

Standing Committee on Copyright and Related Rights

Fortieth Session
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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)

prepared by the Republics of Sierra Leone, Panama, and Malawi

During the 39th session of the SCCR, Sierra Leone proposed that WIPO commissions a study focused on PLR systems around the world, how they benefit creators and how to make such a system work. This request received positive support from many Member States and observers. The Chair of the SCCR indicated in his draft report that the subject of the public lending right was raised as a possible agenda item and that the Committee would welcome a formal proposal on this matter at a future Committee meeting. Therefore, this proposal is put forth by Sierra Leone, Panama and Malawi to formally request for the addition to the agenda and future work of the SCCR a WIPO-sponsored study to provide a more detailed information on the different ways in which PLR can be introduced, on limitations and solutions, and how we can access the support and capacity building that we will need to take a PLR scheme forward.

PLR is an author's right and is covered by WIPO international treaties. PLR is a simple and low-cost legal right wherein governments can support authors, visual artists and other rightsholders from all walks of life, literary genres, cultural and linguistic backgrounds and at the same time provide recognition of the value they provide to society through the lending out of their books by libraries'. PLR payments can be a serious boost to our creative industries. PLR upholds the principle of 'no use without payment' which is based on the Universal Declaration of Human Rights by which authors are entitled to receive income from any use of their work. Currently 35 countries across the world have PLR systems. Many of these are in Europe, where EU Member States have been legally required to recognise PLR since 1992, but there are now moves in a growing number of countries as diverse as Malawi, South Africa, Turkey, and the USA towards setting up PLR systems.

PLR system is flexible and adaptable to local circumstances; however there are three established approaches for its implementation thus far.

First, PLR can be introduced under copyright law as an exclusive right like other uses of an author's work. However, in essence, PLR does not have to be under copyright law which may require payment to be made to authors from other countries under national treatment. Second, PLR can have its own legislation. An example would be the United Kingdom where last year authors celebrated the 40th anniversary of the 1979 PLR Act. Third, PLR can function as part of a country's support structure for its own culture and language. As such in several European countries (for example in Denmark, Sweden and Norway) PLR is only payable to authors writing in the national language(s) of that country. The PLR systems in Australia and Canada also support authors who are nationals of those countries. This plays an important role in promoting writing in local languages and by local writers. Such creativity helps to educate and entertain, as well as support linguistic and cultural diversity and boosting the economy.

There are two approaches in terms of PLR governance:

- I. PLR can be administered by a collective management organisation (CMO) or other rightsholder organisation alongside rights subject to licensing like photocopying
- II. PLR can also be administered by the government where it has its own legislation

As per established international best practices, PLR payments are funded directly by government without affecting public libraries' budgets. In particular, PLR does not threaten other vital cultural funding resources in developing countries such as libraries. PLR and libraries are natural partners and work hand-in-hand in established PLR countries. PLR is mainly distributed to authors in the form of payments related to how often their works have been lent out by libraries', or in line with how many copies of their books are held. But where systems do not exist in libraries to monitor usage, PLR payments can be made in the form of grants, scholarships etc to authors to support their literary endeavours. PLR funding can also be used to provide pensions to authors, as is the case in France and Germany. In addition to writers, other contributors to books such as visual artists, translators, editors and photographers can all qualify for PLR payments; and in several countries' publishers share the PLR payments with the authors.

Rationale for including a PLR study in the agenda and work plan of the Committee

There is huge interest from countries in every part of the world in the potential of PLR for authors' livelihoods and creativity and a thirst for knowledge on how PLR can be adapted to the needs of individual nations. This study will answer the question of how are countries to identify which PLR approach is most appropriate to their needs? And who should they turn to for support and expertise in introducing PLR?

As well such a study would seek to:

- i. Provide information on how the different PLR models operate including details of their legal basis, funding, governance and administration. What lessons are to be learnt from the different ways in which PLR has been introduced?
- ii. Identify the benefits that authors and other rightsholders gain from participation in PLR schemes.
- iii. Identify the issues to be faced in setting up PLR in a developing country?
- iv. Based on some case studies, assess the benefits of PLR for a nation's cultural and linguistic support policies?
- v. Identify what support and capacity building are needed to help developing countries setting up PLR for the first time.
- vi. Identify best practice in working with other cultural agencies such as libraries operating in the same field?
- vii. Look at the particular needs of different groups of rightsholders in setting up a PLR scheme.

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