



January 27, 2023

To: The Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour ("Committee")

For attention: Ms Noziphiwo Dinizulu and Ms Mahdiah Koff
Per email: ndinizulu@parliament.gov.za and mkoff@parliament.gov.za

RE: Submission on the Performers Protection Amendment Bill [B 24D – 2016] and Copyright Amendment Bill [B 13D – 2017]

Dear Members of the Committee:

Amazon Content Services LLC and [Amazon.com](https://www.amazon.com) Services LLC (together, "Amazon") appreciate this opportunity to submit comments on the Performers Protection Amendment Bill [B 24D – 2016] and Copyright Amendment Bill [B 13D – 2017] ("Bills"). We also respectfully request to participate in the upcoming public hearings.

Amazon Studios and Prime Video in South Africa

Amazon Studios is the home for talent, creating and producing Original films and television series for a global audience. Original series premiere exclusively on Prime Video, which is available in more than 240 countries and territories worldwide. Amazon Studios also produces and acquires Original movies for theatrical release and exclusively for Prime Video, in addition to producing Original content for Freevee, Amazon's premium free streaming service. In South Africa, Amazon Studios recently appointed a local team to oversee development of local Original titles. Together with talented South African creators, we are at work to deliver authentic, premium, and beloved hit scripted and unscripted series and movies to our local and global audiences.

Prime Video South Africa officially launched in December 2021, and since then Prime Video has licensed over 150 local South African titles from producers and distributors such as Indigenous Film Distribution, Known Associates Entertainment, AAA Entertainment, the SABC, DEO Media, and Empire Entertainment. This includes content from established South African creative talent such as Jahmil X.T. Qubeka (*You're My Favorite Place*, *Knuckle City*), Ian Gabriel (*Four Corners*), John Barker (*The Umbrella Men*, *The Umbrella Men 2*), and Lineo Sekeleane (*Zulu Wedding*). Prime Video has also provided a platform for emerging talent, launching titles from Brad Katzen (*The Domestic*), Thabo Khambule (*Margarine*), and Michael Kolbé (*Promises*).

Local content is a key component of our content strategy in South Africa, and our investments in 2023 will continue to reflect that. Amazon Studios and Prime Video are actively in discussions with local producers to fill our slate with a wide range of films and series that will further bolster our catalog of South African content.



Our Concerns About the Bills

We invest meaningfully in local South African content. We believe that South African stories resonate with both local and global audiences through our Prime Video service. We are continually assessing the opportunity to work with South African creators on a range of high-quality productions.

Our partnership with local creators and production companies helps ensure that the film and TV ecosystem in South Africa continues to develop in a sustainable and equitable way. Unfortunately, the Bills in their current form could likely hinder this growth, and present significant challenges for local authors, performers, creators, and production companies—the very bodies that would benefit most from a partnership with Amazon and other global studios.

We fully support the Committee's desire to provide for the protection of artists. This aligns with our interests as well. However, the Bills set forth obligations that are not consistent with local and global industry standards and practices, that could result in a restrictive regulatory environment that discourages, rather than incentivizes, further investment in the local industry. Our concern is that the Bills do not take into consideration the economic models that support the production of audiovisual works, and may hamper the financial viability of such content.

Our main concerns are:

1. The obligation to pay performers (and certain authors) a percentage of revenue ("royalties"), which is not aligned with global practice and is financially onerous for producers, who would be compelled to pay royalties to performers, screenwriters and musicians, amongst others, in perpetuity.
2. The prevention of certain authors and performers from licensing or assigning their rights for longer than 25 years, which would reduce incentives for producers to invest in content in the territory, likely reduce the worth of content if there are conflicting interests of multiple parties, and require the needless renewal of many transfers, even when all parties are satisfied with the original deal struck.
3. Allowing for the relevant Minister to set terms of trade, including where the Minister can determine the manner and form of the royalty share agreements (including the royalty rates and tariffs), unreasonably creates uncertainty and instability with respect to legal and economic frameworks, and ultimately interferes with the contracting freedom of parties.
4. The requirement of registration and reporting of all commercial uses of every work would be, if enacted, administratively burdensome and unworkable, and imposes unnecessarily excessive penalties for non-compliance.

If passed into law, the Bills could have a significant, detrimental impact on the manner in which production work is conducted in South Africa. We respectfully request that the Committee consider amending the Bills to benefit authors, performers, creators, and production companies. We would welcome the opportunity to follow up with more detailed, written comments on the Bills.



Very truly yours,

David Roth

[David Roth \(Jan 27, 2023 00:30 EST\)](#)

David Roth
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Amazon