**Issues for the Committee’s consideration regarding the remitted Copyright and Performers’ Protection Amendment Bills**

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| **President’s reservations** | **CLSO recommendations** | **Party position** |
| Tagging: the Bills should have been classified as section 76 Bills (“trade” and “cultural matters”) | Both Bills were correctly classified as section 75 Bills. The Committee may however decide to err on the side of caution and recommend a reclassification of section 76 to the JTM |  |
| Retrospective and arbitrary deprivations of property – Clauses 5, 7 and 9 inserting sections 6A(7), 7A(7) and 8A(5) into the Copyright AB.  | Amend these clauses to provide for prospective operation only |  |
| Impermissible delegation of legislative power to the Minister – Again Clauses 5, 7 and 9 of the Copyright AB. | If the clauses are amended as recommended above – this reservation is automatically dealt with. If the clauses are retained, the delegations need not be amended. |  |
| Lack of public participation related to fair use. | There was sufficient public involvement on whether to use “fair use”. However, Parliament has significant discretion in respect of the facilitation of public involvement (S59 of the Constitution) - may request further submissions from the public. |  |
| The copyright exceptions – some clauses may: * Constitute arbitrary deprivation of property;
* Affect the right to freedom of trade, occupation and profession.
 | The copyright exceptions are not arbitrary deprivation, do not limit the right to choose a trade, occupation or profession and comply with the three step test.. |  |
| Do the Bills comply with International Treaty Implications? | This reservation should not be considered as it falls outside section 79(1). However, the Committee may decide to reconsider the remitted Bills in respect of compliance with the treaties and make any amendments it deems necessary. |  |