GLOBAL MESSAGING AT WIPO

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Introduction

1. Situation Analysis

2. WIPO SCCR – the context

3. Library organisations messaging

Conclusion
Introduction

What are the problems in relation to ©?
Are libraries visible enough by policy-makers on this question?
Are libraries strong enough in the 21st century © discussion?
In what fora should be heard/viewed/present?
At what level (National? International?)
How to coordinate library organisations work on ©?
How to coordinate messaging on ©?
1. Situation Analysis
Exceptions & Limitations

• Copyright laws allow exceptions and limitations to balance the interests of rights holders and users of protected works
• International treaties provide general conditions
• Countries apply national laws
International Treaties Governing Copyright

Berne Convention (1881, recent revision 1971)
Universal Copyright Convention (1952)
The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS – 1994)
Rome Convention (1961)
WIPO Performances and Phonograms Treaty (WPPT – 1996)
WIPO Copyright Treaty (WCT - 2002)

More restrictions

Copyright Term Extension Act (CTEA) – aka Mickey Mouse Protection act (1988)
15 new anti-piracy laws in the US since 1982
EU copyright term extension in sound recordings (2011)
SOPA/PIPA/DEA/HADOPI/ACTA/TPPA/SINDE (2012)
At EU level?

© legislation that directly affects libraries:

- Rental and Lending Directive, 1992;
- Database Directive, 1996;
- INFOSOC Directive, 2001;

Result = fragmented legal situation
EU Copyright Reform

EBLIDA: eLending, harmonisation, protecting E&L from contract override

LIBER: Text and Data Mining (TDM)

CENL and Europeana: digitisation and online access to OW and Out of C Works

IFLA: above + EU position at WIPO
EU Copyright Reform

EU Copyright reform under discussion

Would have a strong impact

- At national level
- At international level
2. WIPO SCCR

• WIPO is the global forum for intellectual property services, policy, information and cooperation.

• The Standing Committee on Copyright and Related Rights (SCCR) was set up in the 1998-1999 biennium to examine matters of substantive law or harmonization in the field of copyright and related rights.
2. WIPO SCCR

- Includes 188 member states
- Observers including other UN member states, intergovernmental and non-governmental organizations.
- IFLA has been regularly representing libraries since 2008
2. WIPO SCCR

Actions of library associations:

• Participate to SCCR meetings and WIPO General Assembly
• Prepare and deliver statements on the cluster topics
• Meeting with WIPO delegates
• Organising library events
3. Library Organisations Messaging
Common Objective

An **international instrument** that sets minimum standards for copyright exceptions and limitations for libraries and archives
Common Perspective

Licensing is not working:
• Library workers are not trained to negotiate contracts
• Libraries cannot afford digital content their users need
• We often cannot reproduce or preserve digital content
Licensing is not working:

- Technological protection measures stop us from making copies that are otherwise allowed under law
- We generally cannot share digital content across borders
A LACK OF COPYRIGHT BALANCE FOR LIBRARIES AND ARCHIVES

As has been shown in a recent WIPO study, libraries and archives work under a patchwork of provisions that differ in scope and effect from country to country. 21 countries worldwide have no specific 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 global digital environment. Current national and international systems of copyright exceptions and limitations for libraries and archives have not been updated for the digital environment. Now more than ever, libraries and archives need legal and regulatory copyright frameworks that recognize the importance, needs, legitimate expectations and rights of libraries, archives and their users.

Issues that need to be addressed:

• The absence in many countries of exceptions to copyright for core activities, like preservation, replacement, lending, even for print materials.

• 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.

• Imposed licences for the provision of digital information are often used to undermine exceptions and limitations to copyright designed to support education, learning and creativity.

• Prohibitions to circumvent technological protection measures (TPM) to preserve, archive and enable permitted use of lawfully acquired digital content, are hampering research, leading to an incomplete cultural, scientific and historical record.

• The cross-border, multi-jurisdictional nature of the Internet is not reflected in current copyright law. Restrictions on the legitimate flow of information and cultural content provided by libraries across international borders will constrain innovation and growth in under-developed and developing countries.
11 Cluster topics

1 Preservation
2 Reproduction
3 Legal Deposit
4 Lending
5 Parallel Importation
6 Cross-border issues
7 Orphan Works et al.
8 Limitation of Liability
9 Technical Protection Measures
10 Contracts
11 Translation
Conclusion

In our digital world, libraries and archives cannot provide services that we were able to provide in print.

Updated international and national copyright law can help us and our users.
Conclusion

Concrete questions at National/European/International level

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*At what level (National? European? International?)

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Thank you for your attention

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