



July 2021 (updated)

Free Trade Agreement between the UK and New Zealand

The main aspects for UK musicians and rightholders relate to the increase of the term of protection from 50 to 70 years after the death of the author and to the introduction of website blocking orders into New Zealand legislation.

1. UK Music is the collective voice of the UK's world-leading music industry. UK Music represent all sectors of the music industry – bringing them together to collaborate, campaign, and champion music. UK Music promotes the music industry as a key national asset to all levels of Government and publishes research on the economic and social value of music.
2. According to our latest research (published in our Music by Numbers 2020 report, available via www.ukmusic.org) the music industry added £5.8 billion value (income for UK music business) to the UK economy in 2019; £2.9 billion of this GVA was derived from exports. The copyright regime in New Zealand is important despite not being one of the top 10 markets for UK artists by size; in 2019 digital revenues grew by [30%](#). The terms of the trade agreement with New Zealand also have a potential ripple effect on other future trade agreements in the region. New Zealand is a founder member of the Comprehensive and Progressive Transpacific Partnership.

Term.

3. New Zealand is a member of the relevant international copyright treaties providing minimum standards of protection as well as national treatment. Most notably, New Zealand is one of the few countries in the world which in 2020 only provides the minimum term of copyright for literary and musical works: 50 years after the death of the composer (Section 22 New Zealand Copyright Act 1994). Equally, New Zealand only provides the minimum term of copyright for sound recordings: 50 years after publication (Section 23 New Zealand Copyright Act 1994).
 - **We recommend that the UK and NZ Free Trade Agreement expressly increases the term of protection for copyright to 70 years after the death of the composer (for literary and musical works) or after publication (for sound recordings, with equivalent provisions for performers' rights) as is the case in the United Kingdom.**

Website blocking orders.

4. According to 2019 figures, 24% of New Zealanders reported using a piracy website to listen to or download music in the preceding three months. A substantial portion of that music is UK repertoire.

With very few exceptions, music piracy sites are based outside New Zealand and the operators of most music piracy sites are anonymous. These factors, as well as the size and scale of New Zealand, mean that direct action against piracy sites in New Zealand courts is almost impossible.

5. In the UK, one of the most important and effective measures to stop users from accessing and downloading from illegal websites is to require access providers (ISPs) to block their subscribers' access to these websites. Section 97A of the UK Copyright, Designs and Patents Act provides an explicit legal basis for right holders to seek an injunction against ISPs requiring them to block access to sites where there is evidence those sites are infringing. This provision has been relied on many times by music, film, sports and broadcast right owners to successfully seek injunctions. Despite considerable costs such website blocking orders are a success story in the United Kingdom. They contribute to the health of the UK online music market and the lower prevalence of piracy, and such orders should be made available in other countries in line with UK and international best practice.

We note that Australian copyright law also provides for website blocking orders within the copyright legislation.

6. Under New Zealand law, there is no explicit legal basis for website blocking. In the MBIE Issues [Paper](#), Review of the Copyright Act, November 2018 (para 510 thereof), the NZ government has said that:

Whether copyright owners and their licensees are able to obtain website blocking injunctions in New Zealand is uncertain. Copyright owners may be able to apply for a website blocking injunction by relying on section 92B of the Copyright Act, Rules 2.1 and 1.6 of the High Court Rules and the High Court's inherent jurisdiction, but this is yet to be tested in court.

The NZ government is aware and has been briefed that right holders have considered testing this provision through the courts but have not found it viable to proceed, due to the uncertain chances of success and the substantial cost risk associated with a loss in court proceedings.

- **We recommend that the UK and NZ Free Trade Agreement expressly include a requirement for NZ to introduce an explicit legal basis, similar to s.97A in the UK, for right holders to seek an injunction against ISPs requiring them to block access to infringing websites.**