

Standing Committee on Copyright and Related Rights

Twenty-First Session

Geneva, November 8 to 12, 2010

INTERVENTIONS BY NON-GOVERNMENTAL ORGANIZATIONS

Document prepared by the Secretariat

1. During the Twenty-first Session of the Standing Committee there was not sufficient time available for the non-governmental organizations to fully state their views regarding Agenda items 5: Protection of broadcasting organizations, 6: Protection of audiovisual performances, and 7: Limitations and exceptions. On the proposal of the Chair, the Committee decided, in order to allow the non-governmental organizations to express their positions, that one single organization could collect all non-governmental organizations' position papers on those Agenda items and other issues. The Annex to this document contains position papers of non-governmental organizations that have been received by the Secretariat.

[Annex follows]

ANNEX

AMERICAN COUNCIL OF THE BLIND (ACB)

Thank you very much for the opportunity to speak to this body once again. My name is Melanie Brunson, and I represent the American Council of the Blind (ACB), one of the leading organizations of blind and visually impaired people in the United States.

ACB supports the World Blind Union's call for an international treaty that would expand copyright exceptions for people with print reading disabilities around the world. We support this call for international action not only because we are members of the World Blind Union, but because there is a tremendous need among people with disabilities, both in our own country and worldwide, for greater access to the tools that promote basic literacy. We regularly receive inquiries from people who are losing their vision, and the question that these individuals ask most frequently is, "Do I have to give up reading books now that I can't see the print?"

When a blind person wants to read a particular book, the search for an accessible version of it can be both rewarding and disappointing. It is, of course, very rewarding when you decide to read a particular book, or want to learn about a given subject, and you find that what you are searching for is readily available in a format you can use. However, what is most disappointing, for me personally, is when the book could be available if I lived in the UK, or in Canada, but it is not available in my own country! Now, I ask you, is it a wise use of limited resources to produce one book in the same format multiple times, simply because copies cannot be shared across national borders? Wouldn't it be more fiscally prudent to maximize the benefits of those limited resources by making more books available in accessible formats and allow copies to be distributed among all who can read them? I hope you agree that it would, and that you will see your way to turning that agreement into practical action. I urge this body to agree upon a plan of work and a timetable, before you leave this week, for the development of a legally binding instrument that includes the best aspects of all of the proposals you have received to address our book famine in a timely manner. Many people around the world who have visual and other print reading disabilities are waiting to see what you will do about this important issue. Please don't disappoint them! I thank you, in advance, for the action that I trust you will take to move this matter forward, and for the opportunity to speak with you today.

By Melanie Brunson, Executive Director
American Council of the Blind

COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION (CCIA)

CCIA offers its congratulations to you, Mr. Chairman, and to your vice-Chairs, for your wise leadership of this SCCR, and to the Secretariat for the hard work they have done to support this meeting.

The Computer and Communications Industry Association's members represent a broad cross-section of the information and communications technology (ICT) industries; our members collectively generate more than \$200 billion in annual revenues. They thus have a substantial stake in the effective operation of the international system of copyright and related rights as IP owners and innovators.

We are pleased to see that there is wide agreement that effective action must be taken to deal with the problems of access to printed material by the visually impaired, and that the SCCR is at a stage where the discussion is about how to solve the problem, rather than whether to do so.

We submit that a fundamental element of action at this session must include adoption of a work plan with timelines and milestones that leads to a binding and effective result. Whilst a broader discussion of L&Es is both desirable and necessary, we believe that the VIP issue is more mature, and therefore shouldn't wait on other subjects to reach the same level of maturity.

L&Es are essential drivers of innovation and economic development which are relied upon by many industries, including ours – to illustrate this we have just this year commissioned two independent studies on the subject – one relating to fair use and its value to the US economy, and the other the economic contribution of industries in the EU that rely upon L&Es. Both are available on our website at <http://www.cciagnet.org/index.asp?bid=9>. The results are compelling: in the US in 2007, industries that rely upon fair use are estimated to have generated a turnover of US\$4.7 trillion with a value added to the economy of US\$2.2 trillion dollars, 16% of the GDP of the USA. In the EU, also in 2007, the value added to the EU economy of industries relying upon limitations and exceptions to copyright is estimated at EUR 1.1 trillion, 9.3% of European Union GDP.

How do we deal with the various issues on the 'plate' of the SCCR? It is clear to us, at least, that answering that question at this meeting is necessary for the work of the SCCR to move forward on any issue.

Mr. Chairman, we see in the working practices of the IGC a model that allows multiple equally complex issues to be dealt with in parallel. The more informal dynamic is a part of the 'secret sauce' of success, but equally important is addressing one subject in a meeting rather than attempting to address several. This allows each delegation to send experts in that particular subject that is not possible if the current plenary-only, multiple issue SCCR working model is retained.

What we need is multiple working tracks for each of the main areas of work. Each track could proceed in parallel, to ensure equal treatment of each issue area – understanding of course that some issues will proceed at a faster pace than others, and indeed that some issues may fall by the wayside if it is found that no international action, whether normative or otherwise, is really needed or can be agreed.

Finally, with respect to the subjects under discussion - Mr. Chairman, we have no doubt whatsoever that it is entirely possible to have strong copyright protection and for the hundreds of millions of visually impaired people to have access to copyrighted works *at the same time*. We believe that the other issues facing copyright can also be dealt with constructively and we are committed to a full exploration of other limitations and exceptions, as we know from our members' direct experience how important L&Es are to innovation.

Mr. Chairman, with respect to broadcasting: CCIA has been active in the discussions related to the Broadcasting treaty for many years now. In all that time, we have repeatedly asked two simple questions of the advocates of a treaty:

- 1) What misuse of broadcasts cannot be resolved through enforcement of the rights in the underlying programs for which existing protections and remedies are not effective?

- 2) Why are provisions designed to protect signals, such as in the Brussels Satellite Convention, insufficient?

With respect to the first question, Mr. Chairman, we've heard for years in this chamber of rampant piracy of broadcasts – however, the examples given relate to the use of fixations of programs, not the broadcast signals themselves. With respect to the second question, here the answers are either unpersuasive (such as “we wish to enforce our own rights, instead of those of others” or “why should everyone else get rights and not us?”) or non-existent.

Mr. Chairman, finally, aside from the lack of any reasonable justification in fact for any rights at all, let alone broad new rights, we have detected no change in the political landscape on this issue. There is no consensus – or anything close to a consensus, on the object of protection, scope of protection, or even who the beneficiaries are to be. This issue should not be allowed to detract from action in favor of the visually impaired – or action on any other issue for which a reasonable basis in fact of the need for an international solution exists.

Mr. Chairman, someday there may actually be a real problem that cannot be solved by the use of present legal protections. Someday is not today, it is probably not tomorrow, and it is very likely not even next year or the year after.

We stand ready to assist WIPO's work, Mr. Chairman, and thank you for your attention.

CHAMBER OF COMMERCE AND INDUSTRY OF THE RUSSIAN FEDERATION (CCI RF)

Chamber of Commerce and Industry of the Russian Federation (CCI RF), representing a large part of the Russian Federation business community, recently became an observer to WIPO and has been given an opportunity to participate at the meetings of the WIPO Committees. It takes this great chance to take the floor at the Standing Committee on Copyright and Related Rights (SCCR) issues.

Having joined the observers at the 21st session of the SCCR that took place in Geneva at the WIPO Headquarters on November 8 to 12, 2010, CCI RF fully realized how complex is the issue on Limitations and exceptions with regard to the access of visually impaired and reading disabled people to the modern sources of knowledge and information.

While considering this issue CCI RF understands that its successful resolution has to envisage protection of interests of visually impaired and reading disabled people who are striving for the access to knowledge and education, on the one hand, and, on the other hand, copyright and related rights that belong to not only private individuals and companies but to a whole range of communities trying to preserve their rich and unique cultural heritage. A balanced approach that would take into consideration all of the interests involved and promote equality of treatment, is at the centre of everyone's attention.

CCI RF understands that it is in the interests of any society to include all the groups of population, including the most vulnerable, into the democratic process. Only the access to information and modern knowledge will not create and isolate part of population at the edge of the society.

It is also in the strategic interest of business community to encompass all of the potential consumers into the marketable knowledge which, at the digital age, takes more and more the form of electronically transmitted information that can be tailored to any demand and that challenges traditionally presented information and knowledge. Such an approach also opens

the door for innovations in the field of creation of special means and instruments allowing access of visually impaired and reading disabled people to modern knowledge.

In a modern society there should not be such thing as a barrier to information for anyone. The fundamental goal of an international system of intellectual property is not to create barriers to knowledge but to inform about the existence of it, promote it and show access to it. Therefore, a solution to the problem of Limitations and exceptions in the context of intellectual property rights regulation must exist or should be created.

Thank you for your attention,
E. Kolokolova

CENTRE FOR INTERNET AND SOCIETY (CIS), INDIA

Thank you, Mr. Chairman.

The Centre for Internet and Society (CIS) is pleased to note the collective intent on the part of Member States to find a solution to the lack of accessible reading materials for persons with print disabilities around the world, as evidenced by the number of proposals which have been put forward since the past SCCR. It is clear that Member States have been applying their minds to this problem and have presented us with several possible options, which they believe would adequately address this issue. We would, however, like to take this opportunity to remind them that disability groups, from both developed and developing countries, who have been grappling with this issue for decades, have been unitedly stressing the urgent need for a legally binding international instrument as the only effective solution to achieve results at a global level.

I would like to very quickly put forward a few thoughts for the consideration of this Committee.

- We believe, that there should be an international treaty harmonizing exceptions and limitations for access to reading materials for persons with print disabilities, and that achieving this should be the first priority for work in this committee. .
- Limitations and exceptions are important for promoting access to knowledge, encouraging creativity and furthering the overall development of humankind and hence, should be the subject matter of serious discussions at WIPO; WIPO should play an important role in the development of international copyright law to facilitate greater access to knowledge and information, especially in the context of digital technologies.
- Limitations and exceptions on all issues which further the development Agenda of WIPO, including exceptions for the print disabled, education, libraries and other issues, must be discussed amongst Member States without delay in the forthcoming meetings of this Committee.
- We feel that there may be some merit in reserving separate sessions for discussing each issue, since this would facilitate more focused and comprehensive deliberations in an expeditious manner.

Hence, we would like to urge Member States to begin work on all these issues, ordering them on the basis of their maturity, with a view to achieving concrete outcomes, which should be informed by the collective wisdom of stakeholders affected by these instruments as to what are the ground realities prevailing in their countries.

CANADIAN LIBRARY ASSOCIATION

Mr. Chairman, this is the first time that the Canadian Library Association takes the floor at SCCR and we are very pleased to join colleagues from the four other organizations representing the library and archive community at this meeting in expressing our appreciation of the focus of the SCCR on exceptions and limitations, and the extensive support for including libraries and archives in the discussion.

CLA believes that libraries and the principles of intellectual freedom and free universal access to information are key components of an open and democratic society. We act as advocate and public voice, educator and network for Canadian librarians and work to build the Canadian library and information community and the services it provides to society. Our membership is very diverse and works in college, university, public, corporate, non-profit, government and school libraries.

CLA is concerned about the impasse at the last SCCR and supports the suggestions by Member States that the way forward is through the development of a work plan that both recognizes the readiness of the treaty for visually impaired and reading disabled people to move ahead without delay, *and* that allows for the introduction of a parallel track of discussions about limitations and exceptions for libraries and archives, and for education, considering each issue on its own merit and state of readiness.

CLA recognizes that each of these three issues is at differing levels of maturity and urges that the cart not be put before the horse! We fully expect that substantive issues with regard to exceptions and limitations for libraries and archives will very soon be ready for discussion by this Committee. Nevertheless, we strongly recommend that since the treaty for visually impaired and reading disabled people is extremely advanced in its development, it not be held back in any way.

Thank you, Mr. Chairman.
Victoria Owen: owen@utsc.utoronto.ca
Canadian Library Association <http://www.cla.ca>

COPYRIGHT RESEARCH INFORMATION CENTER (CRIC)_ON THE PROTECTION OF BROADCASTERS AND AUDIO VISUAL PERFORMACES

Thank you, Chairman.

First of all, congratulations on your election of the chair and two vice chairs.

Now, digital technology and the internet bring us various new infringements of copyright and neighboring rights one after another. In response to this situation, WIPO established the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty in 1996. Unfortunately, we left out the update of the protection for audiovisual performances and broadcasting organizations. Since 1997, we have tackled the task to establish audiovisual performances' treaty and broadcasters' treaty.

Yes, we have discussed these two issues for almost 15 years. In these years newly arising piracy by digital technology have done huge damage to audiovisual performers and broadcasters. If we would not take any measures, it would be a great damage to preserve our own respective cultures, maintain cultural diversity and develop our cultural life. Especially, broadcasting is the most important basic social medium. Without this convenient

communication tool, in this information and communication era, ordinary people could not enjoy variety of information with ease, and people should suffer from tremendous digital divide.

As to the protection of audiovisual performances, we agreed on 19 substantial articles at the diplomatic conference in 2000. Only one step further would lead us to the goal. And, as to the broadcasters' treaty, we have the mandate of the 2007 General Assembly. We must accelerate our discussion of these two agenda, aiming to convene diplomatic conference before the collapse of our culture which is quite imminent by huge piracy equipped with sophisticated new digital technology and the internet.

Lastly, as to the Limitations and exceptions, many countries have now their own various legal norms corresponding to each social situation. Accordingly we should develop the discussion of the issue carefully without sacrificing the flexibility. And the point of the issue we have to discuss internationally would be the export of copies reproduced under the limitations and exceptions, I believe. But, we must discuss it carefully without harming normal exploitation of works.

Thank you very much.

ELECTRONIC FRONTIER FOUNDATION (EFF)

Mr. Chair, thank you for the opportunity to present the views of the Electronic Frontier Foundation (EFF) and its more than 12,500 members worldwide.

Proposed Broadcasting Treaty – SCCR/15/2 rev.

EFF remains concerned by the proposed Broadcasting Treaty because it is not limited to signal protection as mandated by the 2006 and 2007 WIPO General Assemblies, but would instead give broadcasters and cablecasters intellectual property rights over retransmissions *after* fixation of signals. We note that WIPO Member States have now agreed to present new proposals and treaty texts by March 1, 2011, which will form the basis of the preparation of a new draft treaty, and asked the Secretariat to hold an informal consultation with Member States and technical experts to discuss technical and technological impacts of the proposed treaty prior to the next SCCR meeting. As it is not clear whether accredited NGOs will be invited to participate in these discussions, we would like to take this opportunity to remind delegates that protection of broadcasting signals does not require the creation of intellectual property rights.

For the reasons outlined in our previous statements¹, the current treaty text is likely to create unintended consequences because it grants broadcasters and cablecasters intellectual property rights that apply in addition to, and independently of copyright, and which can be enforced with legally protected technological protection measures. Any new treaty that includes these elements will likely result in the following unintended consequences:

- Restriction of access to public domain works;

¹ Please see: http://www.wipo.int/edocs/mdocs/copyright/en/sccr_18/sccr_18_8.pdf (at page 9) and http://www.eff.org/files/filenode/broadcasting_treaty/EFF_position_paper_jan_2007.pdf.

- Additional complexity for national copyright clearance regimes for creators of podcasts and documentary films;
- Interference with consumers' ability to make in-home recordings permitted under national copyright law;
- Harm to competition and innovation by allowing broadcasters and cablecasters to control the types of devices that can receive transmissions; and
- Creation of new liability risks for intermediaries that retransmit information on the Internet.

We welcome the new study by Professors Picard, *et al.* on the socio-economic effects of the proposed Treaty and note the authors' findings that it is likely to disadvantage the public interest by reducing content that is currently available, and increasing costs for acquisition of material. However, the report's failure to consider the impact of the proposed treaty on citizen broadcasting, and on competition and innovation in the information technology sector, are noteworthy omissions at a time when it is not at all clear what the future of broadcasting will be, and whether current incumbents will remain so, as consumers increasingly move away from content created by major media conglomerates.

Copyright Exceptions and Limitations

We were heartened by Member States' adoption of a concrete work plan to focus their work towards an international instrument on exceptions and limitations taking into account the four proposals before it. We support the Treaty for the Visually Impaired to secure access to accessible works for the visually impaired as the first part of the work plan on copyright exceptions and limitations discussed at this Committee's 16th session. A binding norm that provides both greater legal certainty for cross-border import and export of accessible works, and guidance to Member States on minimum exceptions in national laws is needed to address the policy and market failures that have led to the chronic lack of material in formats accessible to the world's 314 million print-disabled citizens.

We applaud all efforts to increase the quantity of accessible materials, but believe that neither a voluntary licensing regime nor a mechanism that covers only one of these elements will be able to change the status quo. We listened with interest to Member States' interventions on trusted intermediaries. It would indeed be a tragedy to set up a mechanism for expedited access only to find that no entities exist in many developing countries that could satisfy the terms of the US and EU proposals.

International copyright experts agree that it is possible to create exceptions that comply with the Three-Step Test. And yet less than one-third of WIPO's Member States have done so for the visually impaired. It was therefore disheartening to hear the series of interventions from Group B Member States on November 10, 2010, questioning the notion of mandatory minimum exceptions, while failing to acknowledge the existence of mandatory exceptions in the Berne Convention and in at least two EU directives.

We were pleased to see recognition of the need for work towards an international instrument on exceptions and limitations to facilitate the efficient operation of today's global libraries and archives, but were disappointed by the removal of all references to exceptions and limitations for educational purposes in the work plan tabled by Group B during the SCCR meeting. We recall that the right to education is a fundamental human right enshrined in Article 26 of the UN Declaration of Human Rights and Article 24 of the UN Convention for the Rights of Persons with Disabilities, and a core objective of the Millennium Development Goals.

As the five studies commissioned by WIPO demonstrate, it is possible to create appropriately

tailored exceptions and limitations that meet the Three-Step Test and provide adequate remuneration for the publishing industry, but many developing countries do not have them. An international instrument that provides for mandatory minimum standards of exceptions for education is needed to provide guidance to Member States on how they can take advantage of the flexibilities that exist in the international framework. The Internet and new digitization technologies offer new possibilities for distance education for students across the world who do not have access to physical classrooms or traditional libraries, as well as new methods for learning in the classroom – but these possibilities will only be realized if we have global copyright law exceptions and limitations that facilitate cross-border transfers of digital information, and foster innovation and transformative uses of technology for education.

As the Committee begins to implement its new work plan, we urge Member States to work together with a spirit of renewed goodwill to address all of the pressing humanitarian problems that are now before it, to ensure the ongoing credibility of the multilateral copyright regime.

Thank you for your consideration.

Gwen Hinze
International Director, Electronic Frontier Foundation

ELECTRONIC INFORMATION FOR LIBRARIES (EIFL)

Thank you, Mr. Chairman.

I am speaking on behalf of Electronic Information for Libraries (EIFL), an NGO that works with libraries in 48 developing and transition countries.

We are grateful to the Committee for the attention given to the issue of exceptions and limitations, and appreciate the consideration by many delegations to libraries and archives in their opening statements.

We were deeply disappointed that no agreement was reached at SCCR/20 on the way forward. We urge the Committee to agree to a work plan that prioritizes a solution for VIPs, and progresses library and archive issues.

From my experience working as a university librarian in Zimbabwe, I will give two examples of challenges faced by libraries in Africa in their endeavor to get access to knowledge.

The first challenge is about the relationship between contracts and exceptions, a matter that was raised yesterday during the discussion. Students and academics in Africa are using electronic resources, such as scientific and technical journals, made available through libraries. Contract terms that govern access and use of the e-resources often undermine copyright exceptions and this limits the uses of the material which would otherwise have been allowed in national law. It is both difficult and costly to re-negotiate these terms, a needless waste of scarce resources. We believe an international solution can be found in copyright law since precedents for safeguarding exceptions in contracts already exist in the European copyright acquis, namely, the Directives on computer programs (Art 9) and on databases (Art 15).

The second challenge I raise today is that libraries and archives are responsible for the preservation of our cultural heritage. Because there are no international norms for copying for preservation, libraries and archives in more than half the world's countries, including Africa, lack legal certainty with respect to digital preservation activity. It is imperative that we can

preserve Africa's rich and diverse culture including its unique written and oral histories. Otherwise we risk losing Africa's heritage from the memory of the world.

The issues I have described are important. At the same time, the book famine continues for millions of blind and visually impaired people. EIFL reiterates its support for a work plan that enables the VIP treaty to move ahead without delay, and that allows for a phased introduction of other issues raised by the African Group and other delegations, each on its own merit and state of readiness.

We thank all the delegations that have shown a commitment to libraries, and we look forward to continue working with you.

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INTERNATIONAL COUNCIL ON ARCHIVES (ICA)

Thank you, Mr. Chairman, for the opportunity to make an intervention for the first time to the Committee on behalf of the International Council on Archives (ICA).

Archives hold huge numbers of copyright works. They are the working files and papers of governments and organizations that tell us why and how decisions were taken, and also the private papers of families and individuals. Each file may contain many documents such as letters, photographs and maps, or may consist of a film or sound recording, and every one may be a distinct copyright work. Archives are essential for the proper and efficient running of organizations and they constitute the memory of nations and societies. The majority of archival materials have very low economic value but they do have immense evidential and cultural value all around the world.

You will appreciate, then, that archivists are primarily concerned with unpublished materials, rather than the published materials that concern most copyright experts and owners. Everyone depends on them, but few people take an interest in them until they need them. Even the rights owner organizations do not, since there is no organization that can reasonably claim to represent the interests of millions of individual creators of unpublished letters or diaries.

We have two primary roles: to preserve materials in our care, often recorded on fragile and short-lived media, and to make those materials available for study and research by everyone, no matter what they wish to study and no matter who they are. We thus share many of the concerns of librarians and are working with them to seek a balanced copyright system that benefits all members of society in all parts of the world.

Archivists recognize and respect intellectual property rights and are vigilant in ensuring that users respect it too. At the same time, exceptions and limitations to copyright are vitally important to enable us to provide our services in the digital age. Archivists everywhere must be able to copy archival materials of all kinds for preservation purposes and to make copies for researchers, including accessible copies for reading disabled people. Any agreement on access to copyright works for reading disabled people must take unpublished works into account.

We all expect to find the materials we require to be available on the internet. The problem of clearing rights in orphan works is thus a significant one for archivists: what prospect is there

of us discovering the identity and location of the current owners of copyright in thousands of letters written by private individuals? It is most important to us that the Committee's work program includes consideration of orphan works.

Archivists are keen to help in the development of copyright systems. To that end we hope that Member States will now support a work plan to develop a treaty for reading disabled people, that clearly also sets out a program for work on exceptions and limitations for libraries and archives, and for education, so that each issue can be considered on its own merits.

Thank you Mr. Chairman.

INTERNATIONAL FEDERATION OF LIBRARY ASSOCIATIONS AND INSTITUTIONS (IFLA)

Thank you, Mr. Chairman, for inviting us to intervene.

The International Federation of Library Associations and Institutions (IFLA), representing libraries from more than 150 nations, appreciates the focus of the SCCR on exceptions and limitations for the visually impaired, libraries and archives and education. We are particularly pleased by the widespread support expressed earlier this week by so many Member States from all over the globe for substantive discussion on the needs of libraries and archives in relation to exceptions and limitations. As the distinguished delegate from Australia said yesterday, libraries and archives have the unique and critical responsibility for the preservation and accessibility of our cultural heritage. Yet our ability to fulfill this mission is impeded - in both developed and developing countries - by the lack of adequate exceptions for basic library and archive activities such as preservation; and by barriers, such as contracts and technological protection measures, that make it impossible to use the exceptions some countries' copyright laws already allow in support of the print-disabled, students, educators and the many other users our libraries exist to serve.

Like many others, we were disappointed by the stalemate at the end of the last SCCR meeting. IFLA therefore urges Member States now to support a work plan that enables the treaty for visually impaired and other reading disabled people to move ahead without delay, while also providing a clear timetable for a phased introduction of the other issues, namely exceptions and limitations for libraries and archives, and for education, which have been raised by the African Group and many other delegations. The work plan should provide for each issue to be considered on its own merit and according to its state of maturity. Indeed, at SCCR/20 we welcomed the African Group's initial proposals with regard to the library and archives issues and anticipate that substantive consideration of these issues will soon be ready for this Committee to undertake.

In our view, the book famine that visually impaired people around the world are experiencing is intolerable and must be dealt with without further delay. We in the library profession know this, since it is libraries that are the main agents for delivering reading materials and access to information services for visually impaired and other reading disabled people. The proposed treaty for the visually impaired is extremely well advanced in its development and must not be held back in any way.

Thank you for your attention.

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INTERNATIONAL FEDERATION OF REPRODUCTION RIGHTS ORGANISATIONS (IFRRO)

Thank you, Mr. Chairman.

IFRRO – the International Federation of Reproduction Rights Organisations – with its 128 member organizations, of which 73 Reproduction Rights Organizations (RROs) which are collective management organizations in the text and image based sector, and 55 creators' and publishers' bodies in the same sector, is a strong advocate of developing practical solutions on the basis of existing legal frameworks, whenever possible. We believe this is the preferred way forward also when it comes to providing access to copyright works for people with reading impairment.

The Berne Convention offers an adequate and sufficiently flexible legal framework for its members to establish national copyright legislation that balances the right of creators and publishers and the opportunity to offer access through exceptions or limitations for defined uses of people with reading impairment. We appreciate that WIPO and its Member States while paying consideration to the carefully and well-crafted instrument that the Berne Convention is, not only protect but also make appropriate use of it. Also, in relation to developing adequate solutions to enhance access to copyright works by reading impaired, that all would wish to see happen, the Berne Convention forms a solid platform internationally for drafting national legislation to contribute to facilitating this.

IFRRO is therefore a strong supporter and an active participant in the stakeholder dialogues that have been established for the purpose of enhanced access to copyright works by people with reading impairment: the WIPO Stakeholders' Platform and the EC Stakeholder Dialogue. IFRRO is also one of the six signatories to the Memorandum of Understanding (MoU), together with EBU, EDA, FEP, EWC and STM, that has been signed under the EC Stakeholder dialogue committing the signatories to contribute to advancing practical, concrete and fast solutions to boost the number of works in formats accessible to people with reading impairment and their exchange across borders.

The system that the stakeholders agree to put in place based on Trusted Intermediaries combined with the joint stakeholder efforts in relation to enabling technologies offers real opportunities to improve substantially the reading impaired's access to Intellectual Property. This requires that all who wish to see the goal of bettering the offer of accessible format works to reading impaired contribute actively in the ways which are within their potentials to putting the system into place. In this we appreciate and wish also to acknowledge the indispensable efforts of the WIPO Stakeholders' Platform on capacity building efforts to include developing and least developed countries in the system of the making and exchange of alternate format copies. IFRRO looks forward to lending our assistance to this important work.

IFRRO can support the principles on which the proposals of the distinguished delegations of the European Union (EU) and the United States are based provided they offer an enabling legal framework. The joint recommendation presented by the distinguished delegation of the EU also includes clearly the option of an exception or limitation in favor of people with reading impairment in national legislation. IFRRO believes that this opportunity already exists to members of the Berne Convention on the basis of its Article 9.2. We have, nevertheless, no objection to it being clarified in a WIPO joint statement on reading impairment and consider that the EC Copyright Directive of 2001 sets an apposite standard for such an exception in national legislation.

Thank you, Mr. Chairman, for having had the opportunity to intervene here at the SCCR.
Geneva, 10 November 2010, Olav Stokkmo (Chief Executive Officer of IFRRO)
olav.stokkmo@ifrro.org

KNOWLEDGE ECOLOGY INTERNATIONAL, INC. (KEI)

There should be a compelling rationale for creating new global norms for copyrights. Knowledge Ecology International, Inc. (KEI) opposes work on a new broadcasting treaty, and supports work on performers treaty.

KEI supports work at the SCCR on new possible norms for copyright limitations and exceptions, particularly as regards to access to knowledge, and uses of new technologies.

For persons with disabilities, the well established rationale for a global norm is the need for sufficient implementation and harmonization of exceptions to facilitate the sharing of accessible work across national borders, in order to expand the number of works available to person who are blind or have other disabilities.

The SCCR just has to make it happen.

They say the three most important things about real estate are location, location, location. To advance work on a treaty for persons with disabilities, the three most important things are focus, focus, and focus. The SCCR should hold meetings that solely deal with the task of developing consensus on the text of such a treaty.

We call upon the Obama Administration, after nearly two years in office, to decide if a treaty is needed, and to provide leadership in Group B to support a treaty. WIPO could have a treaty on cross border sharing of works by 2012, if Group B countries would stop blocking work on the text.

On other topics, such as education, including distance education, libraries, archives, orphan works, user generated content and new information services, there is much that could be done, in terms of gathering information, sharing experiences, analysis and norm setting.

The Africa Group is asking that the SCCR make as a priority work on education. In this regard, we suggest the SCCR make an assessment of the 1971 Berne Appendix, to evaluate where this agreement achieved its objectives, and where it did not. We also suggest the SCCR identify the rationale or rationales for norm setting in the area of education exceptions, and consider the evidence that will assist the committee in its work.

Education, including also the role of libraries and archives, is a large sector with enormous impact on society. Given its importance in development for all countries, it is essential that the SCCR provide sufficient time and focus to identify the most useful and durable reforms that can insure that the copyright system has the right balance regarding the material interests, needs and human rights of authors, students, teachers and scholars, and commercial interests of publishers.

LIBRARY COPYRIGHT ALLIANCE

Thank you, Mr. Chairman, for the opportunity to speak on behalf of the Library Copyright Alliance, that represents over 139,000 academic, research and public libraries in the United States in providing library services and promoting the public interest. We appreciate your continued leadership of this committee.

Work on copyright limitations and exceptions is the most important responsibility of the committee at this time. We are confident that in focusing on the commonality of the four proposals, a solution can be found to benefit the blind and visually impaired, libraries and archives, and education.

We believe that all of these issues are critical to the future of the human intellect, and urge Member States to bring the copyright system into the 21st century for the benefit of all members of society. If, for just one short week, most of us were to experience the inconveniences and obstacles faced by our blind and visually impaired colleagues, a solution would have been found long ago. We need to put an end to fears of economic harm, and extend meaningful action to resolve this problem.

We urge Member States to focus on the twin issues of a national exception for countries that currently lack an exception, and the cross-border distribution of works. The treaty proposal of Brazil, Ecuador, Mexico and Paraguay, and the U.S. proposal for cross-border distribution offer the best combination for success. Given the relative maturity of the issues surrounding print disability, this issue should proceed within the time frame for holding a diplomatic conference in 2012.

As a parallel activity within the committee, the issue of exceptions and limitations for libraries and archives, and education, should proceed in sequence. A core set of library limitations and exceptions is needed to sustain a global information society. Private licensing of information is not an adequate solution because it does not encompass the public policy considerations that have been built into the copyright system for well over a century.

Library organizations have identified the areas we see as most in need of a global solution in the form of copyright limitations and exceptions. They include library lending; document supply; preservation; use of works to further education, research, and private study, and for personal or private purposes; use of orphan works; cross-border exchange of information; validity of statutory limitations and exceptions over contracts; and exceptions for circumvention of technological protection for certain library activities.

Because libraries and archives shoulder the responsibility in society for collecting, organizing, and preserving information; because they spend, in the U.S. alone, billions of dollars per year on information resources;¹ and because libraries and archives are respectful of copyright law, they have earned the status to be able to perform these functions for the continuity of civilization.

In conclusion, the needs of the blind and visually impaired, libraries and archives, and education demand realistic solutions for the 21st century, particularly in accordance with the goals of the WIPO Development Agenda. These are primary responsibilities for WIPO in moving forward on the issue of copyright limitations and exceptions.

Thank you, Mr. Chairman, for the opportunity to present our comments at this meeting.

1. In 2008, U.S. academic libraries spent approximately \$2.7 billion on information resources. Phan, T., Hardesty, L., Sheckells, C., and Davis, D. (2009). *Academic Libraries: 2008* (NCES 2010–348). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC. (December 2009), <http://nces.ed.gov/pubs2010/2010348.pdf>.

In 2008, U.S. public libraries spent over \$1.3 billion for library collections. Institute of Museum and Library Services, *Public Libraries Survey, Fiscal Year 2008* (June 2010), http://harvester.census.gov/imls/pubs/pls/pub_detail.asp?id=130.

Contact:

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MOTION PICTURE ASSOCIATION (MPA)

The Motion Picture Association is a trade association representing six major international producers and distributors of films, home entertainment and television programs. This production and distribution takes place throughout world. The Companies that we serve devote substantial effort and resources to developing a wide range of entertainment content and services in a variety of formats and on a variety of media, including the Internet. Our members are committed to ensuring that creative participants are fairly remunerated for their contributions to the audiovisual works that they produce. To a large extent, this remuneration is ensured through a process known as collective bargaining that provides a wide range of protection to performers and other creative contributors.

At the same time, the basis of our members business is copyright. We support a balanced and workable system of copyright including not only strong exclusive rights but also exceptions and limitations – indeed producers also often are beneficiaries. Any movement forward on this matter must respect the international copyright framework, including the three-step test. This framework already provides the flexibility to introduce a wide range of exceptions. We believe that the US and EU proposals form the best basis for possible solutions on the VIP issue.

I note that Member States (e.g., US and EU and its Members States) have developed innovative methods to address the issue of the interface between exceptions and technological measures – this approach makes more sense than undermining protections enshrined in the WCT.

On the issue of the legal protection of audiovisual performers, the MPA is committed to achieving balanced protection for performers at the international level. To this end, we have worked tirelessly with organizations representing performers to bridge a gap that dates back to 2000. We are encouraged by the progress that we have made and by the willingness of WIPO Member States to move forward with this instrument that means so much to performers particularly in the developing world.

Delegates will recall that in December 2000, after a long process of preparation, the WIPO Member States engaged in painstaking negotiations and made serious compromises on a number of difficult issues. Although they were not able to reach final agreement on a full package, they did reach provisional agreement on 19 Articles.

We could NOT further compromise on one very important issue, that is the consolidation of exclusive rights in the producer, and that stalled the negotiations. We have worked hard to find a solution to the outstanding issue which relates to the transfer or consolidation of rights in the AV producer. This solution would consist in a flexible approach, in the Treaty, that would allow for a broad array of national solutions and ensure legal certainty.

Consolidation of exclusive rights in the producer is necessary to ensure that the producer can license AV works in the most effective and efficient manner to the benefit of all involved in the making of an audiovisual work.

On the issue of the 19 provisionally agreed articles, we are encouraged by the statement of Member States. It is our firm view that the process can only go forward on the basis of those provisions, which are as relevant today as they were back in 2000. They should not be re-opened if we are to give meaningful protection to performers in the digital environment. Nineteen articles form the basis of a number of compromises that should not be undone. Re-opening the 19 will undo the delicate consensus reached in 2000.

We continue to be willing to work for a successful outcome.

We reiterate our support for the Broadcasters' Treaty as well.

NATIONAL FEDERATION OF THE BLIND (NFB)

Thank you, Mr. Chair.

I am reading this on behalf the National Federation of the Blind based in the United States. We take this opportunity to advise you of our position on the proceedings before you regarding copyright limitations and exceptions with respect to the blind and visually impaired. In short, our position has not changed. We believe that the ultimate solution to the book famine faced by the blind/visually impaired is an international treaty or other form of binding international instrument.

There has been substantial discussion regarding the effect of the Stake Holders Platform and other multilateral agreements. We believe such efforts are laudable and steps in the right direction. They are not, however, the solution. A binding international agreement where norms are set is the only way to insure that the blind and visually impaired have access to the greatest number of published works. In fact, such binding international norms will only make the work of the Stakeholders' Platform and other efforts easier because all parties will be working from common understandings and prescribed norms.

We urge SCCR 21 to take action now! A work plan should be developed with the ultimate goal of adopting a binding international instrument/instruments. We have favored the WBU treaty proposal but we acknowledge that other tabled proposals have their merits. All these should be discussed and from there the binding international instrument should emerge.

NATIONAL ORGANIZATION OF SPANISH BLIND PERSONS (ONCE)

The National Organization of Spanish Blind Persons would like to use this opportunity once again to call, clearly and unambiguously, for a legally-binding document, that allows, at the global level, the production and exchange of books in accessible formats, as the only SPECIFIC, EFFECTIVE and SWIFT solution which will genuinely enable us to work.

The proof is that without the exception which features in our law on intellectual property, ONCE would not be able to produce the thousands of adaptations that it produces every year.

Solutions which geographically restrict its scope are partial solutions. The Memorandum of Understanding (MoU) of the European Union (EU), as referred to, in which ONCE has participated, even when considering its potential, will not enable us to share our books with Latin America, nor France with French-speaking Africa. The agreements which already exist in Europe are based more on language and culture than on borders, such as that which exists between Nordic countries and that between German-speaking countries.

Neither would a binding instrument which will limit its possible beneficiaries to large first world institutions be valid, such as that which would occur with the current concept of “trusted intermediaries”, perhaps valid in other contexts, but not in an international legal document. The ONCE Foundation for Latin America works with more than 180 institutions in 19 Ibero-American countries, providing them with the organizational, economic and material assistance to achieve their goals. The vast majority are small educational units, or foundations with scarce resources, which would remain excluded from a legal instrument that adhered to this concept of trusted intermediary as it has been defined. We have been shown trust with the services provided to us, the users who make use of them, not because of their annual net income or recognition at the international level.

A law that would permit ONCE to work only with large first world organizations would not be a SPECIFIC, EFFECTIVE and SWIFT solution to the problem of exchanging accessible books, it would not be the equitable standard we are seeking, that which enables ALL those who need it to benefit from it.

DISCAPACITADOS VISUALES IAP MEXICO (IAP MEXICO VISUALLY DISABLED)

Thank you, Mr. Chair.

Firstly, I would like to congratulate the Mexican government on its efforts in seeking to create an international binding legal framework for copyright and in accordance with the Convention on the Rights of Persons with Disabilities, with a view to following up on the issue of access to information, as indicated in Articles 9 and 21 of that international treaty.

In Mexico, visual disabilities affect more than one million people.

More than 150,000 of those are under 30 years of age and their average schooling is 3.8 years.

This means that the majority of our population with disabilities does not finish basic education. In the specific case of persons with visual disabilities (PwVD), one of the main causes of school dropout is the LACK OF ACCESS TO INFORMATION and to study materials, not because they do not have the ability to finish their studies.

In Mexico, faced with such a situation, we, the Organizations for the Blind (OB), are seeking with our scarce resources to respond to this to improve access to information for PwVD.

Today there are 15 organizations which produce books in Braille or audio format, with low production levels, which means that there are schoolchildren who do not have the majority of the texts which are necessary or that at times need to be transcribed by hand by their teachers or families.

In addition to this, there is the helplessness of NOT being able to access materials which have already been created in accessible formats by other OB in other countries which speak the same language as we do. Having a framework that allows us to share the small efforts carried out in very many organizations, and to access the services of large libraries such as that of ONCE or Tiflolibros, would allow us to increase access to books and much more effectively look after the needs of such children, saving unnecessary costs.

We believe that all that is required is to establish the mechanism and political will to make a difference in the lives of PwVD.

As concerns Mexico, the initiative of a joint recommendation or of a consensus instrument in good faith does not in any way guarantee that the State will actually be obliged to provide the conditions for access to information for PwVD. And whether a binding treaty would achieve this as has been shown by the Convention on the Rights of Persons with Disabilities.

Due to the above, with respect to our organizations, the implementation of a treaty on this subject would not be a problem which would extend the timetable.

We would like to express our concern regarding the form of a trusted intermediary since as already stated by the Delegation of Salvador, in the case of Mexico, this would create more distrust due to the fact that there are approximately 200 OB which deal only with this group of PwVD within the country. Who, therefore, should be granted this responsibility, without the rest of the organizations having their interests affected or having some objections as to the choice of such actors?

We do not see how a platform such as the one established in the pilot project comprehensively solves the problem of access to information....for us, it is better for such resources to be devoted to the production of materials aimed at PwVD that as we speak do not have books to study, rather than promoting elitist strategies with which our country does not specifically identify.

Mexican organizations have been producing books and accessible materials for PwVD for the past 15 years and therefore I believe that it would be more effective to build on the experience we have as organizations rather than implementing projects which obviously will not be viable from our point of view, neither would they be sustainable in our context.

Given the above and that access to information is a crosscutting issue through which PwVD can exercise their right to education and to work, *inter alia*... it is a matter of priority for this Committee to develop quickly an international binding instrument which brings solutions to the problems of access to information.

Mexican civil society understands and supports the demands of also working on exceptions for archives, libraries and education, *inter alia*, and therefore we support the idea of a broader agenda which also takes into account such priorities.

However, we believe that this should be achieved in such a way as to guarantee and not delay for any reason the implementation of the instrument which benefits the group of persons with disabilities, which has already shown a high degree of maturity.

OB are making considerable efforts to obtain the resources to participate in these meetings and we will not always be here; we would like them to use our experience now that we are here, so we need urgent and effective solutions which genuinely guarantee the full exercise of the rights of PwVD.

ROYAL NATIONAL INSTITUTE OF BLIND PEOPLE (RNIB)

May I first address the view STM just expressed and some others advance in this committee, namely that stakeholder platforms and trusted intermediaries can quickly provide a massive increase in works for print disabled people and even negate the need for binding norms.

I should say that, judging by the many steps blind people's organizations need to take to reassure rights holders that they are worthy trusted intermediaries, our organizations might rather be called "untrusted intermediaries"!

RNIB fears that simplicity and practicality are being sacrificed on the altar of providing the "confidence" rights holders say they need to allow us to share accessible works! If you don't believe me, please read the 150 page long "TIGAR" program plan!

We have heard legal norm proposals in this committee which would include the trusted intermediary concept. That inclusion would copy burdensome processes from the world of voluntary agreements and paste them into the world of copyright exceptions.

It would much reduce the scope for both richer and poorer blind people's organizations to use any international copyright exception arising from such proposals!

RNIB believes that the fear of piracy lies behind the term "Trusted Intermediary" and its resulting complicated requirements.

We know that the digital world presents both challenges and opportunities to publishers. But these challenges and opportunities will neither grow nor diminish as a result of adopting copyright exceptions for print disabled people at either national or international level.

In my country, the UK, it has been some seven years since the UK exception came into being and it has led to no discernible detriment to rights holders.

In any case, please note that far from all rights holders lack of "confidence" in our proposal for a treaty to ensure binding international exceptions.

On RNIB's website you can find a list of famous authors including Booker Prize winner Hilary Mantel and well known fiction writer Frederick Forsyth, who support our call for a treaty. After all, authors want their works to be read by as wide a public as possible.

In my region, the European Parliament, which comprises democratically elected representatives, has its own opinion on these matters. So far 90 European Parliamentarians from across the continent have signed an open letter stating that voluntary agreements are not enough and urging the European Union to support a binding WIPO treaty.

It is heartening that all groups in the SCCR do agree that some sort of legal instrument is necessary to address national copyright exceptions for print disabled people and for the international exchange of accessible books.

RNIB therefore urges this committee to agree - by 11.59 this Friday night - to a clear, practical, timetabled roadmap towards the creation a WIPO legal instrument for print disabled people.

THIRD WORLD NETWORK (TWN)

Thank you, Chairman.

The Third World Network believes in the importance of maintaining constructive and balanced discussions related to exceptions and limitations in this Committee.

We believe international binding instruments are the most appropriate way to go. In this regard, text-based negotiations would make the work of this Committee more efficient.

Exceptions and limitations that allow accessibility and affordability of copyrighted material is what this Committee should be seeking. Finalizing a work program for this Committee is something we wish to see happening at the end of this session.

We do not wish to see copyright creating barriers between cultures and hindering the flow of science and knowledge across the globe.

Discussions in this Committee should have a clear developmental dimension pursuant to the adoption of the WIPO Development Agenda and the commitment of this organization to its implementation.

In the context of the Coordination Mechanism and Monitoring, Assessing and Reporting Modalities approved by the last General Assembly, the SCCR should fulfill its mandate of reporting on its contribution to the implementation of the relevant Development Agenda Recommendations. Achieving concrete results at the front of exceptions and limitations is certainly one part of this Committee's contribution.

Thank you, Chairman.

TRANSATLANTIC CONSUMER DIALOGUE (TACD)

Thank you for the opportunity to speak on behalf of Transatlantic Consumer Dialogue (TACD). TACD would like to ask the SCCR to focus its attention on a schedule of work for copyright limitations and exceptions.

In this regard, to advance in the technical discussion of the issues it is essential to schedule technical meetings into thematic clusters that focus on particular topics, such as access for persons with disabilities, libraries, archives, education, innovative services, orphan works, or other topics. Obviously, priorities will need to be set.

Given its level of maturity, TACD suggests that work on a treaty for persons who are blind or have other disabilities receive immediate attention, and that the SCCR schedules at least two technical meetings to examine the text of the different proposals on this topic.

The SCCR may want to consider together the issues relevant for libraries, archives, and education. In this area, it will be helpful for the SCCR to articulate the objectives and purposes of its work program on these issues. We would like to share our thoughts on how the SCCR may address this exercise.

1. The SCCR should consider how they want to address the inadequacy of exceptions for education, libraries and archives. Should that be done focusing on a particular set of countries, or should we work towards global standards for all countries?
2. Does the SCCR want to develop new models of exceptions and limitations that are better suited for countries with limited purchasing power? Should we create new models to deal with the evolving services of distance education?
3. How do countries deal or should deal with the combinations of exceptions, contracts and technical protection measures when conflicts exists?
4. As many distinguish experts and Member States have recognized, the Appendix to the Berne Convention has failed to meet its objectives. Perhaps the SCCR should consider re-examining the objectives sought in 1971? Part of this process should consider how to attain these un-meet objectives within the digital environment and modern information technologies.

Finally, TACD would like to suggest that the SCCR endorse at least one meeting examining the issue of orphan copyrighted works, and the alternative approaches to expanding access to such works.

UNIÓN LATINOAMERICANA DE CIEGOS – LATIN AMERICAN UNION OF THE BLIND (ULAC)

Thank you, Mr. Chair.

I am taking the floor on behalf of the *Latin American Union of the Blind (ULAC)*, an organization comprising more than 100 institutions for the blind in 19 countries.

We are here to find a solution to the problems of access to reading for the visually impaired. There are no exceptions to copyright for books for the blind in 127 countries. It is impossible to exchange between countries books produced with exceptions, or to optimize resources. ULAC supports the proposal to develop a binding international legal instrument which seeks to solve such problems.

Voluntary solutions and platforms do have some impact but do not manage to solve the problems, particularly in developing countries.

Today we as blind people cannot align ourselves with small-scale solutions; we are faced with the possibility of taking a genuine step forwards for access to information. I hear voluntary solutions and the platform being presented as swift and practical solutions. I would like to explain to you that such solutions do not work in our countries and we need a solution based on exceptions:

The system of trusted intermediaries and its innumerable requirements are unworkable in the majority of developing countries where organizations do not have the necessary structure.

The objective of the exceptions in our countries is precisely to make the maximum possible effort and use the scarce resources for production, without having to manage licenses and permits. The concept of intermediaries, on the one hand, necessitates diverting resources

from production to all the management activities which it involves and, on the other hand, it creates a dangerous division between larger organizations which can share, and organizations which are not authorized to import and export.

The majority of organizations for the blind in Latin America, Africa and Asia could never be trusted intermediaries. The model of small-scale production in many organizations, schools and libraries makes it very difficult to implement intermediaries.

With the proposed treaty, a blind Honduran could receive the books he needs, directly from Spain, Mexico, Colombia, or Argentina at very low cost. With the current voluntary proposals, this same blind person could under no circumstances access such books. We have once again been told that voluntary solutions are swifter and more efficient but the platform has already been in operation for two years without having shared one single book, and in three years it is suggested that it will take effect in only 12 countries, of which only four are developing countries.

With an investment of two million euros, the books will reach 12 countries, leaving out more than 170. And the most worrying thing about such projects and proposals is that they are always considered from the context of rich countries, only for those countries which already have structures and exceptions, so I have the impression that in seeking to fight hunger, we are giving food to those who can already eat. Today we have books in Argentina, Spain, Colombia, Chile, Uruguay and Mexico which could already be shared with a treaty, but not with the voluntary proposals.

For this reason, we request that if there is political will and genuine interest in solving the problem, we support the establishment of a specific work plan to create an international binding instrument, founded on exceptions and not on recommendations or voluntary agreements.

If, conversely, we want to defend the interests and fears of copyright holders, let us say so clearly and be sincere with the blind. Let us tell them that they are not a priority for our governments.

However, let us see just how well-founded such fears are:

Trusted intermediaries are mentioned for the sake of security; a rise in piracy is feared. However, do you think that exceptions for the blind really increase piracy? In Argentina, 11 years ago we developed Tiflolibros, a library of digital books for the blind. We provide security by ensuring that users are reading impaired and by ensuring that books cannot be downloaded freely by unregistered users.

The same model is used by the majority of institutions in our region. And has piracy been on the rise because of that? We say not. But to be even surer, in a meeting we had in the Ministry of Foreign Affairs a few weeks ago in Argentina I asked the Head of the Publications Office.

His reply was emphatic: the exception has not created any problem in our country; it has provided more security for all. In all cases, legal obstacles do not put an end to piracy being the only resource?

For this reason, as concerns ULAC, we urge governments to establish a clear and specific work plan, which enables us to produce the best possible legally-binding instrument. Lastly, I would like to remind you of what I told you a year ago, while we continue discussions here, outside millions of people are still unable to read.

Pablo Lecuona
Representative of ULAC
Right to Read Campaign
World Blind Union
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WORLD BLIND UNION (WBU)

Mr. Chairman, States Delegates,

Opponents of our treaty have often portrayed treaty making as "slow" and "ineffective". Therefore, despite a treaty being the solution blind, people themselves say they need - we are told it is not in our organizations' best interests.

In contrast, treaty opponents portray weak non-binding legal instruments and complicated "stakeholder dialogues" as "practical" and "speedy".

WBU does not believe that this argument about the alleged slowness and impracticality of treaty making stands up to scrutiny.

The UNCRPD was negotiated in under five years, and in the three and a half years since it was open for signature 147, three quarters of all nations in the UN, have signed and 96, half of the nations in the UN, have already ratified it. The disability community are confident that their lobbying would again achieve a quick take up of the Copyright Treaty if and when it becomes available because of its universal publicity linked to the Convention on the rights of Persons with Disabilities. However, it would be a much harder job for our national member organizations to lobby in isolation just for their own national copyright exceptions.

A treaty would allow us to share hundreds of thousands of accessible books from current collections the moment it came into being. That would not be the case with the complicated non-binding instruments being proposed by the EU and USA.

Many treaty opponents also highlight the safety of digital files, or in shorthand, piracy. Unless I am much mistaken this lies behind the USA saying that we need first to have non-binding measures to address a "lack of confidence" before possibly progressing to something else.

WBU understands that piracy is a serious publishing problem in the digital age but piracy was not of our making.

Having said that, let me assure you that reading disabled organizations work hard to protect the intellectual property of rights holders, and actively work to prevent misuse of their materials through the use of water marking and finger printing protection built into our digital Daisy audio book system.

To date, rights holders have produced no evidence that copyright exceptions lead to an increase in piracy. However, the USA and EU have both said that they want to just "encourage" national exceptions. They say that existing treaties "allow" for the creation of such exceptions. Given the "book famine" you are all familiar with, we believe this approach is too timid.

WBU had tried for years to "encourage" such exceptions via a clause in WIPO's model copyright law which we drafted. Unfortunately, this clause never found its way onto WIPO's website nor into the national law of many countries.

What WBU hopes that SCCR will agree this week is the need for a definite timetabled roadmap towards identifying the appropriate legal instrument to help print disabled people.

Christopher Friend, Chair WBU Global Right to Read Campaign
cfriend@sightsavers.org
CEBF

SCCR 21
Collecting the NGOs' interventions

<u>Address</u>	<u>Organization</u>
<i>avocat@benoitmuller.ch</i>	International Video Foundation
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In addition: (intervention on paper without indicating an address):

Axel Aguirre Asia-Pacific Broadcasting Union

[End of Annex and of document]