

LAW SOCIETY PROFESSIONAL TRAINING

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Irish Music Rights Organisation and Law Society Annual Copyright Lecture

The new press publishers' right and the creation of a well-functioning marketplace for copyright in the EU

Date	3 May 2023
Time	5.30pm to 7.00pm
Venue	Lecture Theatre, Education Centre, Law Society of Ireland,
Fee	Complimentary
CPD Hours	1.5 General (by Group Study)
Event Code	23010

Article 15 of Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (the Directive) has given rise to considerable lobbying and heated debate at both EU and national levels.

The provision creates a new press publishers' right in the EU copyright regime. The primary purpose of Article 15 is to provide press publishers (established in the EU) with the protection of both the reproduction right and the making available to the public right where there is digital reproduction of their press publications by information society service providers such as news aggregators or media monitoring services

Falling under Title IV of the Directive (containing measures to achieve a well-functioning marketplace for copyright), Article 15 attempts to bolster the bargaining power of press publishers so that they can negotiate fairer licensing deals with third parties that re-use their content. For quite some time now, traditional press publishers have faced considerable commercial challenges in this age of digital transformation and in many cases, unauthorised re-use. This is reflected in Recitals (54) and (55) of the Directive. Recital (54) acknowledges that the licensing and enforcement of rights in press publications regarding online uses is often 'complex and inefficient' while Recital (55) makes reference to ensuring "the sustainability of the publishing industry".

Article 15 was transposed into Irish law by virtue of Regulation 13 of the European Union (Copyright and Related Rights in the Digital Single Market) Regulations 2021.

This year's annual lecture will examine the multi-faceted Article 15, with special focus on the following issues:

- The important carve outs, to include "very short extracts of a press publication" and, acts of hyperlinking;
- The term 'an appropriate share of the revenues' (in the context of payment to individual authors) – how might this term be interpreted by the courts and the various stakeholders?;
- A possible role for collective licensing in the application of Article 15 in Ireland (Indeed, Recital (60) of the Directive acknowledges the role played by collective management organisations that *jointly* represent authors and publishers); and

- How well is the transposed Article 15 working in Ireland and is it succeeding in narrowing the so-called 'value gap'? Is it truly succeeding in addressing the market imbalance between press publishers and Big Tech?
- The Report of the Future of Media Commission (July, 2022) and its recommendations to Government concerning a rebalancing of the relationship between media and Big Tech.

Chairperson

Victor Finn, Chief Executive, Irish Music Rights Organisation

Speakers

Dr Mark Hyland, Law Society IMRO adjunct Professor of Intellectual Property

In March 2020, Dr. Mark Hyland was appointed a lecturer at the Faculty of Business, Technological University Dublin (TU Dublin). From 2010 to 2020, Dr Hyland was a lecturer in International Intellectual Property Law at Bangor University Law School, Wales. His main field of research is Copyright Law with a special focus on digital copyright. He also has a strong interest in the interface between Intellectual Property Law and related fields such as Information Technology Law and, Competition Law. In 2016, he was awarded a Bangor University Teaching Fellowship for his commitment to teaching excellence and student support.

Dr. Hyland was awarded his PhD by Newcastle University in 2014 for a thesis that critically evaluates the application of the tort Private International Law rules to the internet, using online copyright infringements as a case study.

In June 2019, he was appointed the inaugural IMRO adjunct Professor of Intellectual Property Law at the Law Society of Ireland.

Dr. Hyland's research has been published in specialist law journals such as *Law, Innovation and Technology*, the *European Intellectual Property Review*, *Communications Law* and *Computer and Telecommunications Law Review*. His most recent article 'The Knottiest of Gordian Knots: Article 17 of the Copyright Directive' was published in the *European Intellectual Property Review* in January 2023 ((2023) 45, E.I.P.R., Issue 1).

Dr Hyland is a qualified solicitor and, from time to time, contributes articles on EU IP/IT Law developments to the *Law Society Gazette*, - the leading law magazine for the solicitors' profession in Ireland.

Dr Ula Furgal Lecturer in Intellectual Property Law, school of Law, University of Glasgow

Dr Ula Furgal is a Lecturer in Intellectual Property and Information Law. She joined the University of Glasgow as a postdoctoral researcher at the CREATE Centre in November 2019. Ula has been working on the Platform Regulation project, which concerns regulation of platform economy in the context of creative industries (funded by the AHRC Creative Industries Policy & Evidence Centre (PEC)), and the Reversion Rights Project, a joint initiative of CREATE and IPRIA, University of Melbourne. Ula is an editor of the Copyright Directive implementation resource page and a managing editor of the CREATE Working Paper series. Ula completed her PhD at the European University Institute in Florence, Italy. She defended her doctoral thesis entitled "Rights on news: expanding copyright on the internet" which explores the effects of a new press publishers' right on the EU copyright framework, in February 2020. She holds LLM in Intellectual Property Law from Trinity College Dublin, and a Masters in Law and a Bachelor in Public Administration from Jagiellonian University (Krakow, Poland). Ula's interests lie at the intersection of copyright, information law and media studies.

Mark Tighe, Journalist

Mark is Senior News Journalist with the Sunday Independent and co-author of the book, *Champagne Football*. Formerly, he was the legal correspondent with The Sunday Times (Ireland). He won *Irish Newspaper Journalist of the Year* in 2019.

Colm O'Reilly

Colm is Chairman of Newsbrands Ireland, Chief Operations Officer of the Business Post Group and Board Member of Press Council of Ireland.

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