

CIS Intervention on the Treaty for the Visually Impaired at SCCR/SS/ GE/2/13

Centre for Internet and Society | 2013-04-25

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The informal session and special session of the Standing Committee on Copyright and Related Rights was organised by WIPO in Geneva from April 18 to April 20, 2013. Pranesh Prakash participated in the session and spoke about the rights of the visually impaired.

Thank you, Mr. Chair. I represent the Centre for Internet and Society, a policy research organization based in India. India, as everyone who has been attending these SCCR meetings since 2008 would know, has the world's largest population of blind and visually impaired persons. Two of my colleagues at CIS — Nirmita Narasimhan and Anandhi Viswanathan — are blind, and another one of my CIS colleagues who passed away recently (and whose tireless efforts were remembered here at WIPO recently with a minute of silence) — Rahul Cherian — spent many years working extensively on policy issues related to persons with disabilities, and in particular worked here in WIPO as part of Inclusive Planet, and with the World Blind Union. Hence, this issue is not an abstract one for us, but a very real one.

I commend the delegates here for taking some steps forward during this meeting. However, very disappointingly, with those few steps forward, we have seen a few things we had taken as settled being opened up again, and many steps being taken backward. The already-onerous requirements and procedures laid down in this treaty are seen by a few countries as not being onerous enough. Blind people, it is believed, might 'wrongly' take advantage of these provisions. Worse yet, there is a fear that sighted persons might take advantage of these provisions relating to the blind.

The absurdity of these fears somehow seems to have escaped the notice of many involved in these discussions. There is nothing in these provisions that would convert infringement by sighted people — even if under the pretence of this treaty — magically into lawful acts. And, indeed, there are multifarious ways of infringing copyright without such resort to this treaty. Yet, these very same onerous requirements (such as the "commercial availability" requirement) and bureaucratic processes will unrealistically increase transaction costs for the visually impaired and render infructuous the very purpose of this treaty. Those

delegations who are unrelenting on these issues seem to living in a bizarre world where sighted infringers deviously use exceptions granted in an international copyright treaty to engage in piracy; a bizarre world where scanners and the Internet have not been invented. And by refusing to acknowledge these ground realities, they are merely forcing the blind into wearing eye-patches and being 'pirates'.

In particular, I would like to deplore the stand taken by the European Union, being represented here by the European Commission, whose actions run contrary to the call made in May 2011 by the European Parliament to "to address the 'book famine' experienced by visually impaired and print-disabled people". This is despite the European Parliament having reminded "the Commission and Member States of their obligations under the UN Convention on the Rights of Persons with Disabilities to take all appropriate measures to ensure that people with disabilities enjoy access to cultural materials in accessible formats, and to ensure that laws protecting IPR do not constitute an unreasonable or discriminatory barrier to access by people with disabilities to cultural materials". The EU, and a few countries of Group B, including the United States, have been slowly bleeding this treaty to death through over-legislation and bureaucracy.

The United States' and EU's stand on technological protection measures, if accepted, would mean that publishers will technologically be able to prevent the blind from enjoying accessible works, even when they can't do so legally on the basis of copyright law. The European Union's stand on all issues has been extraordinarily harmful, and seems to have an aim to make this treaty as unwieldy and unworkable as possible. They seem to regard the Berne Appendix as their model in this regard: an international agreement that exists on paper for the benefit of developing countries, but because of its bureaucratic processes is little used, and is widely regarded as a failure.

Here is what it boils down to: when it comes to the economic rights of copyright owners, current international law insists that there be no formalities, yet when it comes to the human rights of visually impaired person to access information — a right specifically guaranteed to them under the UN Convention on the Rights of Persons with Disabilities — some delegates in this room wish to ensure as many formalities as possible.

The rights of the visually impaired are being buried under unnecessary and complicated requirements and bureaucratic practices. This injustice must stop: the delegates here have the power to do so. And if the EU does not wish to be viewed as villains by all persons with print disabilities and all persons with conscience, it should stop trying to make this an ineffectual treaty. Many have quipped that this is fast becoming "A Treaty for Rightholders Against Persons with Visual Impairments and Print Disabilities" or alternatively "A Treaty for Morally Impaired Persons and Persons with Ethical Disabilities". That is an international shame.

Having colonized much of the world into using English, French, and Spanish, these European countries along with the USA are now in a position to be both culturally dominant and to refuse to sign up to this treaty if it helps blind persons outside of the EU and the USA who seek access to texts in these languages. These remnants of colonialism must be stamped out.