



**WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)**

**STATEMENTS BY EIFL 2020**

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**STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS  
(SCCR/40), 16-20 November 2020 (Hybrid mode)**

*Discussions on normative issues did not take place at SCCR/40 that was held in hybrid mode. The annotated meeting agenda did not contain agenda item numbers.*

Protection of broadcasting organizations (usually Agenda item 5)

Limitations and exceptions (usually Agenda items 6 & 7)

Other Matters (usually Agenda item 8). EIFL's statement concerned Public Lending Right.

**ASSEMBLIES OF THE MEMBER STATES OF WIPO A/61  
21 – 25 September 2020 (Hybrid mode)**

Agenda item 5: General Statements

Agenda item 16: Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (MVT)

## **STATEMENTS BY EIFL.NET**

### **Standing Committee on Copyright and Related Rights (SCCR/40) Fortieth Session**

#### **Protection of broadcasting organizations (usually Agenda item 5)**

I am speaking on behalf of Electronic Information for Libraries, the International Federation of Library Associations and Institutions, the International Council on Archives and the Society of American Archivists.

At the outset, we join in offering our respects on the sad loss of Carole Croella - may she rest in peace. We congratulate the Chair on your election, and we welcome Mr. Daren Tang.

Chair, for libraries and archives, the COVID-19 pandemic has highlighted the critical need for modern laws for copyright and related rights that support the shift to online education and critical research. As stated yesterday by Zimbabwe, on behalf of the African Group, limitations and exceptions for education and research purposes are more important than ever.

Thus the pandemic lays bare a fundamental problem with the current text.

The article on Limitations and Exceptions is optional, not mandatory. It doesn't even provide for exceptions that are mandatory in other treaties, e.g. quotation in the Berne Convention, and the making of accessible format copies in the Marrakesh Treaty. It also doesn't provide for exceptions deemed important enough to be made mandatory in other laws, such preservation of cultural heritage in the EU Digital Single Market Directive.

Mr. Chair, broadcast services have played a vital public information role in the pandemic. Educational TV has supported remote learning during lockdown, a lifeline in countries with limited access to digital technologies. To ensure fair access to broadcast content for social, educational and public interest purposes - including preservation - the exceptions in SCCR/39/7 must be made mandatory, and countries should be allowed to introduce other exceptions as permitted by the Rome Convention, according to national needs.

## **Standing Committee on Copyright and Related Rights (SCCR/40) Fortieth Session**

### **Limitations and exceptions (usually Agenda items 6 & 7)**

I am speaking on behalf of Electronic Information for Libraries.

First, we appreciate the hard work of the Secretariat in compiling the Report that provides an excellent summary of the four events.

In ‘Take-Away Considerations’, we welcome the recognition of cultural heritage as an invaluable, and vulnerable, common good.

At all the events, a high degree of consensus was expressed for work on preservation of cultural heritage. Experts, delegates, and observers alike recognized the threat posed by natural disasters, fire, and floods to the cultural heritage of many member states, particularly island nations affected by climate change. Further, they agreed that the copyright laws in many member states, especially in the developing world, do not have adequate exceptions for digital preservation, or cross-border uses.

Chair, the COVID-19 pandemic illustrates the problem. Right now, librarians are working to identify and preserve information on COVID-19, such as research data, scientific articles, public health videos, social media and news reports.

These curated COVID-19 collections are vital for future scholarship and science in order to study, and draw lessons, from the public health, economic, and cultural impact of the biggest global health crisis in modern times.

However, if the works are not professionally preserved, they won’t exist or they won’t be findable.

Countries without clear preservation rights will be left behind, with gaps in the national record, or preserved works held by institutions in other countries with better laws. Licensing is not a solution for preservation, and I’m afraid that the best legal skills in the world won’t fix a bad copyright law.

SCCR should adopt a work plan including text-based work on a preservation instrument, in line with the 2012 mandate.

While SCCR’s work is curtailed due to the pandemic, it should not come to a stop during this time. We suggest a practical interim approach - the Secretariat should retain its expert, Prof Kenny Crews, to prepare model provisions on preservation. These could easily be ready by the next SCCR, at which point they could provide countries with helpful guidance on this important issue, as called for by several member states.

Finally, until the pandemic is clearly in the rear-view mirror, its impact on access to copyrighted works should be examined by SCCR.

## **Standing Committee on Copyright and Related Rights (SCCR/40) Fortieth Session**

### **Other Matters (usually Agenda item 8)**

I am speaking on behalf of EIFL that works with libraries in developing countries, including 14 countries in Africa.

We appreciate the goal of supporting authors, that is behind the proposal of Sierra Leone, co-sponsored by Panama and Malawi, for a study on Public Lending Right (document reference SCCR/40/3.REV.2). However, based on our experience, we think that PLR is an inefficient means of doing so. In developing countries, PLR raises particular challenges.

First, a de facto tax on library lending appears to fly in the face of government policies in Africa that are investing in free, universal education, or working hard to increase literacy rates.

Second, governments are already cash-strapped, and there is no guarantee that PLR payments will not affect library budgets. Government grants to public libraries are already small, and libraries depend on donations from organisations, like Book Aid International. Any additional costs for library services will eat into these government supports. The risk is that PLR would become yet another cost pushed down to institutions, and in turn to poor students, and poor parents. In all cases, there is an opportunity cost because public money would inevitably be diverted away from other areas, such as literacy programmes.

Third, PLR is a convoluted way of supporting authors. The proposal lists grants, scholarships and pensions as examples of PLR payments. But all these can easily be achieved without establishing a PLR system. In contrast, direct payments to authors would be more targeted, more transparent and better value for money because they would cut out the middleman, the collective management organization, that would take a not insignificant cut of the proceeds.

So, rather than creating a new mechanism for supporting local culture, governments should strengthen the existing mechanism: libraries, which promote literacy and the diffusion of culture. As a first step, it could allocate a budget for public libraries to purchase works by local authors.

Chair, this issue is primarily a matter of cultural policy, we believe it is better addressed at UNESCO, rather than at WIPO through copyright. In fact, WIPO previously rejected PLR specifically because of its negative impact on libraries, literacy and development.

**Assemblies of the Member States of WIPO  
Sixty-First Series of Meetings A/61**

**OPENING OF THE SESSIONS**

**Agenda item 5. General Statements**

I am speaking on behalf of EIFL (Electronic Information for Libraries) that works with libraries in developing and transition economy countries to enable access to knowledge. We would like to acknowledge Mr. Francis Gurry, the outgoing Director-General, in particular for his role in adoption of the Marrakesh Treaty that now covers almost 100 countries, benefiting millions of people. We would like to welcome Mr. Daren Tang, who is arriving at a time of unprecedented global change. We are confident that under your leadership, WIPO will be able to respond positively to global challenges, such as climate change and the COVID-19 pandemic. For libraries, COVID has highlighted the critical need for modern copyright laws that fully support the shift to online education and critical research. We look forward to working with the Secretariat to make progress on these and other important issues.

Mr. Chair, we are living in unprecedented times due to COVID-19. Classroom teaching and access to library collections has moved online. Vital coronavirus research depends on global collaboration. But many national copyright laws are out-of-date and don't support the digital environment. SCCR should accelerate its work on limitations and exceptions to overcome identified obstacles in three critical areas: online teaching, the right to research and digital preservation.

Finally, Mr. Chair, EIFL offers our sincere condolences on the recent passing of our dear friend, Carole Croella, a valued member of WIPO's Copyright Law Division, especially for her work in Africa. We join the international copyright community in mourning her sudden loss, and we are sad that we cannot be in Geneva in person to sympathize. May she rest in peace.

**Assemblies of the Member States of WIPO  
Sixty-First Series of Meetings A/61**

**Agenda item 16. Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (MVT)**

Ladies and gentlemen, distinguished delegates, I speak on behalf of Electronic Information for Libraries.

EIFL warmly congratulates member states that have recently joined the Marrakesh Treaty.

In every country, libraries have long experience serving people with print disabilities, and are one of the primary sources of accessible reading material.

For this reason, we encourage member states to ensure that the library community is consulted as key stakeholders in national implementation, and we urge countries to avoid any unnecessary restrictions that would have a chilling effect on its use.

In 2019, we were pleased to co-organize the first international workshop dedicated to implementing the Treaty among a regional group of libraries in Europe.

With international partners, we have co-produced a practical ‘Getting Started’ guide, available online in multiple languages.

We are proud to play our part in ensuring the continued success of the Marrakesh Treaty, and in helping to end the book famine.

Thank you.