

By email only

Margaret Haig
Copyright and Enforcement Directorate
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Dear Margaret

Response to the consultation on implementing a domestic orphan works licensing scheme and the EU Directive on certain permitted uses of orphan works

Please find below our responses to a selection of the questions asked in relation to the above consultation.

2. Should an orphan works licence be transferable? If so, in what circumstances would this be appropriate?

Yes, an orphan works licence should be transferable in situations where there is a business sale, transfer or group re-organisation.

3. What are your views on allowing high volume users to take out an annual licence or similar arrangement to cover low value, non-commercial use?

High volume annual licences should be permitted, as a practicality, but only in those cases where the use is entirely for the public benefit.

4. Should there be a limit on the period of time in which a rights holder can claim his/her remuneration? If yes, taking into account the examples of time limits set out at paragraph 5.9, what should that period be and why?

Assuming the search is determined to be diligent, then the entitled person should only be able to claim remuneration in respect of uses of the work in the last 15 years (to be on a par with the dormant bank account principle). An alternative would be to base it on, say, 3 due diligence periods, that is, 21 years.

If the search was challenged and found not to be diligent, then the entitled person should be entitled to claim remuneration in respect of acts back to the last diligent search (where considering works where multiple successive terms have passed) plus 15 years.

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5. At what point should the Government be able to distribute unclaimed funds? What is the rationale for your answer?

Distribution of unclaimed funds should only be permitted after the term of copyright has expired, since claims by an entitled person may well be validly made at any point during the term. Given the inherent uncertainty over the term of copyright in cases where the author is not known, a suggested term is 70 years from the first diligent search.

6. What should any unclaimed funds be used for and why?

Unclaimed funds should be directed towards sustaining the scheme and facilitating ways to improve the diligence of searches so as to reduce the likelihood that entitled persons will make claims in the future.

Yours sincerely,

A handwritten signature in cursive script that reads "Sipara".

Sipara