

## Intellectual Property

# Public Consultation on the Proposed Copyright Bill

## Introduction

The Ministry of Law and the Intellectual Property Office of Singapore ("**IPOS**") are conducting a public consultation ("**Consultation**") on the draft of a proposed Copyright Bill ("**Proposed Bill**"). This Consultation is part of an overall review of Singapore's copyright regime and follows from previous public consultation papers and reports, such as:

- (a) A public consultation held in 2016 on proposed changes to Singapore's Copyright Regime ("**2016 Consultation**");
- (b) A public consultation held in 2017 on the collective rights management ecosystem in Singapore ("**2017 Consultation**");
- (c) A consolidated report published in 2019 ("**2019 Copyright Review Report**") setting out the Ministry of Law's recommendations; and
- (d) A public consultation held in 2020 on a class licensing scheme for collective management organisations pursuant to the recommendations in the 2019 Copyright Review Report.

The Proposed Bill is intended to repeal and replace the current Copyright Act (Cap. 60, Rev. Ed. 2006) ("**Copyright Act**"), and this is slated to take place in the third quarter of 2021. Part 1 of the Consultation seeks feedback on the Proposed Bill. Part 2 of the Consultation is slated for release on **22 February 2021**, and will seek feedback on the newly introduced provisions for the regulation of Collective Management Organisations and the related issue of Copyright Tribunals. Both parts of the Consultation will end on **1 April 2021**.

Part 1 of the Consultation is available [here](#). Members of the public and affected stakeholders can provide their feedback online through Form@SG or via email to MLAW\_Consultation@mlaw.gov.sg.

## Key Aspects of the Proposed Bill

This current Part 1 of the Consultation seeks views on whether the Proposed Bill appropriately implements the recommendations from the 2019 Copyright Review Report, with a focus on three areas: operational and implementation issues, legal clarity and/or workability and the language and structure of the Proposed Bill.

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A fundamental principle of the copyright review is that Singapore's copyright regime should be clear and accessible so that creators, users, and intermediaries will understand how Singapore's copyright law works to both protect and provide access to works. To this end, plain English was used in the drafting of the Proposed Bill to present the law in a clear, readable, and easy to understand manner while remaining legally precise. Additionally, as the Proposed Bill seeks to cater to modern technologies while being flexible enough to continue to apply to new and emerging technologies, the Proposed Bill was also drafted in technology-neutral language.

The Proposed Bill differs from the existing Copyright Act in four ways.

**Firstly**, the Proposed Bill is structured thematically as far as possible and streamlined to remove unnecessary duplication. Crucially, the distinction between "works" and "subject-matter other than works" in the Copyright Act has been removed. Instead, the term "works" will be used across both categories. The term "Authorial works" will be used to specifically refer to literary, dramatic, musical, or artistic works. This allows for all works to be collectively dealt with issue by issue, as opposed to dealing with "works" and "subject-matter other than works" in separate parts of the statute. For example, the issue of "Infringement of Copyright" is now dealt with for **all** works in Part 3, Division 9 of the Proposed Bill. This is an improvement from the existing Copyright Act where "Infringement of Copyright in Works" was dealt with in Part III, Division 2, while "Infringement of Copyright in Subject-Matter other than Works" was dealt with separately in Part IV, Division 6.

**Secondly**, exceptions under the Proposed Bill will be consolidated into a single Part on "Permitted Uses" under Part 5 of the Proposed Bill. This will enable creators, users, and intermediaries to easily locate and compare the relevant exceptions to copyright infringement. This is a significant improvement from the existing Copyright Act where the exceptions are found at different parts of the statute depending on the type of copyright work in question.

**Thirdly**, new rights and exceptions will be introduced under Part 7, Divisions 1 and 2 of the Proposed Bill. Significantly, the Proposed Bill introduces a new set of moral rights in the form of the right of attribution for creators and performers. Under the existing Copyright Act, authors and performers do not have a right of attribution when their work or performance is used - they only have the right prevent false attribution of another person as the author or performer of the work. It was recognised in the 2019 Copyright Review Report that a right of attribution would accord authors and performers due respect and recognition for their creative endeavours, help them develop their reputation, and incentivise the creation of new works. Another notable exception in the Proposed Bill is a purpose-based exception regarding freely available online works for educational uses at not-for-profit educational institutions. It was recognised in the 2019 Copyright Review Report that modern pedagogy has moved on from the dissemination of information from one teacher to many students using prescribed physical textbooks and workbooks. This new exception allows the reproduction, adaptation and communication of certain online works in the course of an activity that has an educational purpose, provided that it is carried out

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in connection with a not-for-profit educational institution. The exception only applies to online works that are accessible without the need for payment at the time of access, and only students, teachers and government officers who perform curriculum or content development functions can avail themselves of the exception. The user of the online work must also acknowledge the source of the online work or recording.

**Fourthly**, new civil and criminal liabilities for commercial dealings in illicit TV set-top boxes have been introduced in the Proposed Bill. Streaming of audio-visual content has become increasingly popular in recent years, and the popularity of set-top boxes enabling users to stream a large selection of audio-visual content without authorisation from rights-holders has also grown in tandem. Such developments have made it challenging for rights-holders to apprehend retailers of such set-top boxes, as the way these products are marketed, sold and provide access to audio-visual content is constantly evolving. The existing provisions in the Copyright Act are inadequate to deal with the sale of articles that enable consumers to access infringing audio-visual content.

Therefore, to tackle this issue of illicit streaming devices, Clauses 141 and 142 of the Proposed Bill has imposed civil and criminal liabilities in respect of the making, importing for sale, commercial distribution or sale of products which can be used to access audio-visual content from an unauthorised source, which are designed or primarily designed for providing access to such content, or are advertised or sold as providing access to such content. Similarly, civil and criminal liability has been imposed on people who, for a fee, provide services to enable devices to access content from unauthorised sources such as the provision of website links, instructions or installation of subscription services.

### Comments

The suggested amendments in the Proposed Bill are welcome changes to Singapore's copyright law. In particular, the reorganisation of the Copyright Act into a more thematic structure will allow both members of the public and legal practitioners to better navigate the various aspects of Singapore copyright law. The consolidation of all copyright exceptions into a single Part of the Proposed Bill will also make it easier for users and content creators alike to be aware of what they are permitted to do with a copyright work under Singapore law, and can hopefully reduce any inadvertent acts of copyright infringement.

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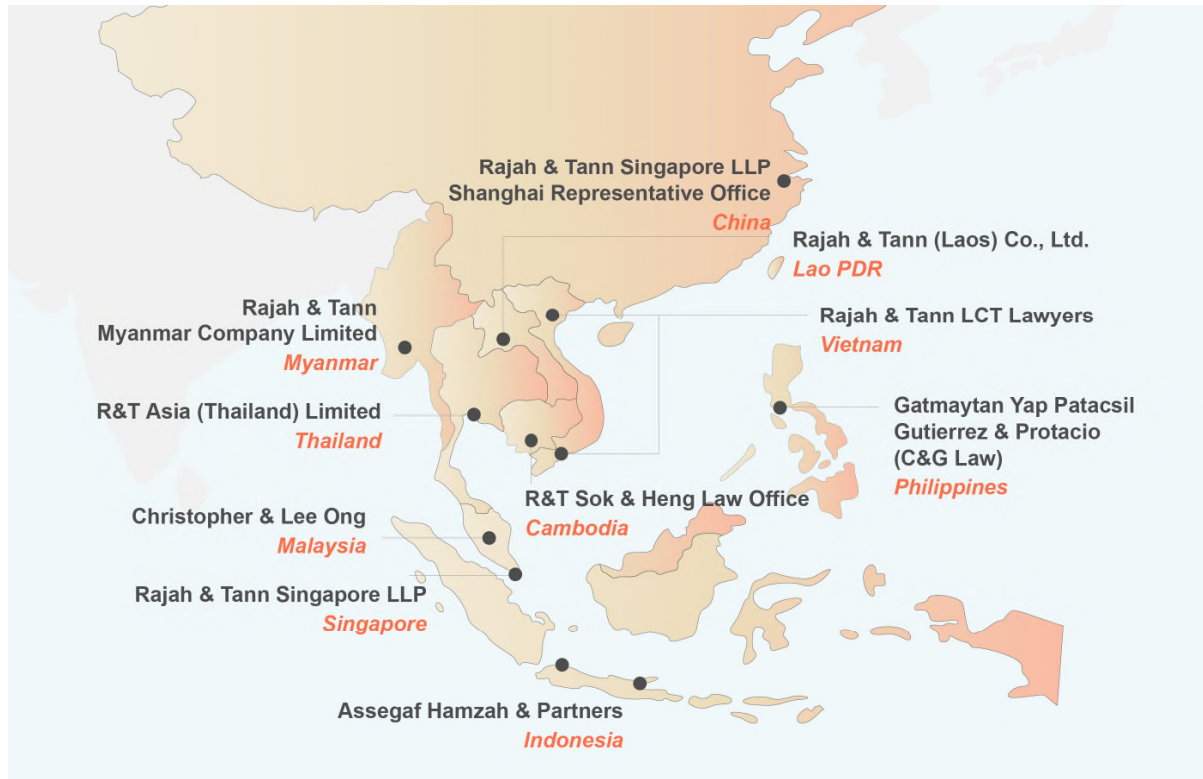
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## 2021 FEBRUARY

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