



African Library and Information Associations and Institutions (AfLIA)
Association Africaine des Bibliothèques et des Institutions d'Information
Associação Africana de Bibliotecas e Instituições de Informação

INSTI BUILDING, CSIR HEADQUARTERS, PMB BC38, BURMA CAMP, ACCRA, GHANA

26th January 2022

Mr. A. Hermans
Portfolio Committee on Trade and Industry, Parliament

For Attention:

Mr A. Hermans, ahermans@parliament.gov.za ; Ms M. Sheldon, msheldon@parliament.gov.za;
Ms. Y. Manakaza, ymanakaza@parliament.gov.za and Mr. T. Madima,
tmadima@parliament.gov.za; via email:

Dear Mr. Hermans,

Re: Submission on Copyright Amendment Bill – January 2022

I am writing on behalf the African Library and Information Associations and Institutions (AfLIA). I understand that your Chairperson Mr. Nkosi passed away during 2021. Our sincere condolences to his family and to you and your Committee members.

AfLIA represents libraries and librarians and the communities that they serve in Africa and promotes and supports among other things, copyright legislation, for an equitable balance between the rights of creators and the needs of users through fair and reasonable access.

In July 2018, AfLIA, together with the South African Department of Arts and Culture organised a 2-day round table meeting in Durban, where we brought Ministers responsible for libraries in Africa together to deliberate on the relevance of libraries in national development. At the end of the meeting, the Durban Communique, which committed to putting libraries on the front burner in national development was issued. This was further strengthened by another meeting of Ministers responsible for Libraries held in Accra in October 2019 with the Accra Declaration.

As you are aware, copyright represents a major area of interest for libraries. The ability of our institutions to fulfil their missions to promote education, innovation, culture, and access to information which are crucial to the fulfilment of the AU 2063 and United Nations 2030 Agendas, depend on having the right exceptions and limitations to copyright.

In the said Communique, Minister Nathi Mthethwa and other African Ministers recognised the importance of “*ensuring and protecting intellectual property rights including copyright and neighbouring rights, laws and balanced implementation*”.

The Communique was a follow-up from the Cape Town Declaration in 2015, which Minister Mthethwa signed with other African ministers committing to “*encourage the implementation of fair and balanced copyright laws to facilitate access to information*”.

AfLIA and our members across Africa have followed closely the progress of our South African brothers and sisters in their copyright reform efforts. We can see emerging, in South Africa, a new best practice, which will ensure that libraries and other information services can fully serve the needs of their users, without causing unjustified prejudice to right holders. We believe that the current process in Parliament will help to achieve this.

The 2017 Copyright Amendment Bill, approved by your Parliament in March 2019, has been widely supported by the library and educational sectors in Africa and abroad, many of whom have hailed it as a model for the rest of the continent, making a major contribution to development.

In AfLIA’s written submissions to your Committee in July 2021, we fully supported Sections 12(A to D) and Sections 19(B and C), which are in line with copyright laws in many countries around the world. The Bill was progressive and would show the way towards a copyright framework that is fair, future-proof, and would imprint the conditions for future prosperity by building readers, innovators and creators of tomorrow. The Bill would enable librarians and archivists in South Africa to engage in their mandated duties without restrictions and provide useful model clauses for inclusion in other African countries’ copyright laws. We were really pleased to see such a positive and progressive piece of legislation being processed in South Africa and looked forward to it being passed soon. However, AfLIA has now received the notice about new amendments, and we thank you for the opportunity to make another submission on the Bill.

AfLIA is very surprised to find that the Bill now includes new and more restrictive proposed amendments that will seriously impact on access to information, libraries and other information services, education and research, and affect people with disabilities who also need these provisions. We are disappointed at this late stage to see that the process has now been reversed in many instances, making the Bill far more restrictive.

Libraries and authorised entities will now be given an added burden relating to the exporting and importing of accessible formats (Section 19D3), which is not in line with the Marrakesh Treaty. The deletion of crucial subsections in Section 12A; the restrictions on personal copying (Section 12B(1)(i); and prohibition of copying (Section 19C (4); and addition of 3 levels of criteria to the exceptions for education and academic activity and libraries and archives before copies can be made (Section 12A(d)); all impact directly and negatively on access to information, education, research, library services – in fact, on the use of copyright works in general.

We look to South Africa to uphold its commitment to libraries and related entities who play a pivotal role in development, education, and knowledge-sharing nationally and on the continent. We earnestly request your Committee to rectify the abovementioned problems as a matter of urgency so that citizens will be advantaged .

Please accept the assurances of our highest regards.

Sincerely

A handwritten signature in black ink, appearing to read 'H. Asamoah-Hassan', with a stylized flourish at the end.

Helena Asamoah-Hassan, PhD
Executive Director