



Computer & Communications Industry Association
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Intervention of CCIA on the Treaty for Visually Impaired and Print Disabled Persons at the Special Session of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization

As this is the first time we've taken the floor at this meeting, we offer our congratulations, Mr. Chairman, upon your election, and our thanks to the Secretariat for the work organising this session.

As some may know, the Computer & Communications Industry Association's members represent a broad cross-section of the ICT sector's most innovative companies and generators of many of the IP systems' most valuable innovations.

In the interests of time, Mr. Chair, we will not repeat points we have made in the past on the question of access for the visually impaired. A few points that that have come to the fore this week are worth mentioning.

Fundamentally we are all engaged in this process in order to ensure access to works by the visually impaired because the normal operation of the market for such materials has failed to deliver access at a level any reasonable person would see as adequate, anywhere in the world, for any language group, at any time.

There are a number of things, as far as CCIA is aware, that we are **not** here to do.

We are **not** here to re-negotiate the Berne Convention or the TRIPS Agreement. Inserting the three step test into this agreement, when it does not apply in Berne to the exception for the blind, is an obviously bad idea as this limits options to grant access to the visually impaired for signatories to this treaty over what Berne parties could do were they not to adhere to the VIP treaty.

We are **not** here to protect the interests of any industry sector, whether that is film producers, music producers, or our sector, the technology sector, through the inclusion of their favourite provisions from other treaties. The idea that provisions like the three step test need to be included here because there are countries that are not Berne or TRIPS parties simply does not stand up to any test of logic or reasonableness: there are a total of 14 countries¹ who are not in the process of joining the WTO, and therefore the TRIPS agreement. This list shrinks every year, as does the number of countries that are not parties to Berne. If rightsholders would like to further protect their rights, they should feel free to advocate that those 14 join the WTO, rather than inserting provisions that benefit themselves at the expense of the visually impaired in this negotiation.

¹ See

http://en.wikipedia.org/wiki/World_Trade_Organization_accession_and_membership#Neither_members_or_observers.

Which leads naturally to the last thing we are **not** here to do. We are **not** here to create a treaty to protect publishers **from** the blind. If anything, Mr. Chair, it is more the other way around given the seemingly endless number of poison-pill-like provisions that keep being inserted to limit the effectiveness of this instrument for its intended purpose and beneficiaries.

Given that the result of this negotiation is to provide access for the visually impaired, then every provision in it needs to be judged by a simple benchmark: Does the provision facilitate access, or not? If not, then it should be deleted or amended until it does meet that test.

Some stakeholders suggest that this treaty should balance the needs of the visually impaired and the rights of publishers and authors. Nothing could be further from the truth. Existing international law fully protects the interests of publishers and authors. This treaty is simply a way to provide access that the Berne Convention and TRIPS Agreement already allow **but do not require** contracting parties to grant.

We should also avoid extraneous provisions for another reason: the law of unintended consequences. Madame Chairman, the more complex this agreement becomes, the more likely it will lead to legal uncertainty and negative unintended consequences; keeping it simple and straightforward is the most effective way to avoid both of these undesirable results and have a result which is most effective for those it is intended to help.

The international copyright system needs many things, Mr. Chair, of which a complete resolution to the issues of access for the visually impaired is but one. What it doesn't need in our view, is further complexity or uncertainty. It is already quite complex enough.

Thank you for the opportunity to speak today, Mr. Chairman.