

Response to the Post Implementation Review of s.52 of the Copyright, Designs and Patents Act 1988: Call for input (31 August 2021)

1. The British Copyright Council (BCC) is a not-for-profit organisation that provides a forum for discussion on copyright law and related issues. Our purpose is to provide a representative voice on copyright and related issues. We represent those who create, perform and manage rights across the creative industries and our 31 members represent hundreds of thousands of creators. One of our members has raised concerns that the questions are skewed towards the perspective of retailers, rather than rightsholders.
2. Given our remit we have limited our response to the general questions and to copyright-related issues. Though we support the calls from others in the Intellectual Property sector, such as ACID, who are concerned about the differences in protection for unregistered designs between the EU and UK post-exit.

Q1. In your view, to what extent have these changes achieved their original objectives to protect all artistic works equally?

3. In any change to UK copyright legislation there will inevitably be an impact on rightsholders at different ends of the spectrum. Those rightsholders of works of artistic craftsmanship can now benefit from the full term of protection, which harmonises with EU law, but by contrast those that photograph and publish reproductions of the works of artistic craftsmanship affected by the changes made to s52 have invariably had to take on additional financial burden as a result, and are therefore less incentivised to invest and promote certain works of artistic craftsmanship.

Q2. Do you think that the changes remain appropriate? Could the same objectives be met through other, more efficient, means?

4. The repeal of Section 52 pursuant to the Enterprise and Regulatory Reform Act 2013 (s 74(1) and (2)) subject to noted saving provisions in line with international standards of best practice and therefore we see no reason to make amendments or consider alternative approaches.¹

Q3. Now that the UK has left the EU, do you believe the changes remain relevant and necessary?

5. As above.

Q4. Overall, do you consider that the changes have benefitted your business, organisation or your members? Please provide details.

6. Several of our members will be submitting individual responses with further detail.

Q5. Have the Regulations led to any consequences that you did not anticipate? Please provide details?

¹ SI 2016/593 - The Enterprise and Regulatory Reform Act 2013 (Commencement No 10 and Saving Provisions) Order 2016.

7. As above.

For any questions or comments regarding this response please contact director@britishcopyright.org.