

## Copyright in Nepal Laws should be made tougher

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Copyright is affecting all creators and investors alike, paving the way for healthy competition.

All businesses own or use copyrighted material. Protecting such materials from abuse, misuse and/or piracy may be critical to preventing erosion of a competitive advantage. Yet many companies do not focus on management of copyright assets while planning their competitive strategies. Active management of copyright, along with other IPR, is essential for all businesses, big or small, as it impacts directly or indirectly on their performance, profitability and competitiveness. Copyright industries can be divided into three categories. First is the core copyright industries that cover industries that create copyright materials as their main product. They include book publishers and related industries, the music publishing industry, theatre, film and television production companies, the visual arts industry, computer software and so on. Second, partially copyright-based industries that include advertising agencies, computer consultants, architectural services, stationary manufacturing etc. Third, copyright-based distribution industries that cover business involved in paper product wholesaling, computer and software retailing, film and video distribution etc.

To sustain these industries' competitiveness and success, copyright industries need to safeguard the fruits of their creativity and innovations from free riders, imitators, and copiers. Copyright law provides the basis for enabling authors or creators to legitimately seek and receive remuneration for the use of their original literary or artistic work, enabling them to support themselves from their works. It gives entrepreneurs the opportunity to generate profits to reinvest in tomorrow's creations and their distribution. Copyright allows the creator or owner of rights to control the use of their copyrighted work in the marketplace by granting them economic and moral rights over the work. .

It is very important to note that copyright is described as a property right. Copyright protection

begins from the time when work is complete. However, in Nepal, according to Article 5 (2) of Copyright Act, if anyone wishes his/her creation to register officially he/she can do it. Copyright laws will give protection even if someone does not have a registered copyright. An essential rule of copyright is that it does not protect ideas, but it protects particular expression of ideas that Article 9.2 of TRIPS states: "Copyright protection shall extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such."

In recent years, this subject has attracted a great deal of interest and controversy, and the proposition that copyright is in the public interest has been questioned in the context of the challenges posed to the copyright system by technical development. These challenges are flourishing year by year in the present period of rapid technological change and the digital environment. Hence, the copyright system has been labouring for the past three decades under considerable strain and has attracted the attention not only of legislators, called upon by the interested parties to update and improve the level of protection provided to right owners in their laws in order to keep pace with the new technologies, but also of economists and academics.

The social usefulness of copyright consists in providing an economic basis for creation. It is a social requirement in the public interest that authors and other rights owners should be encouraged to publish their works so as to permit the widest possible dissemination of works to the public at large. If a wide public can share the ideas and experiences of creators within a short space of time they contribute to the

development of society.

According to Article 4 of Copyright Act (CRA), things that cannot be copyrighted are ideology, religion, news, concept, theory, court decisions, administrative decisions, folksong, folklore, proverbs, to name a few. Most of the countries have both civil and criminal remedies regarding copyright cases. Nepal also has similar provisions. In our context, according to Article 38 of CRA, one has to make a complaint within three months from the date of knowing the infringement of copyright. To protect the rights of authors, laws are not enough. It is an issue increasingly affecting all creators and investors alike paving the way for healthy competition and sustainable economic growth. It is crucial to expand awareness and make it suitable to enforce rights in real life. Court decisions should be strongly implemented in Nepal. Like in China and other countries, Nepal too needs provisions for a separate IP court for effective promotion and protection of copyright. At the same time, the judiciary should be better trained in IP matters. It would be better if the provision of alternative dispute resolution (ADR) were introduced under the present copyright act of Nepal so that disputes can be settled through negotiation, making it a more cost-effective method to grant justice to the rights holders.

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