

Contents

- AIPPI Bureau
- AIPPI Committees
- 2019 AIPPI World Congress – London
- Articles and case notes
- National Groups
- Event Announcements

AIPPI Committees

Limitations and Exceptions on Copyright – Report from latest SCCR meeting in WIPO

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The 37th session of WIPO's Standing Committee on Copyright and Related Rights (SCCR) was held in November 2018. The gap in positions regarding the need for further regulation of limitations and exceptions (L & E) in international level was evident.

In previous meeting it was agreed to go to regional meetings according to [Chair's biannual action plan](#), the purpose of which is learning the regional needs and trying to answer them specifically – every region to itself. Accordingly, CEBS Group (Central Europe and Baltic States) noted that the right way forward would be based on existing evidence-based approaches and that the current international legal frameworks gives enough space for establishing adequate national legislation. Group B (Western Europe) and the EU also agreed to this approach and USA referred to the documents it had submitted in the past ([SCCR/26/8](#) and [SCCR/27/8](#)), which could serve as a basis for discussion of the aforementioned regional meetings. *But* the African Group presented an opposing position and Russia offered to hold a separate meeting to discuss this issue and to merge all the L & E so to create a single document.

L & E for Education, Libraries and Archives

Representatives from the creative-publishing sector, IPA and FUIS¹, echoed a common position in praising the preservation of existing law and expanding its applicability throughout the world. *But* other NGOs found it difficult to let the topic slip off (de facto) the international regulation level and so eIFL.Net², reiterated the gap between current

¹ IPA – International Publishers Association; FUIS – Italian Authors Federation Union.

² Electronic Information for Libraries.

international law and the accelerated development of library services. The LCA³ has made it clear that best practices and guidance in regional meetings will not suffice, because the most problematic issue is cross border operation and “international problems call for international solutions”. Another effective cry was made by Education International, who brought a pressing voice on behalf of the teachers. Their representative, Nikola Wachter, described her own efforts as a teacher to grab and maintain pupils’ attention by choosing an exciting piece of art, favorite song or a cartoon character. She explained that lack of an international copyright instrument that addresses cross border online collaboration creates barriers for teachers in their daily educational work.

Dr. Kenneth Crews, who is responsible for the [study](#) of the laws applied in the various countries regarding archives, [presented](#) the many and varied matters that were included in the laws of member states. He compiled different elements from the different statutes on L & E per libraries and archives together to see the full range of possibilities for better law-making. The purpose of his study, from his point of view, was to compile a list of the various issues on the agenda so that regional seminars could use the list of topics to ensure an exhausting discussion.

L & E for Museums

Dr. Yaniv Benhamou presented his [report](#). The report is based on a field research aimed to identify copyright practices. Benhamou indicated that in the international level there are no specific provisions concerning museums, except the three-step test. Among WIPO Member States, only about 50 countries have specific exceptions addressing the needs for museums, so only one-third of WIPO Member States provides exceptions for museums. He suggested the following alternative solutions: (I) licensing system by an individual license that may be required directly by the rights holder or a collective-license system, similar to the one that is implemented in a few Nordic countries, one from which a rights holder can opt out; (II) norm setting and provision of clear exception permitting certain uses under certain conditions; (III) exchange of best practices. EU representative pointed out that the current [EU directive on the Information Society](#) allows certain exceptions for museums regarding reproduction, including also reproduction terminals on the premises of museums. In addition, the [proposal for Digital Single Market Directive](#) also contains two provisions that also benefit museums: one will allow digital preservation no matter the technology used, and the aim of the other is to facilitate the presentation of works that have high commercial value and by doing so lower the transaction costs connected to presentation of such works.

On next session (SCCR/38) that shall take place on April 2019, WIPO might report to the sub-committee the results of the regional discussions regarding conservation, access, and use of works by libraries, archives and museums.

³ Library Copyright Alliance.