

Copyright reform in Singapore continues with release of draft Bill for public consultation

April 30, 2021

In February 2021, Ministry of Law (MinLaw) and Intellectual Property Office of Singapore (IPOS) released a draft Copyright Bill (the draft Bill) for public consultation. The draft Bill is significant because it is the first time the existing Copyright Act (the Act) is being restructured and rewritten as a whole. Piecemeal legislative amendments over decades have kept the Act relevant to technological advancements, especially with the dawn of computers and the Internet. However, the amendments have made the Act more lengthy and complex. An overhaul is needed to make the law more understandable and accessible to the public. The draft Bill also aims to implement wide-ranging changes proposed in the Copyright Review Report published by MinLaw and IPOS in 2019. This article summarises some key changes.

Stylistic changes

The draft Bill uses plain English for clarity and simplicity, wherever possible. For example, it replaces the phrase “edition which is stored on any medium by electronic means” (in Section 7(2A) of the Act) with “electronic edition” (in Clause 47(1)(b) of the draft Bill). The draft Bill also abolishes the distinction between “works” and “subject-matter other than works” in the Act and, instead, uses the term “works” for both categories. This allows for a more streamlined and logical arrangement of topics.

Creators have default ownership of certain commissioned works

The draft Bill provides that the creator of a commissioned photograph, portrait, engraving, sound recording or film is, by default, the owner of the copyright to the work. This reverses the position under the Act where it is the party that commissioned the work who owns the copyright by default. Creators and commissioners may nevertheless agree in their contract that they will not adopt the default position.

Creators’ right of attribution

The draft Bill introduces a new right for creators of authorial works to be identified whenever their works are used by others, as well as for performers to be identified in relation to their performances. This is a change from the Act, which only grants creators the right to prevent false attribution of authorship or performer’s identity. This change is in recognition that works are easily misattributed or not attributed at all, especially in the digital age. Proper attribution would help creators and performers build their reputation and be incentivized to create new works. The right of attribution is not transferable but may be waived by the creator or performer.

A general “fair use” exception

The draft Bill provides for a more open-ended general “fair use” exception. Under the current act, such an exception applies only to authorial works (literary, artistic, dramatic and musical works) and adaptations thereof. The exception in the draft Bill clarifies that it will apply to all works, including sound recordings, films, TV or sound broadcasts and recordings of performances. The list of mandatory factors for determining whether or not the exception would apply is also shortened in the draft Bill. This means, when deciding whether or not a work is fairly used, it would no longer be mandatory for the court to consider whether the user of the work could have purchased a licence from the rights holder within a reasonable time at an “ordinary commercial price”.

Facilitating text and data mining

The draft Bill creates an exception to allow the copying of copyrighted works and recorded performances for the purpose of computational data analysis, including text and data mining, analytics, and machine learning. Without the exception, there is a risk that such copying could amount to copyright infringement. Whilst there are other exceptions which may potentially apply to excuse to such copying, the new exception provides more certainty and encourages data analysis activities. This is important in light of the valuable insights which could potentially be generated from data analysis. The exception will not apply if no computational data analysis is carried out. The person using the work for analysis must have lawful access to the work, such as a paid subscription to the relevant database.

No contracting out of certain copyright exceptions

The draft Bill provides that the following copyright exceptions cannot be restricted or excluded by contract: (a) certain uses by galleries, libraries, archives, and museums; (b) certain uses and copying of computer programs (such as making a back-up copy); (c) text and data mining; and (d) uses for judicial proceedings or for obtaining or giving professional advice. Any contractual provision which purports to restrict or exclude the application of these exceptions will be void. Other exceptions would be non-mandatory and could be restricted or excluded by contract if the contract were individually negotiated and the restriction or exclusion were reasonable.

Streaming of media on unauthorised set-top boxes

The draft Bill introduces civil liability for making, selling, importing or distributing set-top boxes which can stream audio-visual content from unauthorised sources, or for offering services (such as a subscription service) to facilitate access to such content. Such acts may also attract criminal liability if done wilfully, either to gain a commercial advantage or if the extent of the infringement is significant. These draft provisions are aimed at curbing the availability of illicit set-top boxes and related services that enable the content to be streamed without permission from rights owners.

The new Copyright Act is expected to be passed in the third quarter of 2021, and for most provisions to commence 1 month later.

Your Key Contacts



Elaine Lew

Partner, Singapore

D +65 6885 3689

elaine.lew@dentons.com