

**The Hon. Chair of the PC on Trade, Industry and Competition**

**National Assembly**

**Parliament of the Republic of South Africa**

**CAPE TOWN**

**ATTENTION: MA. Hermans**

Parliament of the Republic of South Africa

CAPE TOWN

By email to the Committee Secretariat: [ahermans@parliament.gov.za](mailto:ahermans@parliament.gov.za)

Dear Ms Hermans

**Copyright Amendment Bill [B13B-2017]: Submission of Comments by Juta & Co.**

In response to your Committee's invitation to stakeholders as advertised in the *Mail & Guardian* to make written submissions in respect of the Copyright Amendment Bill, No B13 of 2017 (referred to in this submission as the "Bill"), as Juta & company, and as members of the Publishers Association of South Africa, we align ourselves with its submission, which we include herewith. We also would like to emphasise the following, which affect us as a local publisher of education and professional books and a subsidiary of Kagiso Media, with interests in media, radio and publishing:

- The education exceptions as currently expressed will affect us significantly in a market where education books account for close to 70% of the total book market and where more than 60% of potential sales are lost to piracy and illegal copying by students and education institutions.
- If the bill is passed as is, many international companies will close their operations and operate in regions with better copyright protection, while local entities like us may have to close shop. This will be a major set-back against the strides that we made since 1994 through concerted local investment in the sector, including many black companies and SMMEs that make up the majority of the sector.
- This is contrary to the efforts of many government departments, including DTI and DACS to grow the local creative sector through the Creative Industries Master Plan
- Our concerns are confirmed by the PwC report. We are further concerned that there has not been any impact assessment as is normally a requirement for legislation with such far reaching consequences.

- Lack of compliance with International provisions, which has been confirmed by global organisations like IFRRO and the IPA, will affect local players most and reduce their global competitiveness as they will have to compete against companies that operate in environments with stronger copyright protection; will not be able to licence their materials to companies outside SA due to more restrictive legislation and will entice more South African authors to publish outside South Africa, where their IP will be better protected. Our ability to licence much needed international publications will be limited as these companies will shun licensing into a territory that does not comply with international law and where their IP is not adequately protected. All these will reduce South Africa's cultural exports and heritage; decimate the SMMEs and the local sector; significantly reduce employment in the sector and reduce access to international IP.
- While we welcome the introduction of the 3 steps test, we feel that its wording has been so watered down that it will not be able to protect rights holders' exposure to the ravages of the fair use provisions. We urge your committee to seriously consider applying the 3 steps test as intended in the Berne Convention and TRIPS agreements and as recommended in the PASA submission.

We recommend that instead of making it easier for illegal copying and piracy which are already ravaging the sector, we should be strengthening protection for authors and publishers to reverse the tide. While we adapt international law to suit our needs, we should not make our creative sector less protected than their counterparts in the rest of the world. Access for education should be treated as a funding problem and not be saddled solely on the shoulders of rights holders. Current law and international statutes provide adequate means for education, library and archival purposes and more can be achieved through licensing models and collective licensing organisations.

As we move into the digital era, South Africa needs local investment in learning tools that can enhance access to information and improve learning outcomes. Such investment and innovation cannot happen in a weakened IP environment.

Currently, the South African education sector risks being left out of the 4IR due to lack of local investment and being shunned by international innovators and investors.

We wish you well in your further deliberations and modernisation of our copyright law.

Sincerely Yours

BRIAN WAFWAROWA  
Chief Content & Product Officer



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