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Report on current situation in Antigua and Barbuda on Copyright Law regarding (a) copyright limitations and exceptions for the visually impaired (b) the protection of audiovisual performances; and (c) any development on the ratification of the Beijing and/or Marakesh Treaties.

Question:

- a) Are there copyright limitations and exceptions for the visually impaired?

Answer:

There are no limitations and exceptions for the visually impaired in our Act. This was however considered in our draft bill drafted with the aid of WIPO through a Caribbean drafting consultant Ms. Lydia Elliott and can be found in the revised section 128, which reads as follows:

“128. Exception for the visually impaired

(1) Subject to subsection (2) a person may, without the authorisation of the author or other owner of copyright, reproduce a published work for visually impaired persons in an alternative manner or form which enables their perception of the work, and to distribute the copies of that work exclusively to those persons:

(2) Subsection (1) applies if—

(a) the work is not reasonably available in an identical or largely equivalent form enabling its perception by the visually impaired; and

(b) the reproduction and distribution are made on a non-profit basis.

(3) The distribution referred to in subsection (1) is also permitted if a copy of the work has been made outside Antigua and Barbuda and the conditions mentioned in subsection (2) are met.

(4) A person to whom this section applies must indicate the source and the name of the author of the work.”

This is the only mention in the suggested bill where this issue is mentioned. It should be noted however that this provision has been presented to the policy makers for consideration. A final decision with reference to its acceptance has not been communicated.

Question:

- b) Is there protection of audiovisual performances?

Answer:

In our current Legislation an audiovisual work is defined as follows in section 2 of the Act which is our definition section:

"audiovisual work" is a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible, and where accompanied by sounds susceptible of being made audible.

Though the definition is set out as above the term is not used again in the act with reference to protection of it specifically. Subsequently in the said section, however the following definitions are set out:

- *"film" means a recording on any medium from which a moving image may by any means be produced;*
- *"sound recording" means -(a) a recording of sounds or of a representation of sounds from which sounds may be reproduced; or (b) a recording of the whole or any part of a literary, dramatic or musical work from which sounds reproducing the work or part may be produced, regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced;*

Both these terms receive ample protection within the act in both the sections dealing with copyright, rights in the performances, and of performers and producers. These issues were considered when the revised bill abovementioned was being drafted but it was thought by the drafter and the technocrats, that although WIPO did suggest the change in line with the advent of new technology, that there existed adequate protection under the current legislation and the issue was one of semantics.

Question:

- c) Is there any development on the ratification of the Beijing Treaty and/or Marrakesh Treaties?

Answer:

WIPO has been consulted on this issue. However on the part of Antigua and Barbuda there is no further development on the ratification of these treaties.

Completed report by Ms. Ricki Camacho, Registrar, Antigua and Barbuda Intellectual Property and Commerce Office.