

Standing Committee on Copyright and Related Rights

Forty-Seventh Session
Geneva, December 1 to 5, 2025

TEXT PROPOSED IN THE FRAMEWORK OF WORK TOWARDS AN APPROPRIATE
INTERNATIONAL LEGAL INSTRUMENT OR INSTRUMENTS ON LIMITATIONS AND
EXCEPTIONS

Proposal by the SCCR Chair and Vice-Chair

Introductory Statement from the Chair and Vice-Chair

This text was drafted in line with the undertaking given to us during SCCR/46, the previous session held in April 2025. It aims to build on the earlier progress related to this agenda item, taking into account the common ground identified by SCCR Members during discussions, including with reference to the documents previously submitted under this item.

This draft is a baseline proposal, and the current form is without prejudice to the legal nature and form of the outcome of this process.

CORE GUIDING CONSIDERATIONS

Ensuring an appropriate balance between the rights of creators and other rightsholders, and the public interest in preservation, access, education and research vis-à-vis creative content is an element intrinsic to copyright¹;

While taking this balance into account, cultural heritage institutions, such as libraries, archives and museums, and educational and research institutions, have a fundamental role in preservation; access to knowledge, information, and memory of peoples; as well as offering the possibility for all persons with disabilities to fully participate in the cultural life of the community, to enjoy the arts, and to benefit from scientific progress;

The Standing Committee on Copyright and Related Rights (SCCR), has undertaken substantial work, including in regional seminars and an international conference, identifying as priority areas preservation, access, adaptation to the digital environment, and cross-border matters with regard to cultural heritage as well as educational and research institutions. The SCCR has also placed particular focus on facilitating access to copyright-protected works for persons with disabilities;

The international copyright framework, including the Berne Convention and the WIPO Copyright Treaty (WCT), the WIPO Performances and Phonograms Treaty (WPPT), the Beijing Treaty on Audiovisual Performances (BTAP), and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (MVT), allows Member States to adopt limitations and exceptions well-adapted to their respective systems, in accordance with the three-step test, in order to meet cultural, educational and scientific needs, among others;

Copyright can play a key role in facilitating legitimate access to knowledge and culture, while ensuring the recognition and protection of creators and other rights holders. To this end, there are various models that allow interests to be reconciled, whether through unpaid uses, uses subject to remuneration, or uses under licensing schemes, offering flexibility to Member States according to their needs and contexts;

Given the profound impact of rapid evolving digital technologies on both the creation and use of literary, artistic, and scientific works², the proposed text focuses on cultural heritage,

¹ For the purpose of this text, the term "copyright" also includes related rights.

² For the purpose of this text, the term "works" also includes objects of related rights.

educational and research institutions, as well as on persons with disabilities, within the broader framework of work towards an appropriate international legal instrument or instruments on limitations and exceptions:

A. Definitions

For the purposes of this text:

1. **Cultural heritage institutions:** libraries, archives, museums and other not-for-profit entities performing equivalent functions.
2. **Educational and research institutions:** schools, universities, and other entities of a similar nature furthering educational or research purposes.
3. **Persons with disabilities**³: includes those who have long-term physical, mental, intellectual, or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.
4. **Preservation:** activities aimed at maintaining, stabilizing, restoring or migrating works, whether published or unpublished, to prevent their loss or deterioration, including the conversion of analog to digital formats and migration to stable technological formats.
5. **Access:** on-site or remote availability to use works for the purposes of private study, cultural enjoyment, and education or research.
6. **Cross-border:** the provision or distribution, communication, or making available of a copy of a work or other protected subject matter, in physical or digital form, from one country to users located in another country.

B. Objectives

1. Support the preservation of cultural heritage by libraries, archives and museums and other not-for-profit entities performing equivalent functions;
2. Enable cultural heritage institutions to make copies of works, whether published or unpublished, for the purposes of preservation or replacement, including highly ephemeral

³ As defined in the United Nations Convention on the Rights of Persons with Disabilities.

materials. Such copies may be made in analog or digital formats, and during technological migration, provided they are necessary and incidental to a specific preservation purpose;

3. Facilitate access to works for cultural, educational and research purposes, including through digital and online tools, and across borders;
4. Enable cultural heritage institutions as well as educational and research institutions to provide copies and enable access to works to researchers, teachers, students and the public, under appropriate conditions;
5. Facilitate access to published works in accessible formats for persons with disabilities other than those covered by the Marrakesh Treaty;
6. Enable the preservation of and remote digital access to works, including cross-border, under secure conditions and promote the respect of adequate and effective digital security measures;
7. Ensure that appropriate measures provide adequate legal protection and effective remedies against the circumvention of technological protection measures, while such protection does not prevent beneficiaries from enjoying the limitations and exceptions provided.

C. Principles

FRAMEWORK PRINCIPLES

1. Limitations and exceptions are an integral part of a balanced copyright system and should contribute to quality preservation, access, education and research, as well as to expand opportunities for all persons with disabilities to fully participate in the cultural life of the community, to enjoy the arts, and to benefit from scientific progress.
2. Limitations and exceptions should apply solely in certain special cases that do not conflict with a normal exploitation of the works and do not unreasonably prejudice the legitimate interests of the rightsholders.
3. Consider, as appropriate, conditions to limitations and exceptions such as remuneration or licensing.
4. Promote cooperation among institutions at national, regional and international levels.

CULTURAL HERITAGE INSTITUTIONS

5. Enable libraries, archives, and museums to fulfill their public service mission of preserving the cumulative knowledge and heritage of nations and people.
6. Allow cultural heritage institutions to proactively preserve materials at risk of deterioration, obsolescence and damage, as reasonably necessary for the purpose of preservation.
7. Apply exceptions and limitations for libraries, archives, and museums solely to noncommercial activities, and not to activities undertaken for direct or indirect commercial advantage.

PRESERVATION

8. Enable the preservation and migration of content, including from obsolete formats to new ones. Permit the making of copies of works for preservation and replacement, under certain appropriate circumstances, including digital conversion and format shifting.

ACCESSIBILITY FOR PERSONS WITH DISABILITIES

9. Facilitate access to published works in accessible formats for persons with disabilities other than those covered by the Marrakesh Treaty, under appropriate conditions that may include:
 - a) use solely for the purpose of producing material in accessible formats;
 - b) the respect of adequate and effective digital security measures.

CROSS-CUTTING PRINCIPLES

10. Exceptions and limitations should apply equally to all copyrighted works, regardless of format.
11. Appropriate limitations should be provided to prevent the misuse of these exceptions for other purposes, ensuring a balanced approach.
12. Digital and cross-border uses should become normal and standard, subject to conditions ensuring respect for rights and digital security.
13. Interoperability of systems should be encouraged to facilitate (i) access to works for persons with disabilities and (ii) controlled cross-border uses.
14. Legal solutions should be crafted to be as technologically neutral as possible.
15. The relevance of good faith should be considered when assessing liability for the application of limitations and exceptions by institutional beneficiaries.
16. Alternative dispute resolution mechanisms should be implemented as an option to resolve disputes concerning the use of works under limitations and exceptions.

D. Cooperation, Capacity Building And Technical Assistance

1. WIPO should continue to make available to Member States a set of tools (“buffet of options”) including guidelines, handbooks, recommendations and case studies, covering both limitations and exceptions and licensing options.
2. Legislative and technical assistance should be provided for national implementation, with priority to countries lacking adequate frameworks.
3. Good practices and tools should be promoted for rights management in digital environments.

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