

South Africa's Copyright Amendment Bill and the need to properly support authors.

IAF is concerned that, as it stands, the proposed reforms to the Copyright Amendment Bill would have the unintended consequences of harming the livelihoods of creators and undermining the creative industries of South Africa.

These reforms would harm authors' earnings, particularly for those who write works for education. Licence incomes lost to exceptions would threaten the livelihood of these authors, as this is often the main source of remuneration for their work. Proper remuneration for all authors is important though, to ensure they can continue to contribute to their culture. When the products of a country's creative industries suffer, the wider impact is significant. If local authors cannot make a living from their writing the supply of local cultural works is threatened, which can lead to more cultural and creative works being imported. If a country relies on imported textbooks for schooling, the diversity and knowledge of national culture will suffer. This could lead to the availability of works in national languages declining because authors cannot make a living creating them. Threatening the ability for South African authors to make a living from their work could limit the availability of local work, which is especially concerning.

In section 12A, which introduces general exceptions, the concept of fair use is very broad. The proposal uses the wording "such as the following", which suggests exceptions could further exceed the expectations for the fair use concept. This could result in the unintended consequence that the reform will not only pose an inestimable threat to authors' livelihoods, but is also incompatible with international law.

It is of critical concern that the suggested amendments will conflict with South Africa's obligations under the Berne Convention and the Trade-Related Aspects of Intellectual Property Rights Agreement. These international treaties require copyright exceptions pass the three step test, which needs exceptions to; be limited to special cases, not conflict with normal exploitation of works and not unreasonably prejudice the legitimate interests of the author. These reforms fail these tests. They are too broad to be limited to special cases and by undermining the main source of remuneration for authors of educational works and local authors the latter two tests also fail. These concerns have been raised by copyright experts engaged by the parliament and should be taken seriously.

IAF is concerned about the process by which these proposed changes have been developed; reports suggest authors and their representatives have not been properly consulted in the development of these proposals. Measures seemingly intended to support authors will not be effective. An example of this is the intended establishment of better moral rights, such as the obligation to name the author, which would only be applied in limited circumstances when crediting the author should be the norm.

IAF points to the challenges faced by authors in Canada, where similar changes to introduce fair use provisions and broaden exceptions led to a catastrophic decline in Canadian authors' incomes. This has been highlighted by a number of income surveys in Canada, including the most recent 2018 report entitled *Diminishing Returns: Creative Culture at Risk*.

IAF and its membership urges the National Assembly to reconsider these proposals and consult with authors and their representatives more fully about these concerns. Upholding the balance between access to works and fair remuneration for creators should be the primary objective of this Bill, as was its original intention.

The International Authors Forum (IAF) represents over 700,000 authors worldwide through nearly 70 author organisations and campaigns for their interests in every country.