

This document contains a simplified outline of the slides used in the national presentation of Singapore at the Virtual Conference on Modern Copyright Protection Systems (08 - 09 Sept 2020), and has been prepared for the purpose of facilitating sharing of the presentation in a suitable format to a wider audience online. It does not represent the complete information presented at the Conference, including any graphics and illustrations contained in the actual slides. For further information on the matters contained in this document or to request a copy of the slides, please contact: gavin_foo@ipos.gov.sg.

9/9/2020

1 **Virtual Conference on
Modern Copyright Protection Systems**

National Presentation: Singapore

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4 **Singapore's International Obligations relating to Copyright and Related Rights**

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6 **Overview of Singapore's Copyright Legislation**

- Singapore is a common law jurisdiction.
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- The source of copyright law is the Copyright Act (2006, Rev. Ed.) and the subsidiary legislation enacted thereunder:
 - Copyright Regulations
 - Copyright Tribunals (Procedure) Regulations
 - Copyright (Records Royalty System) Regulations
 - Copyright (International Protection) Regulations
 - Copyright (International Organisations) Regulations
 - Copyright (Border Enforcement Measures) Regulations
 - Copyright (Border Enforcement Measures Fees) Regulations 2019
 - Copyright (Excluded Works) Order 2017
 - Copyright (Network Service Provider) Regulations
 - Copyright (Flagrantly Infringing Online Location) Regulations 2014
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7 **Overview of Singapore's Copyright Legislation**

- The Copyright Act was first enacted in 1987.
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- It was modelled upon the Australian Copyright Act 1968.
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- Since the Act was first enacted, major amendments include:-
 - Implementation of WCT/WPPT obligations, including a new right of communication to the public. (2004)
 - Implementation of USSFTA obligations, including provisions on technological measures and rights management information. (2004)
 - Implementation of Marrakesh Treaty obligations. (2014)
 - Introduction of judicial site-blocking mechanism. (2014)
 - Exceptions to allow web-harvesting of online material by national libraries and archives. (2018)
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8 **Outline of the Copyright Act**

Part I – Preliminary

- Part II – Interpretation
- Part III – Copyright in Original Literary, Dramatic, Musical and Artistic Works
- Part IV – Copyright in Subject-Matter other than Works
- Part V – Remedies for Infringements of Copyright
- Part VI (Repealed)
- Part VII – Copyright Tribunals
- Part VIII – Extension or Restriction of this Act
- Part IX – False Attribution of Authorship
- Part IXA – Works, or other Subject-Matter, in Electronic Form
- Part X – Miscellaneous
- Part XI – Transitional
- Part XII – Performers Protection
- Part XIII – Rights Management Information
- Part XIII A – Circumvention of Technological Measures
- Part XIV – Transitional Provisions under Intellectual Property (Miscellaneous Amendments) Act 2004
- Part XV – Savings and Transitional Provisions under Copyright (Amendment) Act 2004
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9 10 **Areas of Interest*****Liability for Network Service Providers (NSPs)***

- NSP liability in respect of infringement of copyright works is provided for in Part IXA of the Act.
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- The Act limits liability for NSPs when they engage in certain activities: -
 - Transmission, routing and provision of connections.
 - System caching.
 - Storage and information location.
- To benefit from the limitation of liability, NSPs must fulfil the conditions specified in the Act, which include, where relevant: -
 - Acts are done through automatic processes (as opposed to an exercise of volitional conduct).
 - No substantive modification to the content of the online materials.
 - Expeditiously removing and disabling access to online materials that are the subject of a “take-down” notice.
 - NSPs cannot receive any financial benefits directly attributable to any copyright infringement.
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11 **Areas of Interest*****Liability for Network Service Providers (NSPs)***

- Where the conditions are fulfilled, liability for NSPs is limited – the court will not grant

any monetary relief.

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- The court may, however, order the NSP to:-
 - Terminate specific accounts.
 - Take reasonable steps to disable access to an online location that is physically situated outside Singapore.
 - Remove infringing materials from its network.
 - Disable access to infringing materials on its network or another network.
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- Court considers all relevant matters in ordering relief, including harm caused to the plaintiff and burden placed on the NSP.
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12 Areas of Interest

Site Blocking Mechanism

- Introduced in 2014 to supplement the provisions on NSP liability.
- Allows rights-holders to apply to the court for an order (under section 193DDA of the Act) directing NSPs to disable access to flagrantly infringing online locations.
 - Determination of whether an online location has been or is being used to flagrantly commit or facilitate infringement is based on a set of non-exhaustive statutory factors.
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- Balances the interests of rights-holders, online location owners and NSPs:-
 - Procedures for giving notice to online location owners and NSPs (and for dispensation of notice in appropriate circumstances).
 - Right of appeal.
 - Right to apply to vary or revoke any orders made.

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13 Areas of Interest

Site Blocking Mechanism

- 6 applications to date. First application in 2016.
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- More than 80% success rate – only 1 out of the 6 applications was unsuccessful.
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- Courts have interpreted the legislative provisions flexibly and in keeping with technological advancements and the evolving realities of online infringement:
 - Dynamic site-blocking orders have been granted since 2018.
 - Site-blocking orders can also cover servers that facilitate access to infringing content – crucial in supporting rights-holders' efforts to combat prevalent use of illicit-streaming devices.

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14 **Areas of Interest****Collective Rights Management**

- 4 main collective management organisations (CMOs) Singapore: -
 - Composers and Authors Society of Singapore (COMPASS)
 - Music Rights (Singapore) Public Limited (MRSS)
 - Motion Picture Licensing Company (Singapore) Private Limited (MPLC)
 - Copyright Licensing and Administration Society of Singapore Ltd (CLASS)
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- Generally, the CMOs' repertoires do not overlap. Each CMO tends to represent a specific category of works and rights in those works.
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- CMOs are currently not regulated in Singapore but this is set to change in the future.
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15 16 **Future Developments**17 **Future Developments**

Singapore's latest copyright reform efforts will:

- Restructure the existing Copyright Act and rewrite all existing provisions in plain English.
- Introduce new provisions to respond to the market and technological developments in the new digital age, including:
 - New rights, such as a right of attribution for authors and performers.
 - New exceptions, such as a text and data mining exception.
 - New enforcement mechanisms, such as civil and criminal liability for streaming of audio-visual content from unauthorized sources, such as via a set-top box.
 - A new licensing scheme for CMOs.
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18 **Future Developments****New Licensing Scheme Governing CMOs**

CMOs will be governed by a new class licensing scheme, with the following as its key features:-

- Any entity carrying out collective licensing activities in Singapore will be automatically subject to the licence conditions.
- The licensing scheme will incorporate a mandatory code of conduct, which will prescribe standards for transparency, governance, accountability and efficiency.
- Light-touch regulation; no fee setting or approval.
- IPOS will administer the licensing scheme and will have powers to ensure compliance with the licence conditions.
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19 **Future Developments****New Liability Provisions to Address Illicit Streaming Devices**

Civil and criminal liability will be imposed for two categories of acts:

- Commercial dealings with products* used to access audio-visual content from unauthorised sources, including:-

- Manufacture
- Importation for sale
- Commercial distribution and sale
- Providing any paid service that enables devices to access content from unauthorised sources, for eg. provision of website links, instructions or installation of subscription services.
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- * *Only products that fall within the following criteria:*
 - *Products designed or made primarily for providing access to audio-visual content from unauthorised sources;*
 - *Products advertised as providing access to such content; or*
 - *Products sold as providing access to such content, where the retailer sells a generic device with the understanding that "add-on" services will subsequently be provided.*
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