



Jean-Luc Demarty  
Director General of DG Trade  
European Commission  
170 Rue de la Loi  
Brussels  
B-1049  
Belgium

18 February 2019

Dear Mr Demarty,

We are writing to you as a group of organisations representing European and international audiovisual producers, authors and composers, screenwriters and directors, music publishers, music producers, book publishers, and authors' and publishers' reproduction rights organisations in the text and image sector to request that the European Commission urgently raise concerns with the South African Government with respect to the copyright reform proposals in South Africa. The Copyright Amendment Bill and the Performers' Protection Bill are at an advanced stage in the legislative process with a vote in the upper house of parliament scheduled for 27<sup>th</sup> March. South Africa is an important market for European copyright protected content and the rules adopted there will influence the standards across the African continent.

The South African Government has committed to modernising South African copyright law to bring it into line with the WIPO Internet and Beijing treaties, which South Africa intends to ratify, and with international best practice. Our organisations fully support these aims but

regrettably, a number of proposals contained in the bills would in fact substantially undermine the South African market for exports and, if adopted, would also reduce the incentives to invest in South African creative industries to the detriment of all rightholders and the wider South African economy.

Furthermore, a number of aspects of these bills are not compatible with the international copyright treaties they seek to implement, and are seriously out of step with the laws of the European Union. Key concerns include proposals to heavily regulate contractual terms and limit contractual freedom within the creative industries, to implement a so-called 'hybrid model' containing both a US-style open-ended "fair use" exception, and also broadened fair dealing exceptions. There are also proposals to specify rules on technical protection measures, which are not compatible with WIPO treaties and would risk creating a piracy safe-haven in South Africa.

To ensure that the South African copyright framework is fit for purpose and achieves the stated goals of this reform, we would be grateful for a demarche by the European Commission to strongly urge the highest levels of the South African government and the chair of the committee which is currently holding them to amend the proposals so as to eliminate the negative impact that the Bills would have on the creators they aim to support.

We, the undersigned, stand ready to work with the South African Government and Parliament in further developing these draft laws to secure a thriving future for all participants in South Africa's creative economy.

Yours sincerely

The undersigned organisations

**APASER** – Pan-African Alliance of Screenwriters and Directors

**CIAM** – International Council of Music Authors

**CISAC** – International Confederation of Societies of Authors and Composers

**FEP** – Federation of European Publishers

**GESAC** – European Grouping of Societies of Authors and Composers

**IAF** – International Authors Forum

**ICMP** – The Global Voice of Music Publishing

**IFPI** – Representing the Recording Industry Worldwide

**IFRRO** – International Federation of Reproduction Rights Organisations

**MPA** – Motion Picture Association – Europe, Middle-East, Africa

**PACSA** – Pan-African Composers' and Songwriters' Alliance

**W&DW** – Writers and Directors Worldwide