Ms. Judy Hermans, Chairperson
Portfolio Committee on Trade, Industry and Competition
Parliament of the Republic of South Africa
Parliament Street, Cape Town
By email: jhermans@parliament.gov.za

21 December 2023

Subject: Copyright Amendment Bill [B13F-2017]

Dear Ms. Hermans,

Electronic Information for Libraries (EIFL) is an international NGO that works with libraries to enable access to knowledge in over 50 developing and transition economy countries in Africa, Asia, Europe and Latin America. In South Africa, EIFL has engaged with academic libraries to support teaching, learning and research, and with public libraries to develop ICT skills and create employment opportunities in disadvantaged communities.

EIFL participated in consultations on the Copyright Amendment Bill (CAB) organized by the National Assembly in 2020, 2021 and 2022 - we supported provisions that enable digital preservation, online education, the making of accessible format copies for people with print disabilities, and other public interest activities. We welcomed the passing of the Bill by the National Council of Provinces (NCOP) in September, and we eagerly await its concurrence by the National Assembly.

We are writing to express our concern at an apparent delay in the adoption of the CAB, and we urge that you do all in your power to ensure that the schedule for the Bill is not allowed to slip.

We commend the extensive public consultations, reviews and deliberations that have taken place over the last six years (in our experience, the CAB is one of the most scrutinized copyright bills in the world). We therefore trust that continued opposition to the CAB from some rights holder industry groups will not succeed in derailing the Bill at this critical stage.

Time is of the essence: while other countries are modernizing their laws for the digital environment, South Africa is being left behind (the Copyright Act, 1978 is one of the oldest copyright laws in Africa). To be clear, the exceptions (Sections 12A, 12D, 19C, 19D) seek merely to ensure that libraries and educational institutions in South Africa have the same rights, and are no worse off, than their counterparts in other countries. For example, Nigeria's Copyright Act, 2022 contains exceptions similar to those in the CAB, including an updated fair dealing provision (Section 20(1)), while countries such as Australia, Canada, Israel, Singapore, the United Kingdom, and the United States all benefit from similar provisions in their laws.

The Copyright Amendment Bill has laudable ambitions: it aims to increase access to knowledge, education and learning materials, and to support persons with disabilities. It represents a fair balance between the interests of rights holders and the public, and it complies with the international instruments to which South Africa is a party. It will support education, research and innovation for the next generation of learners and entrepreneurs. It will uphold the right to read of people with print disabilities, enabling libraries to boost their services to people with disabilities for education, employment and participation in society. It will put in place a legal framework to mitigate against disasters such as the devastating fire at the University of Cape Town in 2021 when Africa lost a part of its history: due to copyright restrictions, some items in the library's collection had no digital backups.

We hope that South Africa will soon have a modern copyright law fit for the digital age and sustainable socio-economic development.

Yours sincerely

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cc:
Mr. Samson Gwede Mantashe, National Chairperson, African National Congress
Ms. Evelyn Masotja, Deputy Director General, Dept of Trade, Industry and Competition
Mr. Zoleka Kula, Portfolio Committee on Sport, Arts & Culture
Mr. Sfiso Norbert Buthelezi, Chairperson, Economic Transformation Cluster