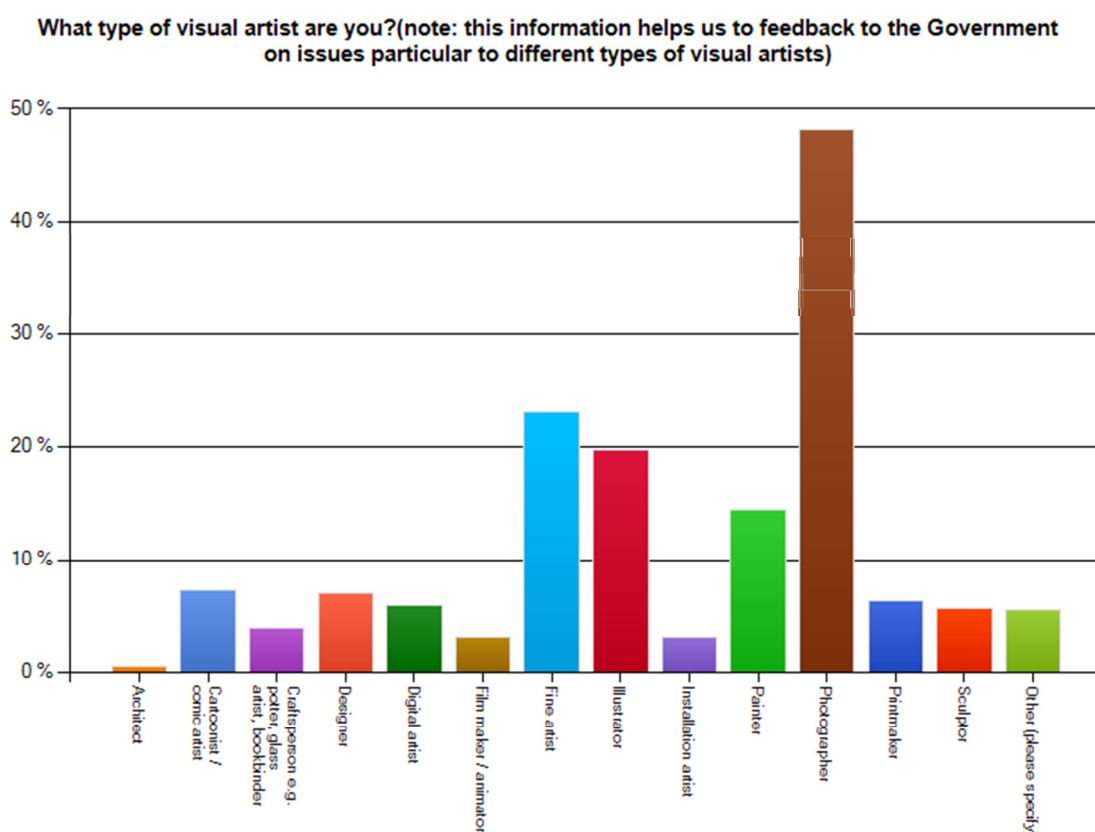


DACS Artists' Survey 2012

Over a three week period in January-February 2012, DACS surveyed visual artists in relation to selected issues raised in the Government's Consultation on Copyright. Prior to the publication of the survey, the questions were reviewed by Europe Economics to ensure the questions accurately reflected the consultation, and communicated complex issues as clearly as possible. The survey was disseminated through DACS' own networks as well as via other UK arts organisations, and through social media platforms such as Twitter. It attracted 1063 responses.

A broad spectrum of artists responded. Many artists identified themselves as being more than one 'type' of visual artist (hence the total equalling more than 100%). 48.2% of respondents identified themselves as photographers, 23% as fine artists, 19.7% as illustrators and 14.3% as painters.



Artists were surveyed on selected areas of the consultation:

- Extended Collective Licensing
- Orphan Works
- Moral Rights
- Codes of Conduct for collecting societies
- Copyright exceptions: education
- Copyright exceptions: private copying
- Copyright exceptions: parody

Extended Collective Licensing

Collective licensing is a useful way to license rights in circumstances where it would be impractical or impossible to license uses individually. One example of a collective licensing scheme which involves visual works is the photocopying licences operated by the Copyright Licensing Agency (CLA). In this scheme, licensees (schools, colleges, business, etc.) can photocopy text and images in pages of books and magazines up to certain limits and for prescribed uses. Licensees don't have to clear each author or photographer's rights individually: clearance is given through a collective licence. DACS receives a share for visual works and we pay it to rightsholders through our Payback distribution scheme.

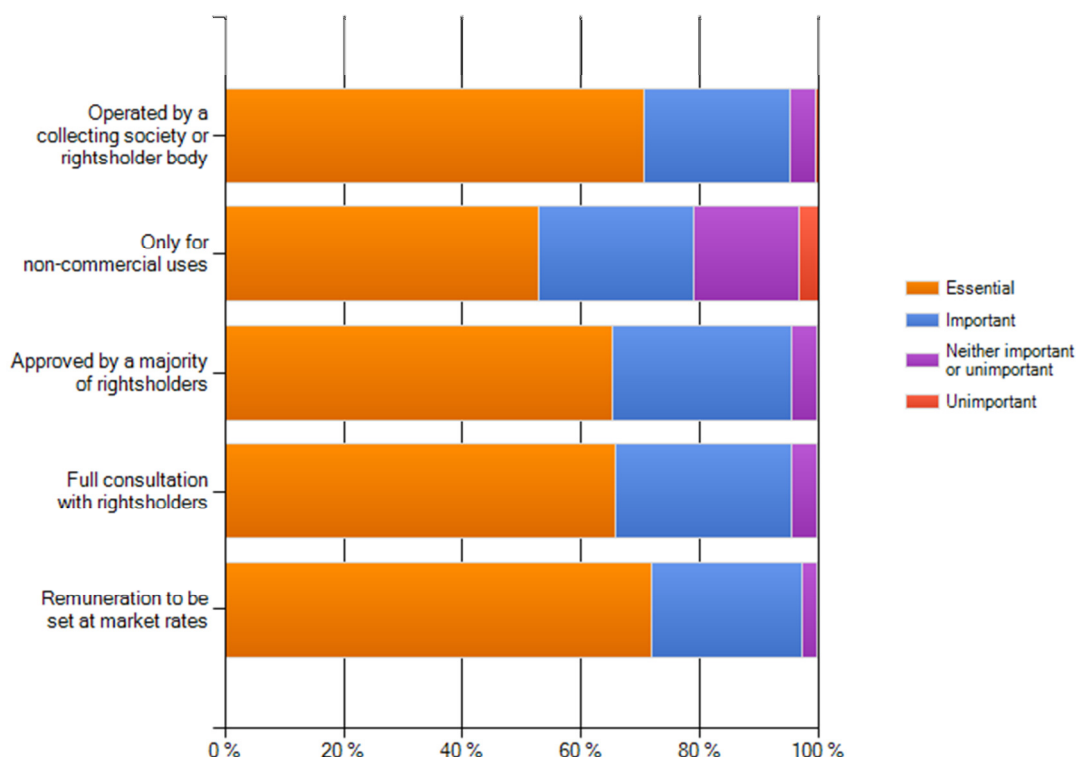
The Government proposes introducing a framework to allow for extended collective licensing in the UK. This means that collecting societies considered sufficiently representative of a class of rightsholder will be able lawfully to license the rights of all members of that class, whether they have joined the collecting society or not. This clears up some legal uncertainties about who a collecting society represents for the purposes of collective licensing.

Introducing the framework for extended collective licensing does not presuppose the implementation of specific licences. Under the Government proposal this can only occur if rightsholders agree to the licence.

DACS would only support extended collective licensing schemes if they:

- are approved by a majority of rightsholders
- do not negatively impact on functioning primary markets
- allow rightsholders to opt out

How important would you regard the following to be necessary safeguards for introducing an extended collective licensing scheme?



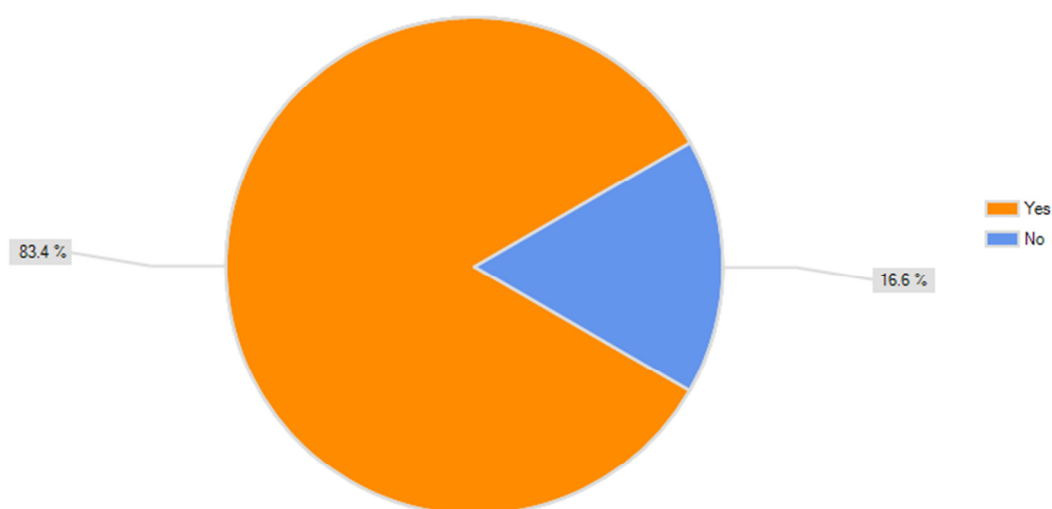
	Essential	Important	Neither important or unimportant	Unimportant
Operated by a collecting society or rightsholder body	70.7%	24.5%	4.4%	0.5%
Only for non-commercial uses	52.7%	26.1%	17.9%	3.3%
Approved by a majority of rightsholders	65.4%	30.1%	4.3%	0.3%
Full consultation with rightsholders	65.8%	29.8%	4.1%	0.3%
Remuneration to be set at market rates	71.8%	25.5%	2.4%	0.3%

Artists felt strongly about safeguards which could be applied to the introduction of an Extended Collective Licensing framework. Over 95% of respondents considered it 'essential' or 'important' that extended collective licensing should be operated by a collecting society or rightsholder body. Over 97% felt it 'essential' or 'important' that remuneration to artists should be set at market rates.

While respondents were less concerned about restricting extended collective licensing to non-commercial uses, still nearly 79% of respondents indicated that they felt this to be 'essential' or 'important'.

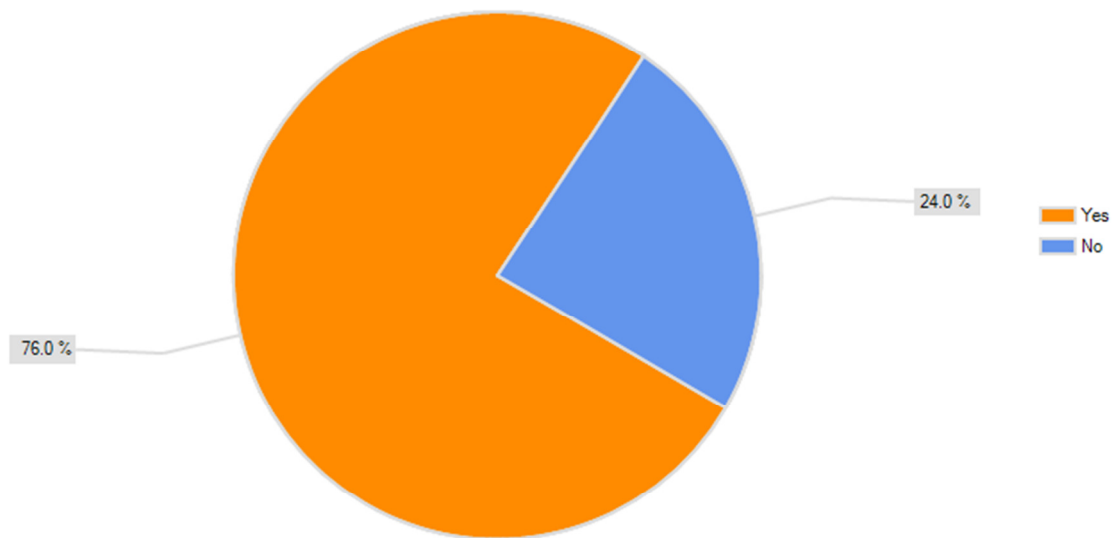
With these safeguards in mind, respondents were asked about their attitude towards the introduction of a framework for extended collective licensing in the UK. 83.4% felt they could support such a system, with sufficient safeguards in place.

If sufficient safeguards were in place, would you agree with the introduction of extended collective licensing in the UK?



DACS is aware that concerns have been expressed by photographers in particular about extended collective licensing, however, the survey results show 76% of photographers who responded to the survey supported extended collective licensing in the UK, with sufficient safeguards.

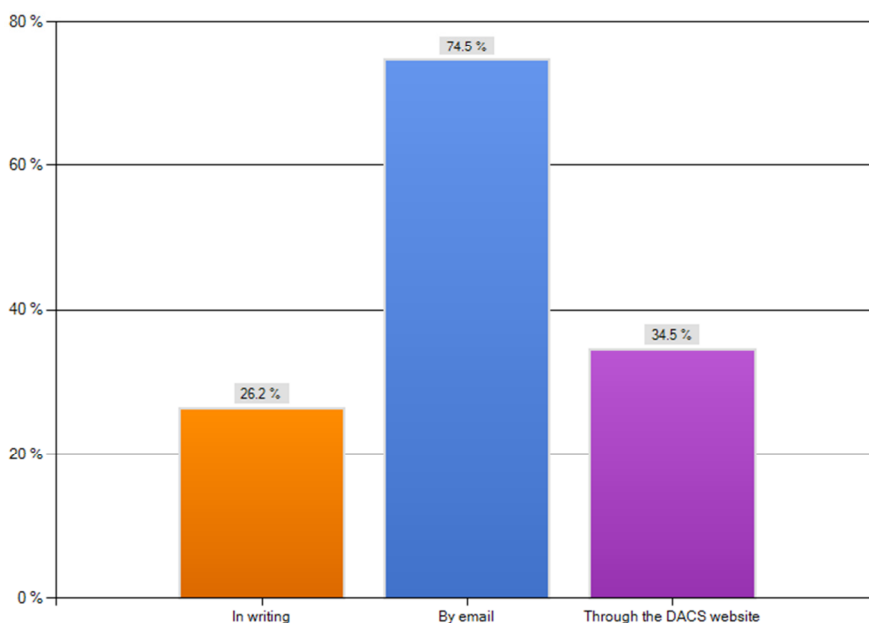
If sufficient safeguards were in place, would you agree with the introduction of extended collective licensing in the UK?



Generally, respondents indicated that they would prefer to be consulted by email regarding any proposed licences under this scheme (74.5%). Others suggested using the network of professional bodies, while there were concerns expressed that using such channels of communication could still potentially exclude some rightsholders.

"I am concerned that a great many rightsholders will be unknown to DACS or any organisation looking to petition them. There would in the first instance need to be a publicity to campaign to make sure such people knew that these issues were being discussed." Michael Cockerham, Photographer

How would you expect to be consulted on any proposed extended collective licence?

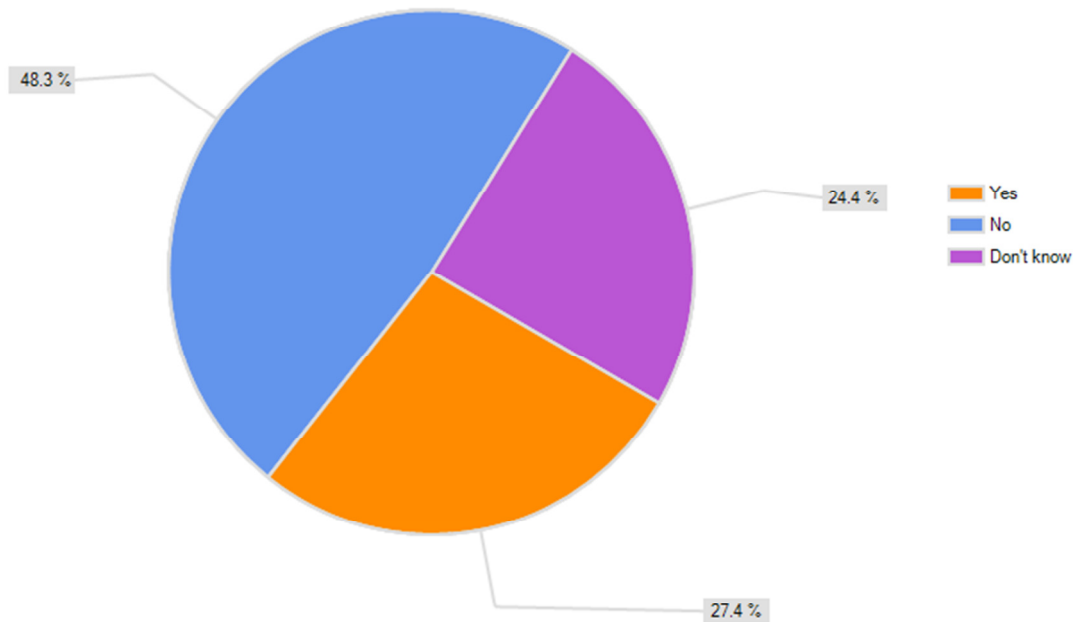


Orphan Works

The Government wishes to introduce arrangements to enable works to be copied, published and distributed and so on, in the event that the rights owners are unknown or cannot be located. It calls these works 'orphan works'.

DACS thinks that any orphan works legislation must seek to avoid causing harm to the opportunities for visual artists to win commissions for new work and to license existing works.

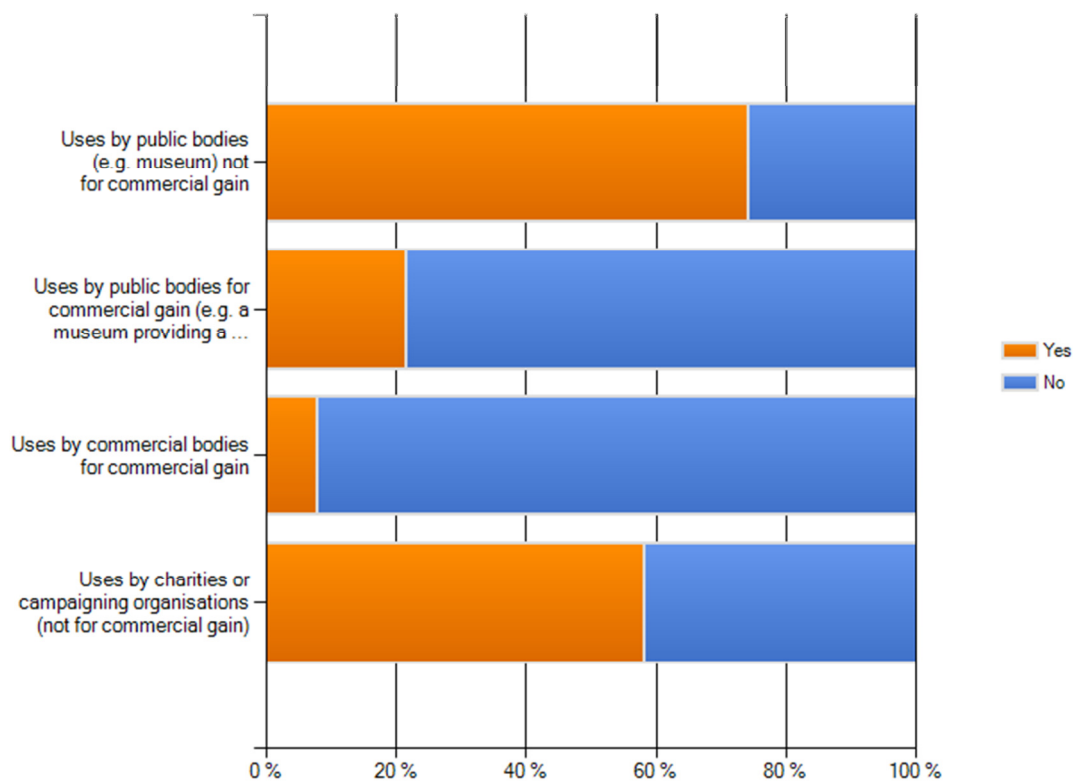
Should a scheme be introduced in the UK to legitimise the use of orphan works?



48% of respondents to the survey felt that an orphan work scheme should not be introduced in the UK. 27% felt that a scheme should be introduced. Furthermore, respondents felt that there should be no commercial use of orphan works, with 78% saying 'no' to public bodies using works for commercial gain and 92% saying 'no' to commercial bodies using works for commercial gain. Respondents were more willing to allow public bodies use orphan works for non-commercial purposes (74% in favour) but less favourable to charities using orphan works (58% in favour). This response could reflect concerns relating to moral rights issues, whereby rightsholders could find and reclaim a previously orphaned work and discover it had been used to support causes the rightsholder would have otherwise not supported.

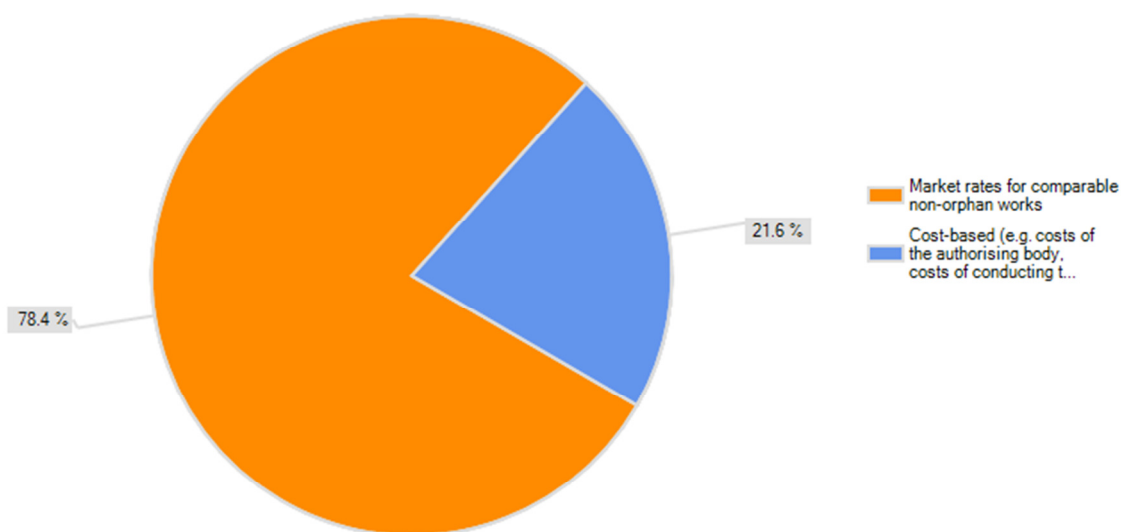
"Many of my images have been redistributed online without attribution or a clear link to my original post/source. They could too easily be deemed Orphan Works and could have been used by someone for commercial use since there is no way to track and trace images online. This category of work should not be implemented until technology is far more sophisticated and allows a visual tracing of imagery online to find sources." Tina Mammoser, designer/painter

What type of use would be acceptable for an orphan work?



Respondents also felt strongly that remuneration for the use of orphan works should be set at market rates, in order not to undermine creators' primary markets (78% in favour of market rates).

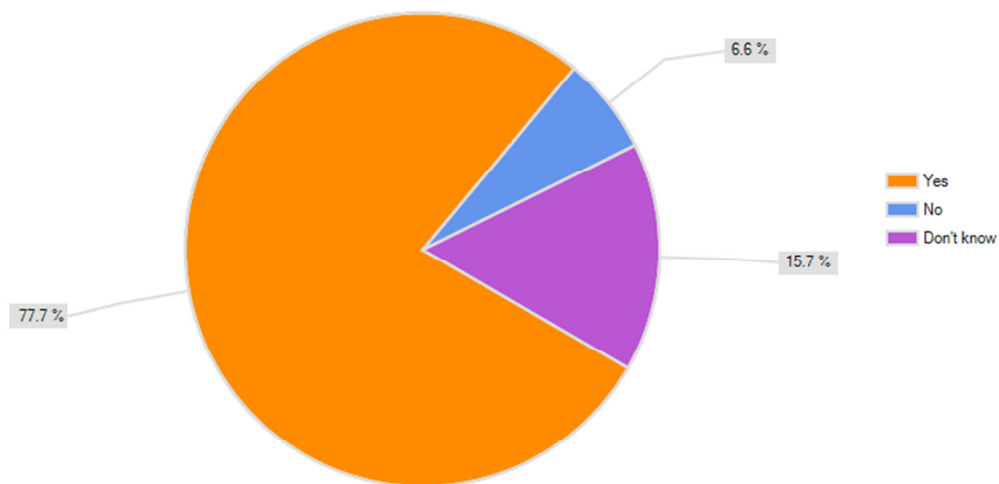
On what basis should orphan works be priced once their use is authorised?



The consultation acknowledges concerns that the making available of orphan works could undermine the market for non-orphan works. This is particularly the case for photographic works. The consultation argues that the existence of online stock libraries which makes work available at little or no charge has not led to a major contraction of the paid-for market.

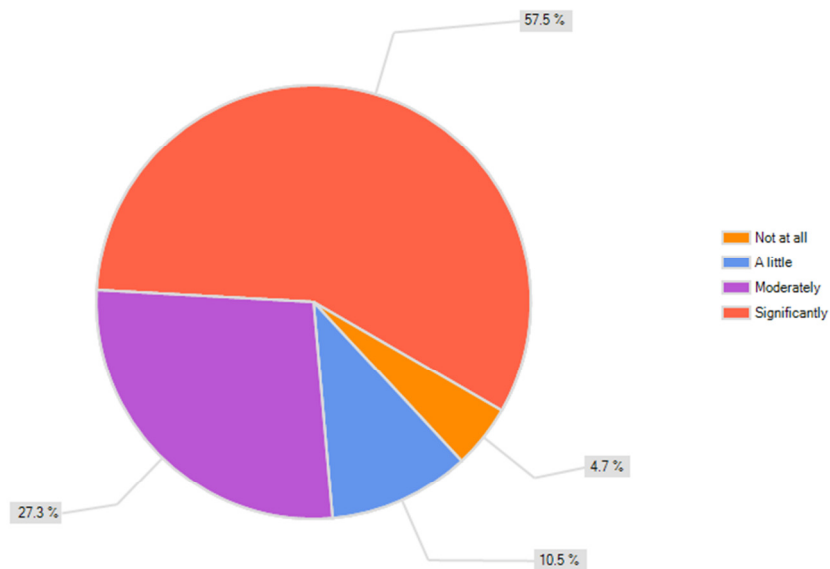
DACS questioned photographers about the impact of the rise of free (or very cheap) stock photography on photographers' ability to generate an income. 78% responded that the increase in low value stock images had affected their ability to sell work or win commissions.

Has the increase in stock images available at low cost or no cost affected your ability to sell work or win commissions?

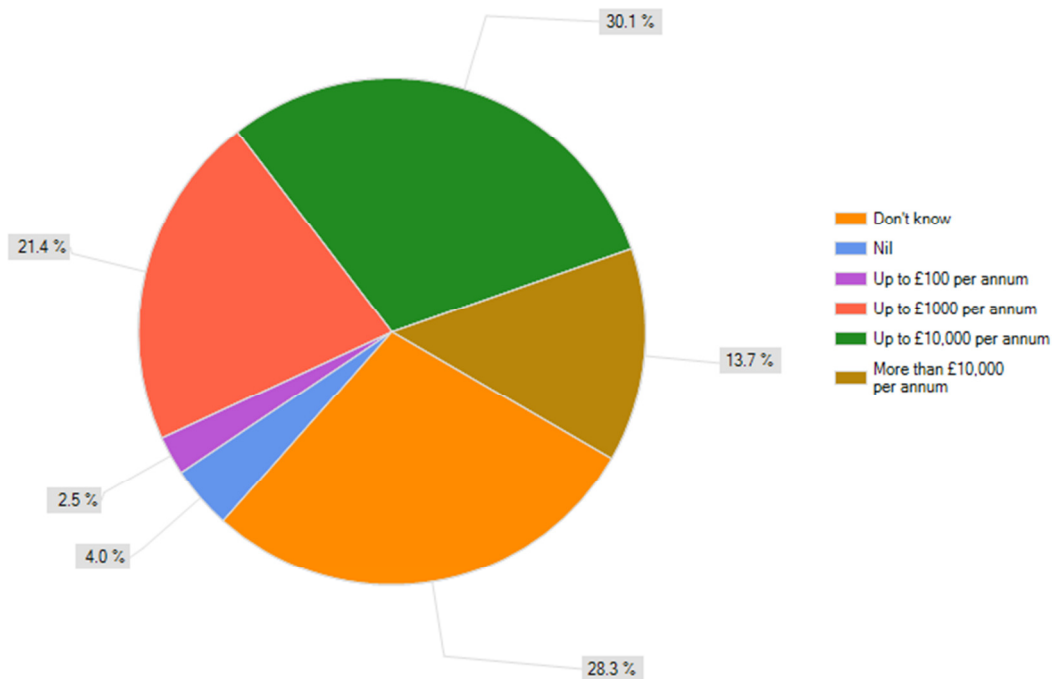


A majority of photographers respondents considered the impact to be 'significant' (58%) while 27% considered the impact to be 'moderate'. 14% of respondents measured the financial impact to be greater than £10,000 per annum.

If yes, to what extent has it affected you?



What do you estimate as the current financial impact on you?



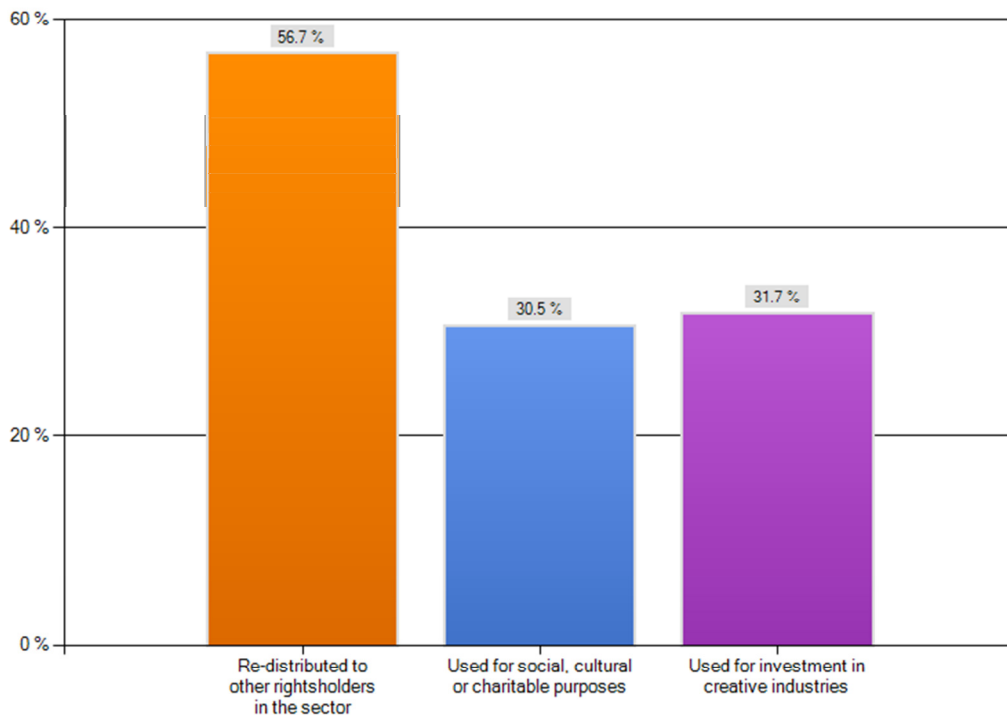
"One marketing company told me that they would rather suggest cheap stock to a client than original photography because they were worried that the client would think they were too expensive and go elsewhere. If even cheaper orphan work appeared this would make this situation worse as images could be used for free, further limiting peoples willingness to understand or appreciate the value of photography." Richard Stonehouse, photographer

"The pressure for the introduction of this legislation has come from large commercial organisations. It is highly detrimental to visual artists. As a stock photographer I have already suffered financially as a result of cheap or free imagery. If an organisation wants a particular type of image - let them commission and pay a visual artist to create it - not steal it by using this legislation." Nic Skerten, digital artist / photographer

Royalties arising from extended collective licences will be paid back to rightsholders. In the instance where this relates to orphan works and the rightsholder is not known to the collecting society, the society will be obliged to take steps to find the rightsholder and pay the money to them. In any case, it is highly likely there will be funds remaining undistributed.

Respondents were asked how they would prefer these funds to be used should they remain undistributed after a period of time. 57% felt the remaining funds should be redistributed out to other rightsholders within the sector.

How could the undistributed funds be used after this time?

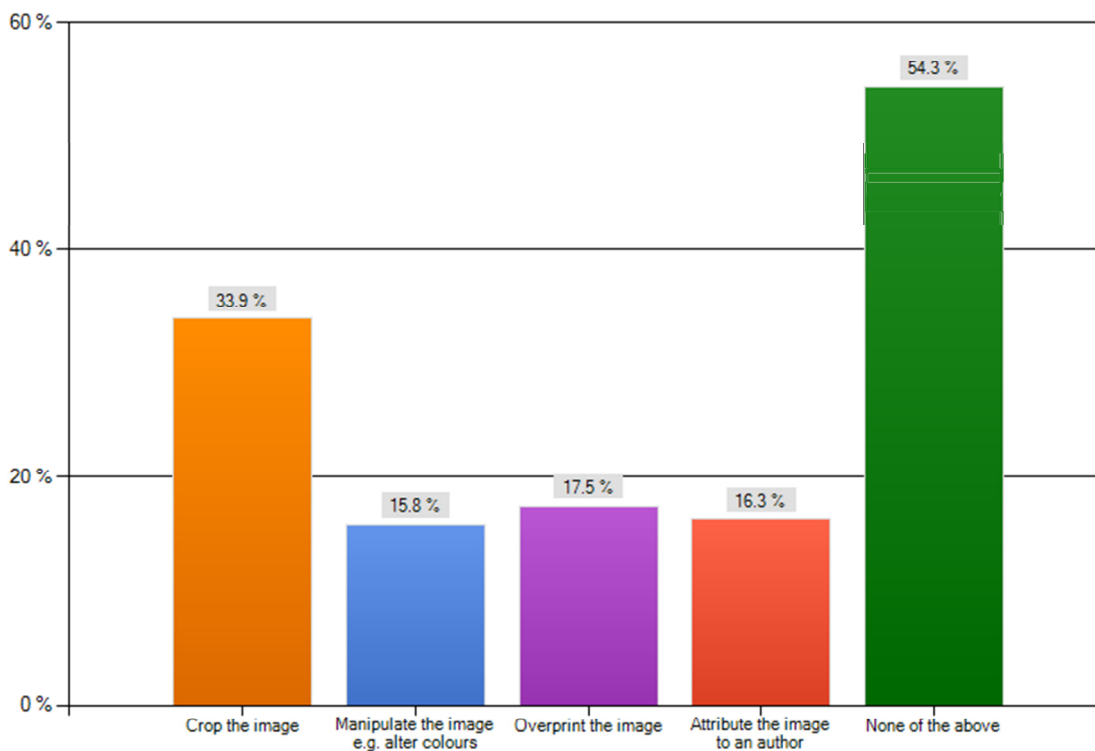


Moral rights

Moral rights are given to creators of a work and include the right to be identified as the creator of the work, the right of integrity which prevents the manipulation or alteration of your creation without your permission, and the right to object to having a work falsely attributed to you. The Government has questions on the impact of an orphan works scheme on creators' moral rights.

DACS asked survey respondents their views on the impact of the proposed orphan works scheme on creators' moral rights. DACS listed some of the key activities that undermine creators' moral rights and asked what users should be allowed to do with an image if it were to be cleared for use under such a scheme. Respondents felt strongly about this issue with 54% responding that they felt none of the proposed activities should take place. 34% of respondents were happy to allow the cropping of works.

What should a user of an orphan work be allowed to do with the work once its use has been authorised?



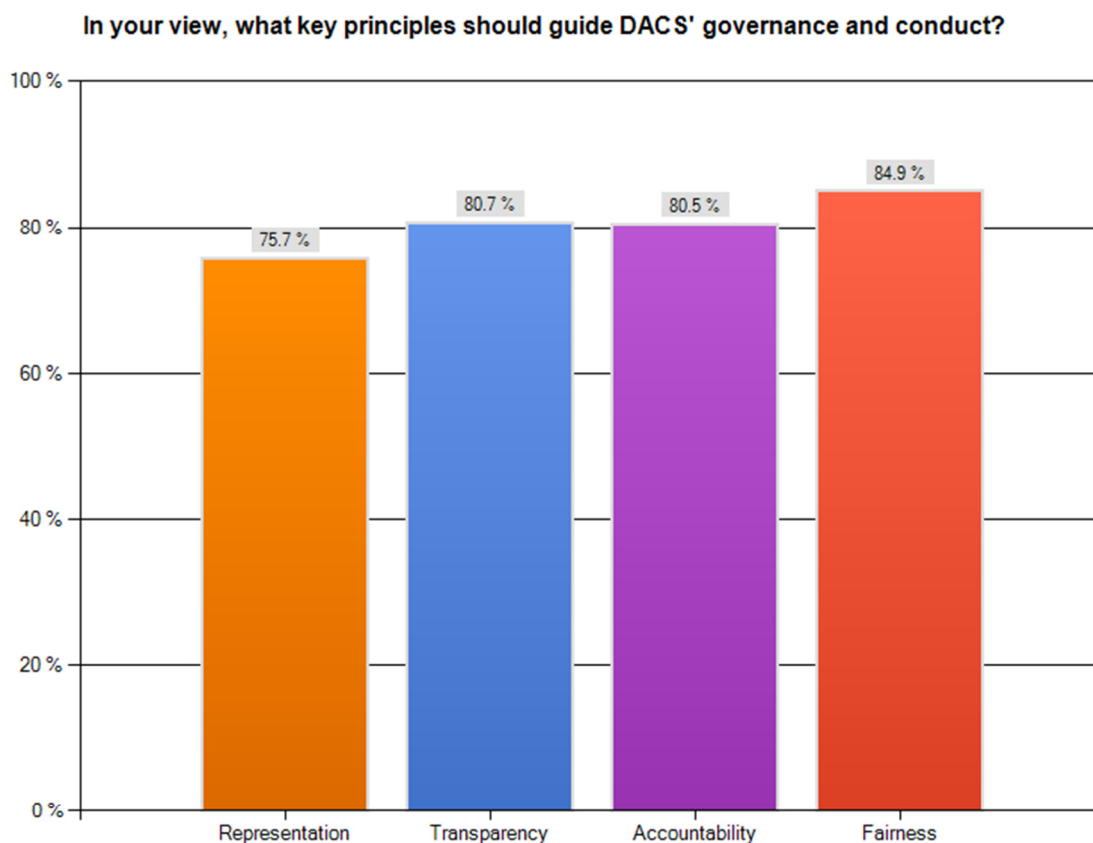
Codes of Conduct for collecting societies

The Government wants collecting societies to set at least minimum standards of good governance, fairness and transparency. The intention is to introduce a voluntary code of conduct.

In the event of a failure to comply, the Government wants to be able to impose a code on a collecting society. The consultation also asks if collecting societies should be fined for non-compliance.

At the same time, DACS is also reviewing our governance framework to ensure that it is fit for purpose.

Respondents were asked to identify what principles they felt should guide DACS' governance and conduct. Unsurprisingly all four options were rated very highly.



Copyright Exceptions

The Government are proposing the introduction of a number of new copyright exceptions. A copyright exception allows for certain uses of copyright protected works without permission or remuneration. The key changes impacting visual artists are summarised below.

DACS surveyed artists on three of the exceptions proposed in the Consultation on Copyright.

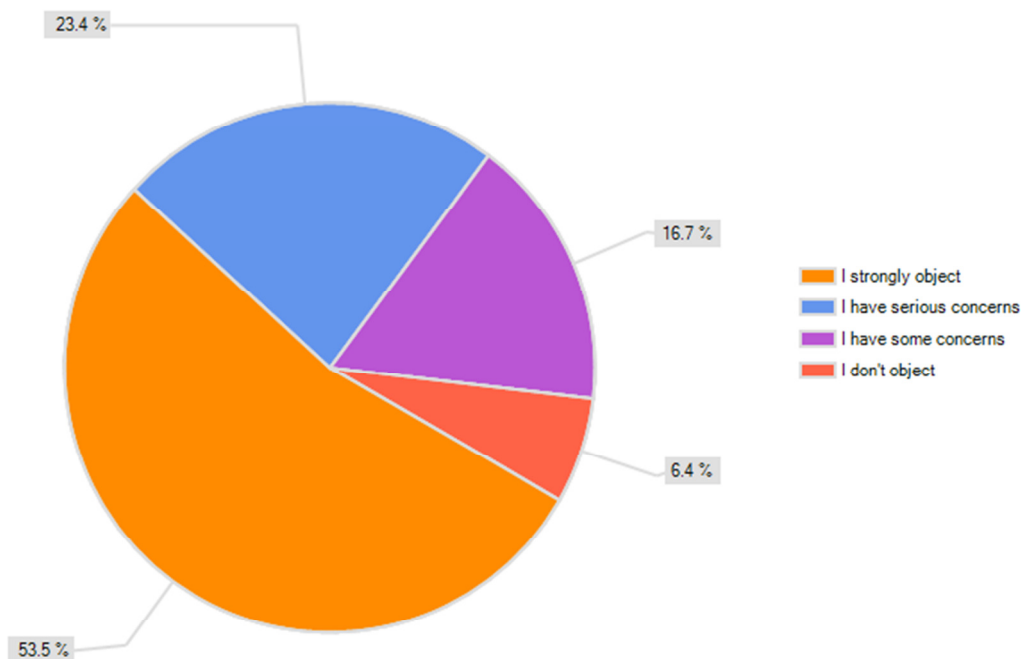
Education

The Government's proposed exception for education will have the effect of reducing the royalties enjoyed by visual artists through schemes run by CLA and the Educational Recording Agency (ERA). DACS receives a share of the royalties from these schemes and pays them to visual artists through our Payback distribution scheme. As much as 50% of the photocopying royalties DACS pays to visual artists through Payback comes from educational licensing. Educational institutions will be allowed to copy a wider range of copyright protected material for a wider range of uses without seeking permission or providing remuneration to rightsholders.

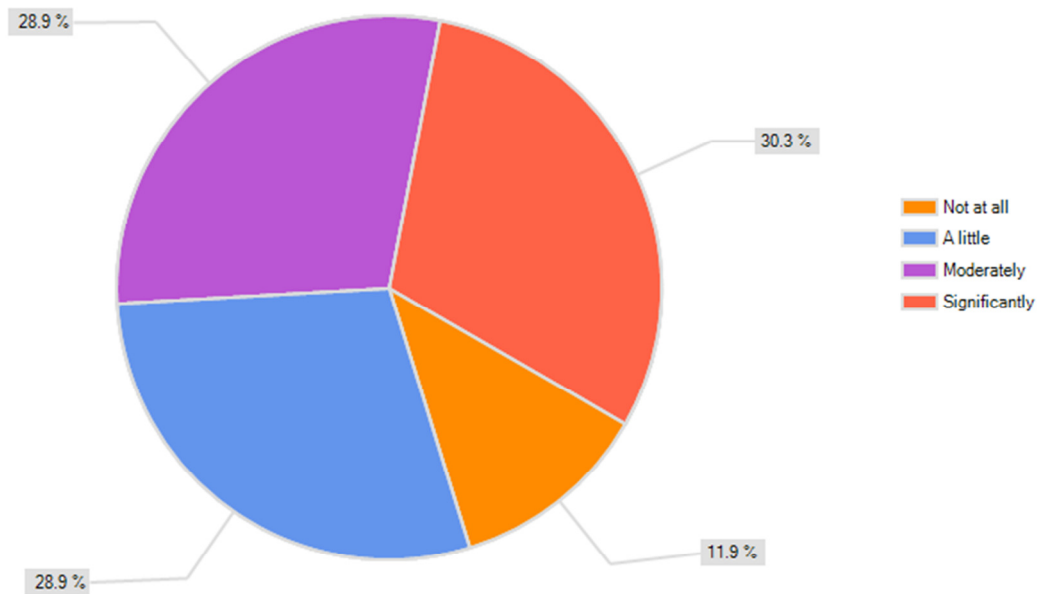
54% of respondents strongly objected to the widening of copyright exceptions relating to educational use. 24% had serious concerns. Only 7% of respondents didn't object to a widening of educational exceptions.

30% of respondents felt that the reduction in royalties resulting from the widening of educational exceptions would 'significantly' impact them. 29% felt they would be 'moderately' impacted.

How do you feel about educational institutions being able to use more copyright works without permission or remuneration?



How would this reduction in royalties impact you?

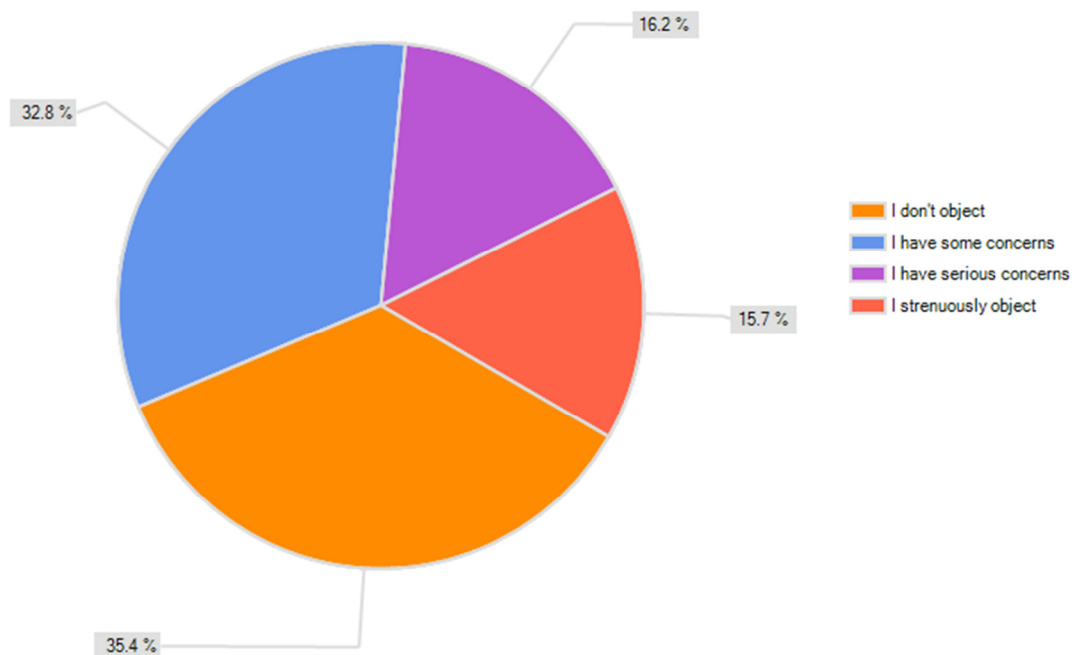


Private copying

The Government proposes to allow an individual to copy creative content that they own to other devices, media and platforms that they own. E.g. copying a CD onto a personal computer, or printing a photograph on a personal computer.

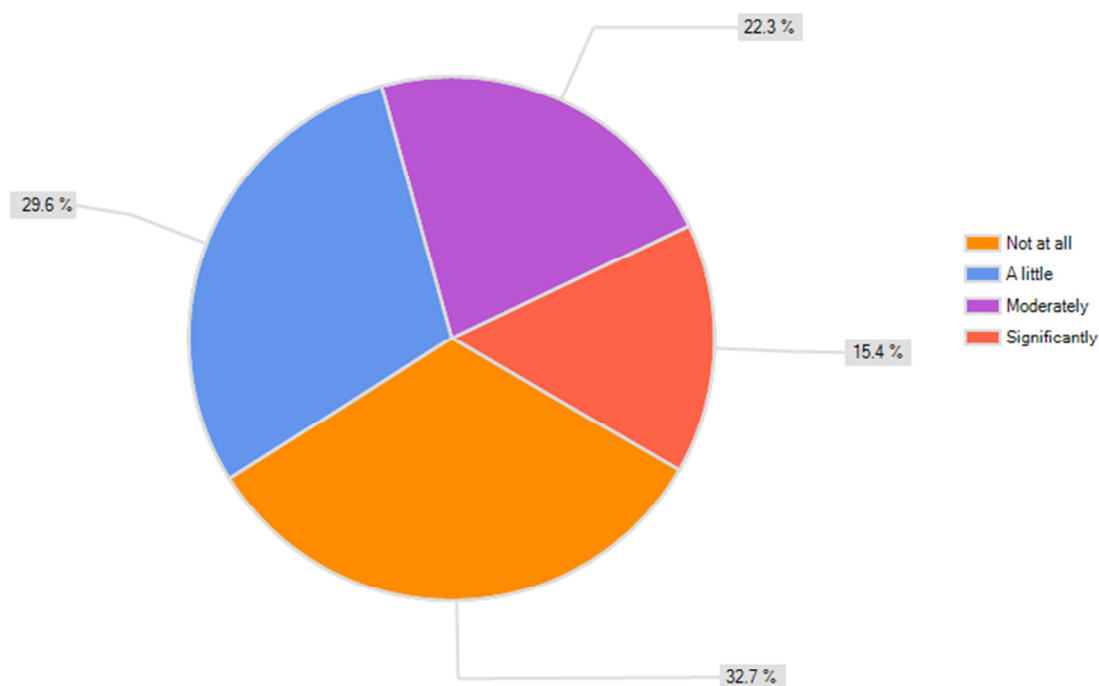
Respondents were less concerned about the introduction of a private copying exception, with only 16% of respondents strongly objecting. 16% had 'serious concerns'. A majority of 35% of respondents did not object to this proposed exception.

How do you feel about the introduction of a private copying exception?



Unsurprisingly, fewer respondents correspondingly felt that the introduction of a private copying exception would significantly impact their work as a visual artist, with 15% indicating that they felt it would have a significant effect and 33% indicating that it would have no effect.

How much would the introduction of a private copying exception affect your work as a visual artist?



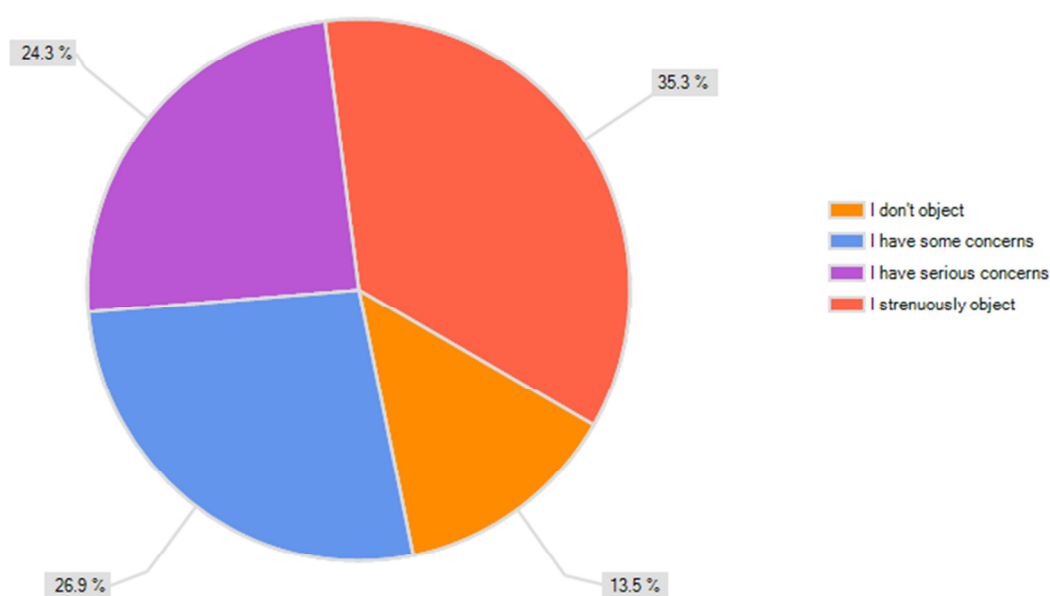
Parody, caricature and pastiche

The Government wishes to provide an exception for parody which would allow people to create parodies from existing works without seeking permission from the creator of the original work, and without providing remuneration. This could mean that many uses currently licensed could be argued as parody, thereby not requiring permission from the rightsholder, nor remuneration.

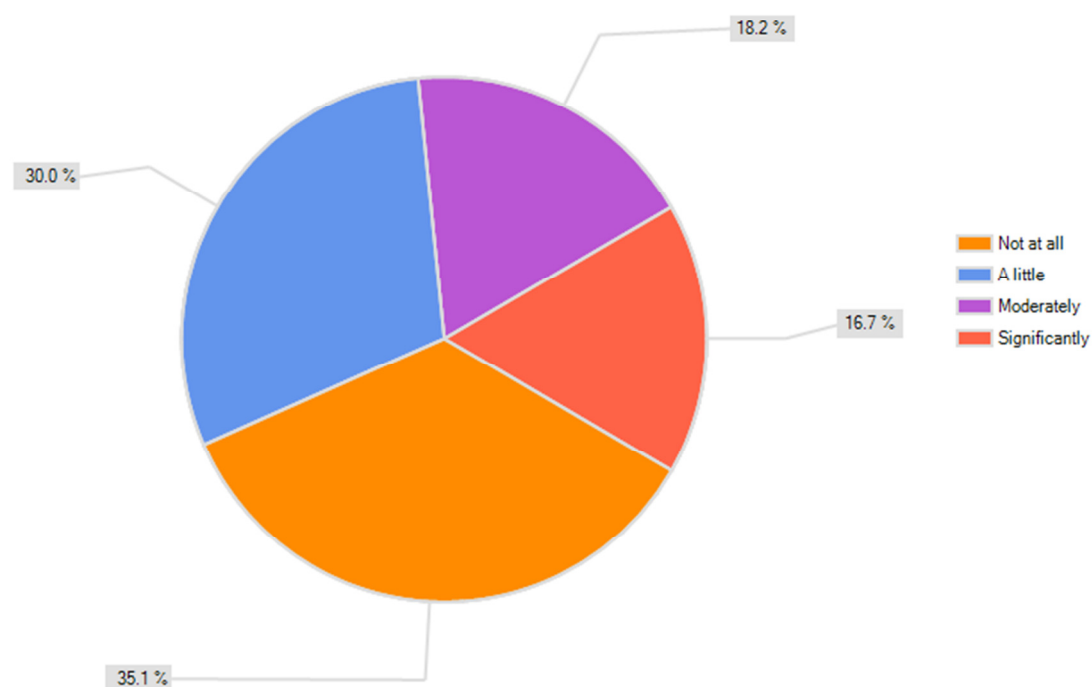
35% of respondents strenuously objected to the introduction of an exception for parody, caricature and pastiche, with 24% having serious concerns. 14% of respondents had no objection.

35% felt that the introduction of such an exception would 'significantly' or 'moderately' affect their work as a visual artist, with another 35% considering it to have no impact on their work. This response reflects the fact that many artists themselves parody work in their own practice, without, it seems, running into problems. However, when asked how they felt about business or organisations being able to use their work for parody, 51% strenuously objected, while a further 21% had serious concerns.

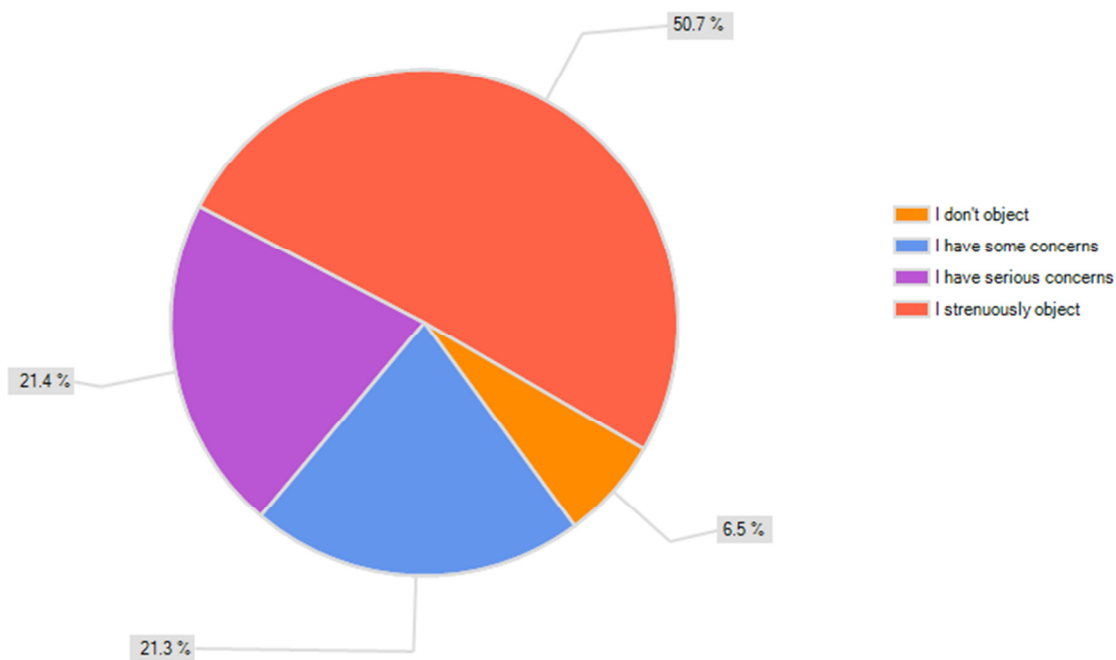
How do you feel about the introduction of a parody exception?



How much would the introduction of a parody exception affect your work as a visual artist?



Do you have any concerns about allowing business or organisations to use your work for parody without your permission?



"Jobs I did for national newspapers 25 years ago for £300-£400 nowadays will make £150. The same amount of work has to go into the job. Taking into account inflation it makes life very difficult, to the point that in a recent AOI survey, less than 4% of illustrators earn over £10k per annum. Changes to make things 'easier for big business' unfortunately simply mean that the creators of images will suffer more." Glyn Goodwin, Cartoonist / comic artist, Digital artist, Fine artist, Illustrator, Painter, Printmaker

DACS
March 2012