

## **PUBLIC CONSULTATION ON THE PROPOSED COPYRIGHT BILL (PART 2)**

Prepared by the Ministry of Law (“**MinLaw**”) and the Intellectual Property Office of Singapore (“**IPOS**”)

22 February 2021

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### **SECTION 1: INTRODUCTION**

1. MinLaw and IPOS are seeking views on the second part of the draft of a proposed Copyright Bill (“**draft Bill**”) to be introduced. The draft Bill will repeal and replace the current Copyright Act (Cap. 60, Rev. Ed. 2006) (“**Copyright Act**”). The consultation period is from **22 February 2021 to 1 April 2021**.

2. MinLaw and IPOS had launched a public consultation on the first part of the draft Bill on 5 February 2021. You can refer to that consultation paper dated 5 February 2021 for the overall context of the public consultation.

3. We are now seeking views on **Part 2** of the draft Bill, which is annexed to this paper as **Annex A**. Part 2 of the draft Bill contains the provisions on:

- (a) the regulation of collective management organisations (“**CMOs**”); and
- (b) the Copyright Tribunals.

### **SECTION 2: KEY PROVISIONS OF PART 2 OF THE DRAFT BILL**

4. In this Section, we set out a summary of the key provisions of Part 2 of the draft Bill. When reviewing this Section and providing your feedback, please consider the following general questions that apply across the provisions, to Part 2 of the draft Bill, or to the draft Bill as a whole:

- (a) Is there any situation which may possibly fall within the scope of a provision but there is a lack of clarity as to whether that is the case?
- (b) Is there any ambiguity or lack of clarity in how a proposed change or provision is framed, whether in terms of scope, definitions, or other technical aspects of the provision? If so, how may these be addressed in the draft Bill?
- (c) Is there any situation where the intended manner of how a proposed change would apply may cause practical difficulties? If so, how may these be addressed in the draft Bill?
- (d) Is there any situation or provision where the use of an illustration will be beneficial?
- (e) Is there anything else that needs to be provided for in the draft Bill to fully and accurately implement the policy positions as set out in the 2019 Report<sup>1</sup>?

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<sup>1</sup> The [Singapore Copyright Review Report](#) dated on 17 January 2019, which outlined proposed changes to Singapore’s copyright regime.

- (f) Is the plain English drafting clearer and more easily understood (including when applied to the drafting of definitions) compared to the current version of the provision? Does it result in any inadvertent change in meaning of the provisions?

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**Proposal 15 of the 2019 Report – Enhancing the collective rights management landscape.<sup>2</sup>**

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5. The 2019 Report sets out a recommendation, which was based on a public consultation held in April 2017, to establish a class licensing scheme to regulate CMOs. In June 2020, we carried out a further public consultation on the areas to be regulated under the proposed scheme. Please see the 2017 and 2020 consultation papers annexed to this paper as **Annex B**. The draft Bill will empower the regulation of CMOs, and the feedback gathered from the 2020 public consultation will be taken into account when formulating the specific terms and conditions of the licensing scheme which will go into the subsidiary legislation. A further consultation on the specific terms and conditions will be held in due course. Accordingly, the provisions on collective management organisations will commence at a later date from the rest of the new Act. We will announce this date in future, after the said further consultation is held and the licence terms and conditions are finalised.

6. Part 9 of the draft Bill sets out the provisions relating to the regulation of CMOs by way of the proposed scheme. The Minister for Law is empowered to establish a class licence for all CMOs or class licences for different classes of CMOs, as well as to prescribe or alter the conditions of a class licence. IPOS shall be the administering authority of such a scheme. A class licence scheme means that any entity that carries out collective management activities as a CMO (as defined under Clause 428A of the draft Bill) will be automatically subject to, and has to comply with, the terms and conditions of the scheme.

7. As the administrator of the scheme, IPOS's powers to implement and administer the scheme include:-

- (a) issuing written regulatory directions to a CMO or any officer of a CMO;
- (b) imposing fines for breaches of licence conditions; and
- (c) issuing cessation orders.

8. It will be a criminal offence to:

- (a) carry on business as a CMO without a licence or while under a cessation order; or
- (b) fail to comply with a written regulatory direction issued by IPOS or knowingly do anything that prevents or impedes compliance with any such direction.

9. A person (including a CMO) may apply to IPOS to reconsider the fines, orders and regulatory directions IPOS has made against the person, and IPOS will confirm, vary or set aside the decision. The person may additionally appeal to the Minister for Law against a decision of IPOS on the reconsideration request in the case of a fine, order or specified regulatory directions. The manner in which these processes are to be carried out and the relevant time limits will be prescribed.

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<sup>2</sup> See the Public Consultation on the Copyright Collective Rights Management Ecosystem in Singapore dated 16 May 2017 and page 60 of the 2019 Report.

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## **Provisions on Copyright Tribunals**

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10. To ensure that the Copyright Tribunals remain cost-effective and nimble, the draft Bill provisions relating to Copyright Tribunals have been streamlined and, where possible, provisions relating to processes have been taken out and will be moved to subsidiary legislation. Provisions which are redundant have been omitted.<sup>3</sup>

11. Further, we have provided that the President of the Copyright Tribunals shall be empowered to issue practice directions relating to the processes in the Copyright Tribunals, such as the forms, manner of filing of applications, modes of service of documents, and modes of payment of fees.

12. The 2020 consultation paper also sought feedback on how to enhance the effectiveness of Copyright Tribunal proceedings as a mechanism for resolving licensing disputes between CMOs and users.<sup>4</sup> The feedback received suggested that a more holistic review of the role, procedures and practices of the Copyright Tribunals would be preferable, and to that end, MinLaw and IPOS will separately undertake this review in due course.

### **SECTION 3: SUBMISSION OF FEEDBACK**

13. Your feedback is important in helping us build a copyright regime where rights are clear, reasonable, and efficiently transacted, and which strives to take into account and balance the interests of the various stakeholders.

14. **Feedback sought:** As explained in the consultation paper dated 5 February 2021, this is a technical consultation on whether the draft Bill appropriately implements the recommendations from the 2019 Report. Therefore, we are particularly interested in obtaining feedback on the following aspects of the draft Bill:

- (a) Legal clarity and/or workability;
- (b) Operational and implementation issues; and
- (c) Language and structure.

15. **Who should provide feedback:** We invite feedback from the public, including legal practitioners, academics, content creators and performers, content users, collective management organisations and interested institutions.

16. **Format of submission:** We request that your submissions be clearly and concisely written, with a reasoned explanation for any proposed revision.

17. **How to submit feedback:** We have provided 2 options for providing your feedback.

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<sup>3</sup> For example, section 154 of the current Copyright Act, which provides for a quorum, has been omitted because section 151 of the current Copyright Act sets out how a Copyright Tribunal is to be constituted. Moreover, it is redundant to set a quorum for a body that is its full membership.

<sup>4</sup> See paragraphs 3.49 – 3.52 of the 2020 consultation paper.

18. On the feedback website <http://go.gov.sg/copyright2021-part2>, we have set out the 2 topics identified in this paper. Please submit your responses to the topic(s) which you want to provide feedback on, through the editable feedback fields below the relevant topic(s).

19. Alternatively, if you prefer to write to us, please email your feedback with the subject header "**Feedback on Draft Copyright Bill**" to [MLAW.Consultation@mlaw.gov.sg](mailto:MLAW.Consultation@mlaw.gov.sg). Please include your name, contact number, and, if you are representing an organisation, the name of that organisation. Please also identify the topics and questions to which your feedback relates.

20. Please submit your feedback by **1 April 2021**. Thank you.

21. We reserve the right to make public all or parts of any written submission and disclose the identity of the source. Commenting parties may request for confidentiality for any part of the submission that is believed to be proprietary, confidential or commercially sensitive. Any such information should be clearly marked and placed in a separate annex. If we grant confidential treatment, we will consider, but will not publicly disclose, the information. If we reject the request for confidential treatment, the information will be returned to the party that submitted it and will not be considered as part of this review. As far as possible, parties should limit any request for confidential treatment of information submitted. We will not accept any submission that requests confidential treatment of all, or a substantial part, of the submission.

**Annexures:**

**Annex A** – Part 2 of the draft Bill

**Annex B** – Consultation papers from 2017 and 2020 public consultations on collective management organisations