

Marrakesh Treaty Conference Dubai

A Rightsholder Perspective



IPA international
publishers
association

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What is the IPA?

The International Publishers Association (**IPA**) is a federation of different regional and diverse Publisher Associations and Publishing Agencies. The IPA has 76 members coming from 50 countries across 5 continents. The IPA's headquarters are based in Geneva, Switzerland.

The IPA's principal objective is to represent and defend the interests of the Publishing Industry.

What are the objectives of the Marrakesh Treaty?

- Ending the “**book famine**”
- Domestic law **exception**
- Allowing for **import and export of accessible versions of books** and other copyrighted works **without copyright holder permission**
- **Avoid the duplication of transcription** efforts in different countries
- Allow countries with larger collections of accessible books to **share these collections** with visually impaired people in countries with fewer resources.
- “Authorized Entities”

What are the obligations imposed by the Marrakesh Treaty?

(1) ART.4

A national **exception or limitation in copyright law** to make 'Accessible Format Copies' (AFCs) of **published works** and to supply them to VIPs/PWPDs;

(2) ART. 5

An **importation clause** for AFCs that mirrors the above national exception;

(3) ART.6

An exception to **distribute and make available AFCs across borders** to Authorized Entities (AEs) and to VIPs/PWPDs. This specific limitation or exception requires the use of the works exclusively by beneficiary persons.

(4) ART.7

An **obligation to ensure that Technical Protection Measures (TPMs) do not prevent** print disabled persons from having access to works.

The Three-Step Test is a basic principle used to determine whether an exception or limitation is permissible under the international system of norms on copyright and related rights

- (1) shall be confined to certain special cases;
- (2) shall not conflict with the normal exploitation of the work; and
- (3) shall not unreasonably prejudice the legitimate interests of the rights holder.

One objective of the Treaty is to promote equal access. This is already achieved where works are available on equal terms to persons with print disabilities.

ART. 4 Commercial Availability v. Normal Exploitation

- Allows countries to choose to have a commerciality requirement in their national copyright law, which some countries like Singapore and Australia already do have.
- Countries wishing to opt out of this provision have to let WIPO know formally that their domestic law requires a commerciality test, and also whether they intend it to affect imports of accessible materials into that country from elsewhere.
- There is no “commercial availability” requirement for exporters of accessible books

ART. 4 Commercial Availability v. Normal Exploitation of the work

- Commercial availability of a work is a clear indicator that a use would conflict with ‘normal exploitation’, i.e. step 2 of the Three-Step Test.
- The definition of ‘Accessible Format Copy’ in Article 2 requires an ‘alternative’ format. Therefore, **if a format is commercially available, converting a work into that format would not make it an ‘alternative’ format.** One could argue that this applies only to formats that require a substantial investment.

What the IPA recommends

1. Proactive Participation by Publishers / National Associations in ensuring balanced domestic application of the Treaty
2. Promote Accessible Publishing
3. Partnerships
4. Capacity Building

What the IPA recommends

Proactive Participation of Publishers / National Associations

- The 3-Step test should be strictly applied to facilitate cross-border sharing of accessible works.
- Ensure exceptions and limitations are drafted in such a manner that they may be easily amended and/or revised in the future.

What the IPA recommends

Proactive Participation of Publishers / National

Associations

- Collective Management Organizations such as RROs should be seriously considered to facilitate access to VIPs under a standard licensing scheme.

What the IPA recommends

Proactive Participation of Publishers / National Associations

- Organizations serving people with general disabilities will ask member states to modify their national legislations in line with the MT.

Unfortunately, this window may be incorrectly used and result in the inclusion of broader exceptions which should not form part of the Treaty.

Capacity Building

- Most VIPs in the world will not directly benefit from this Treaty.
- Especially in countries where there is little or no accessible works in that country's language; or where there are no organizations that directly benefit VIPs ; and where there is no capacity to create accessible works.
- It is important to work with organizations such as ABC, which have the potential to address many of the long term challenges that come with the MT application.

Promoting Accessible Publishing

- Publishers should ensure that the limitations or exceptions should not apply to an authorized entity with prior knowledge of a work that was **already commercially available** in the importing country. This is because the MT seeks to avoid the duplication of efforts between publishers offering or licensing the making of born accessible original publications and the making of AFCs.

Promoting Accessible Publishing (contd.)

accessible original publications and the making of AFCs. Note: Translated works are not covered by the Treaty.

- Therefore, promote the use of platforms such as EPUB3 in countries where they are not yet popular to ensure future works are born accessible.

Partnering With Stakeholders

- Get ahead of the game. Work with one or several trusted national or international charities and enter into collaborative agreements based on standard licences. Work with them, not against them. Own the market.
- Evaluate next steps by **asking**: How many VIPs are there in this country? How are they being attended to? What Works should be prioritized over others? What Technologies are currently available that make Works accessible?

What is the Accessible Book Consortium?

- A new multi-stakeholder entity working on practical ways to make more accessible books available.
- ABC is an alliance that comprises WIPO, organizations that serve persons with print disabilities and organizations that represent authors and publishers, including: the World Blind Union, the DAISY Consortium, the International Federation of Library Associations and Institutions, the International Publishers Association,

the International Federation of Reproduction Rights Organizations
and the International Authors' Forum.

ABC supports the goal of 'born accessible' publishing and encourages the adoption of an industry-wide accessibility standard

www.accessiblebooksconsortium.org/portal/en

IPA considers ABC a Project of high importance in which the ABC can become part of the Solution to accessibility on a global level without the burden of creating extra costs or risks to the publishing industry.

Capacity Building

+ Inclusive Publishing

+ TIGAR

“We really believe that publishing in accessible formats is not optional and not just a moral decision. It is a good business decision overall.”

Youngsuk ‘YS’ Chi
IPA’s past President
Chairman of Elsevier
Director of Corporate Affairs, Reed Elsevier

Same Book, Same Time, Same Price



End Goal: Same Book, Same Time, Same Price

The International Publishers Association believes that we should strive for equal access around the world for all readers, regardless of any disabilities. This can be achieved if all stakeholders work together. Jointly, we can develop and promote the necessary technologies and tools, and build the capacity to implement them worldwide.

IPA Marrakesh Treaty Guide

https://www.internationalpublishers.org/images/Accessibility/IPA_Guide_to_the_Marrakesh_Treaty.pdf

Thank you!

www.internationalpublishers.org

&

www.epa.org.ae