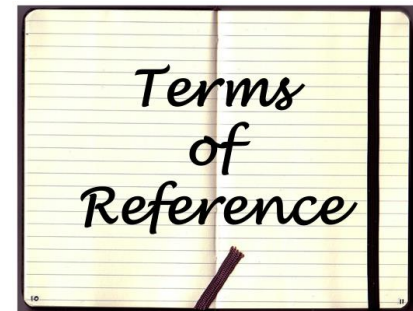
Having regard to creativity, ingenuity, renewal and transformation in all of their forms – artistic, cultural, educational, social, as well as economic – innovation is the development of new businesses, products and technologies.



Innovation & Copyright

Copyright law is one of the pressures that shape technological innovation; hence it must be

- as **technologically-neutral** as possible; and
- capable of **adapting** to technological innovations.





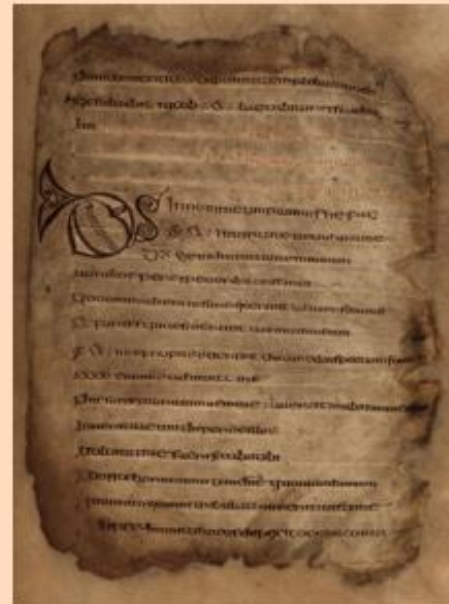
- 1 First public meeting (04/07/11)
- 2 First round of submissions
- 3 Paper (29/02/12)



- 4 Second public meeting (24/04/12)
- 5 Second round of submissions
incl online questionnaires
- 6 **Report (01/10/13)**

#CRC13

Modernising Copyright

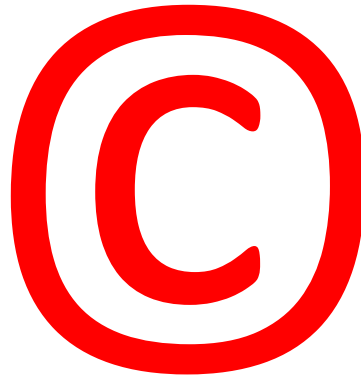
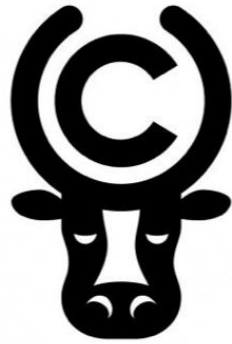


The Report of the
Copyright Review Committee

Dublin, 2013



- 7 Third public meeting (09/12/13)
- 8 DJEI in “thinking mode”
- 9 **New Act? 2014?? #CRC14**





THE EU SINGLE MARKET

European Commission > The EU Single Market > Consultations > 2013 > Review of the EU copyright rules

Home

Single Market Policies

General policy framework

Living and working in the Single Market

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Consultations

Exchange of information between Member States

Public Consultation on the review of the EU copyright rules

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Search on this site

Policy Field

- Internal Market, Intellectual Property - Copyright

Target group

All stakeholders are welcome to contribute to this consultation. Contributions are particularly sought from consumers, users, authors, performers, publishers, producers, broadcasters, intermediaries, distributors and other service providers, Collective Management Organisations, public authorities and Member States.

Period

- From **05.12.2013** to **05.03.2014** – (closed)

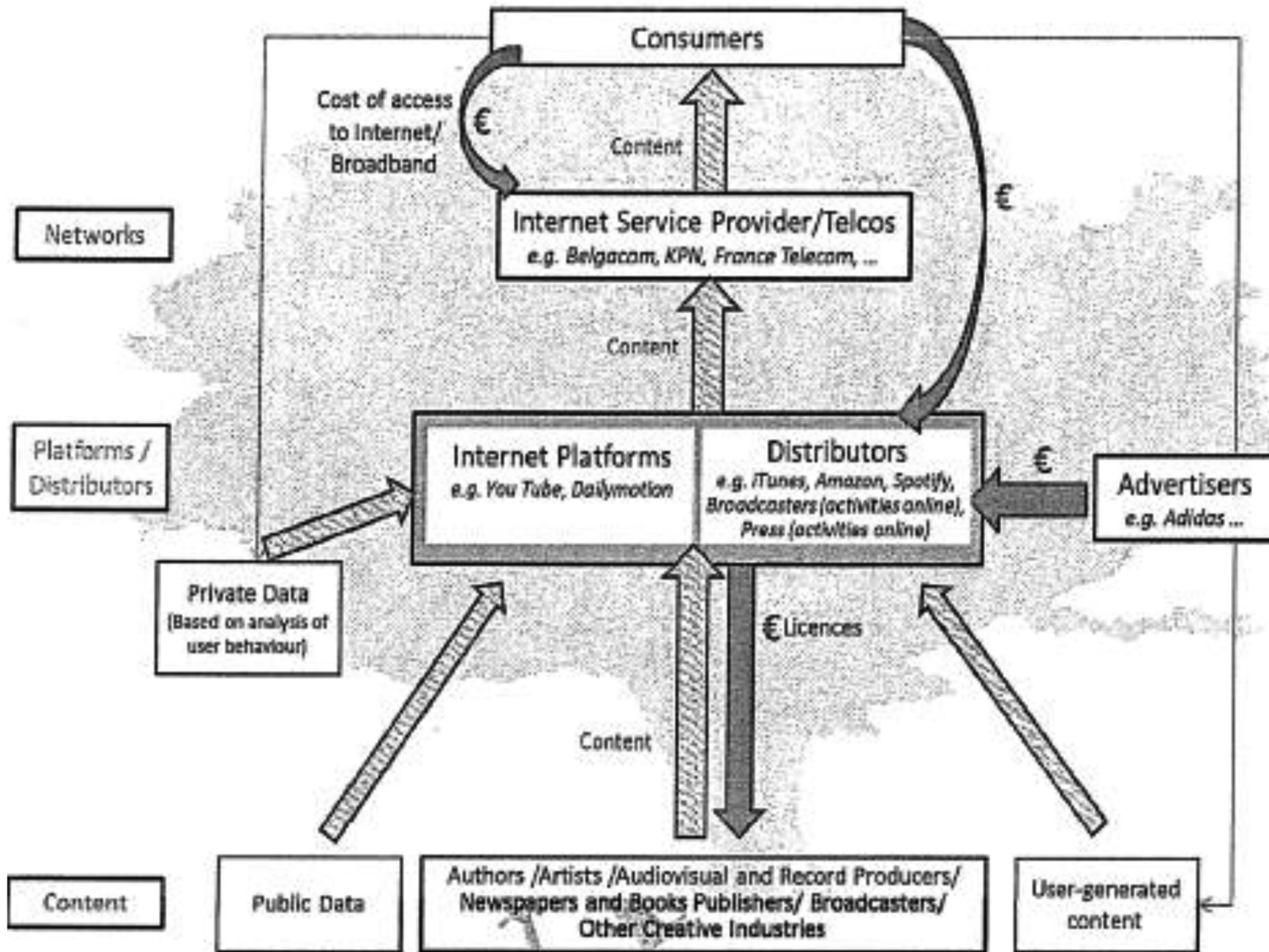
Objective

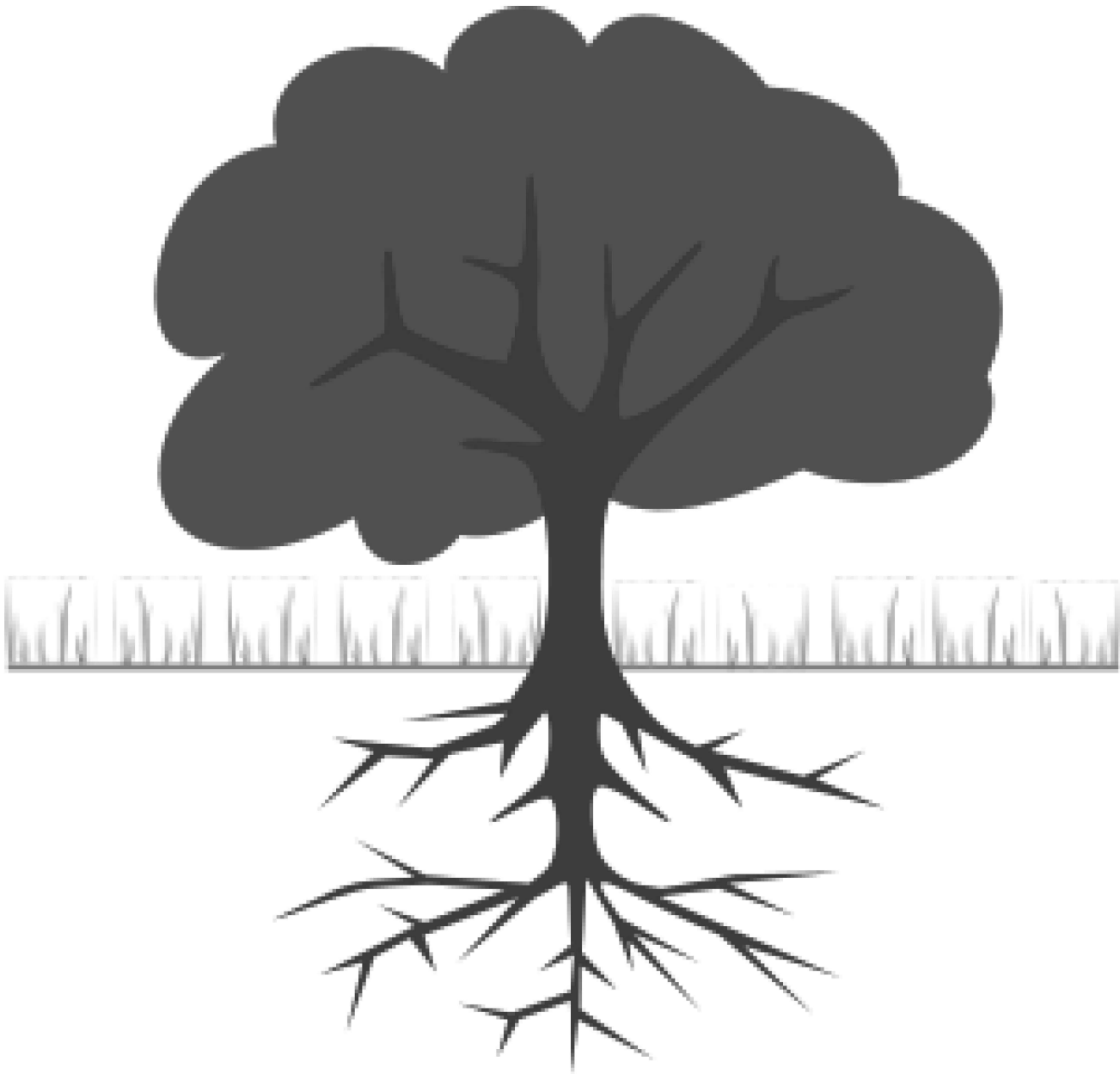
The objective of this consultation is to gather input from all stakeholders on the review of the EU copyright rules.



Images: <http://commons.wikimedia.org/wiki/File:Berlaymont-Building-1.Jpg> <http://pixabay.com/en/drop-raindrop-water-tear-teardrop-159527/>

The Internet Ecosystem





Copyright Council



Copyright Council

created by the copyright community
as an independent self-funding body
with a widely representative Board
recognised by the Minister
supported and underpinned by the Bill



Copyright Council

The principal objects of the Council shall be to

...

(g) promote ... **innovation**.



Copyright Council

Alternative
Dispute
Resolution
Service



Copyright Council

Orphan
Works



Copyright Council

Education,
Advice,
Advocacy





Copyright and Related Rights Consultations

[Our Role](#) | [Our Work](#) | [Guidelines and Procedures](#) | [Contact Us](#)

Public Consultation on Transposition of the Orphan Works Directive and the Use of Orphan Works under Irish Law

The Department of Jobs, Enterprise and Innovation invites submissions to the public consultation on the transposition of the Orphan Works Directive (2012/28/EU) into Irish law.

Orphan Works are works such as books, newspapers or magazines, articles, or films that are still protected by copyright but for which the copyright holders cannot be located. The Directive provides for an exception to copyright law for certain libraries, educational establishments, museums and other cultural and heritage organisations, allowing them to digitise certain orphan works and make them available online.

The [consultation document](#) is available for download (PDF, 218KB). The closing date for receipt of submissions is **Wednesday, 23 April 2014**.

Respondents are requested to make their submissions in writing, preferably by email to copyright@djei.ie.

Postal Replies should be sent to:

Orphan Works Consultation
Copyright Section
Intellectual Property Unit
Department of Jobs, Enterprise and Innovation
Kildare Street
Dublin 2

EU Public Consultation on the review of copyright rules

The European Commission recently conducted a consultation in order to gather input from all

Contact this Unit

Fax: 01 6312561
Email: ipu@djei.ie
Full contact list

Location

23 Kildare St., Dublin 2.

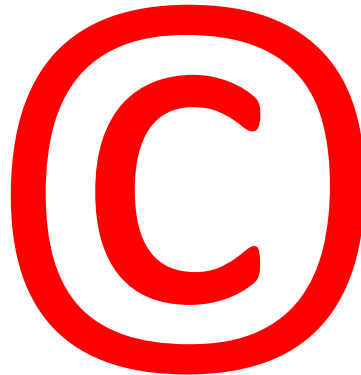
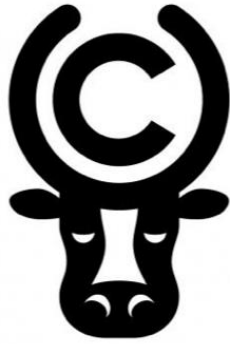
Related news

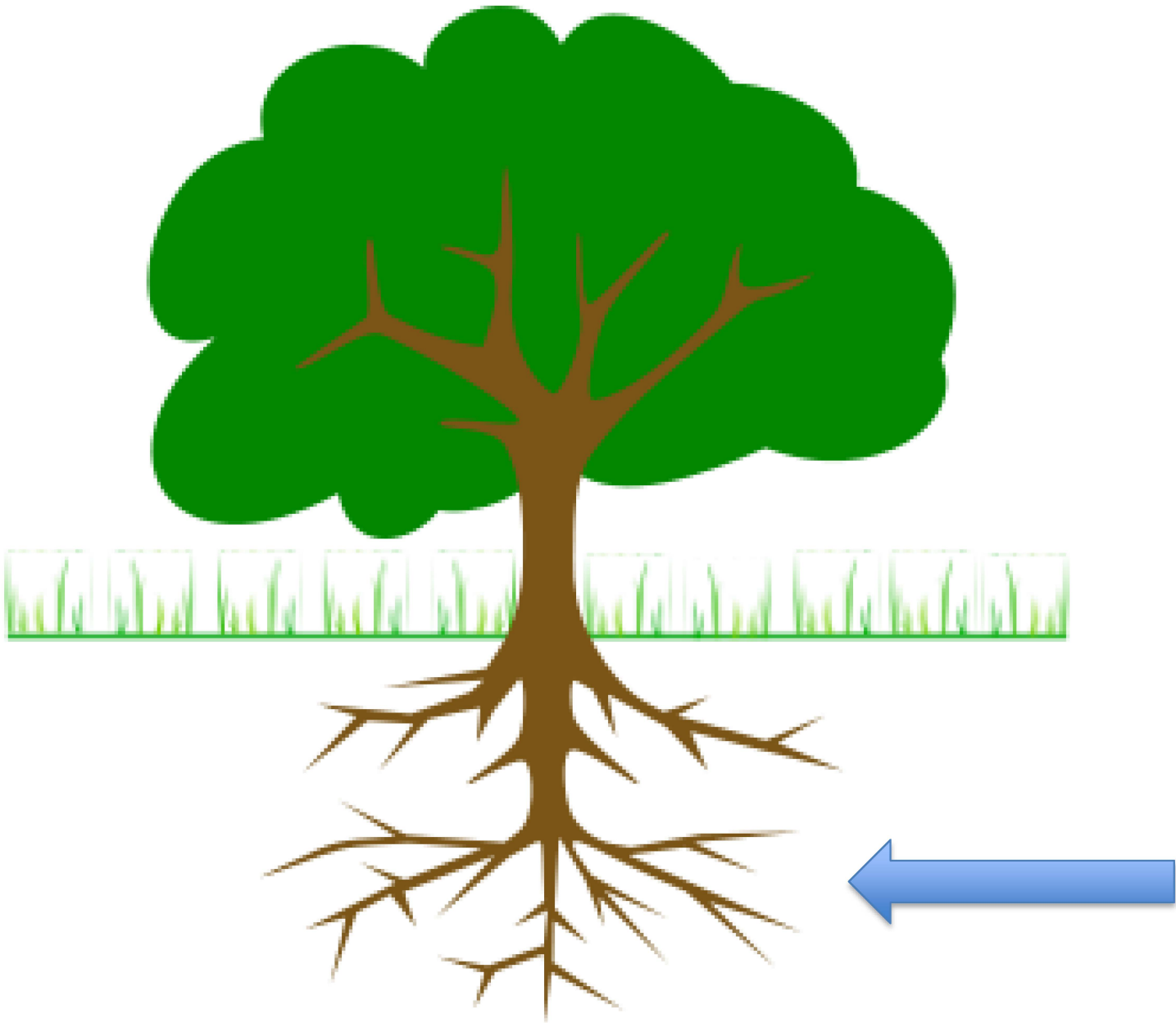
- Term of Protection for Musicians copyright extended from 50 to 70 years Minister Sherlock
- Copyright report published, aimed at supporting digital industry Minister Bruton
- New international treaty will increase access to books for visually impaired persons Minister Brut...
- Beijing Treaty a significant step forward in rights of singers, musicians, actors and dancers Mini...
- [More news...](#)

Publications

1. Authorisation to Register a State Emblem as a Trade Mark; Dealing with Misuse of Trade Marks Indicative of Irish Origin
2. Comprehensive List of Irish and EU Intellectual Property Legislation

[More publications](#)



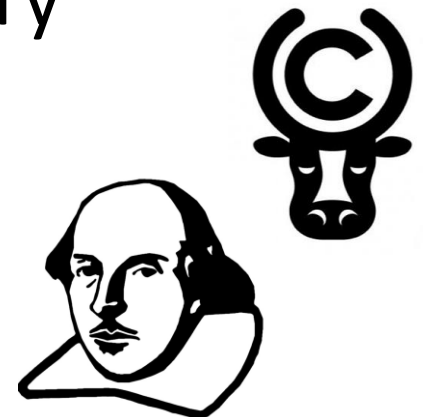


Rightsowners

Did not recommend levies

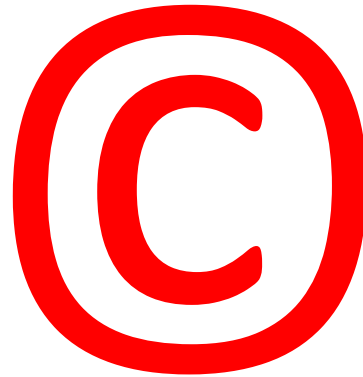


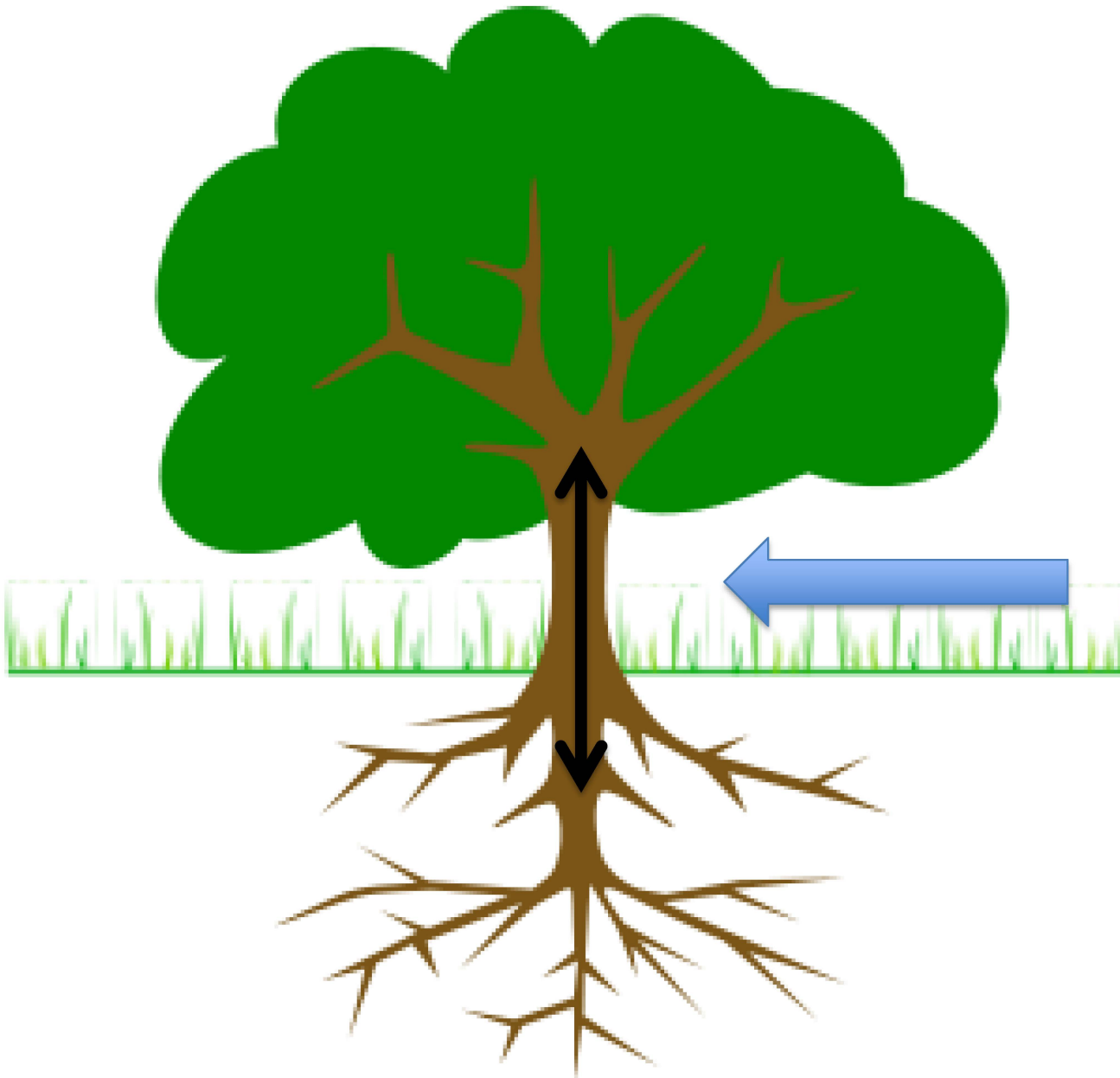
Antonió Vitorino (l)
presents report to
Michel Barnier (r)
January
2013



Photographers







Intermediaries

Clarify exception for temporary copies

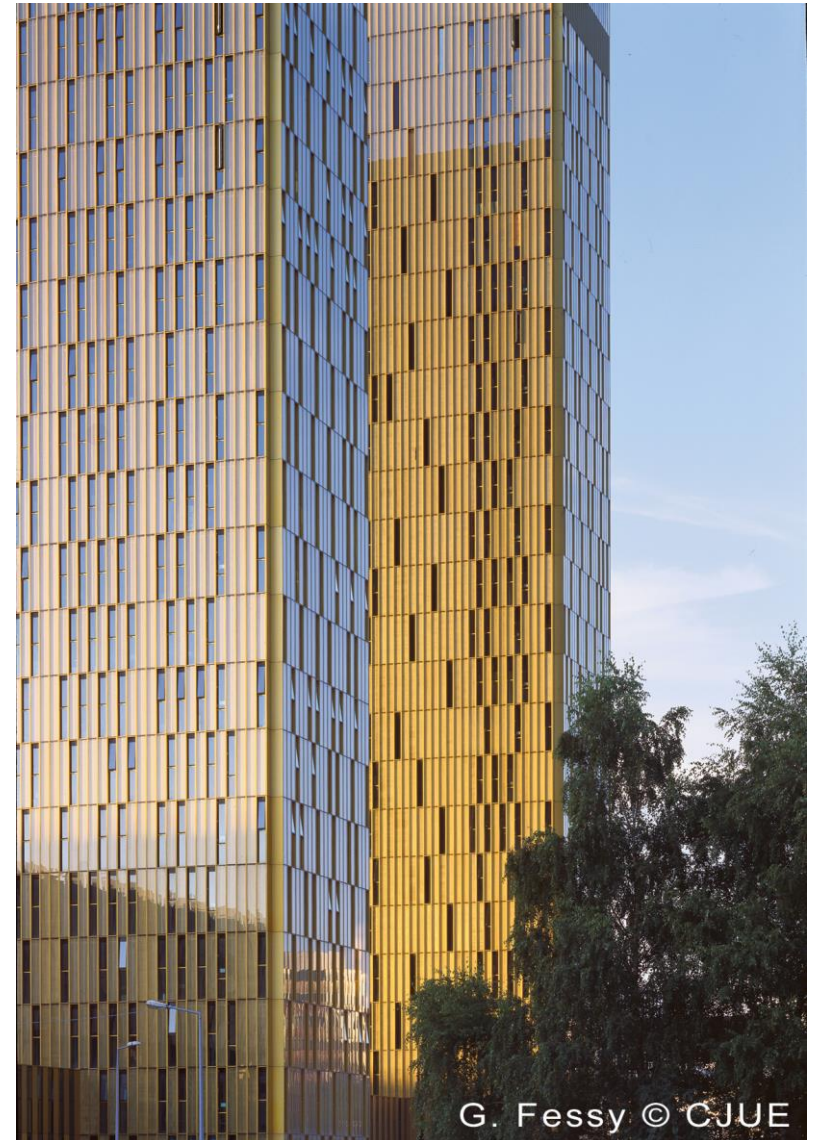
(Compare section 23¹ of the
Law of 4 February 1994 on
Copyright & Related Rights)

in the light of C-403/08 *FAPL* and
C-429/08 *Murphy* (04 Oct 2011) [161]



*Public Relations
Consultants
Association
v
Newspaper
Licensing Agency*

Case C-360/13
CJEU 5 June 2014



G. Fessy © CJUE

Intermediaries

Did not recommend

- amending existing immunities, or
- proposing additional immunities





THE EU SINGLE MARKET

European Commission > The EU Single Market > Online services > Notice-and-action Procedures

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Online services

E-Commerce Directive

Related Official Documents

Communication 2012

Parcel delivery

Notice-and-action procedures

Expert Group

National contact points

Useful Links

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Notice-and-action Procedures

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Search on this site

In January 2012 the Commission announced an initiative on "notice-and-action" procedures in the [Communication](#) on e-Commerce and other online services. "Notice-and-action" procedures begin when someone notifies a hosting service provider – for instance a social network, an e-commerce platform or a company that hosts websites – about illegal content on the internet. Such content could be, for example, racist content, child abuse content or spam. The procedures are concluded when a hosting service provider acts against the alleged illegal content.

Article 14 of the [e-Commerce Directive](#) provides a basis for the development of these procedures, but does not regulate them in detail. In response to the 2010 [public consultation on e-Commerce](#), stakeholders have indicated that these procedures should lead to a quicker takedown of illegal content, should better respect fundamental rights (in particular the freedom of expression) and should increase legal certainty for online intermediaries.

A clean and open Internet: public consultation on procedures for dealing with illegal content on the Internet

On 4 June 2012, the European Commission launched a public consultation on procedures for notifying and acting on illegal content hosted by online intermediaries. The Commission wants to collect comments from all stakeholders on how this can best be achieved. The consultation covers the issue of notification of illegal content: for example, should all hosting service providers put

Linking

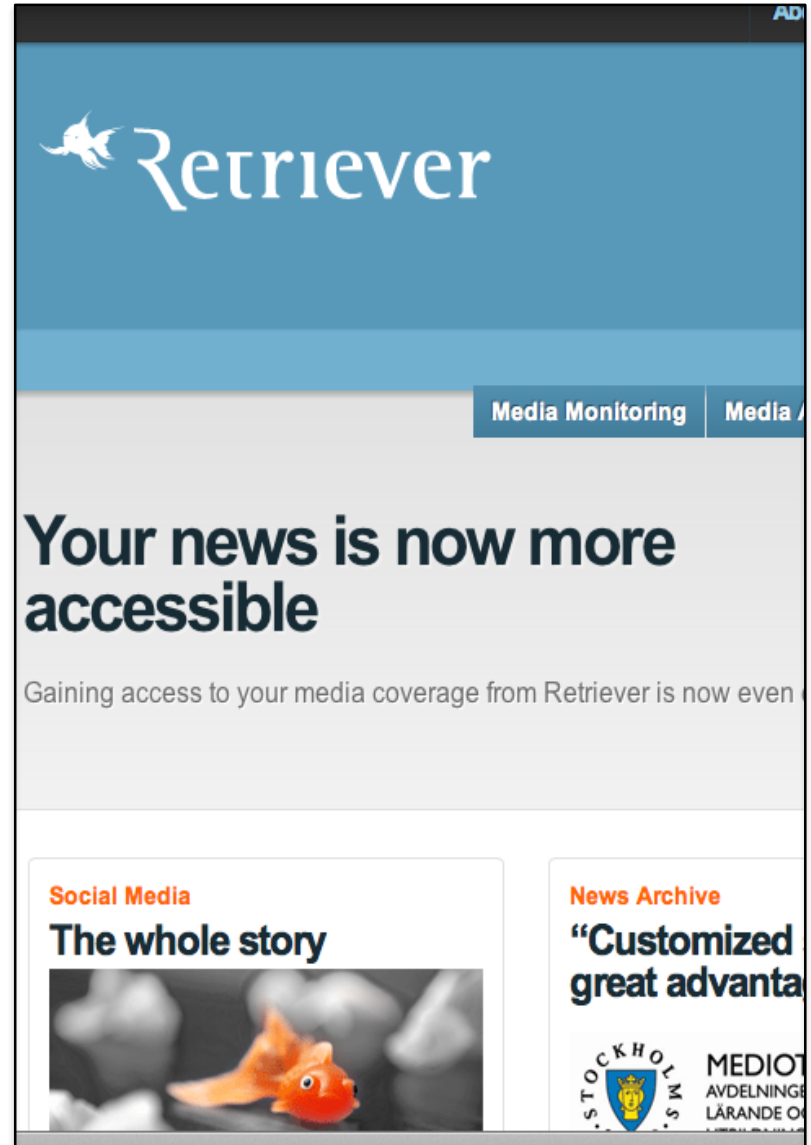


Linking **not an**
infringement
of copyright ...
(draft Section
87A(1) CRRA)

a clickable link is
communication but
not “to a new public”

*Svensson v
Retriever Sverige AB*

Case C-466/12
CJEU 13 Feb 2014 [25]



The screenshot shows the Retriever website interface. At the top, the Retriever logo is displayed in white on a blue background. Below the logo, there are navigation tabs for "Media Monitoring" and "Media". The main headline reads "Your news is now more accessible" in a large, bold, dark font. Below the headline, a sub-headline states "Gaining access to your media coverage from Retriever is now even". The page features two main content blocks: "Social Media" with the sub-headline "The whole story" and an image of a goldfish, and "News Archive" with the sub-headline "Customized great advanta". The bottom right corner of the page displays the logo of the Stockholm Media and Information Research Institute (Mediointeraktionslaboratoriet).

Marshalling



Marshalling

**Indexing
Syndicating
Aggregating
Curating**

online content



Wiadomości

Wydanie Polska ▾

Nowości ▾



Zaloguj

Najważniejsze artykuły

Ze świata

Polska

Gospodarka

Nauka/technika

Sport

Rozrywka

Najważniejsze artykuły



Gazeta.pl

Kaczyński: Kamery internetowe muszą być w każdym lokalu ...

Gazeta.pl - 1 Godzina temu

Jarosław Kaczyński podczas briefingu na wyspie Łasztownia. Na drugim brzegu Odry - Wały Chrobrego (Fot. Cezary Aszkielewicz / Agencja Gazeta). Jarosław Kaczyński pod Trasą Zamkową - miniatura · Jarosław Kaczyński podczas briefingu na wyspie ...

Zobacz relację na żywo

Kaczyński: Potrzebne są wcześniejsze wybory Rzeczpospolita

Jarosław Kaczyński: Rząd techniczny gwarantuje uczciwość ... Radioszczecin.pl



Gazeta.pl



TVP



300poli...



naTemat



Monev.pl



wPolity...



Nasz D...



Wiado...

Rzecznik ABW Maciej Kaczyński o taśmach "Wprost": Wiemy o tej ...

Wiadomości 24 - 3 minuty temu

Rzecznik Agencji Bezpieczeństwa Wewnętrznego, podpułkownik Maciej Kaczyński gościł w "Sygnałach dnia" radiowej "Jedynki". Rozmowa dotyczyła środowego zamieszania w redakcji "Wprost", podsłuchów i słynnej czarnej teczki. Logo ABW. See page for ...



Wirtual...

Ławrow atakuje Poroszenkę: to odejście od kwietniowej deklaracji z ...

TVN24 - 2 godz. temu

... - Brak punktu o negocjacjach to radykalne odejście od Deklaracji Genewskiej - oświadczył minister spraw zagranicznych Federacji Rosyjskiej Siergiej Ławrow, którego cytuje agencja Interfax. - Duża część punktów planu wygląda jak ultimatum: macie kilka ...



Przeqla...

Mecz Argentyna - Iran na MŚ. NA ŻYWO!

Interia - 50 minuty temu

W sobotę o 18:00 polskiego czasu grają ze sobą Argentyna z Iranem w grupie F piłkarskich mistrzostw świata. Zdecydowanym faworytem tego spotkania będzie drużyna Alejandra Sabelli. Transmisja w TVP 2 oraz w TVP Sport, relacja tekstowa w INTERIA.

Prognoza pogody dla woj. mazowieckiego - 22.06

Onet.pl - 4 minuty temu

Wkrótce pojawi się w serwisie. Zachęcamy do dalszej dyskusji. Wystąpił błąd i nie można zapisać

Redakcje polecają

dziennik.pl

Marek Belka przed Trybunał Stanu?

Zespół Dziennik.pl

Kleszcze atakują! Nawet o kilkaset

procent więcej zachorowań na boreliozę!

Damian Furmańczyk

Nagrany Sikorski, Graś, Rostowski.

"Wprost" ujawnia NOWY FRAGMENT

Zespół Dziennik.pl

Groźby z Rosji? Putin stawia armię w

stan pełnej gotowości

Zespół Dziennik.pl

"Wprost" publikuje całe nagranie.

Belka: Albo Donald nie wie, albo się...

Zespół Dziennik.pl

Więcej informacji

Najpopularniejsze

Paradowska o Olejnik: Jak się jest

emocjonalnym, to się nie chodzi ...

Dziennik.pl - 4 godz. temu

Nagrany Sikorski, Graś, Rostowski.

"Wprost" ujawnia NOWY ...

Dziennik.pl - 2 godz. temu

ABW zmienia front? "Jesteśmy

wdzięczni dziennikarzom"

Dziennik.pl - 9 godz. temu

Bloomberg o Marku Belce: Najgorszy

europejski szef banku ...

Gazeta.pl - 2 godz. temu

Marshalling

Reproduction of a **very small snippet** of text reasonably adjacent to the link

< 160 characters or 2.5% of the work

Subject to a cap of 40 words

Draft section 87A(3)-(6) CRRA



LEGAL

German publishers start legal action against Google over news snippets



Loek Essers @loekessers

Jun 18, 2014 7:55 AM

German news publishers are escalating their fight to get a cut of the ad revenue that Google makes when it republishes parts of their news articles.

The publishers' society VG Media has started legal proceedings against Google after the search-engine giant refused to negotiate with the collecting society and publicly declared it would not pay such a compensation, [VG Media said Wednesday](#).

Twelve German online news publishers [took a 50 percent stake in VG Media](#) last February with the aim of beginning to start collecting compensation from search engines. They want some of the advertising revenue that search engines and aggregators generate by republishing parts of their content.

As a first step in the legal proceedings, VG Media filed a request for compensation with the Copyright Arbitration Board of the German Patent and Trade Mark Office, an independent body that mediates disputes between collecting societies and users of copyright works. The board strives to reach amicable arrangements between the parties and precedes a procedure with the district court, VG Media said.

The publishers based their claim on a new German online copyright law that came into effect last August. It gives publishers the exclusive right to the commercial use of their content and parts thereof, [except in the case of single words or small text snippets](#).



LATEST VIDEOS



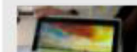
Varidesk Single review: This sit-stand desk has some ergonomic issues



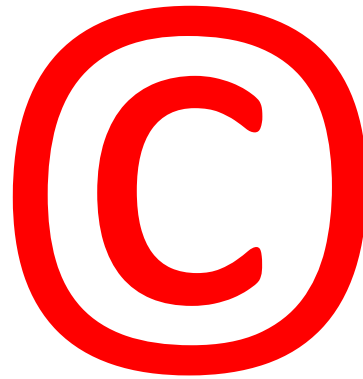
iPad, Oculus Rift, and Kinect team up to update '80s video game

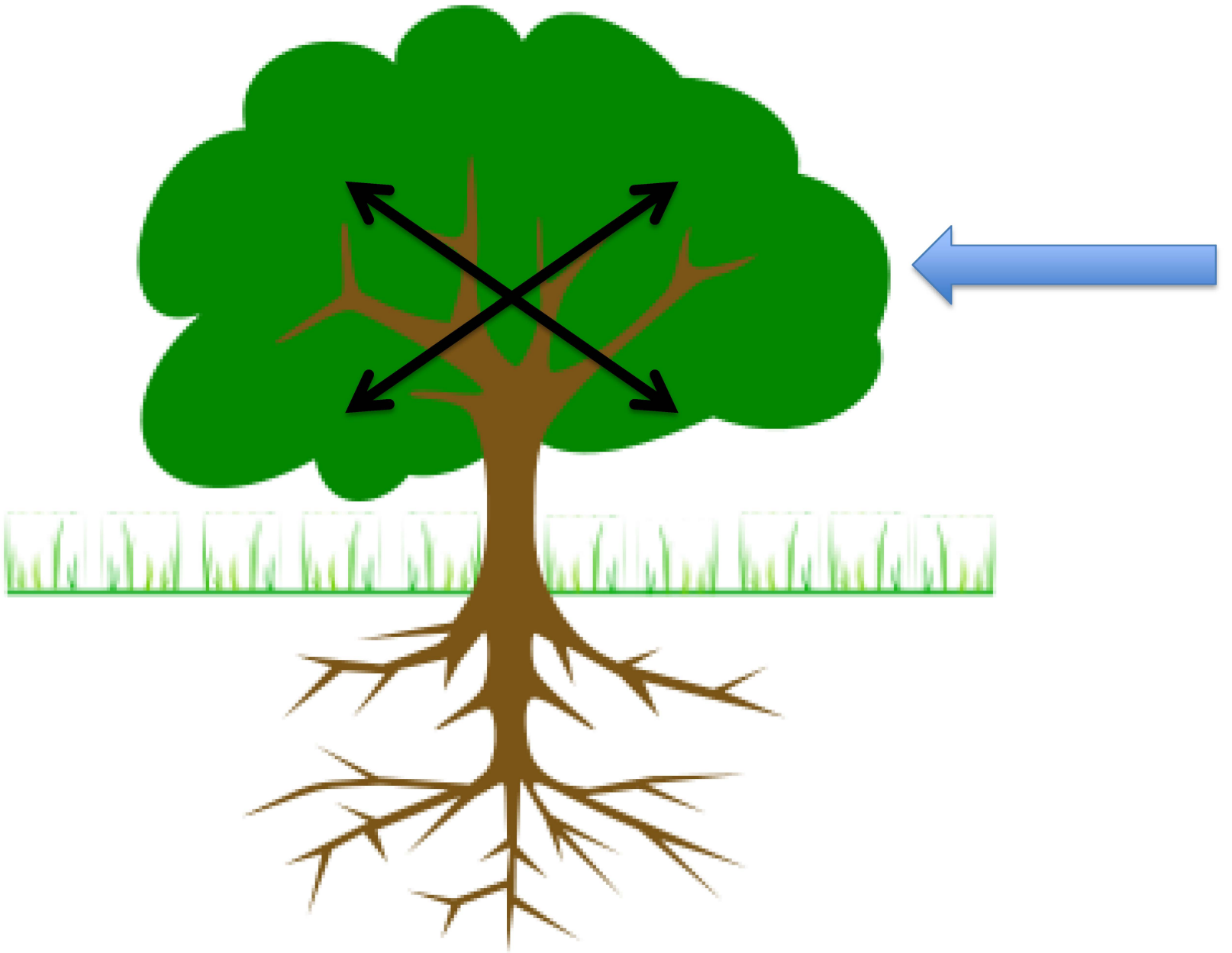


Inkjet printer builds custom circuit boards



Acer announces new laptops, tablets, hybrids, and all-in-ones







UGC

Parody

Private copying

Back-ups

Education

Disability

Consumers

etc

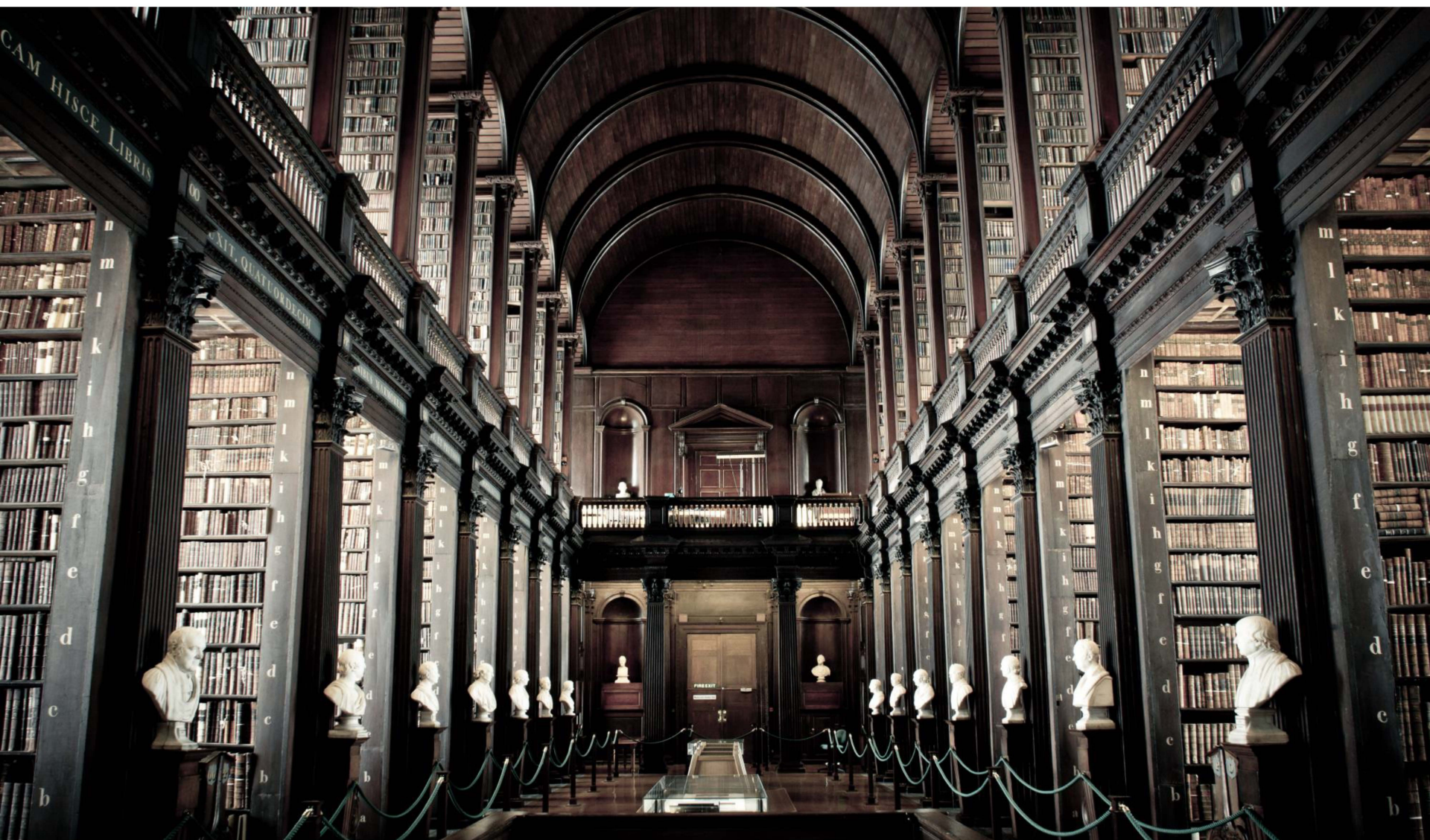


Image source: <https://www.flickr.com/photos/hannesambrosch/8754871950/sizes/o/>



Heritage



Entrepreneurs

Special **innovation** exception

for works which are **substantially** different from the original work or **substantially** transform the original work

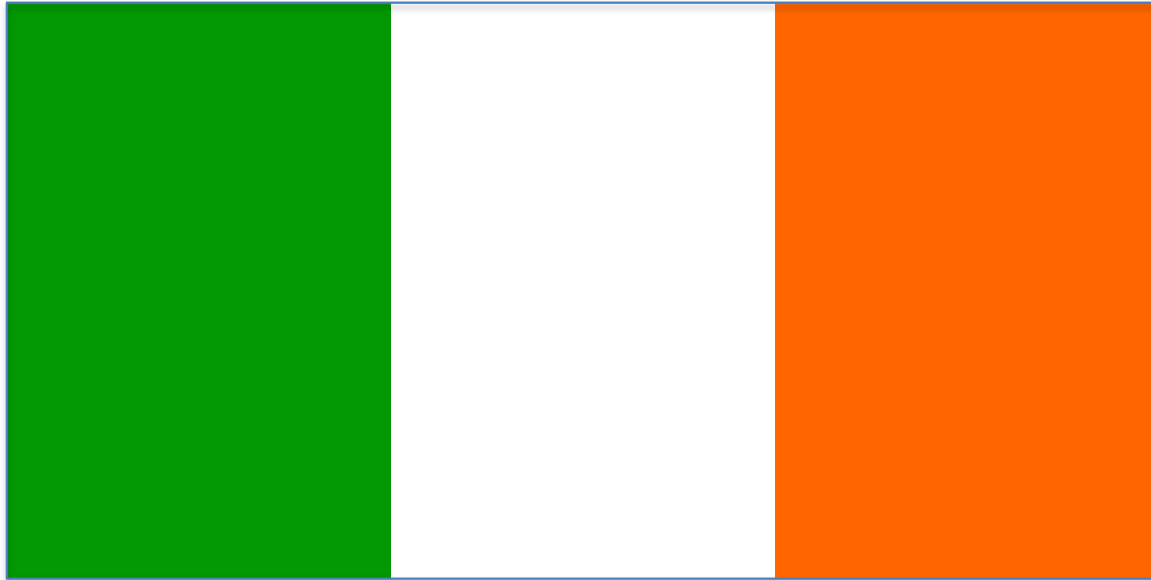
Draft section 106E CRRRA



Fair Use: US-style?



Fair Use: Irish-style



The IPKat

Passionate about IP! Since June 2003 the IPKat weblog has covered copyright, patent, trade mark, info-tech and privacy/confidentiality issues from a mainly UK and European perspective. The team is Birgit Clark, Merpel, Jeremy Phillips, Eleonora Rosati, Darren Smyth, Annsley Merelle Ward and Neil J. Wilkof. You're welcome to read, post comments and participate in our community. You can email the Kats [here](#)

For the half-year to 30 June 2014, the IPKat's regular team is supplemented by contributions from guest bloggers Alberto Bellan, Darren Meale and Nadia Zegze.

Two of our regular Kats are currently on blogging sabbaticals. They are David Brophy and Catherine Lee.



Thursday, 1 May 2014

The right of adaptation has not been generally harmonised at the EU level: true or false?

Calling all students who are revising for their spring exams! What is the right answer to this question?

Until now most people - including a number of leading copyright academics - would have easily opted for 'true'.

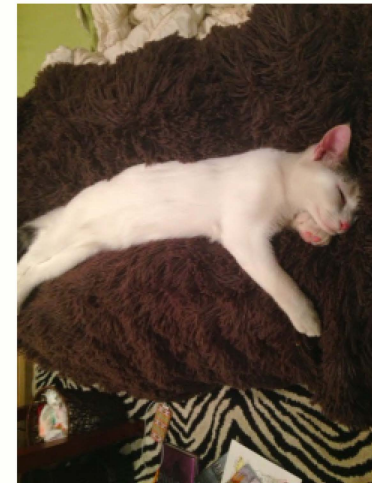
However, following a number of recent decisions of the Court of Justice of the European Union (CJEU) and the even more recent leaked text of the draft Impact Assessment (IA) of the Commission on the modernisation of the EU copyright *acquis* [[here](#) and [here](#)] this may no longer be the right answer.

First of all: what is the right of adaptation all about?

As explained by leading UK copyright commentary [Copinger and Skone James on Copyright](#), adaptation is usually understood as the transformation of a work into another form of expression that is not tantamount to a simple reproduction, eg making a film out of a novel, although "there is an unclear dividing line between what amounts to a reproduction of a work and what amounts to an adaptation of a work".

The problem lies indeed here.

At the international level, besides the right of reproduction within [Article 9](#), [Article 12](#) of the



Gigi is very adaptable when it comes

The IPKat: intellectual property news and fun for everyone

* Check out the IPKat's list of forthcoming events [here](#).

* Who writes the IPKat weblog? Find out more about the regular blogging team and guest Kats by clicking [here](#).

* A bit about the IPKat's history and ethos [here](#)

* Emeritus Kats and guest Kats [here](#).



THE EU SINGLE MARKET

European Commission > The EU Single Market > Consultations > 2013 > Review of the EU copyright rules

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Practical info and problem solving

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Public Consultation on the review of the EU copyright rules

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Policy Field

- Internal Market, Intellectual Property - Copyright

Target group

All stakeholders are welcome to contribute to this consultation. Contributions are particularly sought from consumers, users, authors, performers, publishers, producers, broadcasters, intermediaries, distributors and other service providers, Collective Management Organisations, public authorities and Member States.

Period

- From **05.12.2013** to **05.03.2014** – (closed)

Objective

The objective of this consultation is to gather input from all stakeholders on the review of the EU copyright rules.

Entrepreneurs & Fair Use

The Commission leak inevitably refers to
Case -5/08 *Infopaq* [2009] ECR I-06569

Elenora Rosati on *IPKat* adds Case
435/12 *ACI Adam* (10 April 2014)



Entrepreneurs & Fair Use

Case C-275/06 *Productores de Musica de Espana (Promusicæ) v Telefonica de Espana SAU* [2008] ECR-I 271 (29 January 2008)

Case C-314/12 *UPC Telekabel Wien* (27 March 2014)



Entrepreneurs & Fair Use

Case C-314/12 *UPC Telekabel Wien* (27 March 2014) [46]

“an interpretation of the Directive which allows a fair balance to be struck between applicable fundamental rights”





Entrepreneurs & Fair Use

Ashby Donald v France 36769/08 [2013]
ECHR 28 (10 January 2013)

Copyright measured against Article 10
ECHR (= Article 11 EU CFR)





Image source: <http://www.flickr.com/photos/pdamsten/9587145923/>



THE EU SINGLE MARKET

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Policy Field

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Target group

All stakeholders are welcome to contribute to this consultation. Contributions are particularly sought from consumers, users, authors, performers, publishers, producers, broadcasters, intermediaries, distributors and other service providers, Collective Management Organisations, public authorities and Member States.

Period

- From **05.12.2013** to **05.03.2014** – (closed)

Objective

The objective of this consultation is to gather input from all stakeholders on the review of the EU copyright rules.



An Roinn Post, Fiontar agus Nuálaíochta
Department of Jobs, Enterprise and Innovation

Submission from Ireland

European Commission
Public Consultation on the Review of Copyright Rules

March 2014

“... formal proposals for legislative reform arising from the [CRC] Report in 2014” (p2)



An Roinn Post, Fiontar agus Nuálaíochta
Department of Jobs, Enterprise and Innovation

Submission from Ireland

**European Commission
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An Roinn Post, Fiontar agus Nuálaíochta
Department of Jobs, Enterprise and Innovation

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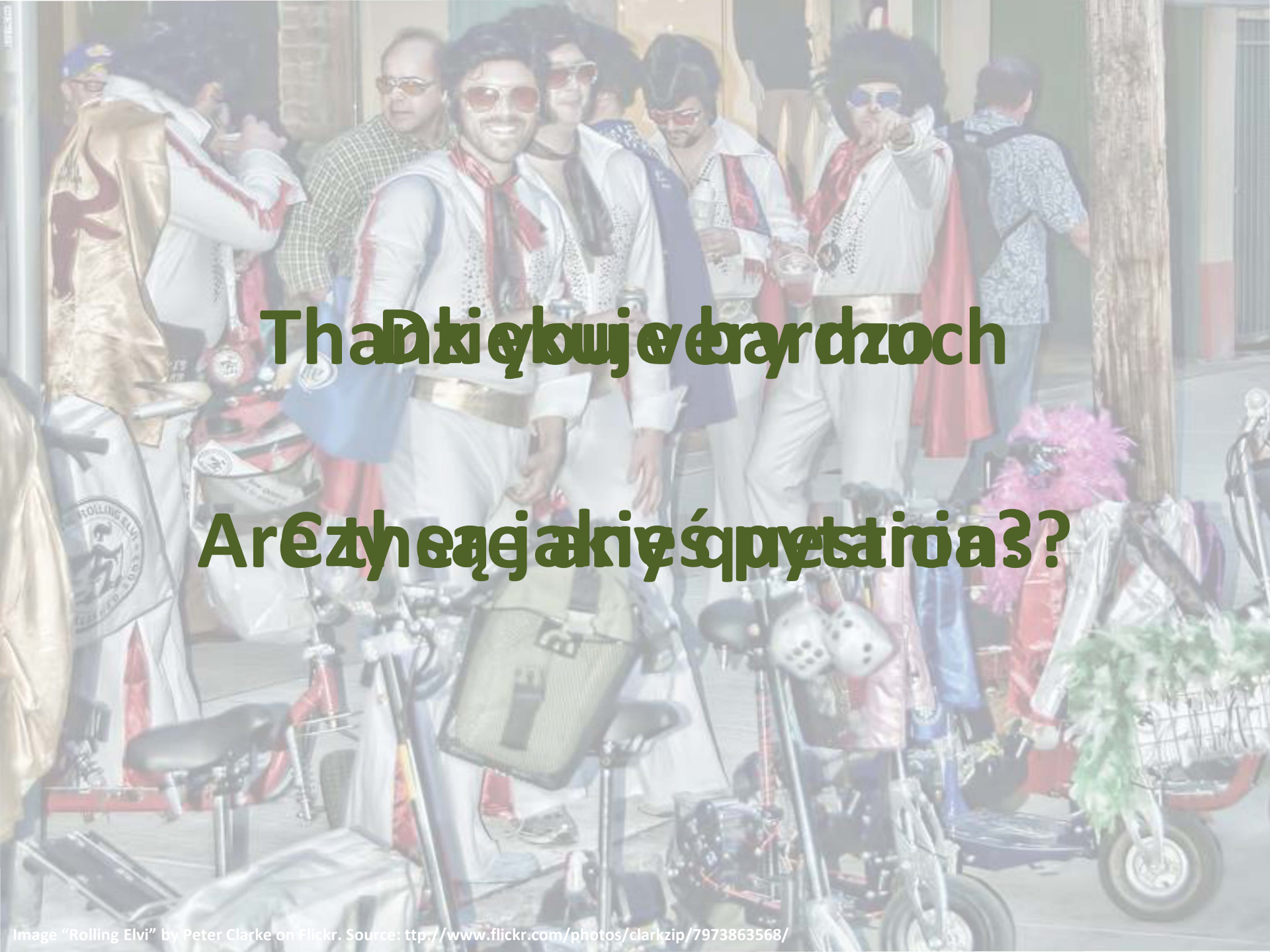
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White Paper due
within 3 weeks



Image "Rolling Elvi" by Peter Clarke on Flickr. Source: <http://www.flickr.com/photos/clarkzip/7973863568/>



Tha dikteiwouj e' e' r' d' zoch

Ar e' z' h' e' a' e' j' a' k' r' i' e' s' i' p' r' e' t' a' i' o' a' ?



Ministerstwo
Administracji
i Cyfryzacji



Incentivizing Digital Innovation in Europe The Example of Irish Copyright Reform

Eoin O'Dell, School of Law, TCD
Chair, Copyright Review Committee