



**Irish Music Rights Organisation
Presentation to the Joint Committee on Enterprise and Small Business
17th November 1999, Kildare House, Dublin 2**

IMRO appreciates the opportunity to address the Joint Committee today in relation to the Copyright and Related Rights Bill 1999.

Before doing so, I would like to devote just a moment or two to describe IMRO and its functions. IMRO is a not-for-profit company limited by guarantee and is an association of authors, composers and publishers of music. It was originally formed in 1989 to assume some of the functions previously carried out by the Performing Right Society (PRS). In 1995, it became a fully independent national organisation and thus became subject to the complete control by Irish songwriters, composers and music publishers.

At the time of gaining full independence, IMRO was obliged to submit all its agreements and contracts to the Competition Authority to ensure that they complied with competition legislation and the Authority granted the appropriate licence and certificate for these. In doing so it created the potential for other organisations to enter the field of activity in which IMRO operates.

Turning to the Copyright and Related Rights Bill, IMRO has had the opportunity to make a number of submissions on this proposed legislation, most of which were of a technical nature.

The primary concern of IMRO and its members in relation to this measure was to ensure that Irish creators of music were provided with at least the same level of protection for their creativity as that prevailing in continental Europe. The reason for



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this is that we have seen how successful continental countries have been in protecting their musical cultural identity through the safeguarding of their authors and composers. In keeping with this goal, IMRO has become very proactive in encouraging the teaching, composition, recording and performance of music not only by those who are members of IMRO, but further afield. In addition, we are now supporting some Irish musical activities abroad in order to provide wider opportunities for those whom we represent.

Whilst IMRO is, in the main, content with what the proposed measure contains, we are disappointed with the exclusion of a home recording royalty designed to compensate creators for losses of record sales due to illegal copying and to a resale right, otherwise known as the 'Droit de Suite', for visual artists.

With regard to the home recording royalty, members of the Joint Committee will be aware that such a scheme operates in all European Union countries save for Ireland, the United Kingdom and Luxembourg. It was the High Court in 1994 that stated that *“the right of the creator of a literary, dramatic, musical or artistic work not to have his or her creation stolen or plagiarised is a right of public property within the meaning of Articles 40.3.2 and 40.3.1 of the Constitution”*.

Private copying, in our view, is a blatant abuse of the rights of those we represent.

We are aware of the concern of special categories of users such as the aurally and visually handicapped and charitable and similar associations relying particularly on



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the use of blank recording media and the recording equipment. Such concerns have been satisfactorily addressed in other Member States of the EU by the inclusion of exemptions and rights of reimbursement.

Consequently, we would respectfully ask that this matter be reconsidered.

The second issue that I mention which is of concern to us is the resale right or droit de suite. This right, whilst not directly affecting those whom we represent, is nevertheless, in our view, an extremely important incentive for creativity and one that deserves inclusion in the new Bill.

The special value of some artistic works lies not in the capacity to multiply copies but in the uniqueness of the original. This is true of many paintings and sculptures. As artists acquire a reputation, works of this kind accelerate in value. Their death may add to the element of scarcity and the effect will be marked in the resale prices of their works. Since artists and their estates normally only benefit from the first sale of the work, they receive no return from subsequent increases in capital value. Droit de suite which is provided in 11 of the 15 EU States requires a proportion of resale prices to be paid during the copyright period to the artist or his successor.

For artists and dealers the fact that the law relating to the resale right has not been harmonised throughout Europe causes an unjust situation. To avoid the resale royalty, sellers have tended to offer works of art on art markets which have no resale



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right legislation and artists receive the royalty only if his or her work of art is sold on an art market which acknowledges this resale right.

A possible EC Directive on this right has been the subject of much debate within Europe and Ireland's positive action in this area would greatly strengthen the European process.

The ever increasing number of new and established visual artists in Ireland today reflects our growing confidence and love for Irish creativity. Many of these works when sold, however, do not command a significant price but may do so in the future because of the current attractiveness, both national and international, of all things Irish. It is only right that creators of such beautiful things are encouraged and indeed rewarded for the gifts they bring to us and indeed the pride they engender in and for this country.

We again thank you for this opportunity to address you today and look forward to responding to any questions you may have about this submission.

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