



KENYA LIBRARIES AND INFORMATION SERVICES CONSORTIUM

16th May 2020

Mr. Edward Sigei, Executive Director
Kenya Copyright Board
Ragati Road/Ngong Road
Nairobi, Kenya
By email: info@copyright.go.ke, kipsigei@yahoo.com

Dear Mr. Sigei,
RE: KLISC FEEDBACK ON DRAFT INTELLECTUAL PROPERTY BILL, 2020

About KLISC

Kenya Library and Information Services Consortium (KLISC) was established in 2003 with the sole purpose of “*Facilitating access and sharing of knowledge and information resources for education, research and development*” across Kenya. It has established it as the national library consortium dedicated to promoting universal access to information in Kenya. Our membership includes non-profit organizations such as universities and colleges, government agencies and research institutions.

Principally, we negotiate for information resources and related systems with publishers, manufacturers and suppliers both local and international on behalf of members institutions, undertake capacity building on matters related to information generation, organization dissemination and access, including copyright issues.

One of core values is collaboration with all stakeholders in the country as well as relevant international organizations for the good of the country. We are particularly delighted to cooperate with the Copyright Board of Kenya to promote a sustainable copyright system in the country and champion for the same globally.

Feedback on Intellectual Property Bill 2020

1. Table of Contents

There is every indication that the bill is work in progress. However the absence of a table makes it difficult to make quick reference to various issues. Hopefully it will be included.

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2. Definitions/Interpretations

We concur that there is a striking absence of definitions that are supposed to provide the right interpretation and clarity to concepts and terminologies in the Intellectual Property Bill 2020. These are well stipulated in the Kenya Copyright Act (2001) and all amendments thereof and will be important in providing the scope and application of the various provisions in the proposed law. We therefore propose that they be included in the Intellectual Property Bill 2020, in an appropriate place such as at the beginning of the document.

3. Exceptions and limitations.

The role exceptions and limitations in national copyright systems is universally accepted. We note that this has not yet been included in the bill (maybe because the bill is still evolving). There is however reference to exceptions and limitations in Section 222(3) and 229(1g). We propose the appropriate schedule be included clearly as it is in the Copyright Act (2001) both in terms of general exceptions and limitations and specific ones in reference to libraries, educational and research institutions, archives, broadcasting but also Museums. We note that this was also well stipulated in the Copyright Amendment (2019) Act.

4. Visually Impaired and Persons with other disabilities

We note that the issue of Visually Impaired and Persons with other disabilities has been addressed in Section 225 (1). While this is very positive, there is need to cross reference these provisions with Marrakech Treaty (2013) and ratified by Kenya on June 2, 2017 (in contrast we note there are useful cross-references to relevant international instruments for sections on patents and counterfeit goods, etc). This referencing will streamline and provide depth in the implementation of these provisions in line with expectations of global standards

5. Copyright law in the light of digital transformation

Today a lot of the copyright-eligible works (literary, musical, etc) are created and exist digitally and in many cases exist wholly in the online environment. Our view is that the Intellectual Property Bill (especially) the Copyright section) does not comprehensively address itself to this new and ubiquitous reality. We therefore propose a review of the various sections of the Copyright to tune them to the digital society.

We are happy to provide this feedback and are willing to engage with you further towards success of this noble undertaking.

Best regards



Prof. Joseph M. Kavulya
Chairperson, Executive Committee
Kenya Libraries and Information Services Consortium

Cc

Teresa Hackett
EIFL Copyright and Libraries Programme Manager