



International Federation of
Library Associations and Institutions



A WIPO TREATY TO BENEFIT LIBRARIES, ARCHIVES, AND THEIR USERS

Every day, libraries and archives in all parts of the world help hundreds of millions of people meet their work, study, research and leisure needs. Their services enrich people's lives and support important public policy goals such as literacy, education, scientific research, employability and health awareness. By collecting and providing access to information libraries and archives support society in general and the cultural and scientific sectors in particular. They foster the sharing and spread of ideas, stimulating and enabling new creations around the world.





TOWARDS COPYRIGHT BALANCE FOR LIBRARIES AND ARCHIVES

Limitations and exceptions are legal flexibilities in copyright that provide balance in a copyright system between users and creators. They enable libraries and archives to preserve their collections, support education and research, lend materials and help people with disabilities to access content.

A WIPO study shows that libraries and archives work under a patchwork of provisions that differ in scope and effect from country to country. 21 countries worldwide have no copyright exception for libraries and archives; 27 countries have only a general exception. The provisions increasingly fail to address the legal and policy challenges of the digital environment. Now more than ever, libraries and archives need legal and regulatory copyright frameworks that is consistent across borders and recognises the needs of libraries, archives and their users in the global knowledge society.

Issues that need to be addressed:

- The absence in many countries of exceptions to copyright for core library activities, such as lending, preservation, and inter-library document supply.
- Exceptions to copyright which enabled libraries and archives to preserve and make available works in the print era have not been updated to the digital age, particularly with respect to digital archiving and virtual learning environments.
- Licences imposed by rightholders on libraries for access to electronic resources often override limitations and exceptions to copyright designed to support education, learning and creativity.
- Prohibitions to circumvent Technological Protection Measures (TPM) to preserve, and enable permitted use of lawfully acquired digital content, are hampering research, and leading to an incomplete cultural, scientific and historical record.
- The Internet offers new opportunities for information and communication. Established practices of resource-sharing among libraries to advance knowledge are increasingly cross-border and multi-jurisdictional. Unless this is reflected in copyright laws, education will be impaired, especially harmful for developing countries and for those living in rural or remote areas.



AN INTERNATIONAL TREATY TO BENEFIT LIBRARIES, ARCHIVES, AND THEIR USERS

To resolve those major issues IFLA, EIFL, Innovarte, and ICA have proposed an international treaty that we offer in accordance with the agreed limitations and exceptions agenda of the WIPO Standing Committee on Copyright and Related Rights. The treaty proposal provides a mandate to update limitations and exceptions for the benefit of libraries and archives worldwide, and guidelines on the issues to be addressed in order to safeguard the functions and activities of libraries and archives.

The treaty proposal suggests a basic foundation for all countries, setting out a framework for national copyright laws that is consistent with international law. It is positive way to implement the agreed statement concerning Article 10 of the WIPO Copyright Treaty.

This treaty proposal recognises that countries are at different stages of economic development. That national priorities differ and that countries already have a variety of provisions in their national laws. Although it is mandatory to address certain key issues, it does not seek harmonisation or to impose a 'one size fits all' solution. In most cases the implementation is flexible, using the international standard of 'fair practice' as set out in the Berne Convention. It also permits grandfathering of current legislation and the possibility for a country to make a reservation.

Protected activities in the treaty proposal

- Preservation of materials for posterity, with the ability to access works in copy-protected formats;
- Support of education, research, and private study;
- Making or receiving of copies of works by a library or archive for personal and private purposes;
- Supply of copies of works in response to requests from individual users;
- Lending and making available of copyright-protected works;
- Support of people with disabilities in their right to access content;
- Circumvention of Technological Protection Measures to permit a non-infringing use of a work;
- Limiting the risk of liability to libraries and archives with respect to orphan works.

The international library and archives community, represented by IFLA, EIFL, Innovarte, and ICA, with the support of other members of civil society, look forward to working with governments, WIPO and other stakeholders to constructively achieve an international copyright framework that supports important public policy goals and creativity for a better world.

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