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

15 May 2020

Re: Feedback on the draft Intellectual Property Bill, 2020

Dear Mr. Sigei,

EIFL (Electronic Information for Libraries) appreciates the opportunity to provide feedback on the draft Intellectual Property Bill, 2020¹.

Since the objective of the Bill is primarily to consolidate existing laws relating to intellectual property, such as the Industrial Property Act, the Trade Marks Act and the Copyright Act, we will focus our comments on differences between the existing law and the Bill.

We have two comments related to Part XX-Copyright and Related Rights:

Definitions. Definitions, as set out in Section 2 ‘Interpretation’ of the Copyright Act No. 12 of 2001², appear to be missing. These statutory definitions are essential to the understanding and interpretation of the law, and should be included in the Bill. An appropriate place could be, for example, immediately before Section 217 ‘Works eligible for copyright’.

Exceptions and limitations. The Bill refers to a Schedule containing the exceptions and limitations³, but the Schedule itself has not been included. For clarity and avoidance of doubt, the Schedule should be included in the Bill, as per the Second Schedule of the Copyright Act, 2001⁴. The Second Schedule of the 2001 Act sets out four categories of exceptions: General exceptions and limitations, Educational Institutions, Libraries and Archives and Broadcasting. These exceptions, that are of critical importance to libraries and education, are an integral part of the functioning of the copyright system in Kenya, and it is essential that the Schedule containing the exceptions is included in the Bill.

¹ <https://copyright.go.ke/downloads/download/15-public-participation/151-intellectual-property-bill-2020.html>

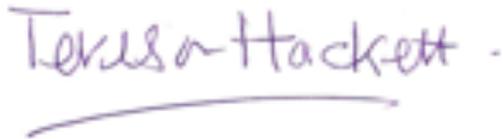
² http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2012%20of%202001#part_I

³ In Section 222(3) Nature of copyright in literary, musical or artistic and audio-visual works; Section 223(1)A Computer programmes; Section 224 Technological protection measures

⁴ http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2012%20of%202001#part_X

We would be grateful to be kept informed of the progress of the Intellectual Property Bill, 2020, and would be glad to participate in any other public consultations or discussions.

Please do not hesitate to contact us if there are any questions.



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cc: Prof. Joseph Kavulya, Chairperson, Kenya Library and Information Services Consortium (KLISC), Janegrace K.Kinyanjui, Vice-Chairperson