

**JOINT STATEMENT OF CERTAIN NON-GOVERNMENTAL CIVIL SOCIETY AND  
TECHNOLOGY ORGANIZATIONS ON COPYRIGHT LIMITATIONS AND  
EXCEPTIONS**

**WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS  
17TH SESSION, GENEVA, NOVEMBER 3-7, 2008**

The undersigned organizations strongly support the decision of the 16th session of the SCCR to convene discussions on limitations and exceptions to copyright as a priority of the SCCR. We believe that it is timely and necessary for the SCCR to consider limitations and exceptions to copyright for the benefit of the world's visually impaired community, for libraries and archives, for education of the world's citizens, and for the development and delivery of innovative information services across national borders. WIPO Member States' recent agreement to establish a work program on the WIPO Development Agenda underlines the relevance of these discussions, as technological developments have facilitated the routine exchange of information goods across national borders in more and more aspects of daily life.

We urge the Standing Committee on Copyright and Related Rights to:

- (a) support the proposal put forward by the World Blind Union for discussion of a Treaty for exceptions to and limitations on copyright law for the Visually Impaired; and
- (b) adopt a work plan and research agenda to guide and inform the SCCR's future consideration of these issues; and
- (c) inform the Chair of the Committee on Development and Intellectual Property (CDIP) of the work plan, to ensure that the SCCR's discussions are integrated with the work program for the Secretariat adopted by the CDIP, as mandated by the General Assembly at its recent meeting (WO/GA/36/4 Rev., paragraphs 10(c) and 11).

This week the SCCR is embarking on discussions of four recent studies on exceptions and limitations commissioned by WIPO, following proposals submitted to WIPO from the government of Chile in 2004, 2005, and from the governments of Chile, Brazil, Uruguay and Nicaragua 2008. In its proposal of November 2004, Chile requested that WIPO include on the agenda of the SCCR the subject of exceptions and limitations to copyright and related rights for the benefit of education, libraries and archives, and disabled persons and "to strengthen international understanding of the need to have adequate limitations, learning from existing models and moving towards agreement on exceptions and limitations for public interest purposes, which, like minimum standards, were to be envisaged in all legislation for the benefit of the international community" (SCCR/12/3).

Copyright law is territorial, but the Internet and new information and communication technologies now make copyrighted works accessible across national borders. While the international copyright regime provides countries with some flexibility in creating exceptions and limitations to their national copyright law, those often narrow and outdated flexibilities do not address the current opportunities and challenges facing those who seek to provide information services across borders, nor do they assist the visually impaired, educators and students who do not have access to relevant material in their own countries and must seek access to material governed by other countries' copyright laws. There has been remarkably little discussion about how the international copyright regime could be updated to accommodate these trans-border realities and everyday practices, and to foster the development of innovative new information services and technologies that could meet the needs of all the world's citizens.

As the Development Agenda discussions in the CDIP have made clear, developing a global approach to exceptions to and limitations on copyright law is essential for access to knowledge and for economic and social development. Providing access for citizens and certainty for information providers and Internet intermediaries is one of the central challenges facing the international copyright regime today. The distinct needs of citizens in developing countries must be considered carefully. The goals of the Development Agenda cannot be fully realized without strategies for administering and utilizing intellectual property for the benefit of the visually impaired; for educational, research, and preservation purposes; and for enabling access to knowledge. Consideration of limitations and exceptions as a high priority is necessary in order to faithfully implement the Development Agenda and also for WIPO to fulfill the obligations it has held as a specialist body of the United Nations since 1974.

We commend the recent work done by the SCCR in commissioning expert assessment studies on exceptions and limitations in relation to the digital environment, automated rights management systems, the visually impaired, and libraries and archives; and for its request that WIPO commission a consultant to prepare a study on exceptions and limitations for educational activities, including distance education and trans-border aspects.

We believe that that these empirical studies provide a solid basis to exchange information, understand the pressing problems that need to be addressed, and develop a multilateral framework to provide assistance to the global visually impaired community, facilitate distance education and the diffusion of knowledge by the creation and operation of internationally accessible digital libraries, and the development and delivery of innovative information services that benefit all the world's citizens, wherever they reside.

Instead of continuing discussions on a proposed Broadcasting Treaty that would benefit only incumbent broadcasters, and which threatens to impede the development of innovative new Internet technologies that could be used to facilitate trans-border access to knowledge and citizen broadcasting across the globe at a time when it is not clear what will be the future of Internet broadcasting, we call upon the SCCR to begin the urgent and important work of considering exceptions and limitations that would revive balance in the international copyright regime and make it more effective for the 21<sup>st</sup> century.

At the previous SCCR several delegations “underlined the need for speedy action to improve the access of visually impaired persons to protected works.” We note that persons who are blind, visually impaired or have other reading disabilities are a vulnerable population. According to the WHO there are 37 million persons who are blind, 120 million persons with low vision, and millions more that have other reading disabilities. The World Blind Union (WBU) has petitioned the SCCR since 2003 to address critical barriers for access to copyrighted works. The WBU is asking the WIPO SCCR to consider a treaty that provides for harmonization of minimum limitations and exceptions, reflecting current technological opportunities, and which allows for the exporting and importing of works created under such limitations and exceptions. The WIPO SCCR should not turn its back on this request. After five years, it is time to act, and produce an early deliverable for a larger work program on the topic on limitations and exceptions.

This joint statement is signed by the following organizations:

Broadband Service Providers Association  
Computer and Communications Industry Association  
Electronic Frontier Foundation  
Electronic Information for Libraries (eFIL.net)  
International Federation of Library Associations  
IP Justice  
Knowledge Ecology International  
Library Copyright Alliance  
Public Knowledge