Information Sheet on Copyright Term Extension

This information sheet debunks several common arguments in favour of copyright term extension.

- **Greater life expectancy of authors.** It is sometimes argued that copyright term extension is justified by the lengthening life expectancy of authors. We fully support artists receiving just rewards for their creative output. However because "life" is the starting point, copyright already extends beyond the lifetime of any author, and providing for his or her descendants is not a legitimate goal of copyright law. As noted above in the extract from the Hargreaves report, there is no additional incentivizing effect from copyright term extension on artists who are no longer living. Further, work by an eminent group of US economists, including Milton Friedman, on the US Copyright Term Extension Act of 1998 showed that the profit for the creator in the extended term was, at the most, a few cents and often a percentage of a cent.³ Conversely, it was calculated that 72% of the benefits of the most recent European term extension on sound recordings would accrue to record companies, not artists.⁴

- **Countries with longer copyright terms are a more attractive destination for cultural investment.** It is often supposed that by extending a country’s copyright term, more direct foreign investment in that country’s creative industries will be the inevitable result. Similarly, it is claimed that copyright protection is necessary to provide an incentive for industry to preserve works that would otherwise fall into the public domain. However, evidence does not bear this out. There is not a single published study that shows a significant positive relationship between copyright law and foreign direct investment, in any country. Indeed, an extended copyright term frequently results in the unavailability of copyright works altogether, either because the rightsholder is not interested in commercializing them, or—worse—because the works in question have become “orphaned” since the copyright owner cannot be contacted. Conversely, creative works are often only rescued from oblivion after entering the public domain.⁵

- **Harmonization.** The notion that a harmonized copyright term under the TPP will enable easier cross-border licensing of works is a sham. Amongst countries that share a copyright term of life plus 70 years, the rules that determine the actual copyright term for a particular work are complex. In fact they are complex even within the United States: the diagram below (although not reproduced at a legible size) shows just how complex it is to determine when copyright expires. The TPP does not seek to harmonize these divergent rules. Therefore, it will still be necessary, even under a uniform regime of life plus 70, for rightsholders to navigate a minefield of national legal systems in order to license their works.

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