	Copyright Act 1994 Review: Is	ssues Paper - Online submission
#38 COMPLETE Collector:	Web Link 1 (Web Link)	
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Q2 Your email ac	Idress	
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Page 3: Question navigation

Q6 Which of the following subjects in the Issues Paper do you wish to answer questions on?

Part 8, (Other issues) Section 2 - copyright and the Wai 262 inquiry

Page 4: Objectives

Q7 Q1 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?	Respondent skipped this question
Q8 Q2Are 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?	Respondent skipped this question
Q9 Q3Should 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.	Respondent skipped this question
Q10 Q4What weighting (if any) should be given to each objective?	Respondent skipped this question
Page 5: Rights: What does copyright protect and who	gets the rights?
Q11 Q5What are the problems (or advantages) with the way the Copyright Act categorises works?	Respondent skipped this question
Q12 Q6Is it clear what 'skill, judgement and labour' 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?	Respondent skipped this question
Q13 Q7Are 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?	Respondent skipped this question
Q14 Q8What are the problems (or benefits) with the way the default rules for copyright ownership work? What changes (if any) should we consider?	Respondent skipped this question
Q15 Q9What 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?	Respondent skipped this question

Q16 Q10What 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?	Respondent skipped this question
Q17 Q11What 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?	Respondent skipped this question
Q18 Q12What are the problems (or benefits) with how Crown copyright operates? What alternatives (if any) do you think should be considered?	Respondent skipped this question
Q19 Q13Are 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?	Respondent skipped this question
Q20 Q14Are there any problems (or benefits) in providing an indefinite copyright term for the type of works referred to in section 117?	Respondent skipped this question
Q21 Any other comments on Rights: what does copyright protect and who gets the rights?	Respondent skipped this question
Page 6: Rights: What actions does copyright reserve for	or copyright owners?
Q22 Q15Do 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?	Respondent skipped this question
Q23 Q16Are there any problems (or benefits) with the secondary liability provisions? What changes (if any) should be considered?	Respondent skipped this question
Q24 Q17What are the problems (or advantages) with the way authorisation liability currently operates? What changes (if any) do you think should be considered?	Respondent skipped this question
Q25 Any other comments on Rights: what actions does copyright reserve for copyright owners?	Respondent skipped this question

Page 7: Rights: Specific issues with the current rights Q26 Q18What are the problems (or advantages) with the way the right of communication to the public operates? What changes, if any, might be needed?	Respondent skipped this question
Q27 Q19What problems (or benefits) are there with communication works as a category of copyright work? What alternatives (if any) should be considered?	Respondent skipped this question
Q28 Q20What are the problems (or benefits) with using 'object' in the Copyright Act? What changes (if any) should be considered?	Respondent skipped this question
Q29 Q21Do you have any concerns about the implications of the Supreme Court's decision in Dixon v R? Please explain.	Respondent skipped this question
Q30 Q22What are the problems (or benefits) with how the Copyright Act applies to user-generated content? What changes (if any) should be considered?	Respondent skipped this question
Q31 Q23What are the advantages and disadvantages of not being able to renounce copyright? What changes (if any) should be considered?	Respondent skipped this question
Q32 Q24Do you have any other concerns with the scope of the exclusive rights and how they can be infringed? Please describe.	Respondent skipped this question
Q33 Any other comments on Rights: specific issues with the current rights	Respondent skipped this question
Page 8: Rights: Moral rights, performers' rights and ted	chnological protection measures
Q34 Q25What 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?	Respondent skipped this question
Q35 Q26What are the problems (or benefits) with providing performers with greater rights over the sound aspects of their performances than the visual aspects?	Respondent skipped this question

Q36 Q27Will 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?	Respondent skipped this question
Q37 Q28What are the problems (or benefits) with the TPMs protections? What changes (if any) should be considered?	Respondent skipped this question
Q38 Q29Is it clear what the TPMs regime allows and what it does not allow? Why/why not?	Respondent skipped this question
Q39 Any other comments on Rights: moral rights, performers' rights and technological protection measures	Respondent skipped this question
Page 9: Exceptions and Limitations: Exceptions that fa	acilitate particular desirable uses
Q40 Q30Do 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?	Respondent skipped this question
Q41 Q31What 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?	Respondent skipped this question
Q42 Q32What are the problems (or benefits) with photographs being excluded from the exception for news reporting? What changes (if any) should be considered?	Respondent skipped this question
Q43 Q33What other problems (or benefits), if any, have you experienced with the exception for reporting current events? What changes (if any) should be considered?	Respondent skipped this question
Q44 Q34What are the problems (or benefits) with the exception for incidental copying of copyright works? What changes (if any) should be considered?	Respondent skipped this question

Q45 Q35What are the problems (or benefits) with the exception transient reproduction of works? What changes (if any) should be considered?	Respondent skipped this question
Q46 Q36What are the problems (or benefits) with the way the copyright exceptions apply to cloud computing? What changes (if any) should be considered?	Respondent skipped this question
Q47 Q37Are there any other current or emerging technological processes we should be considering for the purposes of the review?	Respondent skipped this question
Q48 Q38What problems (or benefits) are there with copying of works for non-expressive uses like datamining. What changes, if any, should be considered?	Respondent skipped this question
Q49 Q39What 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?	Respondent skipped this question
Q50 Q40What problems (or benefit) are there with the use of quotations or extracts taken from copyright works? What changes, if any, should be considered?	Respondent skipped this question
Q51 Any other comments on Exceptions and Limitations: exceptions that facilitate particular desirable uses	Respondent skipped this question
Page 10: Exceptions and limitations: Exceptions for lib	oraries and archives
Q52 Q41 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.	Respondent skipped this question
Q53 Q42 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?	Respondent skipped this question

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Q54 Q43Does 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?	Respondent skipped this question		
Q55 Q44Does 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?	Respondent skipped this question		
Q56 Q45What 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?	Respondent skipped this question		
Q57 Q46What 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?	Respondent skipped this question		
Q58 Any other comments on Exceptions and Limitations: exceptions for libraries and archives	Respondent skipped this question		
Page 11: Exceptions and limitations: Exceptions for education			
Q59 Q47Does 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?	Respondent skipped this question		
Q60 Q48Are the education exceptions too wide? What are the problems with (or benefits arising from) this? What changes (if any) should be considered?	Respondent skipped this question		
Q61 Q49Are the education exceptions too narrow? What are the problems with (or benefits arising from) this? What changes (if any) should be considered?	Respondent skipped this question		

Q62 Q50Is copyright well understood in the education sector? What problems does this create (if any)?	Respondent skipped this question
Q63 Any other comments on Exceptions and Limitations: exceptions for education	Respondent skipped this question
Page 12: Exceptions and limitations: Exceptions relating Q64 Q51What 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?	ng to the use of particular categories of works Respondent skipped this question
Q65 Q52What are the problems (or advantages) with the way the format shifting exception currently operates? What changes (if any) should be considered?	Respondent skipped this question
Q66 Q53What are the problems (or advantages) with the way the time shifting exception operates? What changes (if any) should be considered?	Respondent skipped this question
Q67 Q54What are the problems (or advantages) with the reception and retransmission exception? What alternatives (if any) should be considered?	Respondent skipped this question
Q68 Q55What are the problems (or advantages) with the other exceptions that relate to communication works? What changes (if any) should be considered?	Respondent skipped this question
Q69 Q56Are the exceptions relating to computer programmes working effectively in practice? Are any other specific exceptions required to facilitate desirable uses of computer programs?	Respondent skipped this question
Q70 Q57Do 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?	Respondent skipped this question
Q71 Any other comments on Exceptions and limitations: exceptions relating to the use of particular categories of works	Respondent skipped this question

Page 13: Exceptions	and limitations:	Contracting	out of the	exceptions

Q72 Q58What 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?

Respondent skipped this question

Page 14: Exceptions and limitations: Internet service provider liability

Q73 Q59What are problems (or benefits) with the ISP definition? What changes, if any should be considered?

Respondent skipped this question

Q74 Q60Are 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?

Respondent skipped this question

Q75 Q61Do 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.

Respondent skipped this question

Q76 Q62What other problems (or benefits) are there with the safe harbour regime for internet service providers? What changes, if any, should be considered?

Respondent skipped this question

Page 15: Transactions

Q77 Q63Is 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?

Respondent skipped this question

Q78 Q64If 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.

Respondent skipped this question

Q79 Q65If 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.

Q80 Q66What 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?	
Q81 Q67Which 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?	Respondent skipped this question
Q82 Q68Has 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.	Respondent skipped this question
Q83 Q69What 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?	Respondent skipped this question
Q84 Q70Do 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?	
Q85 Q71Have 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.	Respondent skipped this question
Q86 Q72 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?	Respondent skipped this question
Q87 Q73Has 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?	Respondent skipped this question
Q88 Q74What were the problems or benefits of the system of using an overseas regime for orphan works?	Respondent skipped this question

Q89 Q75What 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?	Respondent skipped this question
Q90 Any other comments on Transactions	Respondent skipped this question
Page 16: Enforcement of Copyright Q91 Q76How 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?	Respondent skipped this question
Q92 Q77What are the problems (or advantages) with reserving legal action to copyright owners and their exclusive licensees? What changes (if any) should be considered?	Respondent skipped this question
Q93 Q78Should CMOs be able to take legal action to enforce copyright? If so, under what circumstances?	Respondent skipped this question
Q94 Q79Does 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?	Respondent skipped this question
Q95 Q80Are 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?	Respondent skipped this question
Q96 Q81Is 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.	Respondent skipped this question
Q97 Q82Are peer-to-peer filing sharing technologies being used to infringe copyright? What is the scale, breadth and impact of this infringement?	Respondent skipped this question

Q98 Q83Why 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?	Respondent skipped this question		
Q99 Q84What 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?	Respondent skipped this question		
Q100 Q85What are the problems (or advantages) with the existing measures copyright owners have to address online infringements? What changes (if any) should be considered?	Respondent skipped this question		
Q101 Q86Should ISPs be required to assist copyright owners enforce their rights? Why / why not?	Respondent skipped this question		
Q102 Q87Who should be required to pay ISPs' costs if they assist copyright owners to take action to prevent online infringements?	Respondent skipped this question		
Q103 Q88Are there any problems with the types of criminal offences or the size of the penalties available under the Copyright Act? What changes (if any) should be considered?	Respondent skipped this question		
Q104 Any other comments on Enforcement of copyright	Respondent skipped this question		
Page 17: Other Issues: Relationship between copyright and registered design protection			
Q105 Q89Do 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?	Respondent skipped this question		
Q106 Q90Have you experienced any problems when seeking protection for an industrial design, especially overseas?	Respondent skipped this question		
Q107 Q91We 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?	Respondent skipped this question		

Q108 Q92Do you think there are any problems with (or benefits from) New Zealand not being a member of the Hague Agreement?

Respondent skipped this question

Q109 Any other comments on Other Issues: Relationship between copyright and registered design protection

Respondent skipped this question

Page 18: Other issues: Copyright and the Wai 262 inquiry

Q110 Q93Have 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.

The Copyright Act Review issues paper (from page 115) stated:

The Waitangi Tribunal did not recommend that any changes be made to the Copyright Act (or any of the relevant IP regimes) to deal with taonga works and mātauranga Māori. The Waitangi Tribunal's view was that the claimants' concerns should be addressed through a new legal regime for taonga works and mātauranga Māori.

- •The new regime would:
- •provide two new objection mechanisms:
- •general objection mechanism to prohibit the derogatory or offensive use of taonga works, taonga-derived works and mātauranga Māori •mechanism by which kaitiaki could prevent any commercial exploitation of taonga works or mātauranga Māori unless there has been consultation with the relevant kaitiaki and, if found appropriate, kaitiaki consent
- •establish an expert commission on taonga works, taonga-derived works and mātauranga Māori to:
- · administer these new objection processes
- · maintain a register of kaitaki and their mātauranga Māori or taonga works
- publish best-practice guidelines for the use, care, protection, and custody of mātauranga Māori, taonga works and taonga-derived works
- facilitate the development of principles on which to base decisions about the nature of kaitiaki involvement in the commercial use of taonga works

The standalone regime recommended by the Waitangi Tribunal would be separate from, and independent of, the current intellectual property laws. However, the Waitangi Tribunal also acknowledged that such a regime would need to interface with the current intellectual property system. It could affect, for example, how copyright arises, and whether trade marks or registered designs can be granted and enforced.

This is an accurate characterisation of the Waitangi Tribunal's analysis of issues relating to the Copyright Act.

Q111 Q94Do you agree with the Waitangi Tribunal's use of the concepts 'taonga works' and 'taonga-derived works'? If not, why not?

Q112 Q95The 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?

The standalone regime recommended by the Waitangi Tribunal would be separate from, and independent of, the current intellectual property laws. However, the Waitangi Tribunal also acknowledged that such a regime would need to interface with the current intellectual property system. It could affect, for example, how copyright arises, and whether trade marks or registered designs can be granted and enforced.

As the world evolves so is Matauranga Maori, at present there are many restrictions and a uncertain clarity for the protection and use of Matauranga, it should be taken into account that innovative creative designs are why this regime exists and therefore should remember through development comes changes that can cause conflict in the future should this framework not be adequate.

The collection of Information through the Waitangi Tribunal Hearings process is a Commission of inquiry under the Commission of inquiries Act1908. it then follows the Tribunal comes under s60 of the Copyright Act as a commission of inquiry. These documents contain information given by individuals that contain elements of Matauranga Maori that will require protection and recognition of those her delivered it and for those who would like to use it to develop extend and create new initiatives in the future.

Q113 Q96Do 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?

It should be noted that this work stream has not had the networking and conscious raising benefit that the copyright workstream has received to date with the lengthy run up to the Copyright Act review.

The late addition of this parallel review predisposes this new work stream to issues including possible limited community engagement with the review due to lack of communication with the community and lack of time for those kaitiaki to consider and respond to the Issues paper. This lack of time and engagement with the communities may impact on the success in developing specific proposals for legislative change to protect the kaitiaki interest in taonga works and mātauranga

Māori. If this process is to be run alongside the Copyright Act Review – the Ministry should consider the likely higher resourcing required to ensure that engagement with kaitiaki is effective and responses encouraged.

Q114 Q97How should MBIE engage with Treaty partners and the broader community on the proposed work stream on taonga works?

Treaty Partners is a relationship that needs to be implemented not only but for this purpose of Engagement, with local Hapu Whanau through current structures that are in place today, The need to interact and engage with Local Hapu and Whanau creates a Pathway not only for MBIE but for other Ministrys to access.

As Treaty Partners the two parties, enabling the full use resources and networks, The two parties bring to the Table. Matauranga Maori, Hapu/Whanau can be acknowledged and understood, Laws, Acts and Ministries can be given clarity for the betterment of this Nation.

There has been years of investment in communication and engagement with the copyright communities running up the review of the Copyright Act including but not limited to: workshops, one-on-one discussions, attendance to conferences, presentations to community groups. Conferences and seminars have been held by bodies representing those commercially benefiting from copyright. Similar levels of engagement should be considered and enacted, despite the compressed timeframe imposed upon this work stream. The Crown should shoulder a greater part of the burden for engaging with and hearing from Treaty partner groups. This would include but not be limited establishing a rolling programme of visits and presentations to kaitiaki groups such as lwi Trust Boards, Marae working groups, and organising and running numerous hui at times convenient to the groups the Ministry wish to consult with. This programme could also be an opportunity to provide upskilling and further educate to the public on the differences and limits of the Copyright Act and the proposed new regime.

A high level of engagement between MBIE and Te Puni Kōkiri via the Te Puni Kōkiri Policy to Pā, Pā to Policy programme of work may be required to run this programme effectively.

• Te Arawhiti - Maori Crown relations.

The Question of WHO might need to be asked

Q115 Any other comments on Other Issues: copyright and the Wai 262 inquiry

Within these reports are more information that can help identify and collectively design a regime that bests suits Maori and others if you require any further clarity i am sure it can be found within these reports aswel as other reports on Maori that includes Matauranga Maori

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68356416/KoAotearoaTeneiTT2Vol1W.pdf https://waitangitribunal.govt.nz/publications-and-resources/waitangi-tribunal-reports/

Acknowledgement of Treaty Partner raises the ability under Article 2 of Te Tiriti o Waitangi to build on this foundation and design a protection mechanism that benefits all, Two laws protecting and sustaining One nation.

International Recognition needs to be also included in dealings

Page 20: Information you've provided that should not be publicly available

Q116 Please specify (by question number) which of your answers you object to being published by MBIE

Q117 Please specify (by question number) which of your answers contain information that MBIE should consider withholding if requested under the Official Information Act. For each question number, please tell us which information in your answer you believe would need to be withheld and why (preferably by referring to the relevant ground in the Official Information Act).