

From: [Emma Brennan](#)
To: [Section52CDPA](#)
Subject: Objection to reduced transition period
Date: 23 December 2015 12:42:31

To whom it may concern,

I am writing on behalf of Manchester University Press, a publisher of academic books on design and material culture, to register our serious concern over the shortening of the proposed transition period relating to the Repeal to Section 52 of the Copyright Act from five years to six months. Our response is below.

Do you agree that the Government is right not to distinguish between two- and three-dimensional copies?

No. A 2-D image of an object does not compete with that 3-D object – it could not be bought instead as a direct substitute.

Do you agree that applying the depletion period only to those contracts entered into prior to the start time and date of this consultation is appropriate, and what are the costs and benefits of this?

Any depletion period should not apply to stock lawfully produced prior to the actual repeal date. There are staff costs associated with books in pre-contract development, and so there should be a longer transition period to allow for these projects to be placed under contract.

Under the new transition proposal, these book projects will need to be reconceived, incurring more overhead costs, or abandoned, removing any chance of return on investment so far.

Are there other factors that the government should consider for the depletion period?

The original proposed transition period of five years would have given us time to deplete stocks of existing books with limited adverse financial impact, and to take into account the additional costs (both for staff time and for copyright) associated with clearing additional permissions when planning new books. Despite technological advances making minimal stocks possible for non-illustrated books, the print and paper quality required for design publishing leads to much higher levels of investment and a longer cycle for return on that investment. The shorter transition period could prove damaging to the finances of publishers. The inability to reprint or re-clear permissions for these books could also prevent in many cases the circulation of academic knowledge and research, as well as harming the academic careers of authors. Image permissions for published books were cleared, conscientiously and in good faith, to comply properly with the law in force at the time. Academic authors often pay their own permission fees from limited research budgets or from their own pockets, and the additional burden on them, combined with the administration required to co-ordinate such a project would be extremely detrimental to our publishing endeavours, and would jeopardise our relationships with authors.

Do you agree that the period provided for in depletion of stock is proportionate?

As outlined above, we do not. The transition should meet the needs of those adversely affected by the Repeal by taking into account its negative impact, rather than focusing yet more closely on the interests of those who are benefiting.

Should longer or shorter period than six months be adopted, and if so, what are the costs and

benefits?

Five years, as originally planned, would be fair to the publishers affected by this change. It would allow for more time spent on ascertaining what additional permissions must be cleared, and a genuinely realistic and financially less damaging period for depletion of stock.

The separation of 2D and 3D representations would allow for different transition periods. This is appropriate given that 2D representations do not compete with 3D objects.

The question of who owns the copyright where there are multiple designers at work (patterned objects, for instance) will in some cases take a great deal of time to resolve. Identifying rights holders, making contact, waiting for responses and negotiating permissions are all time-consuming. It is also worth noting that many rights holders will not have existing infrastructure for dealing with permission requests, and this will delay and complicate our efforts to comply with the change in the law.

Do you agree that no legislative change should be made in respect of items previously purchased under Section 52 CPDA? If not, what provision would you make and why?

A key question will be whether for academic publications we can rely on the criticism and review 'fair dealing' exception, where an object is clearly being analysed.

There is no reason why the original transition period cannot be retained; the Repeal itself redresses any imbalance. A reasonable transition period will allow for managed implementation that aligns with the law.

The distinction (or lack of it) between 3D reproductions and 2D images of 3D objects is one that could save (or otherwise severely jeopardise) a section of the academic publishing industry – one that makes a genuine contribution to public knowledge and education in this country and globally.

Specific financial examples can be provided on request. We are not able to fully quantify the impact without a sustained period of research.

Thank you for your time.

Best wishes,

Emma

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