International Federation of Library Associations and Institutions

8 April 2021

Dear Madam, Dear Sir,

The International Federation of Library Associations and Institutions (IFLA) is happy to have the opportunity to share feedback on the Singapore Draft Copyright Bill.

IFLA is the global organisation for libraries, representing institutions, staff and users around the world, working both to improve practice amongst professionals, and ensure adequate legal frameworks for them to achieve their missions.

We very strongly welcome the proposals already made by Singapore in 2019, and believe that these will represent an important example for countries in the region and the world as a whole. We congratulate the Intellectual Property Office of Singapore for taking an evidence-based approach which, we believe, will not only support education, research and cultural participation today, but also into the future.

Our more detailed comments, responding to the questions asked in the consultation, can be found below.

Yours faithfully,

IFLA

## IFLA Comments on the Draft Copyright Law of Singapore

**Proposal 2**
We strongly welcome the proposals made, which will offer welcome simplification and clarity in assessing whether works fall into the public domain

**Proposal 5**
We welcome the proposals, and note that the exceptions to the right of attribution, underlining that this should only be the case where reasonably practical, are helpful.

**Proposal 6**
We very much welcome the proposals made on simplifying Fair Use, and believe that experience from the United States demonstrates that such a model can not only provide a usable framework for users and rightholders alike, but also effectively ensure the balance that copyright laws are intended to provide.

We note that, in due course, clearer guidance on the conditions under which the negotiation of contract terms can be considered fair, although believe that the law represents a welcome start, as well as a model for others.

**Proposal 8**
We welcome the provision clarifying the legality of reproduction for the purpose of text and data mining, and the clarifications provided by the proposed law, notably as concerns the possibility to share the results for verification purposes, and to retain data.

We believe that further clarification could be offered with the following amendments:

- Clarifying that the exception for text and data mining should be considered to include the possibility for researchers to share the results of their research, where these include fragments of the original works copied. This will offer researchers themselves greater certainty in sharing their work.
- Clarifying that there should be no fixed time limit for the retention of copies produced in the context of text and data mining.
- Clarifying that where reproductions take place, this can happen both on site, and at distance, for example permitting researchers to carry out mining of library resources remotely.

**Proposal 9**
We welcome this far-sighted proposal that provides welcome certainty to colleagues in the education field. Considering the definition of education institutions set out in Clause 76a, we would encourage the Ministry to consider making clear that entities with a mission to promote informal and non-formal education, such as libraries, be included as potential beneficiaries.

**Proposal 10**
We very much welcome the provisions put forwards here, which will offer very welcome guidance and support for library professionals.

Throughout this section, we would note that it would help if clause 84 were to be expanded to mean that library collections are also considered to include works that are on long-term loan, or indeed which are accessed via licensing for a longer period. Such works do, also, arguably form an important part of library collections, particularly in a digital age.

We note, in clause 213, that it would be helpful to note that such performances may take place on the premises of a library, archive or museum, or online through a secure electronic environment. This would, for example provide clarity around activities such as online storytimes, which have proven so important during the pandemic, but which of course are of ongoing value for children who may not be able to come to a library.

In clauses 2015(f)(1) and 216(c)(1), and 221(1)(2)(e)(i) for example, it would be valuable to include explanation that a reasonable search or investigation should not involve more than consultation of freely and easily accessed sites. Ideally, minimum search requirements should be defined, with no required sources which are offline or paywalled.

In clause 221(1)(2)(c), we would recommend making it clear that format shifting should be permitted generally, not just in order to respond to the obsolescence of an existing format, a concept which is closely tied to technology. Format shifting may also be desirable for other reasons within the wider field of preservation.

In clause 221(1)(2)(d), we would recommend making it clear that clause 177 applies – in other words, it should be possible for GLAM institutions to make use of exceptions when working with preservation copies, as well as with originals.

In clause 221(1)(2)(f), we would recommend removing the reference to a 'sole' copy, given that digital copying, by its nature, involves multiple copies. It would be preferable to underline that no more copies should be made than are needed for the purposes of preservation, in line with the recent EU Directive on Copyright in the Digital Single Market.

Finally, the reference to 'The exception for supplying copies between libraries and archives (section 46 of the current Copyright Act) also applies to foreign libraries and archives' is welcome, but it is not immediately clear where this applies in clause 223. We would recommend more explicit inclusion here if possible.

**Proposal 11**

We welcome the thoroughness of the implementation of the Marrakesh Treaty, and in particular the removal of the obligation to pay supplementary remuneration, a move that will free up resources to support people with print disabilities without, we believe, causing significant harm.

We would make the following points:

Regarding clause 202(2)(b)(i), as above, we would recommend further advice making clear what a reasonable investigation should look like. This should offer a minimum set of resources to be

consulted, all of which should be available for free and online. This same comment applies to all similar provisions. We note that we would prefer to see such a provision eliminated from the law, given the example it sets for countries where the information infrastructure around accessible format copies is less developed. It will be vital to ensure that there are means of assessing whether a copy in a specific accessible format is available.

Regarding clause 202(2)(e), we note that there may be challenge to the idea that copies may only be made for people with print disabilities for given purposes. Such restrictions do not appear in the Marrakesh Treaty, and could constitute discrimination. The same will apply to clause 204(2)(c)(i), 204(2)(c)(ii)(B), 205(1)(b).

We would recommend that it be added to clause 209 that the existence of a licence should, at the same time, not cancel out the possibilities created by the exceptions in the previous clauses.

**Proposal 13**
We strongly support these exceptions, which go strongly in the direction of open licensing of government information.

**Proposal 14**
The proposals here are very welcome, and will offer important legal certainty to galleries, libraries, archives and museums, and so in turn their users.

Echoing our response to Proposal 6, we would note that, in due course, clearer guidance on the conditions under which the negotiation of contract terms can be considered fair, although believe that the law represents a welcome start, as well as a model for others.

**Additional Provisions**

42: we welcome the explicit recognition that use of one exception should not preclude that of another. We do not believe that it is wise to identify any exception which should not operate independently – rather this should be assessed on a case by case basis, looking rather at the cumulative effect of the two exceptions in the case at hand.