



ASSOCIATION OF
RESEARCH LIBRARIES



STATEMENT OF THE LIBRARY COPYRIGHT ALLIANCE ON LIMITATIONS AND EXCEPTIONS

The Library Copyright Alliance expresses appreciation to Member States for your thoughtful discussions regarding limitations and exceptions for these three broad areas that affect the daily work of libraries: VIP, libraries, and education.

We strongly oppose language in the proposed text for Article D of SCCR/23/7 regarding the provision of aggregated data to rightsholders. It would invite publishers to second-guess the procedures of libraries as authorized entities, to challenge the quality and quantity of the records kept or the appropriateness of transactions, and to threaten litigation when they see an increase. These record keeping and reporting activities involve significant costs better spent on the provision of services, and compliance may impose such a burden that many libraries will decide not to provide services to print disabled patrons. There is no evidence that authorized entities anywhere that exceptions exist have abused those exceptions. So there is no justification for the added administrative burden.

Furthermore, with current technology, there's no such thing as anonymous aggregate data. Several major privacy breaches occurred because people were able to reverse engineer the aggregated data to figure out personally identifiable information. This provision, therefore, threatens the privacy of the visually impaired.

Record keeping is a formality one must engage in before benefitting from an exception, but this asymmetry is unfair to users. If under Berne there are no formalities for owners, there shouldn't be formalities for users. The language would also set a terrible precedent for other exceptions for libraries and educational institutions; publishers would seek this right to data in connection to every exception.

The Library Copyright Alliance is grateful for the critical topics addressed in SCCR/23/8 regarding limitations and exceptions for libraries and archives. We believe the following issues should be discussed:

- The right of libraries to lend works and the exhaustion of the distribution right upon the first sale of a copy, regardless of country of manufacture;
- Cross-border uses by libraries, particularly for interlibrary loan between libraries in different countries;
- The use of orphan works by libraries;

- Broad library exceptions to prohibitions on the circumvention of technological protection measures for educational use and digital preservation; and
- Library exceptions surviving contractual restrictions.

We encourage Member States to continue to move forward in their consideration of this working document.

We support instruments that will guide Member States in formulating national legislation that will expand the array of available copyright limitations and exceptions globally.

Lori Driscoll

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