

**World Intellectual Property Organization (WIPO)
Standing Committee on Copyright and Related Rights (SCCR/41)**

**Statements by Civil Society on
Proposal for a WIPO study on Public Lending Right
SCCR/40/3.REV.2**

African Library and Information Associations and Institutions (AFLIA)

The African Library and Information Associations and Institutions (AFLIA) is an independent continental organization that promotes libraries and information centres in Africa as vital institutions that enhance people's lives through equitable access to knowledge, information and innovative services.

Mr. Chair, AFLIA does not support the concept of a 'public lending right' as the scheme introduces the requirement of 'pay to lend'. It is a threat to free and equitable access to the services provided by libraries.

In Africa, PLR raises particular challenges. The majority of African countries are classified as low income by the World Bank. They have prioritised public education at primary and secondary levels as a means of developing much needed human capital. Libraries are a critical part of Africa's commitment to free public education, and at the heart of book and reading strategies, but many countries struggle to fund them, with many relying on foreign book donations.

Instead of creating a new mechanism for supporting local culture, governments should therefore strengthen the existing mechanism: libraries. As a first step, it could allocate a budget for public libraries to purchase works by local authors that would directly support authors and publishers.

Mr. Chair, by investing in libraries, governments in Africa are investing in authors, literacy, education and development. This issue is primarily linked to cultural policy, and as such, it does not belong at WIPO.

Canadian Federation of Library Associations

The Public Lending Right program in Canada is a cultural heritage program outside of copyright that recognizes Canadian authors and permanent residents and is highly valued. It is national in scope, providing support for Canadian authors in an environment where the majority of material borrowed in libraries and sold in stores comes from outside of the country. However, we must note that Canada is a developed country with strong literacy and public library funding.

It must be recognized that authors benefit from library lending and book promotion, and libraries legally purchase or license the content they lend. There is no right to payment for lending in WIPO international treaties. Libraries pre-existed our copyright systems, and creating a right to prevent lending when

there is no payment can introduce a policy and financial threat to a well-established public institution.

PLR can be a valuable cultural heritage program, however, there are many ways to support authors financially outside of this approach with its significant administrative burden.

There are many items before SCCR, and we believe this item should not be a priority given its purpose is cultural support at the national level, and it is not intended to have an international or cross-border benefit. However, should this study be undertaken, CFLA suggests that the scope be limited to how this could impact developing countries, and consider the cost and efficiency of this approach to cultural support relative to other national funding supports for authors.

EIFL

Public Lending is the non-commercial lending of works by libraries to the public. Our concern is that Public Lending Right (PLR) poses a risk to free public lending services, to library budgets, and to government budgets that would bear the costs of the introduction of a lending right fee.

In the 1990's, WIPO rejected PLR because it would interfere with the goals of governments of developing countries to support literacy, and implementation of PLR would strain already limited state support for public libraries.

Mr. Chair, the COVID pandemic threatens to have devastating consequences on state budgets in developing countries. Global human development, as a measure of the world's education, health and living standards, is on course to decline for the first time in 30 years. We urge caution on starting any work that would impact on the core services of libraries, institutions that will aid recovery of the education and research sectors in these countries. We also believe there are other, more efficient ways to support authors.

However, if there is to be a study on PLR, it should be holistic. It should include all the ways that governments can support authors, such as direct grants and tax breaks, and issues such as rights reversion, unfair contracts with publishers, and transparency over revenue, particularly when it comes to digital works.

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Innovarte

Thank you Mr Chairman, we would like to thank Sierra Leone, Malawi and Panama for the clarifications. We think this is an important topic but it is too complex to be dealt with in the circumstances that we are facing with the pandemic. We support the proposal from the UK to leave this matter for after we return to normality. In any case, we would like to stress that the complexity of this issue. Public lending right is the right to restrict lending for those who have legally borrowed a book from a library - it is a right to charge libraries for lending these books.

This is extremely complex and especially if it is done through copyright where national treatment provisions of the Berne Convention and other treaties will apply. So for money collected by a collecting society from libraries in developing countries, normally most of that money will not stay with local authors, and instead will go to publishers in developed countries. So it is a very contentious issue and if it is to be dealt with the study, the study should specifically deal with the issue of national treatment and flow of payment to developing countries.

International Federation of Library Associations and Institutions (IFLA)

The International Federation of Library Associations and Institutions notes that item 8 contains a significant program including the long-standing work on copyright in the digital environment, the rights of theatre directors and a proposal for work on Public Lending Right.

Given the nature of the agenda currently, we believe that a focus on public lending right is not a priority, given that this is not a question for international copyright law, but rather a cultural policy.

Furthermore, while IFLA has always been a strong supporter of fair remuneration of authors and creators, we note that the proposal as it stands is marked by a number of inaccuracies, and a failure to consider the costs and drawbacks of public lending right alongside its potential benefits.

With tight fiscal times likely in future, including of course in developing countries, it is clear that any money to pay for PLR will need to come from budgets which would otherwise be used to promote reading and literacy, access to information and knowledge, the fight against misinformation, and access to research, or of course to provide more targeted support for culture. It risks therefore limiting the capacities of children, teenagers and adults and their educational and professional perspectives.

Therefore, we consider that a credible effort to consider how better to support authors would involve a wider, more holistic, examination of the cost effectiveness of all potential tools available to governments, including direct support, stronger rights when (re)negotiating contracts, reversion rights, tax support and beyond.

Knowledge Ecology International (KEI)

Public lending rights, which are essentially attacks on libraries, may be appropriate in some countries, but are controversial and not an area for harmonisation. That said, if countries want to adopt laws on public lending rights they should ensure that revenues are solely distributed to the original and still living authors regardless of contracts or who now owns the copyrights for works to ensure the money collected benefits those who actually create the works as opposed to the corporate owners of the rights.

Library Copyright Alliance (LCA)

I would like to echo the concerns that various library colleagues around the world have raised with this proposal. I would like to express my appreciation for IFRRO's statement on the importance of libraries, particularly in the pandemic and in recovery of the pandemic, as well as the acknowledgement that this issue is really a form of cultural policy.

I would also like to express my appreciation to the countries making this proposal for acknowledging that the study should not only look at the advantages of a PLR system but also the disadvantages, not only the benefits of a PLR system, but also the costs of the PLR system. If there is going to be a study it needs to be recognised that there are costs as well as benefits, disadvantages as well as advantages.

Finally I would like to stress that, to the extent there is going to be any study of this issue, it must take a holistic approach. Because we are really talking about cultural policy. The holistic approach would not only look at other ways of supporting authors, but in particular there needs to be an examination of the allocation of royalties and making sure that publishers are fairly compensating the authors - that aspect needs to be included in any study as well. As we have heard, the libraries are purchasing the books. The real question then is are the publishers giving the authors a sufficient fraction of the royalties, and I suspect that in many cases they aren't.