

December 4, 2009

Maria Pallante
Associate Register, Policy & International Affairs
U.S. Copyright Office
Office of Policy & International Affairs
Copyright GC/I & R
P.O. Box 70400
Washington, DC 20024

Dear Ms. Pallante:

The International Association of Audio Information Services (IAAIS) is a professional association of organizations that provide an audio format of the printed word for people who cannot otherwise have access to it. That includes, but is not limited to, books, magazines, newspapers, advertising, emergency information, public service announcements and more. Many of the members of IAAIS are radio reading and information services which have existed since 1969 (closed circuit systems available only to those who qualify under current copyright exemption law), and the IAAIS has been in existence since 1975.

The IAAIS is in great support of the Treaty being proposed by the Standing Committee on Copyright and Related Rights (SCCR). As an international organization, we join with the World Blind Union (WBU), the DAISY Consortium, and other international groups lamenting the strictures we have worked with that prevent free exchange of information across national borders. We understand that the goal is to “provide the necessary minimum flexibilities in copyright laws that are needed to ensure formats that are accessible for persons who are blind, have low vision, or have other disabilities in reading text, in order to support their full and effective participation in society on an equal basis with others, and to ensure the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.”

The United States has been a leader in many aspects of accessibility of materials for the blind, visually impaired and reading disabled, and we pride **ourselves in that arena**. Our member organizations provide daily newspapers, educational materials, and casual reading that allow users of our services to lead full and productive lives because they have the same access to information that others in their community have. However, our cooperation of our member organizations **largely** stops at our national borders. There are currently no agreements that allow exchange of accessible information from one country to another without a specific letter of exemption from the owner of the copyright. Since our goal is to have timely delivery of **date-sensitive** information, this essentially eliminates the sharing of that information.

- 1. Addressing the specific questions, you first ask, “How would the treaty proposal interact with United States law under Title 17 or otherwise? The US Copyright Office and the USPTO seek to learn interested parties’ views on how the treaty proposal compares to U.S. law under Title 17, or any other statutory or regulatory***

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provisions that might be affected. How consistent is the treaty proposal with current U.S. law? If the treaty proposal is adopted, would any changes to U.S. law be required in order to implement its provisions? Please reference with as much specificity as possible any U.S. statutes, regulations, or other provisions that should be considered in a review of the treaty proposal's implications on U.S. law."

The U.S. Congress has been supportive of making copyrighted materials available ever since 1931 when the Pratt-Smoot Act established a free national library program of Braille reading materials for blind adults. The program was expanded in 1934 to introduce "talking books" on phonograph records, and in 1952, it was expanded to cover blind children. In 1962, the program was broadened to include music scores and instructional materials, and it was again expanded by legislation accepted and signed into law by President Clinton on September 16, 1996, as part of Public Law 104-197, to include individuals with physical and reading disabilities that prevent the reading of standard print materials.

The current digital age has caused some confusion on the part of lawmakers because of lack of understanding about how digital text could be made restricted to the use of people who are "blind or other persons with disabilities." Some of the member organizations of IAAIS use a digital format to deliver their products, however, and there are solutions to that question, such as password protection online. Once those questions surrounding digital delivery are addressed, it is extremely likely that the U.S. Congress will continue to show the support that they have demonstrated since 1931.

One of the great benefits for those in the U.S. is that the proposed Treaty would clarify and reconcile various definitions in U.S. laws about who qualifies for services. Though none of our member organizations has ever faced a lawsuit over delivery of accessible material, it has been a concern and question for many. This Treaty would allow us to spend our energies in making our materials accessible rather than preparing for potential battles over rights.

- 2. Your second question asks, "How would the treaty proposal interact with the international obligations of the United States? Please comment on whether, and how, the treaty proposal would affect the existing multilateral and bilateral agreements of the United States. Please reference with as much specificity as possible the provisions of any treaties, conventions, agreements or other instruments that should be considered, as well as any conclusions or analyses that might be instructive."***

The Treaty proposal will provide for minimum limitations and exceptions, and these are consistent with the Berne Convention, the WTO TRIPS Agreement, and the UN Convention on the Rights of Persons with Disabilities.

The goal of the IAAIS is accessibility to information of all types, whether that be information in local newspapers or health care information in magazines. The fact that the U.S. and Canada have the world's major audio information services, and that we are restricted from sharing that bounty with other countries, places blind and reading disabled residents of many other countries

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in a second-class status as citizens, not giving them the ability to interact with others from the same standpoint of information. Likewise, the IAAIS member organizations often include program content that would come under the category of accessible cultural materials – current books of good authors, or audio descriptions of classic movies. Sharing this information across national borders fosters international understanding, as well as enriches the lives of those who partake of the information.

And finally, the IAAIS member organizations usually include content of a technical nature, specific to the blind, visually impaired, and reading disabled. That is important information whether a person lives in the U.S., Mexico, or England. Manufacturers are more than happy to share what they produce in various countries; we should likewise share the information about how to use what they produce, especially if it for a population with specific needs.

- 3. Your third question asks, “What benefits or concerns would the treaty proposal create? Please comment generally on the objectives of the treaty proposal, and how such objectives could facilitate access for the blind and visually impaired. Is the treaty proposal likely to meet its objectives? Would there be any legal or practical impediments to implementing the treaty proposal in the United States?”***

The benefits come into two categories: sharing what is produced in the United States, and using materials that are produced in other countries for U.S. residents. Though we have addressed the value of sharing what is produced in the U.S., we have not yet addressed the other issue.

The United States has many residents who do not speak English. Currently all the member stations of IAAIS who are in the United States produce programming predominantly in English. There are isolated programs in Spanish that are produced locally, but no member organization uses copyrighted materials produced in another country for the benefit of U.S. residents because it is currently illegal.

As our member organizations move more and more into a digital environment for delivery of their information, they will be physically able to deliver more content than ever before. There is no reason why some of that content cannot be in minority languages. Rather than producing information that is already in existence, it would make great sense to borrow that product from another entity in another country. Already, IAAIS manages a popular FTP-based Program Share service that is restricted for members and their consumers that greatly helps expand the diversity of information and ease of use.

- 4. Your final question asks for “Other possible courses of action that would facilitate access by “blind, visually impaired, and other reading disabled persons.” Please comment on any additional, possible methods of improving accessibility about which the Copyright Office and the USPTO should be aware, including possible roles for WIPO, the U.S. government, and the commercial and noncommercial private sectors.***

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All aspects of Human Rights are related to each other – the rights of the blind and reading disabled, to have access to information, are not that far removed from the rights of people to speak freely without being punished by their government. Your office should be aware that there are plans, for example, to establish a nationwide radio reading service in China – reaching over 100 cities. The goal is to have that operational by 2011. IAAIS has also mentored services in South Africa, South America, and other far reaching underserved foreign markets. This is extremely momentous news because, as I said, Human Rights are all related to each other and the US has a history of supporting Human Rights as paramount.

The IAAIS suggests that the Copyright Office, USPTO, and WIPO be as supportive as possible to other countries (especially those in countries with what might be viewed as repressive governments) that are interested in establishing audio information services because of the probability that it will lead to additional rights and privileges to the general population of those countries. Additionally, as more information needed for daily living migrates to Internet-based platforms, the more difficult it will be for older, poor and technically averse citizens to access such visual information. As an industry, we are presently planning the best practices in serving the burgeoning aging population to alleviate marginalization and to continue to offer free access to the press and other Democratic freedoms that only equal access to information provides.

Thank you for asking for comments on this Treaty. We are pleased to be able to contribute our thoughts, and we welcome any requests for additional information.

Sincerely,

Stuart Holland, First Vice President
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