

Dear President Cyril Ramaphosa,

August 2024

The long awaited Copyright Amendment Bill and Performers' Protection Amendment Bill should urgently be passed into law

ReCreate is an umbrella civil society organisation of users and creators of copyrighted works, all advocating for copyright reform and in support of the ANC-led legislation - The Copyright Amendment Bill (CAB) and the linked Performers Protection Amendment Bill (PPAB). Our member organisations include COSATU, SADTU, SAGA, Blind SA, Wikimedia South Africa, Artists Unite, Scholarly Horizons, and more.

These Bills contain urgent reforms to improve the livelihoods of creatives, and prevent the exclusion of marginalised groups, such as the visually impaired and poor learners, who are still suffering discrimination under the current apartheid-era Copyright Act and Performers' Protection Act.

The CAB and PPAB are in line with the ANC and all GNU parties' mandates to create jobs, combat inequality and poverty, and improve access to education.

The ANC government has worked for over 10 years on this copyright reform to ensure that:

- I. Artists (including Musicians, Actors, Authors) receive fair royalties for their work
- II. Communities have access to knowledge, especially teachers, learners and the people with disabilities
- III. Collecting societies and other large corporations in the creative sector are fairly regulated
- IV. Copyright is modernised to promote innovation and fairness

The Bills have now passed through Parliament twice, have passed through the nine provincial legislators of the NCOP, and have made their way back on to your desk as of 29 February 2024. They are among the longest waiting Bills to be signed, and should be regarded as top priority. Litigation by BlindSA also adds an imperative to reform the current legislation by September 2024 passed down by the Constitutional Court.

ReCreate continues to be a champion for these Bills, and will gladly partner with the government to educate and involve the public. Well funded lobbying and disinformation campaigns by intermediaries, including royalty collecting societies that the Bills seek to regulate, have been trying to tarnish the reputation of the CAB and distort the meaning and progressive purpose of the legislation.

It is important that the ANC stands behind these transformative Bills, and counters these harmful narratives. You do so with the full support of many civil society organisations and globally recognised experts that have been part of this process for many years. ReCreate is in the globally unique position of showing that Users and Creators of copyright can come together for fair and balanced copyright legislation.

As a suggestion, the ANC Government might seek interventions such as an industry summit with all stakeholders present, lead by the DTIC and progressive human rights lawyers; analysing in detail how the law will be implemented in such a way that it meets its objectives: combatting exploitation and ensuring access to knowledge. This could in turn lead to the drafting of regulations.

As the President you are obligated to sign or refer the Bills to the Concourt in terms of Section 79(4) of the Constitution, to test its constitutionality. However, it would be prudent to sign the Bills as a matter of urgency, and then let the opponents of the Bills take this action, if they so wish to. In your opening address to Parliament, on 18 July 2024, you stressed that important legislation should be swiftly enacted, so that lingering differences and misunderstandings can be addressed in the implementation phase.

As progressive formations in support of fair copyright, we are able to provide any resources that the ANC or the government may need during this process. This includes international comparative analysis and opinions by legal experts.

We cannot allow anti-transformation agendas to hamper democratic process that will change the lives of many South Africans for the better. Once the Bills are assented we can begin the important work of drafting regulations and preparing for implementation.

Yours sincerely

ReCreate South Africa

www.re-createza.org

Key groups in support of progressive copyright reform

The Congress of South African Trade Unions (COSATU)

The South African Democratic Teachers Union (SADTU)

South African Guild of Actors (SAGA)

Artists Unite

Wikimedia SA

Blind SA

Scholarly Horizons

University of Western Cape, Gender Equity Unit

Research ICT Africa

Creative Commons, South African Chapter

Progressive legal experts with specialist knowledge which might assist:

University of Cape Town, IP Unit

University of Pretoria Data Sciences

Mandela Institute

Global Expert Network on Copyright User Rights

Education International

Electronic Information for Libraries (EIFL)

The International Federation of Library Associations (IFLA)

African Leadership Academy (ALA)

Creative Commons, South Africa

American Library Association

Münster University, Germany (Prof. T. Hoeren)

American University Washington College of Law, Program on Information Justice and Intellectual Property (PIJIP)