

“We must declare a state of emergency, and end the information deprivation that continues to keep the visually impaired in the dark.” – Stevie Wonder, US singer-songwriter

[VIDEO](#) | [TRANSCRIPT](#)

International copyright law has always recognized the need to balance the rights of authors of creative works and the public interest, by allowing some uses of copyrighted material to be exempted from the requirement to seek authorization from the right-holder or to pay royalties. The very first international copyright treaty, the [Berne Convention for the Protection of Literary and Artistic Works](#) of 1886, and its subsequent revisions, have all included provision for “limitations and exceptions”. The Berne Convention specifically mentions exemptions for short quotations, news reporting and illustrative use for teaching purposes. Otherwise, it is left to national governments to define what limitations and exceptions are permitted “in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author”.

In practice, limitations and exceptions contained in national laws vary widely. In many countries copying for private use is free, but only a few make exceptions for, say, distance learning. Moreover, the exemptions apply only in the country concerned. This hodge-podge of national rules is seen as

making little sense in the digital age, in which copies of copyrighted works can be made and transmitted across borders with a few mouse clicks. Thus, since 2004, [WIPO's Standing Committee on Copyright and Related Rights](#) (SCCR) has been considering whether certain exemptions should be harmonized internationally. Three types of limitations and exceptions are under discussion, concerning:

- People with disabilities, primarily the visually impaired
- Use by libraries and archives
- Use for educational purposes.

In June 2011, WIPO members asked the Chair of the SCCR to prepare a draft text of an “international instrument” relating to exemption for people with “print disabilities”, for discussion at the next SCCR meeting in November 2011. Consideration of the other two types of exemption is at an earlier stage.

EXEMPTION FOR PEOPLE WITH PRINT DISABILITIES

According to the World Health Organization, there are more than 314 million blind and visually impaired persons (VIPs) in the world, 90 per cent of whom live in developing countries.

A WIPO survey in 2006 found that fewer than 60 countries have limitations and exceptions clauses written in to their copyright laws that make special provision for VIPs, for example, for Braille, large print or digitized audio versions* of copyrighted texts. Furthermore, because copyright law is “territorial”, these exemptions usually do not cover the import or export of works converted into accessible formats, even between countries with similar rules. Organizations in each country must negotiate licences with the right-holders to exchange special formats across borders, or produce their own materials, a costly undertaking that severely limits access by VIPs to printed works of all kinds.

According to the [World Blind Union](#), of the million or so books published each year in the world, less than 5 per cent are made available in formats accessible to VIPs. And while the ONCE library in Spain has more than 100,000 titles in accessible formats and Argentina has over 50,000, these titles cannot be shared with the 19 Spanish-speaking countries across Latin America. Similarly, some years ago,

*The Digital Accessible Information System (Daisy) converts original texts to audio books that can be easily navigated by VIPs. Based on open standards, Daisy is run by a non-profit international consortium of talking book libraries and others.

charities working in five English-speaking countries, including the Royal National Institute for the Blind in the UK and Vision Australia, were obliged to produce five identical Braille master files for the same Harry Potter book, costing them valuable time and money.

Further impetus to the WIPO talks has come from adoption of the 2006 [United Nations Convention on the Rights of Persons with Disabilities](#), which states (Article 30) that laws protecting intellectual property must not pose a discriminatory or unreasonable barrier limiting access to cultural materials. A number of WIPO member states support the call by the World Blind Union and others for a formal treaty that would make it obligatory for countries to introduce a standard set of limitations and exceptions to copyright rules for formats designed for VIPs and to permit exchange of these formats across borders. However, other member states believe that an international recommendation to follow agreed

guidelines would be a simpler and quicker means to achieve the same end, while some WIPO members feel that any treaty should encompass all the limitations and exceptions under discussion in the SCCR, including exemptions for libraries, archives and educational uses.

In June 2011 a group of 39 countries, including Australia, Brazil, Chile, the 27-member European Union, the Russian Federation and the USA, proposed an “international instrument” on limitations and exceptions for people with “print disabilities” – VIPs, dyslexics and others with reading difficulties or unable because of physical disability to read a normal book. This [proposal](#) leaves for later decision whether the “instrument” should be a treaty or a recommendation. But it would include a requirement for countries to introduce exceptions and limitations in their copyright laws to permit production and international sharing of accessible formats for people with print disabilities. At the same time, the

proposal aims to allay concerns by authors and publishers that, if too broadly drawn, the exemption could allow formats for sighted people, such as commercial audio books, to escape normal licensing procedures. To prevent this, the production and distribution of accessible formats would be handled by “authorized entities” – non-profit organizations trusted by both the right-holders and those with print disabilities. However, this formulation also poses certain difficulties: many countries do not require blind organizations to seek authorization and views differ on whether the authorizing authority should be government-controlled or independent.

To complement negotiations on a multilateral legal framework, in January 2009 WIPO established a stakeholders’ platform as part of its [Visually Impaired Persons Initiative](#), intended to facilitate practical steps by blind organizations, publishers, libraries and others to improve international availability of accessible formats for VIPs.