DRAFT AMENDMENTS TO THE SINGAPORE COPYRIGHT LEGISLATION

This submission is made on behalf of IFRRO - The International Federation of Reproduction Rights Organisations – which is the main international network of collective management organisations – the Reproduction Rights Organisations (RROs) – and authors’ and publishers’ associations in the text and image sector, with 145 member organisations in 80 countries worldwide. Our RRO member organisation in Singapore is CLASS.

IFRRO supports the submissions made by CLASS and the Singapore Publishers Association. In addition, we submit:

Educational Use and the Statutory Licence
We strongly oppose the proposed broadening of the exception in the Singapore copyright legislation to allow the reproduction and making available of up to 10% of a published work without prior consent from or payment of remuneration to the author, publisher, or other rightholder. As appropriate legal usages are already enabled through the current regime, it is difficult to see that there is anything that can justify those changes. They will only lead to the collective licence currently administered by CLASS being made redundant, with substantial loss of income to authors and publishers as a consequence. Based on experience and Study Reports from other countries, such a development is likely to have a strong negative impact on the publishing sector in the country.

To our knowledge, no national legislation allows a general reproduction of up to 10% of a publication without obligation to remunerate the rightholders, or come even close to that limit. We also doubt that this would be compliant with the three-step test in the Berne and other international conventions and treaties, which Singapore is party to. To the extent that there is a legitimate need in Singapore to extend the limitation of what can be reproduced from a published work from the current 10-15%, this can be achieved, in consultation with the rightholders concerned and their representative organisations and CLASS, without broadening the already unprecedented extensive unremunerated copying allowed under the current law.

We submit that copying under an exception, without obligation to pay remuneration to rightholders, should only be allowed when the primary and secondary (collective licensing) market do not function properly. Mechanisms to enable functioning primary and secondary market in Singapore already exist, including collective licensing through CLASS. They should be allowed to be carried forward.
In this respect we would like to draw the Ministry’s attention to the Pricewaterhouse Cooper (PwC) study on the impact on the publishing industry of changes in the Canadian copyright legislation, which led to users believing that the law allows for broader exceptions to the exclusive right of rightholders. In addition to the legal uncertainty that the changes created, national production of copyright works have decreased; departments in publishing houses have been closed, especially for the production of textbooks; and personnel has been laid off. The result is that significant harm has been done to the Canadian educational publishing sector, to the extent of jeopardizing its future.

Locally created content is vital to cultural independence, the economy and employment

The creative industries and the copyright-based sectors are fundamental to the digital economy as well as pivotal in sustaining national culture and cultural identity. Cultural and scientific materials produced locally are essential for a nation’s ability to maintain sustainable cultural independency. It is also important in respect of enhanced readership and critical to the general transition into digital. For instance, at the World Summit on Information Society (WSIS) 2015, it was noted that, although most of the world lives within reach of an internet signal, mobile users in developing countries are deterred from going online because of lack of good local content. Authors and publishers, assisted also by RROs, are crucial to helping develop a market for copyright works in developing economies by the protection of and facilitation of access to works of local creators.

The proposed amendments to the Singapore Copyright Act, if adopted in their current wording, are likely to have a direct negative impact on locally-created content, insofar as they weaken the protection of copyright holders and allow enhanced use of copyright-protected works without prior authorisation, or remuneration of authors and publishers. No study has so far documented positive correlation between broad unremunerated exceptions and limitations and economic output, or the development of national cultures and cultural independency. Also the Lisbon Council Report on the effect of the introduction of fair use in Singapore has been severely rebutted by expertise. On the other hand, there are uncontested reports, which show the positive impact on the production of cultural goods, and on the economy and employment, as well as demonstrating positive correlation between the copyright sector and the size of the economy, innovation and competitiveness.

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2. In addition to Reports under footnote 1, see also [http://www.accesscopyright.ca/media/94983/access_copyright_report.pdf](http://www.accesscopyright.ca/media/94983/access_copyright_report.pdf)


6. More than 40 countries have finalised studies on the economic contribution of the copyright-based sectors to economy and employment using a methodology developed for the World Intellectual Property Organization (WIPO). (http://www.wipo.int/export/sites/www/copyright/en/performance/pdf/economic_contribution_analysis_2012.pdf). The WIPO Report shows that the copyright sector is among the most important contributor to a nation’s economy and employment, and that “There is a significant and positive relation between the contribution of copyright industries to GDP and the GDP per Capita”; “...a strong and positive relationship between the contribution of copyright industries to GDP and the Global Competitiveness Index”; “Contribution to copyright industries to GDP exhibits strong and positive relationship with the Index of Economic Freedom” as well as with the freedom from corruption index; and “...a strong positive relationship between copyright industries’ contribution to the economy and innovation”. The economic contribution of the creative sectors is significant at any stage of development, and is likely to grow as the national economy develops in the knowledge era.
The creation and publishing of new quality works nationally requires that the creator and the publisher are protected from infringement and rewarded for their efforts. Changes to existing copyright rules should take account of this and ensure an appropriate equilibrium between the rights of authors and publishers, and user needs. We are not convinced that the proposed amendments to the law observe this the way they currently read.

The importance to creators and publishers of income from the secondary market

Income from the secondary market through collective licensing agreements offered by RROs, such as CLASS, is of major importance to the rightholders. According to a survey made by PwC in the UK, almost 25% of the authors derived more than 60% of their income from secondary licensing. For publishers, the same PwC study revealed that loss of income from secondary uses, resulting, for instance, from the broadening of exceptions and limitations, would impact severely on the publishing houses’ profit, potentially leading to job cuts and reduction of investments in new works and innovation. The incentive to invest in new content development depends on the secondary income, which represents an average of 12% of their earnings, equating to around 19% of their investment in new works. This represents a significant proportion of the funds publishers in the UK use to invest in content development.

In Singapore, CLASS offers collective licences, under a statutory licence, to facilitate certain legitimate legal access to published works. There is thus no need to broaden the unremunerated exception in the Singapore copyright legislation to allow more ‘free use’, without remuneration to authors and publishers. Legitimate user access is already provided, and the consequences on the Singapore publishing sector and society of reducing, or outright removing, the remuneration to authors and publishers for usages, which are currently contributing to authors making a living and to publishers investing in the dissemination of literary and scientific works, has, to our knowledge, not been analysed.

We therefore ask that the proposed changes to the statutory licensing regime be withdrawn. To the extent that more exceptions for education are introduced, we submit that such exceptions should only apply to the extent that a licence from the publisher or a copyright collective management organisation like CLASS is not available, or with an obligation to remunerate authors and publishers.

Yours sincerely,

Olav Stokkmo
Chief Executive Officer and Secretary General

Cc Mr Chan Chun Sing, Minister, Prime Minister’s Office
Ms Indranee Rajah, Senior Minister of State Ministry of Law and Ministry of Finance
Mr Paul Wee, CEO at CLASS

8 This is what has happened in Canada following an interpretation by educational institutions of the new legislation that more uses under exceptions are allowed