



Department for
Business, Energy
& Industrial Strategy

Lord Henley PC
Parliamentary Under-Secretary of State

**Department for Business, Energy &
Industrial Strategy**
1 Victoria Street
London
SW1H 0ET

Lord McNicol of West Kilbride
House of Lords
London
SW1A 0PW

T +44 (0) 20 7215 5000
E enquiries@beis.gov.uk
W www.gov.uk

11 March 2019

Dear Iain,

I am writing in response to the issues you raised at the Lords' SI debate of Monday 4th March 2019 on the Intellectual Property (Copyright and Related Rights) (Amendment) (EU Exit) Regulations 2018.

Consultation

As discussed in the debate, we did not run a formal, public consultation on these regulations as to have done so during the early stages of our negotiations with the EU would have risked prejudicing those negotiations. However, we have regularly engaged with a broad range of stakeholders in the creative and digital industries on an informal basis since the referendum. This included a series of roundtable meetings hosted by officials in the Intellectual Property Office throughout August 2018. In these meetings, my officials explained our 'no deal' approach for copyright and related rights and listened to the concerns of our stakeholders. Attendees of these roundtables included individuals from:

- The Commercial Broadcaster's Association;
- Directors UK;
- PRS for Music;
- Tech UK;
- The Libraries and Archives Copyright Alliance;
- The British Library;
- The Publishers Association;
- The Society of Authors;
- The Association of Photographers; and
- The Authors' Licensing and Collecting Society

In some areas, stakeholders raised concerns about the impact of leaving the EU – particularly if we leave without a deal – such as consumers and online content service providers no longer benefitting from cross-border portability of online content services. Generally, however, it was recognised that these are unavoidable consequences of a 'no deal' scenario and that it is not possible for the government to completely fix these issues via unilateral action.

Country-of-origin principle in satellite broadcasting

Once the UK is no longer a Member State, UK-based broadcasters will cease to benefit from the EU 'country-of-origin' principle for copyright clearance in satellite broadcasting. This principle states that when a copyright-protected work is broadcast between Member States, the broadcaster needs the permission of the right holder only for the State in which the broadcast originates, rather than for all States in which the broadcast is received.

In practice, this means that UK-based broadcasters that transmit to the EU may need to amend their licensing agreements with their right holders to ensure that they have the necessary permissions in place for all Member States in which their broadcasts are received. The impact of this will depend on the specifics of each case – in particular, the details of existing licences between broadcasters and right holders; and how the legislation in the relevant Member States treat broadcasts from outside the EU – for example, the UK currently applies (and will continue to apply after exit) the country-of-origin principle to broadcasts from any country, EU or non-EU, save for a limited exception. Where Member States take a similar approach for broadcasts originating outside the EU, the impact on UK-based broadcasters would likely be minimal. Because of these complexities, the government has not been able to monetise the total cost to broadcasters of the loss of the copyright country-of-origin principle in a 'no deal' scenario.

I thank you again for your contributions in the debate. A copy of this letter will be placed in the Libraries of the House.

A handwritten signature in black ink, appearing to read 'Henley', with a stylized flourish at the end.

Rt Hon Lord Henley