

World Blind Union Union Mondiale Des Aveugles Unión Mundial de Ciegos

28 October 2008

Director General Dr. Francis Gurry World Intellectual Property Organization Geneva, Switzerland

Dear Dr. Francis Gurry,

The World Blind Union is pleased to share with you a proposal for a WIPO Treaty for Improved Access for Blind, Visually Impaired and other Reading Disabled Persons.

The World Blind Union (WBU) is an organisation of blind and partially sighted persons, representing 180 million blind and visually impaired persons from about 600 different organisations in 158 countries. Since 2003, the World Blind Union (WBU) has been asking the World Intellectual Property Organization (WIPO) Standing Committee on Copyright and related Rights (SCCR) to address the need for harmonization and norm-setting in the area of copyright limitations and exceptions in order to make it easier to publish and distribute copyrighted works that are accessible to people who are blind or have other disabilities in accessing copyrighted works. Among other issues, the WBU seeks to address current barriers to exporting and importing works published in accessible formats.

Today, persons who are blind or otherwise reading disabled face enormous barriers in accessing copyrighted works. In an ideal world, publishers would make works available in formats accessible to blind, visually impaired and reading disabled persons. In practice, this happens only rarely. Even in the wealthiest markets<sup>1</sup>, less than 5 percent of published books are accessible to persons who are blind, and access in developing countries is often more limited.

Traditionally, visually impaired persons have relied upon audio works that were cumbersome to use, expensive raised paper braille editions of works, and large type books printed on paper. Innovations in information technology have created exciting opportunities to expand access, particularly as regards works that can be distributed digitally over the Internet and mobile phone networks.

Using standards like the Digital Accessible Information SYstem (DAISY), it is now possible to publish works with highly usable indexes and searching technologies that can be used in audio, refreshable raised braille, or large type readers. Prices for new digital reading devices vary according to functionality and purpose, but are becoming very affordable, even in developing countries.

While new technologies make it possible to imagine a world where visually impaired persons have access to a broad variety of documents at the same time as sighted people, the out-of-date legal environment is a barrier. Some countries have limitations and exceptions in copyright laws to enable works to be made accessible for persons with reading disabilities without the permission of copyright owners, but the provisions vary considerably from country to country, and are often quite restrictive, or focused only on older technologies such as raised paper braille. Of particular concern to the WBU is the fact that the current regimes of limitations and exceptions do not permit the import and exports of accessible works. As a consequence of these factors, the total number of accessible works is very low, particularly in smaller market countries.

The Proposed Treaty

The WBU seeks to greatly expand access to works through a global platform for distributing accessible works. This requires creating a harmonized global minimum standard for copyright limitations and exceptions for blind, visually impaired and reading disabled persons that allows exports and imports of works in accessible

<sup>1</sup> According to the WHO, 90 percent of visually impaired persons live in countries with low or moderate incomes.

formats to qualified persons. It is anticipated that this will both facilitate greater access to works under copyright limitations and exceptions, and also motivate publishers to publish works in accessible formats.

The basic structure of the proposal is a two tiered set of limitations and exceptions to the rights of copyright owners. Non-profit institutions would have the right to publish and distribute works in accessible formats if four conditions were met.

- 1. The person or organization wishing to undertake any activity under this provision has lawful access to that work or a copy of that work;
- 2. the work is converted to an accessible format, which may include any means needed to navigate information in the accessible format, but does not introduce changes other than those needed to make the work accessible to a visually impaired person;
- 3. copies of the work are supplied exclusively to be used by visually impaired persons; and
- 4. the activity is undertaken on a non-profit basis.

The Treaty proposal also provides for more limited exceptions for commercial publishers to make works available to the visually impaired when:

"the work or copy of the work that is to be made into an accessible format is not reasonably available in an identical or largely equivalent format enabling access for the visually impaired, and the entity providing this accessible format gives notice to the owner of copyright of such use and adequate remuneration to copyright owners is available."

The biggest beneficiaries of the treaty will be blind and visually impaired persons living in developing countries, as they will have far greater access to works currently only available in high-income countries. However, even developed countries will benefit enormously from the liberalization of access to foreign collections of accessible works, and from the expansion of the rights for the visually impaired, including in areas such as technological protection measures or restrictive contracts. Moreover, given the importance of economies of scale, everyone will benefit from the larger global market for accessible works.

We are of the firm conviction, in terms of reading copyrighted works, that this Treaty instrument would provide the necessary minimum flexibilities in copyright laws that are needed to provide full and equal access to information and communication for persons who are visually impaired or otherwise disabled. The Treaty focuses in particular on measures that are needed to publish and distribute works in formats that are accessible for persons who are blind, have low vision, or have other disabilities in reading text, in order to support their full and effective participation in society on an equal basis with others. It would ensure the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

Therefore, we urge your good offices to distribute this proposal of the World Blind Union on a WIPO Treaty for Improved Access for Blind, Visually Impaired and other Reading Disabled Persons to all Members States and Observers to the WIPO Standing Committee on Copyright and Related Rights in order for this proposal to be considered under the limitations and exceptions agenda item at WIPO SCCR 17.

The World Blind Union reiterates to the World Intellectual Property Organization the assurances of its highest consideration.

Yours sincerely

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Attachment: World Blind Union Proposal: WIPO Treaty for Improved Access for Blind, Visually Impaired and other Reading Disabled Persons (English, French and Spanish versions)