

CANADIAN COPYRIGHT INSTITUTE

Established to promote a better understanding of copyright and to encourage its use in the public interest

November 18, 2021

The Honourable Chrystia Freeland
The Honourable François-Philippe Champagne
The Honourable Pablo Rodriguez

The Honourable Mélanie Joly
The Honourable Mary Ng

Dear Ministers,

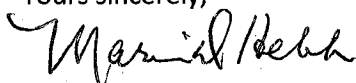
We are writing to express our concern and dismay that the Government continues to delay action to remedy ongoing damage to the book and periodical sector. Government has failed to (i) set parameters on “fair dealing” for “education” under the *Copyright Act*, (ii) control the diversion of advertising revenues from news media to Big Tech, and (iii) extend copyright protection of authors’ works from 50 to 70 years from the end of the year of their death.

The third issue, which touches on all your portfolios, has a special urgency. There is no reason to procrastinate the 20-year extension of copyright for authors’ works to the 70 years’ protection after death required by CUSMA – despite that the renegotiated North American free trade agreement allows Canada 2.5 years, until December 31, 2022, to implement this. CUSMA included other term extensions that were implemented and now benefit owners of sound recordings and cinematographic works and performers in sound recordings. This is inequitable. **Unless Parliament enacts legislation to extend Canada’s current 50 years’ protection after death to 70 years in time for royal assent to this by the end of 2021, heirs of authors whose copyrights expire December 31, 2021, successor copyright owners and their publishers will have no further protection for their works in countries that now provide longer protection than Canada but apply “the rule of the shorter term”. They will lose all opportunities for further commercialization of their works. Copyrights that expire December 31, 2021 will not be revived – an unnecessary loss for these copyright owners and the Canadian economy.** Until Canada’s 20-year term extension is in force, all Canadian authors should seek “first publication” outside Canada in a country that offers longer protection than Canada without application of “the rule of the shorter term” - in order to benefit from longer terms elsewhere.

In 2019, both the INDU and Heritage Standing Committees as part of the mandatory statutory review of the *Copyright Act* recommended the 20-year extension of authors’ copyrights. This is a simple change not requiring regulations or other special arrangements. Although the INDU Committee recommended that Government consider not allowing enforcement of copyright after the current 50-year term “unless the alleged infringement occurred after registration of the work”, **any such restriction would clearly breach Canada’s obligations under the Berne Convention**, which prohibits subjecting “enjoyment and exercise” of copyright to formalities.

We urge you to show good faith to creators and publishers by expediting simple amendments to extend copyright term now and getting royal assent before ending this Parliamentary session (otherwise ongoing incomes in our sector will be lessened for 20 years), **by prioritizing legislation on use of news media content and by regulating “fair dealing for education”.**

Yours sincerely,



Marian Hebb, Chair, Canadian Copyright Institute

