

# **Committee on Copyright and other Legal Matters (CLM)**

**Standing Committee on Copyright and Related Rights (SCCR): 16th Session Geneva, 10-13  
March 2008**

## **Limitations and Exceptions for Libraries**

Mr Chairman, we firstly would like to congratulate you and the Vice-Chairs on your election. This statement by the International Federation of Library Associations is supported by Electronic Information for Libraries and focuses on Limitations and Exceptions for libraries.

We believe that exceptions and limitations are being undermined in substance because they were created to deal with specific technologies and formats which are these days quickly outmoded. As a result of the change from print to digital, the information content held by libraries has largely become subject to contract law instead of copyright law. Libraries experience on a daily basis how contracts and licences specifically seek to override and undermine statutory exceptions and limitations. Furthermore, the licences are increasingly enforced by technological protection measures.

This serves to undermine copyright law itself.

Libraries strongly support the public policy goals enshrined in the principle of exceptions and limitations.

Libraries, and the people who use libraries, rely on exceptions and limitations without which every exclusive right, such as reproduction and communication to the public, would be subject to the granting of a permission from the rightowner.

This would be impractical both for libraries and their users and would threaten the core functioning of libraries. It also threatens the exchange of ideas and free flow of knowledge which are the bedrock of the creative industries, of culture, education and research. The use of copyright works, even when compliant with the Three-Step Test, unreasonably becomes subject to excessive control and censorship by monopolies.

In the light of continuing technological change, we need to ask ourselves how do long-standing exceptions and limitations designed mainly for an analogue environment serve libraries in the electronic environment, and what changes need to be made in order to preserve and enhance the role and mission of libraries in the digital era.

Librarians believe that the current law is inadequate because it relates to modes of access and delivery that were formulated for a print world. For example, in the digital world, a limitation to the making of a specified number of copies for preservation purposes is nonsensical. Likewise, implied and express prohibitions on what is permitted outside the physical premises of the library are outmoded.

In many countries the law does not cater for new requirements such as the preservation of websites and other digital media, regarded as a rich source of content for future generations of researchers. Without adequate legal provisions, libraries may only gather content for which they have permission, an ill-suited approach to a task of this nature.

What we have now is uncoordinated and unbalanced and is a minefield for libraries

operating in a globalised and digital world. This has come about because, apart from the exception for quotation in Article 10(1) of the Berne Convention, hitherto the exceptions have always been optional in every international and regional instrument. We therefore call upon WIPO to work towards the introduction of mandatory minimum limitations and exceptions.

There is a need to clarify and re-state the role of limitations and exceptions for libraries in the digital age. They need to be fair and balanced, technology neutral and take full account of the public interest. Copyright law, rather than private contract law and the IP provisions in trade agreements should underpin access provisions for libraries. A rationalisation of the law should also lead to greater public respect for copyright.

We support the proposal of the Chilean delegation for an information session to allow Member States to have a full and open discussion and will be pleased to provide assistance and advice.

Thank you, Mr Chairman

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