

Submission by Steven Markovitz & Ingrid Kopp of Electric South, a non-profit organization. Address: First Floor, 114 Hout Street, Cape Town, 8001. Tel : 021 4220330 . Email : [steven@electricsouth.org](mailto:steven@electricsouth.org) and [ingrid@electricsouth.org](mailto:ingrid@electricsouth.org)

To Parliament of the Republic of South Africa Portfolio Committee on Trade and Industry regarding

The Copyright Amendment Bill (B-13-2017)

To: Ms. J. Fubbs  
Chairperson of the Portfolio Committee on Trade and Industry  
Attention: Mr. A. Hermans  
P.O. Box 15  
Parliament, Cape Town  
8000

Via e-mail: [ahermans@parliament.gov.za](mailto:ahermans@parliament.gov.za)

Date: 7 July 2017

Dear Sir/Madam

**Submission on the Copyright Amendment Bill (2017) [B13-2017]**

We submit these comments on the Copyright Amendment Bill and request to testify on the Bill on 1, 3 or 4 August 2017.

Electric South is a non-profit organisation based in Cape Town, South Africa. We are creating the production, tools and distribution system for media in 21st century Africa through funding, incubating and exhibiting the work of African creators.

We provide support and mentorship to digital visual storytellers in Africa. We are also creating platforms for African storytellers to explore their worlds in new ways, for new audiences. We fund and support storytelling across the continent in a variety of creative mediums including Virtual Reality, interactive web documentaries, short and feature non-fiction and other mobile-based content. For more details see our website [www.electricsouth.org](http://www.electricsouth.org)

We appreciate the opportunity to give our views on the Copyright Amendment Bill. In this submission we limit our comments to those sections of the Bill which impact freedom of expression and freedom of the media in particular, since those are the

elements that fall within our mandate. There are other provisions which would otherwise deserve our comment, however we leave comment on this to others.

The existing draft of the Bill fails to strengthen the provisions for incidental use of materials as is often required in Virtual Reality recordings. Specifically, it is our view that the present incidental use exception in section 15(1) is unduly restricted. It fails, for example, to authorize the incidental capture of audiovisual works (a television or radio in the background), photographs, or performances (e.g. a street band) of the kind commonly captured in cinematographic film. The exception also leaves out key works that commonly and incidentally capture background material, such as photographs and paintings. A better incidental use exception would apply to the use of any work, in any other type of work. The 2001 EU Directive on Copyright (Art. 3), for example, permits “incidental inclusion of a work or other subject-matter in other material.”

The current “panorama right” is also unduly limited such that public buildings covered by copyright are not excluded. The current amendments when applied to 360 degree filming would make it almost impossible to frame elements out of our shots, making fair use of even more importance as a tool than it already is

We would be very pleased to provide any further information that you may require to assist you in the finalisation of the bill and respectfully request to make oral submissions on the above and on other aspects of the amendments.

Yours faithfully

**Steven Markovitz & Ingrid Kopp**  
**Electric South**