



WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

STATEMENTS BY EIFL 2018

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STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)

37th Session: Geneva, 26 – 30 November 2018 General statement

I'm speaking on behalf of Electronic Information for Libraries.

We are looking forward to the update on implementation of the Action Plans on Limitations and Exceptions, and to the specific presentations. We thank the Secretariat for their work in this regard.

We thank regional groups for highlighting the importance of the topic, and the desire to seek progress towards achieving meaningful results on L&Es, in support of the 2012 mandate.

An important feature of the Action Plans is that they build on existing work of the Committee.

And the work is extensive, substantive and has enjoyed support and engagement from many member states over the last 10 years.

The regional seminars provide an opportunity to discuss the products of the SCCR work, to learn about practical issues on the ground in particular cross-border, and to test ideas and proposals with regional stakeholders.

The studies on L&Es provide a good basis for understanding how the issues are addressed in the laws of different jurisdictions, the gaps in national laws, and the pace of change.

For example, an analysis of the 2017 edition of Prof Crews' study, compared to the 2015 version, showed that it might take another 70 years, until 2087, for the laws of every country just to catch up with basic activities of libraries and archives today.

The key question is to how to address the gaps, and how to speed up the pace of change.

What we know is that the pace of change for one sector, persons with print disabilities, has increased dramatically. For example, for countries in EIFL's network that are amending their copyright laws, 75% are doing so because of the Marrakesh Treaty. And the length of time taken to complete the reforms is much faster: 1-2 years, compared to 5-10 years.

The 'Miracle of Marrakesh' has become the 'Marrakesh Effect'.

Thank you.

WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

36th Session: Geneva, 28 May – 1 June 2018

Agenda item 5: Protection of broadcasting organizations

I'm speaking on behalf of Electronic Information for Libraries (EIFL) and the International Federation of Library Associations and Institutions (IFLA).

We thank the Delegations of Argentina, Brazil and Chile for their proposal on Limitations and Exceptions.

We appreciate the inclusion of Limitations and Exceptions in document SCCR/35/12 Revised Consolidated Text.

However as currently drafted, they are optional and narrow when they need to be mandatory and broader. Here's why.

Awarding new legal protection for the programme-carrying signal in effect puts a fence around the content that is broadcast.

In order to allow continued legal access to that underlying content, there must be a mechanism for institutions such as libraries to get access. The mechanism is L&Es.

Since the intention of the treaty is to protect against signal theft, not block access to third party content transmitted by the broadcast signal, clear safeguards to ensure access for social, educational and public interest purposes is necessary.

To illustrate, I will share four examples of diverse uses of broadcast material by different types of libraries - university, national and public libraries.

In Botswana, the University of Botswana Library has a collection of historical films, the most popular are on black history. Students watch and analyse the films as primary research material for their studies.

In Armenia, lecturers at the American University of Armenia show documentary films in the library for students studying topics such as human rights and genocide studies.

Public libraries in Botswana provide access to a wide range of radio and TV shows for educational and community purposes. Popular broadcast events include the Opening of Parliament, Independence Celebrations, and Presidents Celebrations in June and July. For children, their favourites are wildlife programmes.

In Lithuania, the National Library has a cinema where patrons can participate in educational programmes and creative workshops about TV, film, and cinema.

It would be terrible if the treaty caused significant unintended consequences for public institutions in using such broadcast content, for example, by making rights clearance more time-consuming and complex, increasing transaction costs for publicly funded institutions, or causing the activities to be stopped altogether because it was too expensive or legally risky.

But without exceptions to the new right this is exactly the scenario we might have.

Especially when the proposed term of protection that is 50 years.

To avoid unintended consequences that would be harmful to education and society, or spill over to content that is in the public domain, or that is licensed under an open content licence, robust exceptions are needed.

We draw your attention to Limitations and Exceptions in document SCCR/27/2 REV Alternative C for Article 10 that would be a good basis for discussion.

Thank you.

WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

36th Session: Geneva, 28 May – 1 June 2018

Agenda item 6: Limitations and exceptions for libraries and archives General statement

I'm speaking on behalf of Electronic Information for Libraries (eIFL.net) that works with libraries in more than 50 developing and transition economy countries to enable access to knowledge.

We thank the Chair for preparing the Draft Action Plan. We thank all the delegates for their support for libraries and archives expressed this morning.

Mr Chairman, at the last SCCR, Prof Crews presented the updated study on limitations and exceptions for libraries and archives. Analysis of the new data and trends in the development of national copyright laws illustrate three points:

First, brand new laws are not providing for current technologies that are widely used by libraries, students, educators and citizens everywhere.

Second, there is a growing inequality in the means to legally access knowledge that will only serve to drive people towards unauthorized sources.

Third, WIPO needs to take a leadership role in setting basic international standards for use of copyrighted works by libraries not only for the sake of access to knowledge, but also for the credibility of the copyright system especially among the so-called 'digital native' generation.

An agreed Work Plan, building on the substantial body of work already undertaken by the Committee and in line with the mandate of the 2012 Assemblies as underlined by Member States, would help to show a commitment to such leadership.

Because what happens in this room matters. Decisions of this Committee, or lack of action, affect information services that libraries are allowed to provide, and the extent to which people in your country have legal access to the information they need for work, study and lifelong learning.

In this context, we do express our dismay at the outcome of discussions yesterday on L&Es in the Chairman's text of the proposed broadcast treaty. Without proper exceptions, access to broadcast content for social and educational purposes will be harder, more expensive, or even prevented. We ask member states to re-consider this issue at the next SCCR.

Prof Crews called for common sense copyright laws to ensure the future vitality of the copyright system for everyone's benefit. Let's work together for our common goals.

WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

36th Session: Geneva, 28 May – 1 June 2018

Agenda item 6: Limitations and exceptions for libraries and archives Statement on draft action plan SCCR/36/3

I'm speaking on behalf of Electronic Information for Libraries (eIFL.net).

An agreed Action Plan, on the basis that it is in furtherance of the 2012 mandate of the Assemblies, would complement the work of the Committee.

We will comment briefly on three practical issues in the section on Libraries, Archives and Museums.

1. Build on existing work

It is important to recognize that extensive work has already been done identifying and classifying L&Es i.e. Crews study (SCCR/35/6), Informal Chart on L&Es for Libraries and Archives (SCCR/34/5), study on museums (SCCR/30/2), (second one underway) and in proposals by member states SCCR/26/3, SCCR/26/8, SCCR/33/4.

In proposed Action number 1, we recommend to develop a searchable database that utilizes the data in the Crews study. The outputs could be used to identify gaps and best practices in the application of limitations and exceptions in national law.

2. Clarify that the work is focused on non-commercial uses.

The suggested focus areas include 'exploitation of works' (Action number 1). It is important to clarify that libraries, archives and museums have only ever focused on non-commercial uses of material to provide access for social, educational and public interest purposes.

In the context of L&Es, the addition of commercial uses would add a significant new dimension to the discussion, not requested by the beneficiary groups.

For clarity, we would appreciate the addition of 'non-commercial' to the phrase exploitation of works.

3. Events to be organized in cooperation with beneficiary organizations

Events, such as regional meetings and a conference on L&Es (proposed in action number 5 and 6) should be organized in cooperation with the global representative groups of the beneficiaries i.e. IFLA (International Federation of Library Associations), ICA (International Council on Archives) and ICOM (International Council on Museums).

This is important to ensure a balanced programme and participation, and ultimately a successful event.

We would also request that funding be set aside for the participation of beneficiary representatives.

Thank you.