



International Federation of
Library Associations and Institutions



TU-Delft Library, The Netherlands by: Louis Takács

A WIPO TREATY BENEFITS LIBRARIES, ARCHIVES, AND THEIR USERS

Every day, libraries and archives in all parts of the world help hundreds of millions of people meet their work, study, research and leisure needs. Their services enrich people's lives and support important public policy goals such as literacy, education, scientific research, employability and health awareness. By collecting and providing access to information libraries and archives support society in general and the cultural and scientific sectors in particular. They foster the sharing and spread of ideas, stimulating and enabling new creations around the world.



PAC workshop in Nepal by: Akiko OKAHASHI, NDL

A LACK OF COPYRIGHT BALANCE FOR LIBRARIES AND ARCHIVES

As has been shown in a recent WIPO study, libraries and archives work under a patchwork of provisions that differ in scope and effect from country to country. 21 countries worldwide have no specific copyright exception for libraries and archives; 27 countries have only a general exception. The provisions increasingly fail to address the legal and policy challenges of the global digital environment. Current national and international systems of copyright exceptions and limitations for libraries and archives have not been updated for the digital environment. Now more than ever, libraries and archives need legal and regulatory copyright frameworks that recognise the importance, needs, legitimate expectations and rights of libraries, archives and their users.

Issues that need to be addressed:

- The absence in many countries of exceptions to copyright for core activities, like preservation, replacement, lending, even for print materials.
- Exceptions to copyright which enabled libraries and archives to preserve and make available works in the print era have not been updated to the digital age, particularly with respect to digital archiving and virtual learning environments.
- Imposed licences for the provision of digital information are often used to undermine exceptions and limitations to copyright designed to support education, learning and creativity.
- Prohibitions to circumvent technological protection measures (TPM) to preserve, archive and enable permitted use of lawfully acquired digital content, are hampering research, leading to an incomplete cultural, scientific and historical record.
- The cross-border, multi-jurisdictional nature of the Internet is not reflected in current copyright law. Restrictions on the legitimate flow of information and cultural content provided by libraries across international borders will constrain innovation and growth in under-developed and developing countries.



New Library Almere, The Netherlands

AN INTERNATIONAL TREATY BENEFITS LIBRARIES, ARCHIVES, AND THEIR USERS

To resolve those major problems IFLA, EIFL, Innovarte, and ICA have proposed an international treaty. In accordance with the agreed exceptions and limitations agenda of the WIPO Standing Committee on Copyright and Related Rights it would provide both a mandate to update exceptions for libraries and archives worldwide, and guidelines on the issues that have to be addressed to protect adequately library and archive functions as well as legitimate copyright interests.

The proposed draft treaty suggests a basic foundation for all countries, setting out a framework for national copyright laws that is flexible and consistent with both existing international law and a positive way forward to implement the agreed statement concerning Article 10 of the WIPO Copyright Treaty. The draft treaty does not seek to impose harmonization or a 'one size fits all' approach.

This draft treaty has been designed to accommodate common needs as well as differentiation according to levels of development and particularities of member countries. Although the proposal makes it mandatory to address certain key issues, in most cases there is flexibility for implementation, using the international standard of "fair practice" as set out in the Berne Convention. In addition it also allows grandfathering of current legislation and the possibility for a Member State to make a reservation.

Protected activities in the draft treaty

- Preservation of materials for posterity, with the flexibility to access cultural works in copy-protected formats
- Support of education, research, and private study
- Making or receiving of copies of works lawfully acquired by a library or archive for personal and private purposes
- Supply of copies of works in response to requests from individual users
- Provision or lending of lawfully acquired content on a not-for-profit basis
- Support of people with disabilities in the exercise of their right to access content
- Circumvention of TPM for the purpose of permitting a non-infringing use of a work
- Limiting of the risk of liability to libraries and archives with respect to orphan works

The international library and archives community, represented by IFLA, EIFL, Innovarte, and ICA, with the support of other members of civil society, look forward to working with governments, WIPO and other stakeholders to constructively achieve a balanced copyright international framework that can effectively support important public policy goals and creativity for a better world.

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