

# CIS Intervention on Future Work of the WIPO Advisory Committee on En- forcement

*Centre for Internet and Society* | 2011-12-01

Pranesh Prakash

*The seventh session of the World Intellectual Property Organization's Advisory Committee on Enforcement (ACE) is being held in Geneva on November 30 and December 1, 2011. Pranesh Prakash intervened during the discussion of future work of the ACE with this comment.*

---

Thank you, Chair.

I just wanted to point out that some of the proposals on future work could be worded better to reflect their true meaning. For instance, one of the proposal calls for control of the problem of "parallel import". However, "parallel importation" is actually allowed by both the TRIPS Agreement and by various other instruments such as the Berne Convention? Indeed, calling "parallel import" a problem is like calling "exceptions and limitations" a problem. This is a view that has been firmly rejected here at WIPO, especially post the adoption of the WIPO Development Agenda. This, quite obviously, could not have been the intention of the proposal framers.

Further, the link between some of the proposals and the Development Agenda could be made clearer. It has been established that the Development Agenda is not just something for the Committee on Development and Intellectual Property (CDIP) to consider, but for all committees to make an integral part of their work.

I would also like to underscore the importance of evidence-based policy-making.

Lastly, I would like to mention that a report has already been commissioned by WIPO on intermediary liability, which was written by Prof. Lilian Edwards and was released in a side-event during SCCR 22, in June 2011.

If the ACE is going ahead with a study or an event, I would suggest that the UN Special Rapporteur on Freedom of Expression and Opinion, who in his report to the UN Human Rights Council dealt in some depth with intermediary liability, be involved or invited.

Thank you.