

**From:** Art. 4(1)(b) (TRADE)  
**To:** Art. 4(1)(b) (CNECT); Art. 4(1)(b) (CNECT); Art. 4(1)(b) (CNECT);  
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**Cc:** Art. 4(1)(b) (TRADE)  
**Subject:** South Africa - Copyright Amendment Bill  
**Date:** vendredi 15 février 2019 11:32:29  
**Attachments:** [Amadment bill performers protection 5 12 2018.pdf](#)  
[Amendment copyright-amendment-bill-5 12 2018.pdf](#)  
[Copyright Act.pdf](#)  
[150916 COMMENTS FROM THE EC ON THE COPYRIGHT AMENDMENT BILL OF THE DTI.docx.pdf](#)  
[IFPI.pdf](#)

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Dear friends, dear colleagues

As you may remember, we informed you in our organisation of work on international files with you about the need for a legal analysis of the copyright reform in South Africa.

A notice of the National Council of Provinces (NCOP) Select Committee's call for comments has just been posted: <https://www.parliament.gov.za/committee-notice-details/115>.

As feared and as expected, the deadline date is 22 February 2019, 7 days from now.

Please find attached the two draft bills to be assessed and the current © Act:

You will remember that we had already intervened in 2016 at an earlier stage, see attached.

Furthermore, an element of context is also extremely important, unrelated to this process is that there is now a broader circle of SA Government departments that will have a direct interest in these draft Bills following the Cabinet decision to accede to the international treaties, WCT, WPPT and Beijing. The record of the Cabinet decision on 5 December 2018 for SA to accede to WCT, WPPT and Beijing is at <https://www.gcis.gov.za/newsroom/media-releases/statement-cabinet-meeting-5-december-2018>

(paras 16-18).

We work also on our side but we have to identify the most relevant concerns and we need your expertise, e.g. 'Fair use', new copyright exceptions, coupled with contract override and compliance with Berne, TRIPs, WCT, WPPT and the Beijing Treaty; exception for persons with a disability and compliance with the Marrakesh Treaty; unwaivable right of authors and performers to a royalty, coupled with contract override; distributions by collecting societies to foreign rightsholders and

meeting compliance with Berne, TRIPs, WCT, WPPT and the Beijing Treaty; do the new copyright exceptions amount to expropriation of property?; retrospective effect of certain provisions relating to the unwaivable rights by authors to a royalty and the 25-year limit on assignments of copyright already made; exhaustion of rights, permitting parallel importation and reducing the scope of secondary infringement by certain forms of distribution...

.....and maybe other important issues that I'm missing now....

As regards both draft bills we have received the attached brief from IFPI

Thanks a lot for your cooperation. Tell me who will be in charge of this file in your Unit

I'm of course available for more info.

Amitiés

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