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Re: 'Orphan Works' - contravention of the Berne Convention for the Protection of Literary and Artistic Works

To whom it may concern:

I am writing to comment on the proposed changes to the laws regarding the preservation and reuse of Copyrighted Works.

As a foreign creator I am concerned by the proposals to facilitate use of so-called 'Orphan Works'.

Firstly, these proposals contravene various articles of the [Berne Convention for the Protection of Literary and Artistic Works](#).

Article 5 of the Berne Convention guarantees that '*Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.*'

Article 6 bis 1 states that '*Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.*'

Any authorization of use of 'orphan works' would allow the user to distort or modify the works in question, without the right of objection by the author, and would prevent the author claiming authorship.

Secondly I would like to stress the importance of creators' rights to the economy. As a professional photographer and visual artist, my income depends on my right to earn money from my work – which depends on copyright law.

The creative industries are a key driver for growth in the economy. A very significant part of this creative economy involves distributing the works of individual creators who operate, as I do, as sole traders or "micro-businesses".

To put this in more concrete terms, approximately 35% of my income is derived directly from licensing the use of images I have created. Without this portion of my income, my business would not be economically viable - it makes the difference between not earning enough to support myself and my family, and being able to do so.

Growth can only be sustainable if individual creators can sustain ourselves by earning enough to be full-time, dedicated professionals. While I am speaking as a UK citizen and tax-payer, the same goes for US citizens.

I ask you to intervene to ensure that any changes to the law on copyright respect the Berne Convention, and these essential principles:

Anyone creating words, music or pictures must have the right to be identified and to defend the integrity of their work, automatically and enforceably; and

Every creator should have the unwaivable right to a fair share of income derived from their work.

Yours sincerely,
Joseph Ford