



**Hon. Cyril Ramaphosa**  
Office of the President  
Union Buildings  
Government Avenue  
ZA - Pretoria

Brussels, 14 November 2019

## **Re: Industry attempts to sway key copyright reform in South Africa**

Honourable President,

The International Federation of Actors (FIA), the International Federation of Musicians (FIM) and UNI – Media, Entertainment & Arts (UNI MEI) are the representative global trade union federations for workers in the media and entertainment sector, including audio and audiovisual performers, authors and co-authors. Together, they speak for hundreds of thousands of professional creative workers in the audio and audiovisual industries worldwide.

We are writing to you as it has become apparent that several international industry federations in the publishing, music and audiovisual sector have approached you with scaremongering letters to avert your approval of a much-needed reform in South Africa, including vital provisions to enhance the livelihood of professional performers and authors. We want you to know that we strongly disapprove of this initiative.

The current copyright framework in South Africa dates back to the early '70s, before the VCR was even invented, and its revision is thus overdue. It is also much needed to enable South Africa to fully comply with international standards, including the WIPO Internet treaties and the WIPO Beijing Treaty on the Protection of Audiovisual Performances. Creative workers in South Africa have been battling for a long time to seek meaningful moral and economic rights to protect their image and to earn an honest return from the commercial exploitation of their work. They have also been calling for a rigorous collective management reform to end years of fraudulent management practices.

Without proper protection and the ability to collectively negotiate minimum rates as independent contractors, the only "contractual freedom" enjoyed by creative workers in South Africa is to sign biased contracts, unilaterally drafted by the industry and entailing a complete buy-out of all their future economic entitlements, or not to sign them. As a result, the overwhelming majority of creative workers in South Africa live a very precarious life.

The Copyright Amendment Bill and the Performers' Protection Amendment Bill will provide performers and authors greater certainty and bargaining power in dealings with producers, labels and publishers. Whilst it is not surprising that these corporate interests are unhappy about having to envisage more equitable hiring practices, the current situation is untenable. Creative workers in South Africa have been subsidizing these businesses for far too long.

The new legislation establishes standard minimum requirements on royalty rates and contractual terms to protect the weaker party whilst leaving intact the ability of the parties to negotiate for reasonable terms. In accord with the WIPO Beijing Treaty on the Protection of Audiovisual Performances, these draft bills also guarantee a royalty share to performers engaged as independent contractors. Performers the world over deserve residual income from the ongoing exploitation and success of their performances, much as musicians and vocalists whose protection was improperly addressed up until now in South Africa and who will finally also see the benefits of a modern copyright framework.

The new regulation will bring creative artists the promise of an honest share of the profits made from the exploitation of their works and performances.

To our understanding, these bills do not undermine anti-piracy protections and, in fact, further codify technological protection measures and criminal sanctions for those who try to illegally circumvent them. Provisions on exceptions and limitations are also compliant with international standards and properly framed.

The arguments made by the industry sound like a broken record. Whenever forced to reach beyond their comfort zone and address their biased contractual practices, they threaten to withdraw investment, affecting jobs and economic growth. In fact, none of this ever happens as they find ways to adapt to each new regulatory environment.

The Copyright Amendment Bill and the Performers' Protection Amendment Bill have long been in the making. They are the outcome of an inclusive consultation and a thorough debate. It is our firm conviction that the modernization of the South African copyright legal framework, as brought forth by these measures, will help move towards an acceptable playing field for creative workers and provide crucial support for South Africa's creative economy by fostering an environment that can sustain professional creative careers. This is crucially lacking in South Africa, where so many artists end their days in poverty and the industry, especially in the audiovisual sector, heavily relies on foreign investment.

For all these reasons, we encourage you to give your final approval to these bills.

Yours truly,

  
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**FIA**, the International Federation of Actors represents performers' trade unions, guilds and professional associations in about 70 countries. In a connected world of content and entertainment, it stands for fair social, economic and moral rights for performers working in all recorded media and live theatre and speaks for several hundreds of thousands of professional performers globally.

**FIM**, the International Federation of Musicians, founded in 1948, is the only body representing professional musicians and their trade unions globally, with members in about 65 countries covering all regions of the world. FIM is recognised as a NGO by diverse international authorities such as WIPO (the World Intellectual property Organisation), UNESCO, the ILO (International Labour Office), the European institutions or the Council of Europe.

**UNI MEI**, UNI Media, Entertainment and Arts is global union federation representing over 140 trade unions and guilds of creators, technicians and other cultural workers in the media, entertainment and the arts from over 70 countries.