

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?

NDF generally agrees with the five objectives. Objective 2 could be clarified to ensure "...likely to have net benefits for New Zealand" doesn't only refer to commercial benefit. In line with the Living Standards Framework, objective 2 could more clearly articulate social and human benefits of access to, reuse of and adaption of in-copyright material, sometimes over and above primary financial benefit.

With experience of our member's difficulties with copyright, Objective 3 is probably the most difficult and important. The complexity of existing copyright law, across formats, creation dates and copyright durations make it difficult for GLAM organisations to efficiently provide access to NZ culture, and even more difficult for the public to understand the rules. This is one reason organisations are not providing access to content the public need.

Objective 4 seems difficult to achieve as international obligations appear to change out of synchronisation with New Zealand legislation changes. Should the objective be updated to better reflect this ongoing uncertainty to "position NZ to align with and respond to international obligations".

2

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?

NDF agrees an additional objective should be to address current, and future technology uncertainty. Neither the 1994 Act nor the 2008 changes managed to address this suitably. In 2019 we now have enough experience the internet era and recent innovations, and enough insight into the potential of machine processing, machine learning, AI, 3D technologies, AR/VR/MR, non-paper and non-screen outputs, and other technologies to better create legislation that is clear, but adaptable for the immediate future, with review in 5 or so years.

The objective should be to address technology changes in a way that is not so prescriptive as to exclude unknown technologies, but also to address technology issues in a discrete enough fashion within the legislature it can be considered and updated as required, without requiring changes to significant other parts of the act.

3

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.

No response

4

What weighting (if any) should be given to each objective?

NDF believes at this point weighting of objectives would overcomplicate the review, but, based on our members' and the GLAM sector's ongoing difficulty with balancing the objectives of the culture and heritage sector and the copyright framework, steps towards Objective 3, particularly a clear, efficient and balanced copyright model would be the highest priority.

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

5

What are the problems (or advantages) with the way the Copyright Act categorises works?

The current categories are based on 20th century models which no longer clearly apply. Not only do they introduce blurred boundaries for professionals creating new works, they are completely confusing for the general public. The complexity of categorisation combined with the different starting points and durations of copyright appear to have grown over time, and have become overly cumbersome, we would argue, for little benefit for either creators or consumers.

The complexities of multiple "works", e.g. recorded music, audio-visual works, or commissioned and published artwork such as music posters and record covers make it near impossible for the heritage sector to provide any access to these Tāonga, even at the simplest level.

6

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?

No, it is not clear what 'skill, effort and judgement' mean, and yes, it does mean it allows to a too wide interpretation for locking down copies. More importantly, with technology constantly moving to remove "skill and effort" it is becoming increasingly difficult to argue the "creative spark" of what a copy might be.

For example, some GLAM organisations have been taking digital photographs of 2 dimensional and 3d objects, and mistakenly claiming new copyright in the resultant copies, with the belief that lighting and photography techniques introduce new creativity, even when applied to production line production processes. This has created unnecessary barriers to access to out-of-copyright works.

Movement in technology is making that perceived "skill" even more redundant, across a number of formats. For example, 123D catch (first introduced in 2009, and replaced by more competitive versions since then)

https://en.wikipedia.org/wiki/Autodesk_123D allowed users to take a number of photographs, with a consumer level camera or even smartphone, of a 3d object, and the cloud service would create a digital 3d model of the photographed object. This technology, which has been around for 10 years already, is the tip of the iceberg in terms of making digital versions of original works without much human skill. AI and Machine learning, combined with automontage, autostiching, image recognition, OCR etc are only going to increase the ease of accurate copying. Without clear guidance, this is going to continue to get in the way of access to the primary intellectual work, the original object.

7

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?

Many GLAM organisations (and other sectors) create data sets related to the collection of many individual intellectual objects (artworks, Taonga, Literary works etc). The data itself is not the intellectual works, but a description of a collection. However databases often include new original content (e.g. curatorial writing, scientific analysis, stories supplied by family members about a taonga) within the "data", making it difficult to separate, and require licence stacking. While this is not ideal, it should be made clear that you cannot assume just because it is a database it doesn't have original content in it.

8

What are the problems (or benefits) with the way the default rules for copyright ownership work? What changes (if any) should we consider?

No response

9

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?

This is closely related to question 6 regarding “skill effort and judgement”, “creative spark” and possibly creator’s intent. There needs to be consideration as to whether the AI is a tool, like Photoshop, or like Google’s recent Night Sight camera which uses on-board AI to create low light images that previous technologies) limited by traditional lenses and physics have been unable to achieve, even with high-end images sensors. <https://ai.googleblog.com/2018/11/night-sight-seeing-in-dark-on-pixel.html>. In these cases it could be argued to be the distinction of the input that determines the copyright of the output, not the tool that is used in the middle.

10

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?

No response

11

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?

No response

12

What are the problems (or benefits) with how Crown copyright operates? What alternatives (if any) do you think should be considered?

NDF believes:

The 100 year copyright term for Crown works is inconsistent with other creators, prohibitive for making New Zealand's culture (with Government being a key actor in shaping and reflecting NZ), and is at odds with the changing face of modern democracies being open, rather than closed. We believe consideration should be made to reduce Crown Copyright to 50 years, or removing it entirely, and relying on "normal" copyright, and an increased use of the NZ-GOAL framework to release relevant content as soon as possible for access and reuse where appropriate.

There are government mechanisms other than Copyright available to protect sensitive government material, and using a blanket copyright rule above and beyond standard rules, unfairly blocks NZ from New Zealanders.

NDF members have also had many difficulties tracking down Crown copyright owners as the machines and structures of Government change so frequently, many departments and agencies, particularly for 50-100 years ago, no longer exist, now locking up content.

NDF also has seen evidence of members of the public, and Iwi been locked away from content that should be available (often content that was taken from them, or is about them) due to the inefficiency of Crown Copyright.

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?

No response

14

Are there any problems (or benefits) in providing an indefinite copyright term for the type of works referred to in section 117?

No response

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? |
| | No response |
| 16 | Are there any problems (or benefits) with the secondary liability provisions? What changes (if any) should be considered? |
| | No response |
| 17 | What are the problems (or advantages) with the way authorisation liability currently operates? What changes (if any) do you think should be considered? |
| | No response |

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? |
| | No response |
| 19 | What problems (or benefits) are there with communication works as a category of copyright work? What alternatives (if any) should be considered? |
| | No response |
| 20 | What are the problems (or benefits) with using 'object' in the Copyright Act? What changes (if any) should be considered? |

| | |
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| | No response |
| 21 | Do you have any concerns about the implications of the Supreme Court's decision in Dixon v R? Please explain. |
| | No response |
| 22 | What are the problems (or benefits) with how the Copyright Act applies to user-generated content? What changes (if any) should be considered? |
| | NDF supports the Submissions of LIANZA and Te Papa in relation to question 22. In particular the importance of user generated content in the creativity and identity of all NZ. The right to create and the right to protect (or release) should apply equally to blogs, fanfiction and memes as it does to published books and an artwork in a national collection. |
| 23 | What are the advantages and disadvantages of not being able to renounce copyright? What changes (if any) should be considered? |
| | No response |
| 24 | Do you have any other concerns with the scope of the exclusive rights and how they can be infringed? Please describe. |
| | No response |

Other comments

No response

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

| | |
|----|---|
| 25 | 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? |
| | No response |

| | |
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| 26 | What are the problems (or benefits) with providing performers with greater rights over the sound aspects of their performances than the visual aspects? |
| | No response |
| 27 | 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? |
| | No response |
| 28 | What are the problems (or benefits) with the TPMs protections? What changes (if any) should be considered? |
| | No response |
| 29 | Is it clear what the TPMs regime allows and what it does not allow? Why/why not? |
| | No response |

Other comments

[Insert response here]

Exceptions and Limitations: Exceptions that facilitate particular desirable uses

| | |
|----|--|
| 30 | 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? |
| | No response |

| | |
|----|--|
| 31 | 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? |
| | No response |
| 32 | What are the problems (or benefits) with photographs being excluded from the exception for news reporting? What changes (if any) should be considered? |
| | No response |
| 33 | What other problems (or benefits), if any, have you experienced with the exception for reporting current events? What changes (if any) should be considered? |
| | No response |
| 34 | What are the problems (or benefits) with the exception for incidental copying of copyright works? What changes (if any) should be considered? |
| | No response |
| 35 | What are the problems (or benefits) with the exception transient reproduction of works? What changes (if any) should be considered? |
| | No response |
| 36 | What are the problems (or benefits) with the way the copyright exceptions apply to cloud computing? What changes (if any) should be considered? |
| | No response |
| 37 | Are there any other current or emerging technological processes we should be considering for the purposes of the review? |
| | No response |

| | |
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| 38 | 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>The GLAM sector holds a vast body of hidden knowledge in the nations text, data and image collections, that could be used to create new knowledge, or provide better access to existing collections. For example, using Google’s image recognition and tagging technology, combined with NZ’s heritage collection of images and information, we could train the AI to understand the difference between canoe (the current default) and waka, and vaka; or house, whare and fale. However, making the complete data- and image sets available for these types of processes is currently blocked by the interpretation of the copyright laws.</p> <p>Clarity around the safe sharing of content for non-expressive use needs to be provided to allow NZ heritage collections to help create better tools for understanding, sharing and describing our documentary heritage.</p> |
| 39 | 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? |
| | No response |
| 40 | What problems (or benefit) are there with the use of quotations or extracts taken from copyright works? What changes, if any, should be considered? |
| | No response |

Other comments

[Insert response here]

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. |
| | No response |
| 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? |

NDF supports the LIANZA submission for question 42:
“The Copyright Act does not provide enough flexibility for libraries and archives to copy, archive and make available to the public digital content published over the internet. The libraries of educational establishments have some provision under section 44A, but otherwise only the National Library (under the National Library (Te Puna Mātauranga o Aotearoa) Act 2003) can do this for “public documents”.

The National Library cannot collect everything, and its collection of born-digital content is necessarily selective. The lack of flexibility in the Act means that most New Zealand libraries are unable to copy, archive and make available into the future born-digital content which may be of value to their user community.

We recommend that MBIE, the National Library and LIANZA together consider how libraries could support the National Library in ensuring that freely available born-digital content of value to their communities can be collected, preserved and made available.”

Please also see response to question 46, and the same need for exemption and flexibility for Museums and Galleries.

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?

NDF supports the LIANZA response to question 43.

NDF also points out the difficulty in making collections available to the public for access is even more limited for Museums and Galleries as the Act does not provide the same mechanism for those types of collecting institutions even though the collections and purposes have significant overlap.

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?

NDF supports the LIANZA response to question 44

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?

No response

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?

NDF has members from across the Gallery, Library, Archive and Museum sector. NDF basically exists as an organisation and network because of the significant overlap in purpose; collection of art, heritage and science for NZ, for preservation and access, in an internet age. The issues of copyright have been a consistent theme across our community and particularly our conferences and workshops since 2002, across all partners.

As well as the obvious and significant overlap in the purpose of the GLAM sector from within, probably more important is the fact that the general public understandably does not see a difference between museums, libraries and archives, particularly online. When looking for digital content that is of interest to their subject or research areas they look to the internet, or go to the organisations they know, local or national. However, with museums and galleries having significant blocks on providing digital access to heritage information, the public is often frustrated with knowing galleries and museums have what they are interested in, but do not make it available it online.

Other comments

[Insert response here]

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?

No response

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

No response

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

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|----|--|
| | No response |
| 50 | Is copyright well understood in the education sector? What problems does this create (if any)? |
| | No response |

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? |
| | No response |
| 52 | What are the problems (or advantages) with the way the format shifting exception currently operates? What changes (if any) should be considered? |
| | As stated in the issues document, currently format shifting, like much of the Act, is tied to specific formats, limiting real world use. The exemption should be tied to purpose, not format or technology. |
| 53 | What are the problems (or advantages) with the way the time shifting exception operates? What changes (if any) should be considered? |
| | No response |
| 54 | What are the problems (or advantages) with the reception and retransmission exception? What alternatives (if any) should be considered? |
| | No response |

| | |
|----|---|
| 55 | What are the problems (or advantages) with the other exceptions that relate to communication works? What changes (if any) should be considered? |
| | No response |
| 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? |
| | No response |
| 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? |
| | No response |

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? |
| | No response |

Exceptions and Limitations: Internet service provider liability

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|----|---|
| 59 | What are problems (or benefits) with the ISP definition? What changes, if any should be considered? |
|----|---|

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|----|--|
| | No response |
| 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? |
| | No response |
| 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. |
| | No response |
| 62 | What other problems (or benefits) are there with the safe harbour regime for internet service providers? What changes, if any, should be considered? |
| | No response |

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? |
| | No response |
| 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. |
| | No response |
| 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. |

| | |
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| | No response |
| 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? |
| | No response |
| 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? |
| | No response |
| 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. |
| | No response |
| 69 | 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? |
| | No response |
| 70 | 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? |
| | No response |

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.

NDF supports the LIANZA response to this question:

"In our 2017 survey of New Zealand libraries, 40% of respondents reported that they had not proceeded with digitising materials because of copyright concerns, and chief among the reasons given for this was the inability to identify or locate rights holders. 37% of respondents had not made material available online because of copyright, with a key issue again being the inability to identify or contact rights holders. The 'public good' role of libraries and in some cases, their legislated function, is to provide access to their collections to the public. Access today is not only visiting the library in person: public expectation is for content to be available online. Library collections contain a great number of works which are no longer commercially available. Where rights holders for these cannot be identified or contacted, copyright is constraining libraries in fulfilling their role and also undermining the achievement of proposed objective 2, to "permit reasonable access to works for use, adaptation and consumption where exceptions to exclusive rights are likely to have net benefits for New Zealand."

It is worth noting that it is not only "old works" which are a problem; works from any era can become orphaned, including relatively 'young' works."

NDF represents a range of organisations that deal with differing types of heritage collections including personal documentary heritage, photographs, artworks, commercial and domestic ware, books, music etc. All of these can lose connection to their creators through a number of means, often through no fault of the collecting organisation. This means having to go through the usually arduous process of the diligent search, which is not within the time and resources available to many organisations. The burden is particularly heavy on museums and galleries who currently have no other exceptions in the act to work under.

As a result, most organisations have significant collections that are not available to the public simply because we have no mechanism to work within the act, even though risk is low, and making them available is probably one of the best ways to locate the original owner.

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?

Due to member and sector demand, NDF has hosted a number of copyright workshops to assist GLAM organisations with developing strategies to deal with orphan works and other facets of copyright law as it applies to the sector. The fact that these workshops have been in demand for several years indicates that the process for dealing with orphan works is cumbersome and confusing.

<https://ndf2017.sched.com/event/C0xa/copyright-duration-101>

| | |
|----|---|
| 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? |
| | NDF supports the submission of Te Papa for the repose to question 73. |
| 74 | What were the problems or benefits of the system of using an overseas regime for orphan works? |
| | No response |
| 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? |
| | No response |

Other comments

[Insert response here]

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? |
| | No response |
| 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? |
| | No response |

| | |
|----|---|
| 78 | Should CMOs be able to take legal action to enforce copyright? If so, under what circumstances? |
| | No response |
| 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? |
| | No response |
| 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? |
| | No response |
| 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. |
| | No response |
| 82 | Are peer-to-peer file sharing technologies being used to infringe copyright? What is the scale, breadth and impact of this infringement? |
| | No response |
| 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? |
| | No response |
| 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? |

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| | No response |
| 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? |
| | No response |
| 86 | Should ISPs be required to assist copyright owners enforce their rights? Why / why not? |
| | No response |
| 87 | Who should be required to pay ISPs' costs if they assist copyright owners to take action to prevent online infringements? |
| | No response |
| 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? |
| | No response |

Other comments

[Insert response here]

Other issues: Relationship between copyright and registered design protection

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| 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? |
| | No response |

| | |
|----|--|
| 90 | Have you experienced any problems when seeking protection for an industrial design, especially overseas? |
| | No response |
| 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? |
| | No response |
| 92 | Do you think there are any problems with (or benefits from) New Zealand not being a member of the Hague Agreement? |
| | No response |

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. |
| | No response |
| 94 | Do you agree with the Waitangi Tribunal’s use of the concepts ‘taonga works’ and ‘taonga-derived works’? If not, why not? |
| | No response |

| | |
|----|---|
| 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? |
| | No response |
| 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? |
| | <p>NDF agrees a taonga stream should be a separate, but parallel to the Copyright Act review. That way the taonga stream can limit contradictions in the highly western-structured Copyright Act, and hopefully allow each resultant piece of work to be independently successful.</p> <p>NDF suggests it might be useful to include, among others, Crown organisations who already have strong working relationships with iwi and Māori creators and communities, who act as kaitiakitanga for taonga, such as Te Papa and NLNZ.</p> |
| 97 | How should MBIE engage with Treaty partners and the broader community on the proposed work stream on taonga works? |
| | No response |

Other comments

The National Digital Forum (Incorporated, 2011) is a network of Gallery, Library, Archive and Museum sector people working together to enhance digital interaction with culture and heritage in New Zealand. We run an annual conference, arrange local events, and support professional development opportunities.

While the NDF board includes representatives from Te Papa, NLNZ, Archives NZ, and Ministry for Culture and Heritage, this submission is from the NDF Board, representing the NDF members.

National Digital Forum workshops and presentations on copyright in the cultural sector.

2018

- Traditional knowledge and copyright. Mark Boddington, Scientific Science and Systems. National Digital Forum Conference
<https://www.youtube.com/watch?v=BbhrWxqQio8&index=3&list=PLitfMzpMy7R9joaF0TN96TTApeOCpHrH0>

2017

- *Access and the Digital Surrogate: Openness as a philosophy*, Andrea Wallace. National Digital Forum Conference
<https://www.youtube.com/watch?v=crKUlxIX3sY>
- *Copyright Duration 101 workshop*: Victoria Leachman, Te Papa. National Digital Forum Conference
<https://ndf2017.sched.com/event/C0xa/copyright-duration-101>
- *Te Papa's Intellectual Property Strategy*, Victoria Leachman, Te Papa; . National Digital Forum Conference
<https://www.youtube.com/watch?v=sT76JeEwPac>

2016

- *Copyright Workshop*: Facilitator: Victoria Leachman, Te Papa & Sarah Powell, Auckland Museum. National Digital Forum Conference
- *Copyright Panel Q and A*: Sarah Powell, Victoria Leachman, Kim Gutchlag & Fiona Fieldsend (Auckland War Memorial Museum, Te Papa, National Library). National Digital Forum Conference.
<https://www.youtube.com/watch?v=CIsGr4fK9Nc&index=3&list=PLitfMzpMy7R8yqGM8WEpicClIpTAWlgYY>

2015

- *How filmmakers use your stuff*, José Barbosa. National Digital Forum Conference
<https://www.youtube.com/watch?v=uEyc6qCSHNO&list=PLitfMzpMy7R-kDfz1Xhnh7xktTPQ-6GdL&index=5>
- *Getting it right on rights*, Victoria Leachman, Te Papa. National Digital Forum Conference
<https://www.youtube.com/watch?v=qDmFmTg3mpE&index=15&list=PLitfMzpMy7R8B2lsZibwNylaq8tWO1VJK>
- Open data is table stakes Glen Barnes, MyTours. National Digital Forum Conference
<https://www.youtube.com/watch?v=emIEqS6XoXY&list=PLitfMzpMy7R9vdCm-Cpzfo7kcuDgs3-rE&index=1>

2014

- *Universal Access to All Knowledge*, Brewster Kahle, Internet Archive. National Digital Forum Conference
<https://www.youtube.com/watch?v=7K9QE1vSHJU&index=1&list=PLitfMzpMy7R->

[lZsglj1bOX1CAzoUEpqB5](#)

- *Traditional knowledge and copyright*, Mark Boddington, Scientific Software and Systems Ltd. National Digital Forum Conference
<https://www.youtube.com/watch?v=BbhrWxqQio8&index=3&list=PLitfMzpMy7R9joaF0TN96TTApeOCpHrH0>
- *Digital commons or digital enclosures?* Alex Clark, School of Information Management, Victoria University of Wellington. National Digital Forum Conference
<https://www.youtube.com/watch?v=HqXwMosvqEc&list=PLitfMzpMy7R9joaF0TN96TTApeOCpHrH0&index=6>
- *Creative Commons for GLAMs 101*, Matt McGregor, Creative Commons Aotearoa New Zealand. National Digital Forum Conference
- *Open access: The experience at Te Papa*, Philip Edgar and Adrian Kingston, Museum of New Zealand Te Papa Tongarewa. National Digital Forum Conference

2013

- *Making the case for 'open' - reimagining Museum Victoria's approach to collections information access*, Ely Wallis, Museum Victoria. National Digital Forum Conference
<https://www.youtube.com/watch?v=aRDoWKuf3Xg&index=5&list=PLitfMzpMy7R8vwhvajOF48e6NIof79vj>

2009

- *Why Free Use is Fair*, Lewis Brown, Senior Advisor at Digital New Zealand. National Digital Forum Conference
<https://www.slideshare.net/wiselark/why-free-use-is-fair>

2008

- *What's 'public' about the 'public domain'? Is copyright's flipside a flop?* Graeme Austin; National Digital Forum Conference
<http://www.ndf.org.nz/ndf2008>

2005

- *Digital Copyright Review*: Victoria Pearson, Senior Analyst, Ministry of Economic Development. National Digital Forum Conference
http://web.archive.org/web/20061004071132/http://ndf.natlib.govt.nz/downloads/forum04/VictoriaPearson_files/frame.htm

2002

- *Copyright in the Digital Environment*. Andrew Matangi, Buddle Finlay. National Digital Forum Conference