



**WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)**

**STATEMENTS BY EIFL 2023**

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# **STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)**

**44th Session: November 2023**

## **Agenda Item 5: Protection of broadcasting organizations**

I am speaking for Electronic Information for Libraries that works with libraries in developing and transition economy countries to enable access to knowledge.

We appreciate the further work on Limitations and Exceptions (Article 11) in the Third Revised Draft Text (SCCR/44/3): the addition of the words, “such as”, makes clear that the exceptions are mere examples of socially relevant provisions. We also note the Chair’s comment that Member States are divided on whether the exceptions should be permissive or binding: in order to be effective, they must in our view be binding.

However, the major problem is that the text appears to extend to post-fixation activities, whereas the Chair’s summary from SCCR/43 states that the treaty should be signal-based and should not interfere with the rights in the underlying content.

A new right of in transmission of stored programmes to the public (Article 8) would surely interfere with the underlying content. For example, wouldn’t this mean that libraries would have to obtain licences from a new group of rightsholders - broadcasters -to use material in their collections, such as broadcast films and documentaries used for teaching, research and civic education?

We urge the committee to focus the text on a pure signal-based model that will achieve the stated objective to address signal piracy, rather than an exclusive rights model that risks many unintended consequences.

Thank you.

(Submitted in writing only).

# **STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)**

## **44th Session: November 2023**

### **Agenda Items 6: & 7 Limitations and exceptions for libraries and archives, Limitations and exceptions for education and research institutions**

I am speaking for Electronic Information for Libraries that works with libraries in developing and transition economy countries to enable access to knowledge.

We thank member states for their constructive engagement on this topic. I have three brief points.

First, we thank the African Group for its detailed proposal on implementation of the work programme on L&Es, adopted at SCCR/43. The suggested methodology is a helpful starting point for discussions on how the work plan can best be advanced, in a process led by the Chair between SCCR meetings, as set out in point 4 of the work programme. In that context, we read points 1 to 5 of the work programme together, rather than being subsequent to each other. We encourage MS to work together in informals to come up with an agreement.

Second, we appreciate the updated proposal by the United States on “Objectives and Principles for L&Es for Libraries and Archives”. It is a great starting point for intersessional work under the aforementioned work programme. We especially appreciate updated sections on digital preservation, online and remote access to digital content, and the inclusion of museums that are also responsible for stewardship of cultural knowledge and heritage.

Finally, we appreciate the work of the Secretariat in preparing the studies and toolkits on the priority topics identified in the work programme. In particular, we eagerly await the final version of the Toolkit on Preservation that we will roll out to our communities and to policy makers concerned with the promotion of cultural heritage.

Thank you.

# **STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)**

## **44th Session: November 2023**

### **Agenda Item 9: Other Matters Proposal for a Study Focused on the Public Lending Right in the Agenda and Future Work of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization (WIPO)**

I am speaking for Electronic Information for Libraries that works with libraries in developing and transition economy countries to enable access to knowledge.

Public Lending is the non-commercial lending of works by libraries to the public. Public Lending Right is a government-mandated charge for public lending by libraries.

We have three suggestions for the proposed study to help ensure a complete context for the issues from a library point of view:

First, PLR systems fall into two broad categories: as part of state cultural policy, or as copyright policy. The study should examine both categories.

Second, in the 1990's, WIPO rejected consideration of PLR because it would strain already limited state support for public libraries, especially in developing countries. The study should examine the impact, in particular, on developing countries and their cultural and educational policies.

It should also deal with the flow of PLR payments to and from developing countries arising from the issue of national treatment under international copyright law - EIFL and IFLA have prepared an Information Note on the conflict between PLR and national treatment that is available online.

Third, the study should include other relevant ways that governments can support authors, such as direct grants and tax breaks, the issue of unfair contracts with publishers, and transparency over revenue, particularly when it comes to digital works.

Thank you.

(Submitted in writing only).

**ASSEMBLIES OF THE MEMBER STATES OF WIPO A/64  
6 - 14 July 2023 (Hybrid)**

**Agenda item 13i - Report on the Standing Committee on Copyright and Related Rights (SCCR)**

EIFL works with libraries in developing and transition economy countries to enable access to knowledge.

EIFL appreciates progress at SCCR on Limitations and Exceptions, namely adoption of a work programme proposed by the African Group, development of a toolkit on preservation, and attention to exceptions in the broadcast treaty.

We look forward to implementation of the work programme through tangible activities, such as preparation of objectives and principles, and achievement of consensus on the topics.

We will support the development of a companion toolkit on access to preserved works. And we urge that the exceptions in the revised text of the broadcast treaty are strengthened and expanded in line with other treaties and copyright exceptions.

Today, we join in celebrating the 10th anniversary of the Marrakesh Treaty, that began at SCCR. The success of Marrakesh shows how work on L&Es at SCCR can benefit not only people and society, but the international copyright system as a whole.

Thank you.

(Delivered online).

## **Standing Committee on Copyright and Related Rights (SCCR/43) Forty-Third Session**

### **Agenda item 5 - Protection of Broadcasting Organizations**

I am speaking for Electronic Information for Libraries, that works with libraries in developing and transition economy countries to enable access to knowledge.

The broadcast treaty affects libraries. Academic libraries hold special collections of films and documentaries used for research and study. Public libraries show broadcast material for civic education and community information, for example.

I will highlight an issue of concern in the current text related to the right of fixation.

While Article 11 contains a list of specific exceptions for socially valuable uses of material, including an exception for preservation of programme material carried by the signal, all the exceptions are optional. Therefore, there is no obligation to have exceptions of any kind, even for the most socially deserving purposes.

In addition, since there is no term of protection in the current text, does this mean that the right of fixation in Article 7 is perpetual?

For these reasons, the text in its current form needs further clarity before it should move forward.

Thank you.

## **Standing Committee on Copyright and Related Rights (SCCR/43) Forty-Third Session**

### **Agenda items 6 & 7 - Limitations and Exceptions - Proposal by the African Group for a Draft work Program on Exceptions and Limitations (SCCR/42/4 REV.)**

I am speaking on behalf of Electronic Information for Libraries.

EIFL and its partner library consortia attach great importance to the topic of limitations and exceptions.

L&Es are an integral part of the copyright system. They affect the information services provided daily by libraries to their researchers, academics and students. A robust set of L&Es helps to level the playing field in the creation and sharing of knowledge, including across borders. The COVID pandemic highlighted the need for exceptions that enable online education, research and digital access to library collections.

We thank the African Group for a work program on L&Es that sets out concrete ideas and activities for advancing work on L&Es, and we urge its adoption at this SCCR. It is imperative that the committee moves towards text-based work on the priority, consensus topics to address these issues. Only WIPO can set global standards and only a binding international norm can address cross-border issues.

We look forward to the presentation of the Toolkit on Preservation that is timely and urgent. To take just one example, in 2021, Africa lost a part of its history in a devastating fire at the University of Cape Town: due to copyright barriers, some items had no digital backups.

We look forward to making progress on these and other topics on the agenda.

## **Standing Committee on Copyright and Related Rights (SCCR/43) Forty-Third Session**

### **Other Matters – Proposal for a Study Focused on the Public Lending Right in the Agenda and Future Work of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization (WIPO)**

Public Lending is the non-commercial lending of works by libraries to the public. The Public Lending Right is a government-mandated fee for the lending of such works by libraries.

In developing countries, PLR raises particular challenges.

A PLR system established under copyright could have adverse unintended consequences due to the principle of ‘national treatment’, as set out in the Berne Convention and TRIPS Agreement. National treatment would mean payment of lending fees to authors and publishers overseas, as well as domestic. IN many countries, this could mean significant royalty payments to authors and publishers in the Global North.

Any study on PLR should examine these challenges without prejudice. It should include all the ways that governments can support authors, either as part of state cultural policy or copyright policy, and the costs and benefits of each approach.

It should include all the relevant issues, including the impact of national treatment under copyright especially in developing countries, transparency over revenue distribution, rights reversion, and author contracts with publishers.

Thank you.