

Annex – Summary of the Key Changes in the Copyright Bill

Proposal in the Bill	What it is now	Proposed changes and what they will mean for rights-owners and users
(A) Ensuring copyright continues to reward the creation of works		
Granting creators and performers the right to be identified	<ul style="list-style-type: none"> • Creators and performers currently do not have a right to be identified (i.e. attributed) when their work or performance is used. They only have a right to prevent the false attribution of another person as the author or performer. 	<ul style="list-style-type: none"> • Anyone who uses a work or performance in a way that causes it to be seen in public (for example, putting it online or publishing it) must now identify the creator of the work or performer of the performance in a clear and reasonably prominent manner. • Proper attribution helps creators and performers build their reputation and incentivises creation of new works. This is especially important in the digital era, where works are easily misattributed or not attributed at all. • This new right to be identified will accord creators and performers due respect and recognition for their creative efforts, as well as create more exposure for them, which may have a positive impact on the commercialisation of their works.
Granting creators default ownership of certain commissioned works	<ul style="list-style-type: none"> • The Copyright Act gives creators default ownership of copyrighted works, except in cases involving the commissioning of certain works (photographs, portraits, engravings, sound recordings or films), and works created by employees or journalist-employees. In these cases, the commissioning party or the employer will have default ownership of the works. 	<ul style="list-style-type: none"> • Creators of photographs, portraits, engravings, sound recordings and films will by default (unless otherwise agreed in a contract) be the first owner of copyright, even if they were commissioned to make those works. This means that these creators will enjoy the same position as creators of other types of commissioned works, such as songs, computer graphics or books. • For sound recordings and films created by employees as part of their jobs, employers will

		now be the default first owner of copyright, in addition to literary, dramatic, musical and artistic works. This is because the employers in such cases would benefit the most from default ownership and be the party most incentivised to create more works.
Deterring people from profiting off products or services which stream audio-visual content from unauthorised sources	<ul style="list-style-type: none"> Under the Copyright Act, there are currently no provisions as to whether distributors and retailers of products or services which stream audio-visual content from unauthorised sources are liable for infringement of copyright. 	<ul style="list-style-type: none"> To encourage consumption of copyright works from legitimate sources, rights-owners may sue anyone who knowingly engages in commercial dealings (e.g. sell, offer for sale, distribute for trade etc) with devices or services (such as set-top boxes or software applications), which have the commercially significant purpose of facilitating access to copyright infringing works.
New equitable remuneration rights when sound recordings are broadcasted or publicly performed	<ul style="list-style-type: none"> Sound recording companies currently have a right to control how sound recordings are made available to the public via a digital audio transmission, but they do not have any rights for when sound recordings are heard in public via other means. 	<ul style="list-style-type: none"> Sound recording companies will have a new right to collect licence fees for the broadcast or public performance of commercially published sound recordings. This licence fee may be administered and collected by collective management organisations (CMOs).
(B) Ensuring copyright works are available for the benefit of society at large		
New permitted use of works for computational data analysis	<ul style="list-style-type: none"> Computational data analysis, such as text and data mining, provides insights and information that have far-reaching and growing economic and social impact. However, the initial phase of the work typically involves incidentally extracting or copying data from large quantities of material, which may be protected by copyright. Without an applicable exception, such copying may infringe the copyright in these materials. 	<ul style="list-style-type: none"> The proposed permitted use means that copyright works, if lawfully accessed, may be used for computational data analysis, such as sentiment analysis, text and data mining, or training machine learning, without having to seek the permission of each copyright owner, subject to certain conditions and safeguards to take into account rights-owners' commercial interests.

<p>New permitted use of online materials for educational purposes by non-profit schools</p>	<ul style="list-style-type: none"> • Learning in educational institutions now uses a wide range of materials beyond standard textbooks, including, but not restricted to, digital materials such as online publications, blogs, videos, and photos obtained from the Internet. • The use of digital materials is fundamentally different from the situations envisioned in the existing copyright exceptions and there is uncertainty as to whether such uses are permitted. 	<ul style="list-style-type: none"> • The proposed refinements to the current permitted uses mean that schools and students will be able to use freely-available resources from the internet for educational uses, without having to seek permission from each copyright owner, as long as the source is acknowledged, and the date of access is cited. • For example, students may reproduce webpages, images and videos from the internet for assignments, if those works are free to access (i.e. without payment) on the internet. • But they must stop using the material if they are made aware that the source that they used infringes copyright.
<p>Setting an expiry date for protection of unpublished works</p>	<ul style="list-style-type: none"> • Copyright protection generally lasts for a limited period of time. However, in certain cases, the duration of protection begins only from the date of publication. This means that as long as a work remains unpublished, it enjoys perpetual copyright protection. • Once the work is published, it would still be subject to the copyright owner's monopoly and withheld from the public domain for yet another 70 years under Singapore's copyright law. For as long as the public does not have access to these works, the knowledge in the works remains locked away. This benefits no one – neither the creator nor potential users. 	<ul style="list-style-type: none"> • Unpublished works will no longer enjoy perpetual copyright protection. All works, whether published or not, will enjoy a limited period of protection. • This change is intended to encourage creators to commercialise their works and facilitate public access to the knowledge and creative expressions contained in their works. • A creator who wishes for his or her work to remain unpublished is free to do so, regardless of the copyright protection.

<p>Strengthening general “fair use” permitted use</p>	<ul style="list-style-type: none"> • Singapore introduced a general open-ended fair dealing permitted use in 2004 that established five factors, including the possibility of obtaining a work within a reasonable time at an ordinary commercial price. 	<ul style="list-style-type: none"> • The general fair-dealing permitted use is made easier to understand by: <ul style="list-style-type: none"> ○ calling it “fair use”, which is more commonly known; ○ removing the requirement to demonstrate, in all cases, the possibility of obtaining a work within a reasonable time at an ordinary commercial price; and ○ incorporating the other existing specific fair dealing permitted uses. • Users will be able to use this general permitted use in a broad range of situations, including when their use of a work is fair but is not permitted under a specific permitted use in the Act.
<p>Facilitating the work of galleries, libraries, archives, and museums</p>	<ul style="list-style-type: none"> • The current permitted uses in the Copyright Act do not provide for certain needs of public cultural heritage institutions such as galleries, libraries, archives and museums, such as when libraries and archives exhibit their collections. • In addition, museums and galleries do not have the permitted uses they need even though they similarly preserve and provide the public with access to their collections, especially since they deal with works which are less likely to have commercially available alternatives or replacements. 	<ul style="list-style-type: none"> • The proposed refinements to the current permitted uses mean that public cultural heritage institutions such as galleries, libraries, archives and museums will be assured that they would not be inadvertently infringing copyright when engaging in activities that are required to support their functions such as making copies for administrative purposes like preservation, internal record-keeping and cataloguing. • Other activities relating to exhibitions, such as exhibiting a replica when the original is being restored, or taking photos of a painting for publicity materials like posters, will also be allowed without needing to seek permission from the rights-owner.

<p>Adjusting existing provisions for users with print disabilities</p>	<ul style="list-style-type: none"> • The current permitted uses in the Copyright Act were intended to give persons who are blind, visually impaired or otherwise print-disabled greater and more equal access to copyright works. • Currently, organisations who help such persons with print disabilities to convert works into accessible formats (such as a Braille version or an audio recording) will need to pay licence fees to the rights-owners of the works upon request. 	<ul style="list-style-type: none"> • The proposed refinements to the current permitted uses mean that organisations which help persons with print disabilities to convert works into accessible formats, when a new accessible format copy of the work is not available, will no longer need to pay licence fees to the rights-owner. • This will allow persons with print disabilities to avoid double-payment, as often they would have already purchased a normal print copy for it to be converted.
<p>Facilitating the dissemination of information/ materials by the government to the public</p>	<ul style="list-style-type: none"> • Certain specific documents and other materials – which are submitted to the Government to be provided to the public at large – may be protected by copyright. As such, copying or making available the materials without consent would amount to infringement. This could end up impeding the use of the materials, even though there are public interest reasons for why they have been made public. 	<ul style="list-style-type: none"> • The proposed permitted use means that materials held by the Government or public agencies which are provided to the public can now be copied and further made available, without infringing copyright, when the use is to facilitate the public interest reasons for why they have been made public.
<p>Protecting certain exceptions from being restricted by contracts</p>	<ul style="list-style-type: none"> • Copyright permitted uses serve important public interests and represent a legislatively-determined balance between the rights and interests of copyright owners and users. However, certain contractual terms may seek to restrict the application of some or all of these permitted uses. • As a result, users may be deprived of the benefit of the permitted uses. Users may have little choice but to accept the terms, especially when they are provided in standard form contracts or a website’s terms and conditions. 	<ul style="list-style-type: none"> • Users will have more certainty as to whether they can still rely on a permitted use under the new Copyright Act if the terms of a contract seek to exclude or restrict the permitted use. • There will be specified permitted uses (for example, permitted use for computational data analysis and permitted uses for the work of galleries, libraries, archives and museums) which will always be available regardless of any contractual terms preventing or restricting such use.

		<ul style="list-style-type: none"> • For other types of permitted uses, only fair and reasonable terms in negotiated contracts may control whether a permitted use can be used. For example, users who have to agree to “click-through contracts” which they cannot negotiate will still be able to rely on permitted uses despite contractual terms to the contrary.
(C) Strengthening the copyright ecosystem		
New class licensing scheme for collective management organisations	<ul style="list-style-type: none"> • Collective management organisations (CMOs) bring about efficient transactions by reducing transaction costs and facilitating royalty collections, thereby facilitating use and rewarding creators. • Today, they are not regulated by any public agency. As CMOs handle voluminous transactions involving a multitude of rights-owners and users, it is imperative that they operate with high standards of transparency and governance, and are able to adapt to the digital environment in which works are largely now created, consumed and distributed. 	<ul style="list-style-type: none"> • CMOs will be regulated by the Intellectual Property Office of Singapore and will have to comply with minimum standards on transparency, governance, accountability and efficiency. Penalties will be imposed on CMOs and/or their officers who breach such standards. • This will benefit both members of CMOs (such as songwriters and lyricists) as well as users who take licences from CMOs, and contribute to building a fair and efficient copyright ecosystem.