

# New Zealand Consultation on International treaty examination of the UK-NZ Free Trade Agreement

## Submission by Creative Commons

### Introduction

Creative Commons welcomes the opportunity to contribute to the International treaty examination of the UK-NZ Free Trade Agreement (FTA).

This document constitutes a formal response to the [consultation](#) undertaken by the Government of New Zealand. It summarizes Creative Commons' (CC) provisional position on matters relating to extending the copyright term of protection and its impact on the public domain. [CC](#) is a global non-profit organization dedicated to facilitating greater openness for the common good.

In our brief comments, we remind the Government of New Zealand of the imperative to preserve the public domain and safeguard the public interest.

### **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.

This is why we believe the New Zealand Government should delete Article 17.48 on the term of copyright protection in the UK-NZ FTA. A 20-year extension effectively keeps creative works out of the public domain for a further two decades. This additional extension represents an incredible loss to the creative industry in New Zealand and further afield, given the role of the public domain as the trove of materials on which contemporary creativity depends.

We see no justifiable 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. We strongly believe that adding 20 years is counterproductive and would constitute a

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significant disequilibrium in favor of granting rights to creators at the expense of the general public.

An extension is also going to negatively impact the sectors arguably hardest hit by the COVID-19 pandemic, namely education, academia and cultural/cultural heritage. With copyright erecting so many barriers preventing the free flow of knowledge and culture, extending its length runs contrary to policy efforts made to increase [access to knowledge in times of crisis](#) and of [community efforts](#) to reduce the effects of the pandemic.

**New Zealand must uphold the public domain**

New Zealand's copyright policy should still strive to promote a robust and universally accessible public domain. We strongly urge the Government of New Zealand to encourage creators to take advantage of Creative Commons licenses and tools. Creative Commons has developed simple tools to waive copyright [using CC0](#) and [share creations](#) under open CC licenses to recalibrate a copyright system that is too tilted *against* sharing and collaboration.

CC remains strongly [against any copyright term extension](#). CC strives to ensure better sharing of knowledge and culture and to [uphold the public domain as our shining light in times of darkness](#). We believe that this position is in the interest of New Zealand and its citizens in the context of its trade agreement with the UK.

From CC's standpoint, in line with our [2021-2025 strategy](#), we encourage a strong mobilization of civil society actors defending the public interest in New Zealand 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]