

Submission on review of the Copyright Act 1994: Issues Paper

Your name and organisation

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Responses to Issues Paper questions

Objectives

1

Are the above objectives the right ones for New Zealand's copyright regime? How well do you think the copyright system is achieving these objectives?

	<p><i>Objective 2: the phrase ‘net benefits for New Zealand’ does not reflect international requirements (the TRIPs Agreement and the BerneConvention). Some exceptions will be appropriate and beneficial for certain sectors, but not necessarily for <u>all</u> New Zealand. Moreover, the exceptions to exclusive rights must not ‘conflict with normal exploitation of a work’ and nor must they ‘unreasonably prejudice the legitimate interests of the rightsholder’. Suggest this phrase could be replaced, for example with ‘societal benefits that nevertheless do not unreasonably impact on the exclusive rights of the copyright owner’</i></p> <p><i>Objective 3: the phrase ‘minimising transaction costs’ is a little unclear. Can such a feature be achievable within legislation? (apart from perhaps drafting appropriate amendments to the TPM circumvention provisions and introducing an orphan works process). The ability to minimise transactions costs more generally may be dependent on business models.</i></p> <p><i>Objective 4: Is this necessary? – clearly New Zealand must comply with its international obligations.</i></p> <p><i>Objective 5: For more specificity should the WAI 262 Report be inserted here- in addition to reference to the Treaty?</i></p>
2	<p>Are there other objectives that we should be aiming to achieve? For example, do you think adaptability or resilience to future technological change should be included as an objective and, if so, do you think that would be achievable without reducing certainty and clarity?</p> <p><i>Suggest</i></p> <p><i>Objective 6: Identify and address (so far as possible) any barriers to innovation and culture contained in the current legislation.</i></p> <p><i>(This proposed objective overlaps to a certain extent with Objectives 2 and 3 but provides more focus.)</i></p>
3	<p>Should sub-objectives or different objectives for any parts of the Act be considered (eg for moral rights or performers’ rights)? Please be specific in your answer.</p> <p><i>[Insert response here]</i></p>
4	<p>What weighting (if any) should be given to each objective?</p> <p><i>[Insert response here]</i></p>

Rights: What does copyright protect and who gets the rights?

5	<p>What are the problems (or advantages) with the way the Copyright Act categorises works?</p> <p><i>Although to some extent we are bound by international requirements for the broader categorisation of works, there is also much unnecessary complexity introduced within our definitions, some of which is due to a mismatch with contemporary practices. For example the definition of ‘artistic works’ in s 2 includes ‘graphic works’- therefore graphic works are not included in the commissioning rule in s 21(3)- which explicitly refers to ‘drawings’, ‘paintings’ and ‘photographs’. Conversely, ‘artistic works’ as a genre are subject to the employee/employer rule in s 21(2). Yet graphic designers are frequently commissioned by businesses - there is no logical reason to exclude their work from s 21(3).</i></p>
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6	<p>Is it clear what ‘skill, effort and judgement’ means as a test as to whether a work is protected by copyright? Does this test make copyright protection apply too widely? If it does, what are the implications, and what changes should be considered?</p>
	<p><i>Suggest we follow the United States and require a modicum of creativity, to ensure copyright protection is less pervasive - thereby acknowledging the use of modern technology, such as the digital camera, and engaging with community expectations of what is and what is not protected by copyright (private ordering).</i></p> <p><i>In regard to the over-protection of information under the present test see Sims, A. J. ‘Copyright’s protection of facts and information’ (2006) New Zealand Business Law Quarterly, 12 (4), 360-383</i></p>
7	<p>Are there any problems with (or benefits arising from) the treatment of data and compilations in the Copyright Act? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
8	<p>What are the problems (or benefits) with the way the default rules for copyright ownership work? What changes (if any) should we consider?</p>
9	<p>What problems (or benefits) are there with the current rules related to computer-generated works, particularly in light of the development and application of new technologies like artificial intelligence to general works? What changes, if any, should be considered?</p> <p><i>Disagree that major changes are needed. To provide legal status for AI would be a radical step - how would AI enforce its ‘rights’ and what benefits could accrue to the AI from its rights’ ownership?</i></p> <p><i>There will always be a human or team of humans that have developed the algorithms supporting AI and the current provision (s 5) allows for this. There must also be human accountability for any harms caused by AI.</i></p> <p><i>However s 5 should be reworded into contemporary language - the phrase ‘person by whom the arrangements necessary for the creation of the work are undertaken’ is somewhat archaic.</i></p>
10	<p>What are the problems (or benefits) with the rights the Copyright Act gives visual artists (including painting, drawings, prints, sculptures etc)? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
11	<p>What are the problems creators and authors, who have previously transferred their copyright in a work to another person, experience in seeking to have the copyright in that work reassigned back to them? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
12	<p>What are the problems (or benefits) with how Crown copyright operates? What alternatives (if any) do you think should be considered?</p>

	<i>The term of Crown Copyright should be reduced. The issues paper describes the problems. Para 165 however presents only one side of the argument- the longer term also restricts tax payers from utilising such works for innovative purposes.</i>
13	Are there any problems (or benefits) in providing a copyright term for communication works that is longer than the minimum required by New Zealand's international obligations?
	<i>New Zealand should always seek to provide the minimum term of protection permitted by its international obligations. For any net copyright-importing nation, maximising the public domain of available works supports the most socially beneficial outcome.</i>
14	Are there any problems (or benefits) in providing an indefinite copyright term for the type of works referred to in section 117?
	<i>The argument for revoking this section is that it prevents such works entering into the public domain and is therefore contrary to fundamental copyright principles. Conversely, the section as it stands may encourage more donors to lodge their work with a CHI. Suggest survey evidence is needed to ascertain whether donors are aware of this provision and whether it influences their decisions.</i>

Other comments

[Insert response here]

Rights: What actions does copyright reserve for copyright owners?

15	Do you think there are any problems with (or benefits arising from) the exclusive rights or how they are expressed? What changes (if any) should be considered?
	<i>[Insert response here]</i>
16	Are there any problems (or benefits) with the secondary liability provisions? What changes (if any) should be considered?
	<i>[Insert response here]</i>
17	What are the problems (or advantages) with the way authorisation liability currently operates? What changes (if any) do you think should be considered?
	<i>[Insert response here]</i>

Other comments

[Insert response here]

Rights: Specific issues with the current rights

18	What are the problems (or advantages) with the way the right of communication to the public operates? What changes, if any, might be needed?
	<i>[Insert response here]</i>
19	What problems (or benefits) are there with communication works as a category of copyright work? What alternatives (if any) should be considered?
	<i>[Insert response here]</i>
20	What are the problems (or benefits) with using 'object' in the Copyright Act? What changes (if any) should be considered?
	<i>[Insert response here]</i>
21	Do you have any concerns about the implications of the Supreme Court's decision in Dixon v R? Please explain.
22	What are the problems (or benefits) with how the Copyright Act applies to user-generated content? What changes (if any) should be considered?
	<i>[Insert response here]</i>
23	What are the advantages and disadvantages of not being able to renounce copyright? What changes (if any) should be considered?
	<i>[Insert response here]</i>
24	Do you have any other concerns with the scope of the exclusive rights and how they can be infringed? Please describe.
	<i>[Insert response here]</i>

Other comments

[Insert response here]

Rights: Moral rights, performers' rights and technological protection measures

25	<p>What are the problems (or benefits) with the way the moral rights are formulated under the Copyright Act? What changes to the rights (if any) should be considered?</p>
	<p><i>The ability to waive one's moral rights should be removed. All too often publishers' standard form contracts require that authors agree to waive their moral rights - defeating the underlying policy for moral rights.</i></p>
26	<p>What are the problems (or benefits) with providing performers with greater rights over the sound aspects of their performances than the visual aspects?</p>
	<p><i>[Insert response here]</i></p>
27	<p>Will there be other problems (or benefits) with the performers' rights regime once the CPTPP changes come into effect? What changes to the performers' rights regime (if any) should be considered after those changes come into effect?</p>
	<p><i>For performers rights and the CPTPP, see Jessica C Lai, 'The Development of Performers' Rights in New Zealand: Lessons for the Asian Pacific Region?' available at <http://press-files.anu.edu.au/downloads/press/n4454/pdf/ch09.pdf></i></p>
28	<p>What are the problems (or benefits) with the TPMs protections? What changes (if any) should be considered?</p>
	<p><i>Section 226E is impractical. In order to exercise a permitted act, a person should not be limited to 'engaging a qualified person' as defined in the Act, but should be able to approach any IT specialist for assistance.</i></p>
29	<p>Is it clear what the TPMs regime allows and what it does not allow? Why/why not?</p>
	<p><i>[Insert response here]</i></p>

Other comments

The permitted exceptions in relation to performers' rights do not include an exception for research and private study. This is a strange and unexpected omission. It is unhelpful for students wishing to undertake research involving performances. In a former role as the University Human Ethics Convenor there were several occasions when I had to advise students that there was no such permitted exception for performers' rights.

Exceptions and Limitations: Exceptions that facilitate particular desirable uses

30	<p>Do you have examples of activities or uses that have been impeded by the current framing and interpretation of the exceptions for criticism, review, news reporting and research or study? Is it because of a lack of certainty? How do you assess any risk relating to the use? Have you ever been threatened with, or involved in, legal action? Are there any other barriers?</p>
	<p><i>[Insert response here]</i></p>

31	<p>What are the problems (or benefits) with how any of the criticism, review, news reporting and research or study exceptions operate in practice? Under what circumstances, if any, should someone be able to use these exceptions for a commercial outcome? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
32	<p>What are the problems (or benefits) with photographs being excluded from the exception for news reporting? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
33	<p>What other problems (or benefits), if any, have you experienced with the exception for reporting current events? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
34	<p>What are the problems (or benefits) with the exception for incidental copying of copyright works? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
35	<p>What are the problems (or benefits) with the exception transient reproduction of works? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
36	<p>What are the problems (or benefits) with the way the copyright exceptions apply to cloud computing? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
37	<p>Are there any other current or emerging technological processes we should be considering for the purposes of the review?</p>
	<p><i>[Insert response here]</i></p>
38	<p>What problems (or benefits) are there with copying of works for non-expressive uses like data-mining. What changes, if any, should be considered?</p>
	<p><i>[Insert response here]</i></p>
39	<p>What do problems (or benefits) arising from the Copyright Act not having an express exception for parody and satire? What about the absence of an exception for caricature and pastiche?</p>
	<p><i>The present law does not distinguish sufficiently between passive uses and innovative or transformative uses of copyright works. This prevents creative uses of works for parody, satire, remix etc. each of which has the potential to contribute to an innovative economy, and social benefit - political and social critique. (The following quotation from the US case, Campbell v Acuff-Rose 510 U.S. 569, 579 (1994) explains this concept:- ‘Like less ostensibly humorous forms of criticism, [parody] can provide social benefit, by shedding light on an earlier work, and, in the process, creating a new one.’)</i></p>
40	<p>What problems (or benefit) are there with the use of quotations or extracts taken from copyright works? What changes, if any, should be considered?</p>
	<p><i>[Insert response here]</i></p>

Other comments

[Insert response here]

Exceptions and Limitations: Exceptions for libraries and archives

41	<p>Do you have any specific examples of where the uncertainty about the exceptions for libraries and archives has resulted in undesirable outcomes? Please be specific about the situation, why this caused a problem and who it caused a problem for.</p>
42	<p>Does the Copyright Act provide enough flexibility for libraries and archives to copy, archive and make available to the public digital content published over the internet? What are the problems with (or benefits arising from) this flexibility or lack of flexibility? What changes (if any) should be considered?</p> <p><i>This is a complex area raising potential conflict of laws issues where works have been published by international copyright owners, privacy issues where individuals are identifiable within such works, contract issues, etc</i></p>
43	<p>Does the Copyright Act provide enough flexibility for libraries and archives to facilitate mass digitisation projects and make copies of physical works in digital format more widely available to the public? What are the problems with (or benefits arising from) this flexibility or lack of flexibility? What changes (if any) should be considered?</p> <p><i>[Insert response here]</i></p>
44	<p>Does the Copyright Act provide enough flexibility for libraries and archives to make copies of copyright works within their collections for collection management and administration without the copyright holder's permission? What are the problems with (or benefits arising from) this flexibility or lack of flexibility? What changes (if any) should be considered?</p> <p><i>They do not acknowledge the practicalities of digital archiving (requiring many digital copies and their migration to new platforms on a regular basis). See S Corbett, Copyright Norms and Flexibilities and the Digitisation Practices of New Zealand Museums", (2013) 29(1) Law in Context, 55-73.</i></p>
45	<p>What are the problems with (or benefits arising from) the flexibility given to libraries and archives to copy and make available content published online? What changes (if any) should be considered?</p> <p><i>There is no such 'flexibility'- apart from in the legal deposit provisions provided in the National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Act 2003</i></p> <p><i>Section 56A of the Copyright Act – the most relevant 'permitted exception'- is explicit: it provides that a library or archive may communicate one lawfully obtained digital copy in protected format to an authenticated user.</i></p> <p><i>There is no legislative requirement regarding appropriate precautions to be taken in the case of Māori traditional culture much of which, for cultural reasons, should not be made available online (S Corbett, "Māori Cultural Heritage and Copyright Law: A Balancing Exercise" (2012) Vol 6, Pt 9 New Zealand Intellectual Property Journal, 916-921)</i></p>

46

What are the problems with (or benefits arising from) excluding museums and galleries from the libraries and archives exceptions? What changes (if any) should be considered?

No rational reason for excluding explicit mention of museums and galleries. (In fact they are included but only insofar as they hold 'documents of historical significance' or 'public interest' and are not-for-profit bodies.) Suggest we follow the UK example: 'museum' is defined to include 'gallery' in the Copyright, Designs and Patents Act 1988, s 43A.

We should also reconsider the restriction to 'not for profit' institutions. 'An example of why this should be considered is the situation of privately-funded 'born digital' collections, which often include items not collected by the more traditional CHIs. Many early digital works are copyright 'orphans' and are in imminent danger of loss - without the ability to make use of copyright exceptions to preserve them, the physical platforms supporting these works will deteriorate and the works could be permanently lost to digital cultural heritage.' (S Corbett, 'Archives, Museums and Copyright: Reconciling the traditional with contemporary practices', Working paper, March 2019.)

Other comments

New Zealand's legal deposit legislation includes broad permitted exceptions that are less prescriptive than the current permitted exceptions for libraries and archives in the Copyright Act 1994. Overly-broad exceptions to copyright may discourage rights-owners (such as international publishers) of the 'new' categories of publications that are now subject to legal deposit from submitting them. Moreover, such broad permitted exceptions may not comply with New Zealand's international requirements (namely the TRIPs Agreement and the Berne Convention).

Exceptions and Limitations: Exceptions for education

47

Does the Copyright Act provide enough flexibility to enable teachers, pupils and educational institutions to benefit from new technologies? What are the problems with (or benefits arising from) this flexibility or lack of flexibility? What changes (if any) should be considered?

Education is an essential requirement for economic success including for an innovative economy – however, the permitted exceptions for education are narrow and impractical. Educational institutions generally do not make use of them, instead paying collective licensing agencies.

48

Are the education exceptions too wide? What are the problems with (or benefits arising from) this? What changes (if any) should be considered?

[Insert response here]

49

Are the education exceptions too narrow? What are the problems with (or benefits arising from) this? What changes (if any) should be considered?

50

Is copyright well understood in the education sector? What problems does this create (if any)?

[Insert response here]

Other comments

[Insert response here]

Exceptions and Limitations: Exceptions relating to the use of particular categories of works

51

What are the problems (or advantages) with the free public playing exceptions in sections 81, 87 and 87 A of the Copyright Act? What changes (if any) should be considered?

[Insert response here]

52

What are the problems (or advantages) with the way the format shifting exception currently operates? What changes (if any) should be considered?

[Insert response here]

53

What are the problems (or advantages) with the way the time shifting exception operates? What changes (if any) should be considered?

[Insert response here]

54

What are the problems (or advantages) with the reception and retransmission exception? What alternatives (if any) should be considered?

[Insert response here]

55

What are the problems (or advantages) with the other exceptions that relate to communication works? What changes (if any) should be considered?

[Insert response here]

56

Are the exceptions relating to computer programmes working effectively in practice? Are any other specific exceptions required to facilitate desirable uses of computer programs?

[Insert response here]

57

Do you think that section 73 should be amended to make it clear that the exception applies to the works underlying the works specified in section 73(1)? And should the exception be limited to copies made for personal and private use, with copies made for commercial gain being excluded? Why?

[Insert response here]

Other comments

[Insert response here]

Exceptions and Limitations: Contracting out of exceptions

58	What problems (or benefits) are there in allowing copyright owners to limit or modify a person's ability to use the existing exceptions through contract? What changes (if any) should be considered?
	<i>The Act is silent on this point in many of the permitted exceptions - although it might therefore be inferred that contracting out is not permitted, it is uncertain as to how a court might rule if litigation ensued. Therefore, there is a strong case for providing clarity by including explicit provisions prohibiting copyright owners to contract out of many, if not all, of the permitted exceptions. The 2014 amendments to the Copyright, Designs and Patents Act 1988 (UK) provide a useful example.</i>

Exceptions and Limitations: Internet service provider liability

59	What are problems (or benefits) with the ISP definition? What changes, if any should be considered?
	<i>[Insert response here]</i>
60	Are there any problems (or benefit) with the absence of an explicit exception for linking to copyright material and not having a safe harbour for providers of search tools (eg search engines)? What changes (if any) should be considered?
	<i>[Insert response here]</i>
61	Do the safe harbour provisions in the Copyright Act affect the commercial relationship between online platforms and copyright owners? Please be specific about who is, and how they are, affected.
	<i>[Insert response here]</i>
62	What other problems (or benefits) are there with the safe harbour regime for internet service providers? What changes, if any, should be considered?
	<i>[Insert response here]</i>

Transactions

63	<p>Is there a sufficient number and variety of CMOs in New Zealand? If not, which type of copyright works do you think would benefit from the formation of CMOs in New Zealand?</p> <p><i>[Insert response here]</i></p>
64	<p>If you are a member of a CMO, have you experienced problems with the way they operate in New Zealand? Please give examples of any problems experienced.</p> <p><i>[Insert response here]</i></p>
65	<p>If you are a user of copyright works, have you experienced problems trying to obtain a licence from a CMO? Please give examples of any problems experienced.</p> <p><i>[Insert response here]</i></p>
66	<p>What are the problems (or advantages) with the way the Copyright Tribunal operates? Why do you think so few applications are being made to the Copyright Tribunal? What changes (if any) to the way the Copyright Tribunal regime should be considered?</p> <p><i>[Insert response here]</i></p>
67	<p>Which CMOs offer an alternative dispute resolution service? How frequently are they used? What are the benefits (or disadvantages) with these services when compared to the Copyright Tribunal?</p> <p><i>[Insert response here]</i></p>
68	<p>Has a social media platform or other communication tool that you have used to upload, modify or create content undermined your ability to monetise that content? Please provide details.</p> <p><i>[Insert response here]</i></p>
69	<p>What are the advantages of social media platforms or other communication tools to disseminate and monetise their works? What are the disadvantages? What changes to the Copyright Act (if any) should be considered?</p> <p><i>[Insert response here]</i></p>
70	<p>Do the transactions provisions of the Copyright Act support the development of new technologies like blockchain technology and other technologies that could provide new ways to disseminate and monetise copyright works? If not, in what way do the provisions hinder the development and use of new technologies?</p> <p><i>[Insert response here]</i></p>
71	<p>Have you ever been impeded using, preserving or making available copies of old works because you could not identify or contact the copyright? Please provide as much detail as you can about what the problem was and its impact.</p>

Yes- a few years ago I was a member of a University research team attempting to archive New Zealand's earliest computer games for cultural heritage purposes. The rights holders in most cases were untraceable despite our best efforts. Although the games were created relatively recently (in the 1980s) they were copyright orphans and hence our project had to be abandoned. In the following article I discuss this problem and describe two other real life 'orphan works' case studies involving projects of the New Zealand Electronic Text Centre ('NZETC'), a not-for-profit centre which is part of the library at Victoria University of Wellington. NZETC republishes New Zealand texts (mainly those that are out-of-print and of historical value) in electronic form. See further Corbett, S "Regulation for Cultural Heritage Orphans: Time Does Matter" (2010) 2 (1) The WIPO Journal: Analysis and Debate of Intellectual Property Issues, 180.

72

How do you or your organisation deal with orphan works (general approaches, specific policies etc.)? And can you describe the time and resources you routinely spend on identifying and contacting the copyright owners of orphan works?

[Insert response here]

73

Has a copyright owner of an orphan work ever come forward to claim copyright after it had been used without authorisation? If so, what was the outcome?

[Insert response here]

74

What were the problems or benefits of the system of using an overseas regime for orphan works?

[Insert response here]

75

What problems do you or your organisation face when using open data released under an attribution only Creative Commons Licences? What changes to the Copyright Act should be considered?

[Insert response here]

Other comments

The lack of provision for orphan works hinders creative uses that could contribute to an innovative economy and also prevents best practice archival preservation (which requires many copies and ongoing migration to new platforms) for cultural heritage purposes.

Provision for the use of orphan works is urgently needed- without this, New Zealand cultural heritage institutions (CHIs) are unable to achieve their objectives in regard to many of the works in their collections. For 'born digital' works there is a serious risk that they will become unusable (due to platform or software obsolescence) before their copyright expires-and will be lost to New Zealand's digital heritage.

New Zealand's lack of a legislative process for orphan works raise the very real possibility that businesses and CHIs in overseas jurisdictions that already have orphan works legislation in place will be able to make use of New Zealand's orphan works before New Zealanders.

Enforcement of Copyright

76	How difficult is it for copyright owners to establish before the courts that copyright exists in a work and they are the copyright owners? What changes (if any) should be considered to help copyright owners take legal action to enforce their copyright?
	<i>[Insert response here]</i>
77	What are the problems (or advantages) with reserving legal action to copyright owners and their exclusive licensees? What changes (if any) should be considered?
	<i>[Insert response here]</i>
78	Should CMOs be able to take legal action to enforce copyright? If so, under what circumstances?
	<i>[Insert response here]</i>
79	Does the cost of enforcement have an impact on copyright owners' enforcement decisions? Please be specific about how decisions are affected and the impact of those decisions. What changes (if any) should be considered?
	<i>[Insert response here]</i>
80	Are groundless threats of legal action for infringing copyright being made in New Zealand by copyright owners? If so, how wide spread do you think the practice is and what impact is the practice having on recipients of such threats?
	<i>[Insert response here]</i>
81	Is the requirement to pay the \$5,000 bond to Customs deterring right holders from using the border protection measures to prevent the importation of infringing works? Are there any issues with the border protection measures that should be addressed? Please describe these issues and their impact.
	<i>[Insert response here]</i>
82	Are peer-to-peer file sharing technologies being used to infringe copyright? What is the scale, breadth and impact of this infringement?
	<i>[Insert response here]</i>
83	Why do you think the infringing file sharing regime is not being used to address copyright infringements that occur over peer-to-peer file sharing technologies?
	<i>[Insert response here]</i>
84	What are the problems (or advantages) with the infringing file sharing regime? What changes or alternatives to the infringing file sharing regime (if any) should be considered?
	<i>[Insert response here]</i>
85	What are the problems (or advantages) with the existing measures copyright owners have to address online infringements? What changes (if any) should be considered?
	<i>[Insert response here]</i>

86	Should ISPs be required to assist copyright owners enforce their rights? Why / why not? <i>[Insert response here]</i>
87	Who should be required to pay ISPs' costs if they assist copyright owners to take action to prevent online infringements? <i>[Insert response here]</i>
88	Are there any problems with the types of criminal offences or the size of the penalties under the Copyright Act? What changes (if any) should be considered? <i>[Insert response here]</i>

Other comments

[Insert response here]

Other issues: Relationship between copyright and registered design protection

89	Do you think there are any problems with (or benefits from) having an overlap between copyright and industrial design protection. What changes (if any) should be considered? <i>[Insert response here]</i>
90	Have you experienced any problems when seeking protection for an industrial design, especially overseas? <i>[Insert response here]</i>
91	We are interested in further information on the use of digital 3-D printer files to distribute industrial designs. For those that produce such files, how do you protect your designs? Have you faced any issues with the current provisions of the Copyright Act? <i>[Insert response here]</i>
92	Do you think there are any problems with (or benefits from) New Zealand not being a member of the Hague Agreement? <i>[Insert response here]</i>

Other comments

[Insert response here]

Other issues: Copyright and the Wai 262 inquiry

93	<p>Have we accurately characterised the Waitangi Tribunal’s analysis of the problems with the current protections provided for taonga works and mātauranga Māori? If not, please explain the inaccuracies.</p>
	<p><i>[Insert response here]</i></p>
94	<p>Do you agree with the Waitangi Tribunal’s use of the concepts ‘taonga works’ and ‘taonga-derived works’? If not, why not?</p>
	<p><i>[Insert response here]</i></p>
95	<p>The Waitangi Tribunal did not recommend any changes to the copyright regime, and instead recommended a new legal regime for taonga works and mātauranga Māori. Are there ways in which the copyright regime might conflict with any new protection of taonga works and mātauranga Māori?</p>
	<p><i>The permitted exceptions, in particular those for libraries and archives, may require explicit reference to any new regime and its impact on their abilities to distribute copies of works.</i></p> <p><i>The new legal regime will require careful drafting to ensure it does not clash with the Copyright Act – perhaps preventing a copyright owner from using his or her work in ways that are permitted by the Copyright Act.</i></p>
96	<p>Do you agree with our proposed process to launch a new work stream on taonga works alongside the Copyright Act review? Are there any other Treaty of Waitangi considerations we should be aware of in the Copyright Act review?</p>
	<p><i>[Insert response here]</i></p>
97	<p>How should MBIE engage with Treaty partners and the broader community on the proposed work stream on taonga works?</p>
	<p><i>[Insert response here]</i></p>

Other comments

[Insert response here]