

Submission on consultation document: *Implementation of the Trans-Pacific Partnership Intellectual Property Chapter*

Your name and organisation

Name	Jason Wallace
Organisation	

Responses to consultation document questions

1	Have the overarching objectives been framed correctly for this policy process? If not, what would be more appropriate objectives?
	No. There needs to be an emphasis on the artist, and not just the business itself claiming copyrights.
Technological protection measures	
2	Do you agree with the exceptions or limitations proposed for TPMs? What would be the impacts of not providing these exceptions? Please be specific in your answers.
	Yes. Without exceptions for TPMs, there would be less innovation and freedom.
3	Do you agree that the exceptions proposed for TPMs should apply to both prohibitions (i.e. circumventing a TPM and the provision of devices or services that enable circumvention)? Why / why not?
	Yes. The exception would give us the right to travel without having to worry about georestrictions.
4	Do you agree that, if our proposals are implemented, the current exception allowing a qualified person to circumvent a TPM that protects against copyright infringement to exercise a permitted act under Part 3 would no longer be required? Why / why not?
	No. The rules need to make it clear and legally binding that someone should not be prosecuted for something like circumventing a DVD region.
5	Are there any other exceptions or limitations to the TPM prohibitions that should be included in the Copyright Act? Please explain why any additional exceptions would be necessary.
	People with disabilities should have exceptions, so their lives are not affected, and so they can be a productive member of society. TPM should have exceptions for personal use, as someone paying for a good/service should be able to access it as they see fit.
6	Would there be a likely adverse impact on non-infringing uses in general if the exception for any other purpose that does not infringe copyright was not provided for? Please be specific in

your answers.

Yes, as people don't want content that locks them in and reduces their freedom. They would find another product.

7

Should there be a regulation-making power to enable the exception for any other purpose that does not infringe copyright to be clarified, and if so, what criteria should be considered?

Yes. Anything reasonable.

Patent term extension for delays in patent grant

8

Do you agree with the proposals for patent term extensions for unreasonable grant delays? Why / why not?

Yes. It's only fair that the patent should be extended to a fair length.

9

Do you think that there should be a limit on the maximum length of extension available for grant delays? If so, what should it be?

Yes. Whatever the delay is, basically.

10

Do you consider that third parties should be able to oppose decisions to extend patents on the ground of unreasonable delays in grant?

Yes.

Patent term extension for pharmaceuticals

11

Do you agree with the proposed definition of "unreasonable curtailment" for pharmaceutical patent term extensions? If not, what other definition should be used?

No. It should only be considered unreasonable if the delay is greater than two weeks.

12

Do you agree that the definition of "unreasonable curtailment" should apply different time periods for small molecule pharmaceuticals and biologics? If so, what could these time periods be? If you consider that only one time period should apply to both, what should this be?

No. Businesses should really be treated equally.

13

Do you agree with the proposed method of calculating the length of extensions for pharmaceutical patents?

Yes, I think it's reasonable.

14

The proposed method of calculating extensions for pharmaceutical patents includes a maximum extension of two years. Do you agree with this? If not, what do you think the maximum extension should be?

Yes.

15

Do you agree or disagree that only patents for pharmaceutical substances *per se* and for biologics should be eligible for extension? Why?

	No. Too many ineligible extensions will stifle the pharmaceutical industry.
16	Do you think the Australian definition of “pharmaceutical substance” should be adopted? Why / why not?
	Yes. It would enable more drugs to be trialled that could potentially save lives.
17	Do you agree that patent rights during the extended term should be limited in the manner proposed?
	Yes.
18	Do you agree that third parties should be able to oppose decisions to extend patents for pharmaceuticals through the Commissioner of Patents? Why / why not?
	Yes, as some extensions could be considered unreasonable.
Performers’ rights	
19	Do you agree that a performer’s moral rights should apply to both the aural and visual aspects of their live performance and of any communication of the live performance to the public? Why / why not?
	No. Those moral rights could be open to abuse.
20	Should performers’ moral rights apply to the communication or distribution of any recording (i.e. both sound recordings and films) made from their performances, rather than just sound recordings as required by WPPT? Why / why not?
	No. Moral rights should not apply, unless profit is attempting to be made off the recordings.
21	Do you agree or disagree with any of the exceptions or limitations proposed for a performer’s right to be identified? Why?
	Yes. The performer should only be able to claim so much.
22	Are there any other exceptions or limitations to a performer’s right to be identified that should be included in the Copyright Act? If so, can you please explain why they would be necessary.
	Yes. Copyright claims should not be able to be put on parodies. This ensures that people aren’t being unfairly prosecuted for what should be fair use.
23	Do you agree or disagree with providing for any of the exceptions or limitations proposed for a performer’s right to object to derogatory treatment? Why?
	Disagree. The performer should always get a say.
24	Are there any other exceptions or limitations to a performer’s right to object to derogatory treatment that should be included in the Copyright Act? If so, please explain why they would be necessary.
	No.

25	Should the new property rights for performers be extended to apply to the recording of visual performances in films? Why / why not? (Please set out the likely impacts on performers and producers, and any others involved in the creation, use or consumption of films.)
	No. It won't make a difference to overall profits and control if property rights were extended.
26	Do you agree or disagree with any of the exceptions or limitations proposed above? Why?
	Agree. As above.
27	Are there any other exceptions or limitations to the new performers' property rights that should be included in the Copyright Act? If so, can you please explain why they would be necessary.
	No.
28	Do you agree or disagree with any of the proposals above? Why?
	No.
29	Are there any other amendments that need to be made to the Copyright Act, and in particular to Part 9, to clarify the new performers' property rights? If so, can you please explain why they would be necessary.
	No.
Border protection measures	
30	Do agree that Article 4 of European Union Council Regulation (EC) No 3295/94 is an appropriate model for implementing <i>ex officio</i> powers into the border protection measures set out in the Copyright Act 1994 and Trade Marks Act 2001? If not, please explain why not and outline an alternative approach to implementing <i>ex officio</i> powers.
	Yes.
31	Do you agree that the detention period of three business days following notification to the rights holder is appropriate? Can you outline the impact on both the right holders and any importer/exporter where you consider the period should be shorter or longer than three business days?
	No. There should be no detention period, just a fair trial.

Other comments

Online piracy does not affect sales. There should only be prosecution for people attempting to profit off of piracy.