

Guidance on answering the discussion questions in the book

Para 6.11

What is the reason for these limitations on the right of paternity?

The main reasons are:

- to prevent works which are used constantly (computer programs, typefaces) having always to be accompanied by author-identification;
- to enable employers to have the full benefit of copyright in their employees' works;
- not to allow paternity rights to get in the way of fair dealing (although note that fair dealing often requires 'sufficient acknowledgement' (see para 5.21 ff));
- not to require multi-author works to identify every contributor in relation to his or her contribution.

Para 6.12

How far may the right of integrity be compared to one of private censorship?

The right of integrity does enable the author to control the way in which his or her work is presented to the world, which may include the way it is presented or used in other works. To that extent, freedom of expression is impaired, and one individual has a right to 'censor' another's expression. But this is also true of copyright in general. Further it should be noted that the right of integrity can only be brought into play where the proposed use or treatment

of the work ‘amounts to distortion or mutilation of the work or is otherwise prejudicial to the honour or reputation of the author or director.’ The courts in the UK have taken a cautious approach in this regard whereby it is not enough that the artist to feel aggrieved but the treatment must be ‘prejudicial to the author’s honour or reputation *as an artist*’; i.e. it is something akin to defamation (another of the law’s constraints on freedom of expression).

Para 6.26

Why should resale right be limited to works of art? Why are there no equivalent rights for authors of literary, dramatic, and musical works in relation to their manuscripts, as provided in the Berne Convention, Article 14^{ter} (para 6.23)? (Note recital 19 of the Resale Right Directive: ‘the harmonisation brought about by this Directive does not apply to original manuscripts of writers and composers’).

Works of art may be thought to have less opportunity to become copyright revenue earners than literary, dramatic or musical works. Literary works are written to be published, music and drama to be performed, recorded and broadcast; and by these means considerable income may be earned. The same is much less true of all but a very few works of art. Mostly the chief value in works of graphic or plastic art will lie in the original work as made by the artist. So there is less pressure in support of the literary author and musical composer having a financial stake in the subsequent sales of their original manuscripts. In other respects, however, there seems to be little difference between the cases.