



**International Federation of Library Associations
and Institutions**

Treaty proposal on Limitations and Exceptions for Libraries and Archives

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IFLA Copyright and Other Legal Matters Committee

Based on presentation of Victoria Owen, Chair IFLA CLM.

Context

Why is IFLA involved?

- Libraries and archives are distinctive guardians of the public trust, specifically designated worldwide as institutions necessary for serving the global public interest with regard to preserving the diverse forms of expression used by societies over time;
- *Being aware* of WIPO Copyright Treaty's recognition of "the profound impact of the development and convergence of information and communication technologies on the creation and use of literary and artistic works", including "the need to maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information, as reflected in the Berne Convention";

Context (cont)

- *Mindful* of the need to respond appropriately to new technological advancements and their impact on the publication, access, and use of literary and artistic works, and of the need that such response be limited to special cases which do not conflict with a normal exploitation of these works, and do not unreasonably prejudice the legitimate interests of their authors;
- *Recognising* the need for a global approach to copyright limitations and exceptions and a minimum level of international harmonisation, to secure the effective and unhindered flow of information essential for global equality of access to research, ideas, and innovation;
- *Realising* that the free exchange of ideas and knowledge and, in general, the widest possible dissemination of the diverse forms of self-expression are vitally important both for intellectual progress and the cultural development of all societies;

Context (cont)

Copyright exceptions and limitations are increasingly undermined by licensing practices and the use of technological protection measures that prevent libraries and archives from performing their functions;

There is a need for a global approach to copyright exceptions and limitations and a minimum level of international harmonization of limitations and exceptions to secure the effective and unhindered flow of information essential for global equality of access to research, ideas and innovation;

Basis for proposed treaty : data from K. Crews studies 2008 and 2014

Data reveals:

Library exceptions are fundamental to copyright law in majority of countries included in the studies.
(33 out of 186 no library exceptions)

3 Main issues:

- Reproduction of copyrighted works for private research and study
- Preservation and replacement of materials
- Document supply and interlibrary lending

Trends 2008 - 2014

- Number of countries which have instituted EU Directive provisions – digital copies available at terminals on library premises.
- Adoption of statutes on anti-circumvention of technological measures, includes exemptions for the benefit of libraries.

Regional Influences

Study noted the influences of:

- EU not only on the 28 member countries but also on countries keen to work with EU in areas of trade.
- Bangui Agreement, 17 African countries.

Treaty Proposal

- *Recognising* the need for a global approach to copyright limitations and exceptions and a minimum level of international harmonisation, to secure the effective and unhindered flow of information essential for global equality of access to research, ideas, and innovation;
- the need to maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information, as reflected in the Berne Convention.

Work in progress

- Data from Crews studies.
- Wording proposals:
 - Ecuador on preservation and cross-boarder uses
 - African Group on parallel importation
 - Brazil, Ecuador and Uruguay on technological protection measures

Treaty proposal on Limitations and Exceptions for Libraries and Archives.

Version 4.4

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Limitations and Exceptions

- **Article 5:** Right to parallel importation
- **Article 6:** Right to acquire works
- **Article 7:** Right to Library and archive lending and temporary access
- **Article 8:** Right to reproduction and supply of copies by libraries and archives
- **Article 9:** Right to preservation of library and archival material

L & E (2)

- **Article 10:** Right to use of works and material protected by related rights for the benefit of persons with disabilities
- **Article 11:** Right of access to retracted and withdrawn works
- **Article 12:** Right of use of orphan works and materials protected by related rights
- **Article 13:** Right to cross-border uses
- **Article 14:** Right to translate work and materials protected by related rights

Additional Protections

- **Article 15:** Obligation to respect exceptions to copyright and related rights
- **Article 16:** Obligations concerning TPMs
- **Article 17:** Limitation on liability for Libraries and archives
- **Article 18:** Legal deposit
- **Article 19:** Government publications

Additional Protections (2)

- **Article 20:** Right to extract and reuse facts and information
- **Article 21:** Other limitations and exceptions not mandated by this treaty
- **Article 22:** Provisions on implementation and enforcement of limitations and exceptions

Next step

- Return to SCCR
- Feedback and refinement

- *Details of the Crews study*

<http://www.wipo.int/wipolex/en/>

- *WIPO Copyright Treaty*

<http://www.wipo.int/treaties/en/ip/wct/>

- *Bangui agreement*

http://www.wipo.int/wipolex/en/other_treaties/details.jsp?treaty_id=227

Gracias



Thank you