



Re: Consultation on how to implement Canada's commitment to extend the general term of copyright protection (the “Consultation”)

Canadian Authors Association (CAA) is the century-old membership-based national organization for writers at all stages of their writing careers: aspiring, emerging and professional. As one of only 27 Registered National Arts Service Organizations with charitable status, much of what CAA does benefits all Canadian writers, whether they are members, or are affiliated with CAA as partners or through other writing groups. CAA is pleased to provide its response to the Consultation.

The Consultation opens with an explanation that pursuant to the Canada-United States-Mexico Agreement (“CUSMA”), Canada is obligated to extend the general term of copyright protection in its copyright legislation from 50 years from the end of the calendar year in which the author dies (“life+50”), to 70 years from that date (“life+70”).

The Consultation then explains that this extension is in keeping with other international standards, insofar as about 80 countries have implemented a term of life+70, or longer.

The Consultation states that when Canada extends the general term of copyright protection to life+70, then Canadian rights holders will benefit from this extended term in each of these countries, “contributing to a more level playing field and providing new export opportunities for Canadian creative industries and Canadian-made content.” CAA agrees and notes this leads to providing greater protection for the works of Canadian creators, such as writers.

And finally, by way of background, the Consultation refers to the mandatory review of the *Copyright Act* that was initiated in 2018 and completed in 2019, with two committees submitting reports: the Standing Committee on Industry, Science and Technology (the INDU Committee), and the Standing Committee on Canadian Heritage (the CHPC Committee).

The Consultation reports that stakeholders have raised arguments both in favour of and against term extension. In our view, Canada’s obligation to enact term extension is mandatory; therefore, those arguments are of interest, but should not compromise Canada’s CUSMA commitment or delay Canada’s initiatives to enact term extension.

The Consultation discusses two issues raised by user stakeholders:

1. Orphan works; and
2. Out-of-commerce works.

The Consultation outlines various options or means of addressing these issues. However, the options have not been exhaustively studied. Their impact on Canada's other treaty obligations have not been examined thoroughly. Further, the options set forth in the Consultation are not by any means exhaustive. Other options are likely to arise once the topics receive thorough study and evaluation. The issues raised are complex and deserve full study and consideration. As the mandatory review of the *Copyright Act* initiated in 2018 and completed in 2019 demonstrates, copyright issues are interrelated, policy-driven, and time-consuming to evaluate.

CAA is highly encouraged by the federal government's interest in rectifying the inequities in the copyright system, as evidenced by its decision to issue the Consultation. However, CAA firmly believes that the federal government should first address the numerous and pressing recommendations contained in the INDU and CHPC Committee reports, both of which are approaching two years old, before turning to the new issues of orphan works or out-of-commerce works.

For the reasons provided in the Consultation itself – the mandatory nature of Canada's obligation to extend term protection, the fact that Canada currently lags behind international standards with its life+50 rule, and the need for a more level playing field for Canadian creative industries and creators – the requisite term extension should be implemented without delay. Implementation should not be tied to any other policy issue at this time.

The issues raised in the Consultation are worthy of study and evaluation. However, they are less pressing than the INDU and CHPC Committee report recommendations, particularly those pertaining to fair dealing and mandatory tariffs, which we urge the Canadian government to consider. The more quickly Canada implements its binding obligation to extend term protection, the sooner Canadians will receive the benefits of reciprocity abroad.