

REPLY COMMENTS OF THE CENTRE FOR INTERNET & SOCIETY, THE DAISY FORUM OF INDIA AND INCLUSIVE PLANET TO THE COPYRIGHT OFFICE AND THE USPTO REGARDING THE WIPO DRAFT PROPOSAL TO FACILITATE ACCESS TO COPYRIGHTED WORKS FOR PERSONS WHO ARE BLIND OR HAVE OTHER READING DISABILITIES, IN RESPONSE TO THE FEDERAL REGISTER NOTICE OF OCTOBER 13, 2009.

The following comments are a reply to the comments filed by Steven J. Metalitz on behalf of the Association of American Publishers (AAP), Independent Film and Television Alliance (IFTA), Motion Picture Association of America (MPAA), National Music Publishers' Association (NMPA) and Recording Industry Association of America (RIAA).

We firmly believe that having an international treaty to govern rules of creation and cross border exchange of books in accessible formats is the only solution to end the “book famine” which is presently haunting the lives of print impaired persons around the world.

The World Blind Union estimates that there are approximately 314 million blind and visually impaired persons around the world out of which 87 per cent live in developing countries. In addition to this, there are also several million persons who by virtue of a physical, sensory or cognitive disability are unable to read standard print (Print Impaired Persons). At present, all these persons are deprived of their fundamental right to read and access information and participate in an inclusive world. This Treaty is important to give effect to the basic human rights of this large and diverse group of persons as articulated in different international instruments, such as the United Nations Declaration on Human Rights, the Convention on the Rights of Persons with Disabilities and many others.

We hence submit that governments around the world, including the Government of the United States of America and other developed countries, should strongly support the Treaty for the Blind which is currently being proposed by Brazil, Ecuador and Paraguay. We give below certain points which we feel are important to highlight the justification for such a Treaty at an international level and the need for countries to act in a concerted manner towards enabling universal access to information and knowledge:

- Shift in focus

The Treaty for the first time shifts the focus from retro publishing to bringing in accessibility as part of the original publishing process. This will help to minimise the cost, time and effort involved in conversion of books into accessible formats.

- Broad understanding of “accessibility”

The Treaty allows for a very broad interpretation of the word “accessibility” which takes into account the fact that different persons may have similar disabilities but

dissimilar preferences with regard to the formats which they are able to work with. For instance, while some blind persons are very comfortable reading Braille, others may prefer an audio format. A majority of young print impaired persons today as well as the ageing blind populations prefer electronic formats as they are accessible and portable on different devices, and serve as a source document for producing copies in alternate formats. Even Braille is now being read using electronic Braille displays and there is no additional cost, effort and time for printing and distributing Braille books. It is also easy for persons with other physical or cognitive print disabilities to access documents in electronic formats using alternative assistive technologies.

- Increased economic opportunity for publishers and reduced piracy

Presently in developing countries like India, non profit organisations are forced to make accessible versions of school books for the blind in the absence of any legal sanction or availability of accessible books. However, considering that developing countries have millions of reading impaired persons who are ready to read books if they were made available in accessible formats, the Treaty would help publishers to understand that there is a significant market gain in producing books in accessible formats and selling them at affordable prices in countries around the world. The print impaired community is a part of the market which has remained relatively untapped by the industry for so long, and the industry can only gain by such an endeavour. This may also reduce the instance of piracy since persons wouldn't be forced to make unauthorised copies of books in accessible formats if they were made available by the publishers themselves.

- Protecting rights of disabled persons in the absence of any obligations

The Treaty will help to give operational effect to the provisions of the UNCRPD (especially articles 21 and 30). In cases where countries have not signed the UNCRPD but are party to this treaty, the Treaty will adequately serve to protect the interests of print impaired persons with respect to access to knowledge goods.

- Enabling global exchange of books

Developing countries characteristically have a scarcity of infrastructural and financial resources which prevent them from being able to undertake conversions of reading materials. Furthermore, these countries do not have an enabling legal framework in place to permit conversion and cross border exchange of accessible books amongst blind persons. This treaty will open up channels of exchange of accessible books amongst print disabled persons around the world.

- Encouraging creation and dissemination of indigenous local content

International exchange of books helps to increase the variety of reading content to persons in both developed as well as developing countries. If developing countries are able to borrow accessible versions of books from libraries for the blind in countries like USA and UK, then they will be able to utilise their limited resources to producing accessible versions of their indigenous content like folk

tales and national literature. This will increase the choice for print impaired persons at a global level. India has a very large percentage of English speaking population which can benefit from the books which are available in repositories in USA, such as the Library of Congress or Bookshare USA. While Bookshare India offers only 9000 titles for Indians to choose from, Bookshare USA has over 60,000 titles to which access is denied to print impaired persons in India. Consequently, organisations for the blind are either entirely duplicating the process of converting these books into accessible formats, or print impaired persons are deprived of reading these books altogether since organisations here are barely able to cope with the backlog of converting school and college course books.

- **Twin Approach and balance of interests**

The Treaty strives to strike a just balance between the rights of print disabled persons to read books on the same day on the one hand, at no extra cost and in a format of their choice, while also recognising the right of the copyright holder to get the economic benefit of making the accessible version on the other.

In the light of the points made above, we strongly urge the US Government to support the Treaty and reiterate its commitment to protecting the rights of print impaired persons. We shall be happy to provide any additional information with respect to the Treaty or its impact on developing countries if required.

Comments submitted by:

The Centre for Internet & Society (www.cis-india.org)

The Centre for Internet & Society (CIS) brings together a team of practitioners, theoreticians, researchers and artists to work on the emerging field of Internet and Society. CIS critically engages with concerns of digital pluralism, public accountability and pedagogic practices, in the field of Internet and Society, with particular emphasis on South-South dialogues and exchange. It seeks to explore, understand, and affect, through multidisciplinary research, intervention, and collaboration, the shape and form of the Internet, and its relationship with the political, cultural, and social milieu of our times.

Since its inception, CIS has been extremely committed to the goal of enabling access and digital participation for persons with disabilities, both at a practical as well as a policy level. It has been very active in advocacy on copyright reform, formulating a policy on Internet and electronic accessibility for disabled persons, organising workshops and conferences on accessible technologies, in particular web accessibility workshops and networking with disability organisations around the country in furtherance of its work. CIS is also a member of the Daisy Forum of India (DFI), which is a network of more than 70 organisations engaged with the task of providing accessible reading materials for print impaired persons in India.

Daisy Forum of India (www.daisyindia.org)

DAISY Forum of India (DFI) is a forum of 80 Not for Profit Organisations in India which are involved in the production of books and reading materials in accessible formats for persons who cannot read normal print. Member organisations of the DAISY Forum of India produce and maintain libraries of digital talking books, Braille books or e-text books. The DFI members have converted the largest collection of accessible books in India.

Inclusive Planet (www.inclusiveplanet.com)

Inclusive Planet is creating web-based products and services designed for the differently-abled with the goal of creating the definitive global community of people with disabilities. Inclusive Planet and CIS are partnering in developing the largest source of accessible reading material for the visually impaired community, as well as creating a comprehensive combined cataloguing system for member organisations of the DFI.

Commenter: Nirmita Narasimhan