



**International
Federation of
Library
Associations and Institutions**

9 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:
ahermans@parliament.gov.za; tmadima@parliament.gov.za; msheldon@parliament.gov.za and
ymanakaza@parliament.gov.za

Dear Honourable Member Nkosi,

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

The International Federation of Library Associations and Institutions welcomes the opportunity to share its perspectives on the sections 12A, 12B, 12C and 12D, 19B and 19C of the Copyright Amendment Bill [B-13B, 2017].

IFLA represents the international field of libraries with members in 135 countries, including institutional and associative members in South Africa. We represent and support the interests of libraries at national, regional and international levels to enable libraries to benefit from exceptions and limitations that allow them to continue their public service missions.

The missions of libraries are intended for all citizens and aim at ensuring the development of reading among the population, access to information, education, research and thus to create and open new educational and professional perspectives for children, adolescents and adults.

In addition, the libraries also preserve the documentary heritage and ensure that it is maintained in the best possible conditions so that future generations can have access to it.

IFLA supports the position of the Committee of Higher Education Libraries of South Africa (CHELSA).

As stated and shared by CHELSEA, IFLA regrets the postponement of the bill to June 2020 after extensive discussions with many stakeholders and its validation in March 2019. We consider such a decision to be a step backwards and detrimental to libraries and their users.

Beyond the discussions with expert copyright researchers and scientists who showed the benefits for South African stakeholders, IFLA considers that this Bill has offered an important opportunity to incorporate exceptions and limitations, such as the doctrine of fair use, into the copyright system in a similar manner to many countries. Exceptions and Limitations are essential and part of a balanced copyright system.

As well as national or regional legislation implementing them, many international treaties or international studies developed within the World Intellectual Property Organisation also favour the implementation of exceptions and limitations to enable cultural, heritage, research and educational institutions to function but also the economy to flourish through related innovations.

While libraries, archives, museums and educational and research institutions are legally dependent on the inclusion of exceptions and limitations to copyright, we regret that the Copyright Act No. 98 of 1978 does not contain legal provisions to support and allow these institutions to function.

IFLA strongly supports the retention of the exceptions and limitations in sections 12A, 12B, 12C and 12D, 19D and 19C of the 2017 Bill as they will support the work of libraries.

IFLA underlines the work done by South African institutions to make copies of works for preservation purposes, provide access to knowledge and to information, train citizens, use provisions related to education and research purposes, develop curation programmes, and their efforts to develop open access policies such as open data, open science, open education resources programmes and giving them life to operate at the same level as progressive and modern libraries. The lack of legal support will impact the benefits of these developments in South Africa.

The delay caused by the reconsideration of exceptions and limitations in the bill will have a costly impact on the development of libraries and therefore, on the development of the country by reducing the ability of citizens to have access to information, to knowledge and to research in the digital environment.

IFLA therefore calls on the inclusion of exceptions and limitations in the mentioned sections to ensure that libraries and other public services institutions would be able to benefit from a balanced and adequate copyright system. This action will support the development of South African citizens and will have economical repercussions.

Yours faithfully,

IFLA