



SCCR33, ITEM 6: EXCEPTIONS AND LIMITATIONS FOR LIBRARIES AND ARCHIVES: Translation

Principle

Language should not be a barrier to access to knowledge. Where no version of a work in a local language is available, libraries, archives and museums should be able to provide a translation for the benefit of a user, for personal, non-profit research purposes.

Problem

While the digital age has led to a flourishing of creativity and research, certain languages continue to dominate international scientific and cultural production. Despite the lower costs associated with producing and sharing digital materials, people speaking rarer languages still face barriers to access to knowledge.

Translation therefore has a vital role both in giving access and allowing everyone to benefit from the rich diversity of research and expression in the world today. Translations carried out under the auspices of the exclusive rights provided by the Berne Convention play an indispensable role. However, in many cases, there simply isn't sufficient demand for rightholders to seek to exercise this possibility.

As a result, many works remain inaccessible to the individual researchers or creators who want to draw on them, leading to a situation of market failure. Others cannot be included in bibliographic records, for want of translations.

In order to overcome this problem, it is important to give libraries, archives and museums, as established entities working to facilitate access to knowledge, the possibility to provide, legally, a translation of a work to an individual user for research purposes.

This would only be necessary when the work is not already available in the language concerned. In any case, the cost of producing a translation is likely to be significantly lower than that of purchasing an available, translated, copy.

Solution

A provision allowing libraries, archives, and museums to provide a translation of a work that is not otherwise available in the language concerned, to an individual user for personal research purposes. It would only apply when the library, archive or museum has legitimately acquired the work in question, is undertaken on a non-profit basis, and is only for the benefit of the person concerned.

As underlined in SCCR/9/7, the record of the Stockholm Conference underlines that translation could be seen as a type of reproduction, with the same exceptions and limitations applying. Alternatively, if the translation right is a standalone right, it would be absurd not to accompany it with the measures of balance applied to other rights.

A solution could therefore either follow the example of Chilean law, which specifically offers this possibility to libraries, or Japanese or Egyptian law, which includes such a provision within a broader reproduction exception.



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Talking Points

- Language should not be a barrier to access to knowledge. In order to benefit from the quantity and diversity of cultural expression and scientific research, translation plays an indispensable role.
- Translations created under the exclusive rights provided in the Berne Convention should continue to provide the main means of overcoming this language barrier. However, in certain cases, there is no market incentive to exercise these rights. This leaves people excluded from the information society.
- To overcome this, libraries, archives and museums should be allowed, legally, to translate works for users for personal research purposes, on the condition that such works are not already available in the language concerned.

