

# Canada Consultation on Copyright Term Extension

## Submission by Creative Commons and Creative Commons Canada

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### Introduction

This document is submitted to the Government of Canada [consultation on the copyright term extension](#). It summarizes Creative Commons' (CC) provisional position on matters relating to extending the copyright term of protection as proposed in [Bill C-4](#) and its impact on the public domain. [CC](#) is a global non-profit organization dedicated to facilitating greater openness for the common good. [CC Canada](#) is the Canadian local chapter of the [CC Global Network](#).

As stated in the Industry Committee's 2019 [recommendations](#) — which we [praised](#) upon their release — there is no way around Canada's obligation to extend the term under the USMCA trade agreement. Yet in our brief comments, we remind the Government of Canada of the imperative to preserve the public domain and safeguard the public interest despite an inevitable term extension.

#### **Extending copyright's term harms the public domain**

At Creative Commons, we believe that copyright policy should encourage creativity, not hamper it. In a balanced copyright system, the rights granted to both creators and the general public are necessary to stimulate vibrant creativity and foster the sharing of knowledge. We've previously made clear that [excessive copyright terms](#) inhibit our ability to build upon and rework creative content. A 20-year extension effectively keeps creative works out of the public domain for two extra decades. This is an incredible loss, given the role of the public domain as the trove of materials on which contemporary creativity depends.

There is no reason for copyright protection to last as long as it already does, let alone be further extended. In fact, we at CC argue for the term of protection to be significantly reduced. A brief filed by leading economists in the 2002 [Eldred v. Ashcroft](#) case, including [Milton Friedman](#), clearly demonstrated how the costs of a term extension would outweigh the benefits. In a 2009 [paper](#), economist Rufus Pollock estimated the optimal copyright term to be about 15 years. Adding 20 years is sadly a huge step in the wrong direction.

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An extension is also going to negatively impact the sectors hard hit by the COVID-19 pandemic, namely the education, academic and cultural/GLAM<sup>1</sup> sectors. With copyright erecting so many unnecessary barriers preventing the free flow of knowledge and culture, extending its length flies in the face of policy efforts made to increase [access to knowledge in times of crisis](#) and of [community efforts](#) to reduce the effects of the pandemic.

**Canada must uphold the public domain**

Despite the inevitable term extension, Canada's copyright policy should still strive to promote a robust and universally accessible public domain. In fact, Canadian ministers have indicated in the past some [support of the public domain](#), stating that copyright law "should ensure [...] that users benefit from a public domain."

We support accompanying mitigation measures including a [registration](#) obligation or other types of formalities for creators wishing to benefit from the extra 20 years of protection. This is likely to prevent the proliferation of orphan works and out-of-commerce works and ensure the public can enjoy access to creativity without unnecessary barriers.

We strongly urge the Government of Canada to encourage creators to take advantage of Creative Commons licenses and tools. Creative Commons has developed simple tools to enable them to waive their copyright [using CC0](#) and [share their creations](#) under open CC licenses to recalibrate a copyright system that is too tilted *against* sharing and collaboration.

Be that as it may, we also continue to hold our strong stance [against any copyright term extension](#) to ensure better sharing and [uphold the public domain as our shining light in times of darkness](#).

From CC's standpoint, in line with our [2021-2025 strategy](#), we encourage a strong mobilisation of civil society actors defending the public interest in Canada to push for a balanced copyright regime that truly rewards creators and upholds the rights of users to access, reuse, and further contribute to the public domain.

[End of submission]

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<sup>1</sup> GLAM refers to galleries, libraries, archives and museums.