

BACKGROUND NOTE

FACILITATING ACCESS TO COPYRIGHT WORKS FOR VISUALLY IMPAIRED PERSONS (VIPs)

The WIPO VIP Initiative

prepared by the WIPO Secretariat

Needs

The purpose of copyright is twofold: to encourage a dynamic creative culture, while returning value to creators so that they can lead a dignified economic existence, and to provide widespread, affordable access to content for the public.

The proliferation of digital information technologies has added a new dimension to the question of how to maintain a balance in the global information infrastructure between the protection of right owners, on the one hand, and the needs of specific user groups to benefit from reasonable exceptions to rights, on the other. Such users include the more than 160 million¹ blind or visually impaired persons (VIPs) around the world.

Studies in the United Kingdom² indicate that a mere 5% of books are made available within one year of publication in a format accessible to visually impaired people (such as Braille, large print or audio-formats). 47% of blind and partially-sighted students in higher education are unable to obtain needed textbooks in their preferred formats, and 33% of visually impaired children have problems accessing school books in an accessible format.

The issue raises also development concerns. The World Health Organization (WHO) has reported that, as of 2002, more than 90% of visually impaired people were resident in low-income developing countries. Moreover, blind and visually disabled people face significant social and economic constraints, with the result that they experience reduced educational opportunities, lower employment prospects and a more restricted social life than sighted people. The shortage of books, newspapers, magazines, sheet music and information materials in accessible formats only aggravates this inequitable situation.

Challenges

Digital technologies have opened new possibilities for facilitating access to works in alternative formats. But some of these technologies suffer from a lack of interoperability that reflects inconsistent standards and formats, creating further barriers to access. Tiflolibros, for example, the first online library of text-to-speech files in Spanish, offers up to 20,000 digital titles to 3,000 visually impaired users³, but the books can only be read using special equipment, such as screen readers or Braille printers, at a cost of around US\$1,500. Similarly, the deployment of anti-copying technical measures in e-books can have the effect of interfering with the operation of text-to-speech synthesizers.

There is evidence that some current licensing mechanisms can also impede production of accessible copies for the visually impaired. The complexities of identifying trusted intermediaries, or difficulties in obtaining responses from right holders, are also frequently cited as obstacles to comprehensive licensing agreements.

In sum, a combination of social, economic, technological and legal factors, including the operation of copyright protection systems, currently converge to impede access to published works for

¹ A total of 314 million people if those with a visual impairment due to an uncorrected refractive error are included.
<http://www.who.int/topics/blindness/en/>

² Debates prior to the adoption of the UK Copyright (Visually Impaired Persons) Act 2002
<http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo020621/debtext/20621-14.htm>

³ <http://www.clarin.com/diario/2007/03/01/conexiones/t-01371962.htm>.

visually impaired people, at a time when the sighted public is enjoying unprecedented ease of access.

Moving forward

Copyright has a role to play in correcting this inequitable situation. A survey published by the World Intellectual Property Organization (WIPO) in 2006 showed that the copyright laws of only 57 countries (out of 184 WIPO Member States) contain specific provisions to assist visually impaired people, or people with other print disabilities. The survey also highlighted a lack of clarity as to whether distribution rights permit the movement between countries of copies of works in accessible formats. It is clear that, without contravening the legitimate interests of rightholders, greater quantities of copyright-protected material - both analog and digital - could be made available in accessible formats and disseminated across multiple jurisdictions in a timely way, to enhance opportunities for the literacy, independence and productivity of visually impaired persons.

A number of international agreements address the need for solutions to the difficulties encountered by visually impaired people. Some such instruments, such as the *Universal Declaration of Human Rights* (Articles 19 and 27), the *General Assembly of Standard Rules on the Equalization of Opportunities for Persons with Disabilities* (Rule 5), and the *Convention on the Rights of Persons with Disabilities* (Articles 9, 21 and 30) may require countries to take the needs of visually impaired people into account when framing their copyright laws.

WIPO

In the final conclusions of the meeting of the Standing Committee on Copyright and Related Rights (SCCR) in November 2008, WIPO's Member States agreed on: "*the importance of dealing, without delay and with appropriate deliberation, with [the special] needs of the blind, visually impaired, and other reading-disabled persons, including discussions at the national and international level on possible ways and means facilitating and enhancing access to protected works. This should include analysis of limitations and exceptions. This should also include the possible establishment of a stakeholders' platform at WIPO, in order to facilitate arrangements to secure access for disabled persons to protected works.*"

In January 2009, WIPO facilitated the first meeting of a Stakeholders' Platform between rightholders and representatives from the visually impaired sector in order to explore how best to increase the access of print-disabled persons to published works in a reasonable time frame. Stakeholders have identified a set of elements, which form the focus of a WIPO-led process involving multiple public and private sector stakeholders: an enabling legal regime such as rights licensing schemes, exceptions or best practices in national legislations; technological tools for the conversion of works; issues of formats, standards and interoperability; development concerns; creating and disseminating information materials and training modules; and assessment of particular challenges posed by the digital environment. In this connection, the issues of trusted intermediaries, technology and capacity building, identified as towering components and complements of an enabling legal regime, are being further explored by working subgroups of the Platform in order to identify practical solutions.

More meetings of the Platform have been organized with the participation of stakeholders from developing countries from different regions, and Interim Reports have been presented to WIPO's Member States at the SCCR sessions to provide an update of the work carried out⁴. Member States have encouraged the WIPO Secretariat to continue the work of the Stakeholders' Platform.

⁴ Stakeholder's Platform Interim Reports can be found at:
<http://www.visionip.org/stakeholders/en/documentation.html>

Various proposals related to an international instrument (draft treaty, consensus instrument or recommendation) related to copyright and the needs for visually impaired persons and other people with print disabilities have been put forward for the consideration of Member States⁵.

These two elements, namely the Stakeholders' Platform, dealing with the numerous technical complexities of this challenge, and the proposals related to an enabling legal regime strongly complement each other. The aim of the first is to put into place operational and practical arrangements within the context of the second.

WIPO has launched a dedicated website as a Platform for attracting support, exchanging views, and disseminating information to all interested parties regarding the various activities encompassed in what is called the WIPO VIP Initiative (*www.visionip.org*).

[End of background Note]

⁵ http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=122732 and http://www.wipo.int/meetings/en/details.jsp?meeting_id=20200