

CANADIAN COPYRIGHT INSTITUTE

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

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January 27, 2020

The Honourable Minister Chrystia Freeland
The Honourable Minister Navdeep Singh Bains
The Honourable Minister Steven Guilbeault
The Honourable Minister Mary Ng

Dear Ministers,

Now that the United States' Senate has approved the United States Canada Mexico trade agreement (USCMA), we understand that the Government of Canada is hastening to formally approve and implement CUSMA. As this implementation legislation will presumably be similar to Bill C-100, we are writing to express our concern about the omission of the extension of the term of copyright in a work. Notwithstanding that this treaty gives Canada two and a half years to complete this change, we see no reason to delay it.

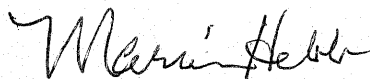
As previously drafted, this proposed legislation will implement the other amendments affecting term extensions which are required by USCMA/CUSMA. Copyright owners of sound recordings and cinematographic works and performers in sound recordings will benefit now, but the change for copyright owners of works by authors will not happen for several years. This is an inequitable result.

Both the Heritage Committee and the INDU Committee have recommended extension of copyright in section 6 of the *Copyright Act* from 50 to 70 years following the author's death. There is no good reason to delay this 20-year extension, as it does not necessitate special arrangements such as regulations. Nor is a possible discussion of a registration requirement during the extension an adequate reason. We believe that providing no remedy for infringing a work that has not been previously registered for the extended period would be a breach of Canada's obligations under the Berne Convention, which prohibits subjecting "enjoyment and exercise" of copyright to formalities.

Postponement of implementation of this extension of copyright protection for "consultation with stakeholders" is particularly unfair to the heirs and publishers of the works of deceased authors whose copyrights will expire at the end of 2020, 2021 and 2023 (depending on when the extension comes into force). They will be deprived of an additional 20 years of potential commercialization and earnings, since the required copyright extension will not be retroactive or revive any copyright.

We ask you to include the amendment to the *Copyright Act* that will extend duration of authors' copyright protection in the imminent CUSMA implementation legislation and thank you in anticipation of your attention to this important issue.

Yours sincerely,



Marian Hebb
Chair, Canadian Copyright Institute