

# Submission on review of the Copyright Act 1994: Issues Paper

## Your name and organisation

<b>Name</b>	Judith Knighton (published as Jude Knight)
<b>Organisation</b>	Titchfield Press

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## Overall comment:

I note that the Creative Sector Study paid little attention to the authors of books, particularly authors of genre fiction. It is a large sector, and the stars of that sector are authors of international renown, with corresponding tax bills. I strongly urge you to listen to the voices of genre writers, perhaps through groups such as the Romance Writers of New Zealand.

Apart from that, we human beings become the stories we tell. Books written by New Zealanders are an immensely important part of our New Zealand personality. The books we grew up with formed our personalities and our attitudes. The books we consume today shape our emotions and our thinkings. The Creative Sector Study gives half a sentence to this important reality, though it gives two paragraphs to the motives of those who write text books.

I write this submission from the perspective of a writer and independent publisher of genre fiction. Copyright allows me to make a little bit of income. It also gives me the right to object when my work is misused by being plagiarised or copied in order to provide commercial benefits to others. It really matters.

## Responses to Issues Paper questions

### Objectives

1	<p>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>
	<p>I am uncomfortable with the first objective and the second objective. Both emphasise efficiency and net benefits. Neither, as it stands, gives sufficient weight to protecting creators. The next three are great, except I’d like to see the net benefit clause built into that point:</p> <p>...minimising transaction costs, maintaining integrity and respect for the law, and working to provide net benefits for New Zealand</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>Yes, I think we need a first objective about protecting the rights of creators.</p> <p>I’d worry about a technological change objective. It should go without saying that the law should be adaptable and resilient, but writing an objective to that effect into the law isn’t going to make a blind scrap of difference if the rest of the law is rigid and non-adaptive.</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 would like to see recognition (not just in the objectives but throughout the Act) that a written work, whether fiction or non-fiction, is substantively different to other types of creative work. Music has somewhere in the region of 240 notes, plus various conventions and practices about how to order them. It’s not unlikely that one composition will include an octave or two that is like or even the same as another. With painting and photography, small changes can be sufficient to create a whole new visual impression and therefore a new work.</p> <p>In written work, the author selects words from tens of thousands (or up to a million, depending on the audiences), and places them in a specific order to produce the work. Phrases, perhaps a single sentence, would be impossible to replicate by accident. Paragraphs that are identical between works just don’t happen unless one writer copies from another.</p> <p>In a recent book world scandal, scammers have been copying paragraphs and longer passages from multiple authors and multiple books, and stringing them together to make a marketable product.</p> <p>Under current law, such remixing of a written work is banned here in New Zealand, in the USA where the scandal has broken, and in Brazil, the home of the scammer first discovered to be ‘authoring’ books using this copy and paste technique and a team of ghostwriters.</p> <p>When being generous to photographers and musicians wanting to re-mix, don’t provide a fertile soil for these pernicious weeds who call themselves authors.</p> <p>I agree with objectives in the appropriate parts of the act for moral rights, performer rights, and so on.</p>
4	<p>What weighting (if any) should be given to each objective?</p> <p>I’d like to see the objective about protecting the rights of creators given more weight. Without them to originate the works, nothing else happens.</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>[Insert response here]</i></p>
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>No, it isn't clear. Some sort of test of originality and creativity would help, perhaps.</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> <p><i>[Insert response here]</i></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>AI doesn't write novels, it regurgitates them. Machines can understand and reproduce complex patterns, but they have no understanding of what those patterns mean. The first AI written 'novel' was 'fragments of meaning thrown into a neural network blender, full of hype and fury, obeying rules in an occasionally striking way, but ultimately signifying nothing' [Hornigold; 2018]</p> <p>I have problem with the copyright residing with the person who created the AI</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 love the idea of a resale right, and not just for visual artists. Example abound in music and literature, too, of copyright being sold and then the work going on to make a lot of money. The biggest selling crime novel of the 19<sup>th</sup> century was sold for 50 pounds by its struggling Dunedin-born author, because he needed the money. The publisher made a fortune.</p> <p>The difference with visual art is the resale of the original or a small number of copies might net a reasonably large price, whereas the resale of a single music clip or a single ebook will not. In the case of the non-visual arts, the resale issue applies to entire publishing runs.</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>PEN, the Society of Authors, and others have heaps of examples. Still, if a person wants to alienate their copyright without putting limitations on that alienation, surely that's their right?</p>

12	What are the problems (or benefits) with how Crown copyright operates? What alternatives (if any) do you think should be considered?
	It's a good system, that meets public interest needs while still allowing the Crown to maintain control to the extent that they can avoid being misrepresented. Still, 50 years sounds long enough.
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?
	50 years sounds quite long enough to me
14	Are there any problems (or benefits) in providing an indefinite copyright term for the type of works referred to in section 117?
	I believe there should be a limitation of term. 50 years from date of death sound like enough time for any scandal to have lost its bite. 50 years from date of creation might not be long enough.

## 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?
	Happy with these.
16	Are there any problems (or benefits) with the secondary liability provisions? What changes (if any) should be considered?
	Happy with these
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 can see how potentially tricky this one is. Clarity in the new legislation about what an entity has to do to confirm authorisation would help a lot.

## 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?
	It's probably better to be nimble but specific rather than flexible but ambiguous
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?
	The definition is the tricky thing. If you can't redefine, then something that includes digital data is important.
21	Do you have any concerns about the implications of the Supreme Court's decision in Dixon v R? Please explain.
	I'm not sure that I see the problem. The digital file is a container for content. The content is information expressed in a particular way. What am I missing?
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'm cautious about saying 'no protection'. In my own field, we've had several instances of fan fiction sufficiently different from the original to be wildly successful as a new work. Yet casual conversations on Facebook? Not so much.
23	What are the advantages and disadvantages of not being able to renounce copyright? What changes (if any) should be considered?
	The current situation allows a person to change his or her mind and reclaim the Copyright when they find that making something free for use is allowing use in a way they don't approve. For example, a photographer might well make a photo available under a CC0 then reclaim the rights after finding it used on a blog promoting white supremacy.
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'd like a right to object to a work being used to support beliefs opposed to those of the creator. This is not necessarily derogatory treatment of the work, and the work might be being used exactly as published, but I think the law should recognise the impact on the reputation if a created work is used to promote something the creator personally disagrees with. This would only be necessary if the right to use works is not directly under the creator's control; for example, if the right to re-mix was expanded.</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>[Insert response here]</i></p>
28	<p>What are the problems (or benefits) with the TPMs protections? What changes (if any) should be considered?</p> <p><i>[Insert response here]</i></p>
29	<p>Is it clear what the TPMs regime allows and what it does not allow? Why/why not?</p> <p>I don't think the regime is clear. I can see, as technology develops, that this area will become woollier.</p> <p>For example, if I borrow a digital book from my local library, it is available only as an ePub and must be read on an ePub capable device. What if I want to read it on my Paperwhite Kindle, which reads only mobi files? I am breaking the TPM for access control reasons. Is this permitted? Or is it prohibited? Do I need to ask a librarian to provide a mobi file? Are they allowed to refuse? (And how would they resource such a service, when they're already under funded? Yet, should I be forced to read on the PC, if I have no other device capable of reading ePubs?</p> <p>Another example is the way that Apple iBooks can be used only on Apple devices, Kobo on Kobo devices, and so on.</p>

## Other comments

*[Insert response here]*

## 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>The idea of 'use for a commercial outcome' implies a judgement about intent. Yet it might be much woollier than that. I review books on the blog associated with my website. The overall intent of the website is to market my author brand, and ultimately sell books, which is clearly a commercial goal. I don't review books by other authors in order to directly sell my own, but one of the purposes of having a blog is to update content regularly is to rank higher in searches, which I want for its commercial benefits. If some sort of commercial benefit rule is brought in, do I need to get permission from authors before I review their books and illustrate them with their cover? Possibly, but who knows?</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>

40	Parody and satire are hugely important to a right-functioning society. I'd hate to see people prevented from carrying out the 'court jester' role that promotes discussion about our society.
	What problems (or benefit) are there with the use of quotations or extracts taken from copyright works? What changes, if any, should be considered?
	I would like to see the use of attributed quotations in a new work. I quite often use songs, poems, or readings in my own fiction (without copyright difficulty, since my books are largely set more than 200 years ago), and – provided the use is not derogatory or damaging to the reputation of the author – why not?

## Other comments

### Exceptions and Limitations: Exceptions for libraries and archives

41	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.
	<i>[Insert response here]</i>
42	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?
	<i>[Insert response here]</i>
43	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>I'm commenting on allowing multiple people to view a digital work at the same time. I frequently sit on waiting lists for digital copies of books I wish to read, when the library has a limited number of copies and the books are in demand. Any change to allow libraries to freely copy and share digital copies would need to be accompanied by a change in the rules around payment of authors.</p> <p>At the moment, under the Public Lending Right, authors can receive payment each year based on the number of copies held, once more than 50 copies of that book are held. The formula would need to be completely different if the library only held one copy by purchase, but shared multiple copies at the same time. The system would also potentially be unfair to non-New Zealand authors, who do not benefit from the current payment system, and who would lose the royalties on the unmade purchases.</p>
44	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?



Interesting. The National Library requires me to send my covers so they can be used in catalogues. Does sending them constitute permission for use throughout the country by any library that carries the book? Presumably. And what about bookstores? Obviously, I'm delighted if they are used, but I'm wondering now about the legal situation. Unclear? Or is it just me?

45

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?

*[Insert response here]*

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?

*[Insert response here]*

## Other comments

Orphan works is a biggie.

## 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?

*[Insert response here]*

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?

*[Insert response here]*

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?
	<i>[Insert response here]</i>
52	What are the problems (or advantages) with the way the format shifting exception currently operates? What changes (if any) should be considered?
	Up above I've mentioned format shifting of digital books. Same issue. Should I be forced to read a book only available in one format in that format, or am I locked out of the book if it is not available in a format my device can read? Can I save an archive of my digital books, or is this illegal?
53	What are the problems (or advantages) with the way the time shifting exception operates? What changes (if any) should be considered?
	<i>[Insert response here]</i>
54	What are the problems (or advantages) with the reception and retransmission exception? What alternatives (if any) should be considered?
	<i>[Insert response here]</i>
55	What are the problems (or advantages) with the other exceptions that relate to communication works? What changes (if any) should be considered?
	<i>[Insert response here]</i>
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?
	<i>[Insert response here]</i>
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?
	<i>[Insert response here]</i>

## 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?

*[Insert response here]*

## Exceptions and Limitations: Internet service provider liability

59

What are problems (or benefits) with the ISP definition? What changes, if any should be considered?

Given the encryption of data, expecting connectivity providers to even know what's in a package is ridiculous. We need a better definition. Most of the other organisations you mention are effectively publishing the material, and any measures need to balance practicalities, free speech benefits, and economic benefits with the rights of the creator.

That said, I'd hate to see New Zealand become a haven for sites that store files on behalf of others when those files are digital products belonging to creators who would otherwise be able to sell them. The research is very clear, despite what the pirate sites and their supporters say. I am individually disadvantaged when a site has copies of my books (like the infamous Pirate Bay) that it gives away free. I researched a number of sources for a blog post on this topic. Links to four of them are at the bottom of the post. <https://judeknightauthor.com/2019/03/04/here-there-be-dragons/>

In short, at the moment, the provisions provide a safe harbour for those providing a safe harbour to thieves. The sites masquerade as book shops, but with free content. In truth, the content is stolen. In history, pirate harbours were bombarded and burned, which some days would quite appeal.

I think we can assume that a site that accepts unencrypted files to be downloaded by others can have software to check for plagiarism, backed up by a visual (or auditory) check. Then takedown notices with legal teeth for the files that get missed.

A protection for a host might be a click box for the person uploading the file. Something like: "I affirm that I own the copyright to this content, or have written permission from the copyright owner."

Sorry. Getting into solutions.

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?

Not just search tools, but opinion pieces and all kinds of things. I think any exception needs to be for circumstances where the linker has no way of knowing the copyright has been infringed.

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.

*[Insert response here]*

62

What other problems (or benefits) are there with the safe harbour regime for internet service providers? What changes, if any, should be considered?

What you said. Whack-the-mole is right. The current take-down regime in the US (which I've used several times) is a joke to the sites that put the stuff up again a few days later. With modern software, such sites should be able to detect content that substantially matches content previously deleted, and should lose their safe harbour status (if any) when they allow it to be reloaded.

## Transactions

63

Is there a sufficient number and variety of CMOs in New Zealand? If not, which type copyright works do you think would benefit from the formation of CMOs in New Zealand?

*[Insert response here]*

64

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.

None at all.

65

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.

*[Insert response here]*

66

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?

*[Insert response here]*

67

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?

*[Insert response here]*

68

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.

Not personally. I've heard stories, but I tend to be a suspicious type, so I'm careful what I load.

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'd be happy to see such provisions as those mentioned about made illegal in New Zealand, as with consumer rights legislation. I'm not sure how that would help, since most of the platforms are overseas, and we have recent experience with how much they care about New Zealand law, with the FB behaviour over the Christchurch shootings.</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>
	<p><i>[Insert response here]</i></p>
72	<p>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?</p>
	<p>I don't use anything I can't find a creator or licensed owner for, unless the creator has been dead for at least 75 years. Preferably, since my blog posts and covers are available internationally, 100 years. Sometimes I fall in love with a perfect image, and will spend hours searching for who owns it, writing to them, and then waiting for a response that never comes (or comes with a price tag that is out of my reach).</p>
73	<p>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?</p>
	<p>Once I was asked to take down a photo I had used on a blog. I had been given permission to use it by someone who didn't have the right to give that permission. I took it down.</p>
74	<p>What were the problems or benefits of the system of using an overseas regime for orphan works?</p>
	<p><i>[Insert response here]</i></p>
75	<p>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?</p>
	<p><i>[Insert response here]</i></p>

## Other comments

*[Insert response here]*

## Enforcement of Copyright

76	<p>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?</p>
	<p>I publish internationally, mostly on platforms with US head offices. My readers are also international. If one of the plagiarisers I mentioned earlier saw fit to take some of my work, I would need to prove copyright in another jurisdiction. As long as I have already deposited the work at the National Library (as required by the ISBN issuing rules), I should be fine. I've been told, though, of US authors who have found a register a life saver in such a case.</p>
77	<p>What are the problems (or advantages) with reserving legal action to copyright owners and their exclusive licensees? What changes (if any) should be considered?</p>
	<p><i>[Insert response here]</i></p>
78	<p>Should CMOs be able to take legal action to enforce copyright? If so, under what circumstances?</p>
	<p><i>[Insert response here]</i></p>
79	<p>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?</p>
	<p><i>[Insert response here]</i></p>
80	<p>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?</p>
	<p><i>[Insert response here]</i></p>
81	<p>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.</p>
	<p><i>[Insert response here]</i></p>
82	<p>Are peer-to-peer filing sharing technologies being used to infringe copyright? What is the scale, breadth and impact of this infringement?</p>
	<p>Absolutely they are. Big time. I'm a small independent publisher, and a mid-list author with a small but loyal readership. Every one of my books has been made available on peer-to-peer sharing – usually some version of Torrent, most within a few hours of publication. Every author I know has the same experience, and that's just one industry.</p>
83	<p>Why do you think the infringing filing sharing regime is not being used to address copyright infringements that occur over peer-to-peer file sharing technologies?</p>

	Because the site owners are overseas. Because they pop back up again hydra-like. May every one of them get computer viruses. And warts.
84	What are the problems (or advantages) with the infringing file sharing regime? What changes or alternatives to the infringing filing share regime (if any) should be considered?
	It seems like a good idea. But we are a tiny country on the edge of the world. If someone can think of something to help, it would be great.
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

The big problem I see is that people see copyright infringement as a non-crime, and creators of content (particularly authors and film makers) as a rich elite. Law is not going to change this view. Even the term 'pirate' has been chosen to give a kind of a swashbuckling glamour to plain theft. Any historian, or even international sailor, has a much more realistic view of piracy.

If we value our creators, we need to support and defend them. Legislation can at least indicate how important creators are.

## 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?

*[Insert response here]*

92

Do you think there are any problems with (or benefits from) New Zealand not being a member of the Hague Agreement?

*[Insert response here]*

## Other comments

*[Insert response here]*

## Other issues: Copyright and the Wai 262 inquiry

93

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.

*[Insert response here]*

94

Do you agree with the Waitangi Tribunal's use of the concepts 'taonga works' and 'taonga-derived works'? If not, why not?

*[Insert response here]*

95

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?

*[Insert response here]*

96

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?

*[Insert response here]*

97

How should MBIE engage with Treaty partners and the broader community on the proposed work stream on taonga works?

*[Insert response here]*



**Other comments**

*[Insert response here]*