

Response from British Film Institute to IPO Consultation: Changes to Schedule 1 of the CDPA, 1988 and the Duration of Copyright and Rights in performances Regulations 1995

The BFI is the lead organisation for film in the UK. It is a Government arm's-length body and a distributor of Lottery funds for film. The BFI serves a public role covering the cultural, creative and economic aspects of film.

Before making a response to this consultation we would like to express our disappointment that the concerns we expressed in responding to the consultation on the Transitional Arrangements associated with the Repeal of Section 52 of the CDPA have been ignored. We remain unconvinced that these changes are actually required given they have not been implemented in all Member States.

For companies and archives involved in rereleasing films where copyright has been revived they will lead to additional burdens on an already financially challenged sector when it wishes to provide online access to materials in collections or prepare theatrical rereleases of titles. Simply put, the information needed to secure the necessary licences for embedded designs will not be available in most cases where Archives hold a copy. This will discourage organisations from making such material available in order to avoid unwitting infringements.

a) Provision of copyright protection for works made before 1 June 1957: Proposed amendments to Schedule 1 and Regulation 16

1. Do the proposed amendments to Schedule 1 and Regulation 16 equalise copyright protection for works created before and after 1 June 1957?

Yes the proposed amendments to paragraphs 5 and 6 in Schedule 1 would achieve the Government's objectives of aligning UK law with the Term Directives. However this provision has not been implemented in all Member States and is not a requirement of the European Communities Act.

2. Do the amendments confer copyright protection for any matter not currently eligible for copyright protection in the UK?

We are not aware of any further consequences from the amendment to Schedule 1

b) Compulsory Licensing: Transitional provisions for the repeal of Regulations 24 and 34

1. Do these amendments achieve our aim of complying with Article 2 of the InfoSoc Directive?

They may well do so but in so doing will add considerably to the amount of work required by Archives to meet their obligation to provide the widest public access to their collections and to organisations wishing to rerelease films theatrically where the copyright in embedded designs may (or may not) be revived. The likelihood of any rightsholder whose works appear in a film being aware of these renewed rights is very low. The administrative cost on the current owner/distributor of the

film of meeting this obligation by ensuring clearance for all embedded designs with revived copyright will be high, the level of remuneration available to license such use will inevitably be minimal. We are disappointed that the Government has failed to mitigate this problem as it may reduce the level of availability of material where the revived copyright in a design is potentially an issue

2. Are there any other regulations we need to repeal or amend in light of these issues?

We have no view on this matter.