

October 1, 2018

Mr. Andre Hermans  
Mr. Tenda Madima  
Committees Section  
Portfolio Committee on Trade and Industry  
Parliament of the Republic of South Africa  
P.O. Box 15  
Cape Town 8000  
Republic of South Africa

Re: Comments on Copyright Amendment Bill

Dear Messrs. Hermans and Madima,

./ My comments in response to the request to the Technical Panel of Experts on the Copyright Amendment Bill to comment on the draft bill are attached to this letter.

As requested, I have tried to keep my comments and proposed technical and drafting amendments within the limits described in the instructions. In particular, I have focused on whether the sections of the bill related to implementing multilateral copyright treaties correctly reflect the content of the WIPO copyright treaties, as well as related questions of terminology and wording.

The comments reflect my views but they are not offered and should not be viewed as official interpretations of international treaty provisions by the World Intellectual Property Organization (WIPO). While I have tried to cover as many points related to the multilateral copyright treaties as possible in the time available for this review, there are likely additional points within this category that could be addressed.

With respect to the instructions, I note the statement that the clauses of the Bill may have a broader scope than a treaty, but not a narrower one. This would indeed be the case with respect to many treaty provisions setting minimum standards. The Republic of South Africa could choose to adopt broader provisions at the national level while implementing multilateral copyright treaties. However where treaties contain conditions or detailed requirements, these features may need to be implemented in addition to the minimum requirements in order to have legislation that is consistent with treaty provisions. A number of my comments reflect considerations related to such conditions and requirements.

Given the instructions and the relatively limited time period for undertaking the requested review, I have not commented on a number of areas, such as the detailed provisions regarding collective management organizations, although there is a relationship between these topics and the international treaty framework. However on the subject of collective

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management and several others identified in the comments, including the incorporation of the provisions of the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired and Otherwise Print Disabled* and the *Appendix to the Berne Convention (Paris Act 1971)*, the International Bureau of WIPO would be available to provide further advice and assistance if requested to do so.

Thank you for the opportunity to provide technical comments on the Copyright Amendment Bill. I would be pleased to respond to any questions or to provide clarifications with respect to the attached comments.

Sincerely yours,

A handwritten signature in blue ink that reads "Michele J. Woods". The signature is written in a cursive style with a blue highlight behind the name.

Michele J. Woods  
Director  
Copyright Law Division  
Copyright and Creative Industries Sector  
World Intellectual Property Organization