

FOI Release
Information released under the Freedom of Information Act

Title: Implementation of EU Directives 93/98/EEC and 91/250/EEC

Date of release: 9 January 2018

Information request:

1. Any material relating to the implementation of Article 6 of the Term Directive (93/98/EEC) by the Duration of Copyright and Rights in Performances Regulations 1995 (SI 1995/3397). In particular, material related to the standard of originality for photographs.
2. Any material relating to the standard of originality in computer software, in particular the correspondence relating to the Commission's concerns over the implementation of article 1(3) of the Computer Programmes Directive (91/250/EEC) by the Copyright (Computer Programs) Regulations 1992 (SI 1992/3233). Such concerns and communications are mentioned in Cornish and Llewelyn, Intellectual Property (Various Eds, Sweet and Maxwell.)

Information released:

With regard to your first request, we have established following a search of our paper and electronic records, that the information you requested is not held by the Intellectual Property Office (IPO). Most of the IPO's records relating to the Term Directive have been disposed of and none of the remaining documents refer to the standard of originality for photographs.

With regard to your second request, the IPO's records relating to the concerns of the European Commission over the implementation of the Computer Software Directive, have been destroyed in line with its retention policy. However, we have identified a document relevant to the standard of originality in computer software. Some of the information this document contains is exempt under section 27 (1) of the Freedom of Information Act and therefore I have attached a redacted version.

Section 27 (1) provides for information to be exempt if its disclosure would or would be likely to prejudice relations between the United Kingdom and an international organisation, in this instance the European Commission. In our view disclosure of the exempt information would be likely to prejudice future relations.

Section 27 (1) is a 'qualified' exemption which means that the IPO is required to consider the balance of public interest in maintaining the exemption.

Having considered the public interest, in this instance the IPO concludes that the public interest in maintaining the exemption outweighs the public interest in disclosing the information in full.