

## SUMMARY ON ADVERTISED CLAUSE 25 [SECTION 22B (8)] OF THE COPYRIGHT AMENDMENT BILL (CAB)

The Copyright Amendment Bill issue for publication is as follows:

- **Clause 25 [Section 22B (8)]: Operating as a Collecting Society without accreditation.**

### Stakeholders who made comments:

Southern African Music Rights Organisation (**SAMRO**)

Composers Authors and Publishers Association (**CAPASSO**)

No.	ORGANISATION	COMMENTS	RESPONSE
1	Southern African Music Rights Organisation (SAMRO)	<ul style="list-style-type: none"> <li>• Welcomes insertion into clause 25 (Section 22B (8)) as it may serve as a deterrent to those posing as CS.</li> <li>• Suggest that yardsticks be put in place in the regulations to establish the instances where it can be deemed that an individual or entity is representing themselves as a CS.</li> <li>• Hope that the accreditation of CS is not too onerous for CS who may wish to enter into the market subsequent to the</li> </ul>	<p>Noted.</p> <p>Individuals can organise themselves. Freedom of association is important.</p> <p>The accreditation system already exists and it is not onerous. It will be enhanced.</p>



		promulgation of the CAB.	
2	Composers Authors and Publishers Association (CAPASSO)	<ul style="list-style-type: none"><li>• Definition of CS in the principal Act is defective and it needs to be remedied if CAB seeks to criminalise unaccredited operation of a CS.</li><li>• The nature of the entity the CAB seeks to regulate needs to be clearly defined so as to not unjustifiably affect businesses that fall outside the scope and mandate of the proposed.</li><li>• Suggested definition of CS similar to that of the European Directive on Collective Management as it contextualises what is and what is not a CS.</li><li>• Proposed criminalisation must be viewed within the overall context and purpose of Chapter 1A of the CAB.</li><li>• Purpose of CS regulation is to regulate unrestricted monopolies enjoyed by CS as well as to increase the entities transparency to its members.</li><li>• Regulation should thus not usurp or decrease the rights that members have save for instances where competition considerations demand.</li><li>• The criminalisation of unaccredited licensing does not aid in increasing transparency to members and consequently should not necessarily be part of the eventual legislation.</li><li>• The unintended consequence of criminalisation would be a member exercising their exclusive right being arrested for breaking the law.</li></ul>	<p>CS is defined in IPLAA. Definition can form part of transitional provisions in the Bill.</p> <p>Noted.</p> <p>Noted.</p> <p>Regulations for Collecting Society is crucial. The criminal sanctions are not linked to competitiveness or monopolies but protecting the vulnerable</p> <p>Noted.</p> <p>The regulation will ensure transparency and protection of members. The Bill addresses governance issues.</p> <p>Individuals have freedom to associate and organize themselves</p>



		<ul style="list-style-type: none"><li>• Criminalisation of members ability to license outside the CMOs without the need to obtain accreditation will negatively affect this favourable condition that digitisation has granted members where they are able to license directly.</li><li>• It will only serve to be an additional and unwarranted burden.</li><li>• The proposed clauses do not take into account the fact that CMOs within South Africa now compete with CMOs from other territories.</li><li>• The current wording is unfit to deal with the current status quo in as far as digital licensing is concerned.</li><li>• The threat of criminal sanction will unfairly tilt the scales in favour of international CMOs who will prove more efficient due to the fact that they are not subject to regulation.</li></ul>	<ul style="list-style-type: none"><li>• The regulation is for organisations not individuals acting on their own behalf.</li><li>• Noted.</li><li>• Implications for foreign CMOs to be reviewed. It is an implementation issue.</li><li>• Implications for digital licensing will be examined. It is an implementation issue.</li><li>• Implications for foreign CMOs to be reviewed. It is an implementation issue.</li></ul>
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