

Written Questions from the United States on the Proposal by Brazil, Ecuador, Paraguay, and Mexico Relating to Limitations and Exceptions: Treaty Proposed by the World Blind Union (WBU) (Document SCCR/18/5)

SCCR 21 (November 8-12, 2010)

Article 7 (Relationship with Contracts): Does the provision that “contractual provisions contrary to the exception provided in Article 4 shall be null and void” apply retroactively?

If a trusted intermediary were operating in a country would Article 7 make any contract between a trusted intermediary and its users null and void?

Article 12 (Orphaned Works): This orphan works provision appears to have broad applicability, without any tie to print disabilities. Is that correct, or is there a connection with providing accessible copies of works for persons with print disabilities?

Would a diligent search for the rights holder(s) be required prior to use of an orphan work? How would the notice provisions in Article 12 (a) and (b) work in practice?

Article 16 (Additional Definitions): The definition of “owner of copyright” appears to include persons who control access to works that are not protected by copyright. What is the reason for this definition? Was it based on any provisions in existing international agreements? Could there be confusion if based on this proposal it is possible to own copyright in a work that is no longer subject to copyright protection?