

## Briefing Note

### World Blind Union proposal for a WIPO Treaty for Blind, Visually Impaired and other Reading Disabled Persons

14 October 2008

#### **Introduction**

Attached is a proposal by the World Blind Union for a WIPO Treaty for Improved Access for Blind, Visually Impaired and other Reading Disabled Persons. The two main features of the proposed treaty are (1) to provide a minimum standard for limitations and exceptions for the blind and visually impaired, and (2) to allow and encourage the import and export of works in accessible formats.

#### **Background on process**

Since 2003, the World Blind Union (WBU) has been asking the 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.

Beginning in 2005, the government of Chile began petitioning WIPO to address the subject of mandatory minimum limitations and exceptions to copyright. The Chile proposal focused on the concerns of the visually impaired, as well as issues involving education, libraries, archives, and innovative services. In February 2007, WIPO published a detailed report by Judith Sullivan, titled: "Study on Copyright Limitations and Exceptions for the Visually Impaired." At the March 10-12, 2008, meeting of the WIPO SCCR, Brazil, Chile, Nicaragua and Uruguay presented a new proposal, which elaborated on the proposal by the Delegation of Chile (SCCR/13/5) regarding exceptions and limitations. Several delegations "underlined the need for speedy action to improve the access of visually impaired persons to protected works." The November 3-7, 2008 meeting of the WIPO SCCR will discuss this topic.

In order to advance the discussions at the SCCR and to provide concrete proposals, the WBU convened an expert group and produced a proposal for a treaty.

#### **Rationale for the Treaty**

Today persons who are blind or otherwise reading disabled face enormous obstacles in accessing copyrighted works. In an ideal world, publishers would make works available in formats accessible to the blind, visually impaired and reading disabled. 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. At the same time, innovations in

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

information technology have created exciting opportunities to expand access. 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.

Today these approaches are being supplemented by a number of new digital technologies. Using standards like the Digital Accessible Information SYstem (DAISY), it is possible to publish works with highly usable indexes and searching technologies that can be used in audio, refreshable raised braille, or large type readers. Documents can be distributed at very low costs over the Internet or cell phone networks. The prices of the 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. Far more often than not, it is too difficult or impossible to obtain licenses from copyright owners. 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 by a global platform for distributing accessible works. This involves 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 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.

**For more information:**

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