

## SANEF PRESS STATEMENT ON THE REVISED FILMS & PUBLICATIONS AMENDMENT BILL

The SA National Editors' Forum strongly opposes the revised version of the Films and Publications Amendment Bill which has been presented for parliamentary processing by the Portfolio Committee on Home Affairs. The original protests of the media industry that the Bill provided for pre-publication censorship have been met only fractionally and the document that has now been presented to parliament is deeply flawed, unconstitutional and likely to lead to a Constitutional Court battle between the media industry and the government. Criminalisation of expression remains.

While the media appreciates the time given to receive its representations by the committee it is clear that many of the representations and arguments made were not understood and many were ignored.

There is still wide scope for pre-publication censorship in the Bill. It was pointed out to the committee that the exemption that had originally been granted to the newspaper industry -- and which the Bill planned to remove -- was itself not sufficient protection because it applied only to members of the Newspaper Association of SA (NASA). There are an estimated 500 publications which are not members of NASA and therefore will still be subject to the pre-publication censorship provisions of the Bill when it becomes law.

The exemption for online publications which has been introduced while welcomed by NASA members also fails to recognise the non-NASA members who have online sites. These institutions or individuals will become subject to the censorship provisions of the Bill.

The Bill is complex and should it become law, publishers as well as members of the public will have to exercise great care in complying with many of its provisions. Among those who will be affected are the newspaper industry in regard to advertisements and other requirements in relation to publication, magazines and authors. Some of these provisions also affect members of the public but the worst feature affecting them -- and journalists -- is the so-called "spy on your neighbour" clause which requires people having knowledge about someone's possession of, or involvement in, child pornography having to report that knowledge to the authorities. An even more harmful feature, however, is that one merely has to have a suspicion about another person for the requirement to be invoked and, even worse, if a person does not report his or her suspicion or knowledge to the authorities the person can be charged and, if found guilty, jailed.

The definition of "matters of public interest" is also questionable; the reference to the publication of hate speech is wider than the constitutional limitation and is thus unconstitutional and a serious error is the failure to exclude academics from the provisions of the Bill. Though this protest refers mainly to the print media, many of the complaints raised also apply to broadcasters.

Sanef requests the Bill be withdrawn and for the in depth consultations between the lawmakers and the media industry which were promised but never held to be instituted. It is clear that the portfolio committee hearings do not provide the scope for this highly complex but highly important issue to be dealt with.

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