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Statements to the WIPO Standing Committee on Committee on Copyright and Related Rights

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WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

STATEMENTS BY EIFL 2021

INDEX OF STATEMENTS

**STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS
(SCCR/41), 28 June – 1 July 2021 (Hybrid Mode)**

Discussions on normative issues did not take place at SCCR/41 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.

Protection of Broadcasting Organizations

Thank you the update on informal work on the broadcast treaty that has taken place this year.

We have two brief comments.

First, document SCCR/39/7, Revised Consolidated Text on Definitions, Object of Protection, Rights to be Granted and Other Issues, includes two issues of high importance to libraries that remain open for further discussion - term of protection and circumvention of technological protection measures. The outcome of discussions on these issues directly impacts education, research and community services provided by libraries, for example, university libraries provide access to broadcast films as primary research material for students, and public libraries show educational TV programmes to children. We do appreciate your assurances on transparency so that the negotiations will be open and all stakeholders will be kept duly updated and informed.

Second, the Preamble states the desire to protect broadcast rights ‘in a manner as balanced and effective as possible’. However the current text does not achieve this balance. First, the article on Limitations and Exceptions is optional. Second, it doesn’t provide for specific exceptions such as teaching and research, like the Rome Convention. Third, it doesn’t include exceptions that are mandatory in other treaties, e.g. Berne quotation right, or Marrakesh disability provisions. And it limits policy space by setting a ceiling on exceptions that countries can have for broadcasting.

Mr. Chair, to ensure balanced access to broadcast content for public interest purposes, including long-term preservation, exceptions and limitations must be properly addressed in any new treaty.

Thank you.

Limitations and Exceptions

Mr. Chair, work should begin on priority areas highlighted in document SCCR/40/2, Report on Regional Seminars and Conference: preservation of cultural heritage, online education, and cross-border uses. The Report sets out a number of actions that WIPO could take, starting with model laws or provisions to guide countries.

On preservation, discussions on the Way Forward referred to ‘oceans rising, fires raging and paper deteriorating’. Dr. Crews urged countries to act before it was too late.

The recent fire at the University of Cape Town’s Jagger Library is a stark reminder of what can happen. The unique African Studies collection, used by scholars from all over Africa and the world, was devastated in the fire - most of the printed publications were lost (70,000 items), as well as the entire Film Collection (3,500 items). Due to copyright barriers, some items had no digital backup copies. It is a reminder of the pressing and urgent need for robust preservation rights to mitigate against disasters.

The WIPO study shows that only 102 member states, or 53%, explicitly address preservation in their copyright laws, and others do not permit preservation at all, even for print formats. This situation needs to change, and only WIPO can drive the change needed at a global level with international action, in line with the outcomes of the Regional Seminars, and the 2012 mandate.

In addition, in the light of COVID-19, WIPO should develop a Recommendation to clarify and promote existing flexibilities that permit online uses for education, and access to library collections during an emergency. It would provide immediate guidance for governments, and support libraries who still face problems providing materials to students and teachers for study and exams.

Other Matters: Proposal for study on public lending right

Delivered in French:

Le prêt public est le prêt non commercial d'œuvres par les bibliothèques au public.

Notre préoccupation est que le droit de prêt public (DPP) pose un risque pour les services de prêt public gratuits, pour les budgets des bibliothèques et pour les budgets gouvernementaux qui supporteraient les coûts de l'introduction d'un droit de prêt.

Dans les années 1990, l'OMPI avait déjà rejeté le DPP parce qu'il risquait d'interférer avec les objectifs des gouvernements des pays en développement de soutenir l'alphabétisation. Mais également, sa mise en œuvre mettrait à rude épreuve le soutien déjà limité de l'État aux bibliothèques publiques.

Monsieur le Président, la pandémie de COVID menace d'avoir des conséquences dévastatrices sur les budgets des États dans les pays en développement. L'indice de développement humain mondial, en tant que mesure de l'éducation, de la santé et du niveau de vie dans le monde, est en passe de décliner pour la première fois en 30 ans.

Nous exhortons donc à la prudence avant de commencer tout travail qui aurait un impact sur les services essentiels des bibliothèques qui font partie des institutions qui peuvent contribuer à la reprise des secteurs de l'éducation et de la recherche dans ces pays.

Nous pensons également qu'il existe d'autres moyens plus efficaces de soutenir les auteurs.

Cependant, s'il doit y avoir une étude sur le DPP, elle devrait être holistique. Il devrait inclure tous les moyens par lesquels les gouvernements peuvent soutenir les auteurs, tels que les subventions directes et les allègements fiscaux, et prendre aussi en charge des questions telles que la réversion des droits, les contrats abusifs avec certains éditeurs et la transparence des revenus, en particulier lorsqu'il s'agit d'œuvres numériques.

Merci.

English translation:

Public Lending is the non-commercial lending of works by libraries to the public.

Our concern is that Public Lending Right (PLR) poses a risk to free public lending services, to library budgets, and to government budgets that would bear the costs of the introduction of a lending right fee.

In the 1990's, WIPO rejected PLR because it would interfere with the goals of governments of developing countries to support literacy, and implementation of PLR would strain already limited state support for public libraries.

Mr. Chair, the COVID pandemic threatens to have devastating consequences on state budgets in developing countries. Global human development, as a measure of the world's education, health and living standards, is on course to decline for the first time in 30 years.

We urge caution on starting any work that would impact on the core services of libraries, institutions that will aid recovery of the education and research sectors in these countries.

We also believe there are other, more efficient ways to support authors.

However, if there is to be a study on PLR, it should be holistic. It should include all the ways that governments can support authors, such as direct grants and tax breaks, and issues such as rights reversion, unfair contracts with publishers, and transparency over revenue, particularly when it comes to digital works.

Thank you.