I have been a freelance artist since 1999. I made the decision to establish a small niche market greeting card business when the majority of illustration contracts offered were "work for hire". Given the amount of time involved creating a visual work of art, it did not seem rational to relinquish my reproduction rights for images I created. Those rights are important to me, for reasons both financial and artistic.

While I do not have a complete understanding of the proposed changes to the Copyright law, my overall impression from reading the "Orphan Works and Mass Digitization" report is that the recommendations would lead to an exponential increase in the opportunities for others to infringe upon my copyrights. The fuzzy "reasonably diligent search" standard practically invites infringement, and will no doubt yield many billable hours by copyright attorneys defending their clients' definitions of a reasonably diligent search.

On more than one occasion, watermarked and/or signed images from my retail website have been copied by an infringer, modified to remove the watermark and/or signature and copyright notice and used to produce products for sale on websites such as eBay. Under the proposed changes, these images would be considered "orphan works". I have also had individuals steal my digital images and modify them slightly (e.g., mirror image, changes to size and color) before using them to profit from my work. Under the proposed changes, these images would be considered "derivative works" and the image thief could claim copyright ownership.

The "Orphan Works and Mass Digitization" report's primary focus appears to be grave concern that users of "orphan works" be protected from "substantial damages, attorneys' fees, and/or injunctive relief". I see no equivalent concern for the artists who CREATED the work that proposed changes encourage the public to steal.

From personal experience, I can tell you that pursuing litigation for relief of copyright infringement is simply not practical. Neither is it feasible for most attorneys to litigate such cases, unless the artist is very high profile and/or there is potential for an award of damages that exceed the cost of litigation (low probability). People who steal art know this. If the Copyright Law is modified to include recommendations in the "Orphan Works and Mass Digitization" report, there will be even more theft of digital images from websites, facebook, instagram, pinterest, etc. These images will then be scrubbed to qualify as "orphan works" and registered in commercial registries as copyrighted by the individual or company that stands to profit from offering those images on a wide variety of bargain-basement priced products.

These recommendations are harmful to artists and beneficial to the infringers they encourage.