



**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**

CSIR-INSTI Building, CSIR Headquarters, P.O. Box BC 38, Burma Camp, Accra, Ghana

5th July 2021

To: Mr. D Nkosi, Chairperson:
Portfolio Committee on Trade and Industry, Parliament

For ATTENTION: Mr A. Hermans, Ms M. Sheldon, Ms. Y. Manakaza, Mr. T. Madima, via email:

[REDACTED]

Dear Honourable Member Nkosi,

Re: Submission on Copyright Amendment Bill [B-13B of 2017]

I am writing on behalf the African Library and Information Associations and Institutions (AfLIA). We represent libraries and librarians and the communities that they serve in Africa. Thank you for this opportunity to make written comments on Sections 12A, B, C and D, and Sections 19B and C of the 2017 Bill.

AfLIA promotes and supports copyright legislation, which achieves an equitable balance between the rights of creators and the needs of users through fair and reasonable access. In July 2018, our Association, together with the SA Department of Arts and Culture organised a 2-day round table meeting in Durban, where we brought Ministers responsible for libraries in Africa 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 for 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 sisters and brothers 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 Copyright Amendment Bill will help to achieve this.

It is unfortunate that there has been significant opposition to the Copyright Amendment Bill over the past few years. We note that this has often been based on spurious claims, deliberate confusion and a clear misunderstanding of copyright exceptions and how they should benefit all stakeholders, not just rightsholders.

AfLIA was dismayed when very favourable exceptions and limitations for libraries which would enhance the functions and services of libraries not only in South Africa but would serve as a precedent for the rest of Africa, were sent back to Parliament in June 2020, on the grounds that they might be “unconstitutional”.

The Bill in the form 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.

AfLIA fully supports Sections 12A, 12B, 12C and 12D, 19B and 19C of the Copyright Amendment Bill. These provisions are 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. It will 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.

AfLIA is surprised that the Bill is in question as to its constitutionality or compliance with international treaties, especially since we know that the Bill was drafted within an international, regional and domestic copyright framework. This included IP policies, WIPO and other studies, WIPO treaties and treaty proposals, research reports, the EIFL model copyright law, the African Copyright and Access to Knowledge project findings, and other important documents, as well as clauses adopted from many copyright laws around the world. More importantly, we note that it was also drafted in line with the SA Constitution and international human rights obligations.

AfLIA trusts that, after four decades without reforms in favour of libraries and their users, South Africa will re-affirm and re-approve the current provisions in the Bill for libraries, but also for education, research, people with disabilities, archives, museums and galleries. 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 hope that the Bill’s process through Parliament and the provinces will not delay the Bill for too much longer.

Sincerely,



Helena Asamoah-Hassan
Executive Director, AfLIA

