

A non-paper resulting from informal discussions among Argentina, Brazil, Ecuador, the European Union and its Member States, Mexico, Paraguay and the United States of America.

## PREAMBLE

Recalling the principles of non-discrimination, equal opportunity and access, proclaimed in the United Nations Convention on the Rights of Persons with Disabilities,

Mindful of the obstacles that are prejudicial to human development and the fulfillment of disabled persons with regard to education, research, access to information and communication,

Emphasizing the importance of copyright protection as an incentive for literary and artistic creation and enhancing opportunities for everyone to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits,

Recognizing the importance of both accessibility to the achievement of equal opportunities in all spheres of society and of the protection of the rights of authors in their literary and artistic works in a manner as effective and uniform as possible,

Aware of the many barriers to access to information and communication experienced by persons who are blind or have limited vision, or have other disabilities regarding access to published works,

Aware that the majority of visually impaired persons/persons with a print disability live in countries of low or moderate incomes,

Desiring to provide full and equal access to information, culture and communication for the visually impaired persons/persons with a print disability and, towards that end, considering the need both to expand the number of works in accessible formats and to improve access to those works,

Recognizing the opportunities and challenges for the visually impaired/persons with a print disability presented by the development of new information and communication technologies, including technological publishing and communication platforms that are transnational in nature,

Recognizing the need to seek, receive and impart information and ideas through any media and regardless of frontiers,

Aware that national copyright legislation is territorial in nature, and where activity is undertaken across jurisdictions, uncertainty regarding the legality of activity undermines

the development and use of new technologies and services that can potentially improve the lives of the visually impaired/persons with print disabilities,

Recognizing the large number of Members who, to that end, have established exceptions and limitations in their national copyright laws for visually impaired persons/persons with a print disability, yet the continuing shortage of works in special formats for such persons,

Recognizing that the preference is for works to be made accessible by rightholders to people with disabilities at publication and that, to the extent that the market is unable to provide appropriate access to works for visually impaired persons/persons with a print disability, it is recognized that alternative measures are needed to improve such access,

Recognizing the need to maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information, and that such a balance must facilitate effective and timely access to works for the benefit of visually impaired persons/persons with a print disability,

Emphasizing the importance and flexibility of the three-step test for limitations and exceptions established in Article 9(2) of the Berne Convention and other international instruments,

Considering the discussions within the WIPO Standing Committee on Copyright and Related Rights on the issue of exceptions and limitations for the benefit of visually impaired persons/persons with a print disability and the various proposals tabled by Member States,

Prompted by a desire to contribute to the implementation of the relevant recommendations of the Development Agenda of the World Intellectual Property Organization,

Taking into account the importance of an international legal instrument/joint recommendation/treaty both to increase the number and range of accessible format works available to visually impaired persons/persons with a print disability in the world and to provide the necessary minimum flexibilities in copyright laws that are needed to ensure full and equal access to information and communication for persons who are visually impaired/have a print disability 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, for their own benefit and for the enrichment of society,

Have agreed as follows:

## ARTICLE A DEFINITIONS

For purposes of these provisions

**"work"**

means a work in which copyright subsists, whether published or otherwise made publicly available in any media.

**"accessible format copy"**

means a copy of a work in an alternative manner or form which gives a beneficiary person access to the work, including to permit the person to have access as feasibly and comfortably as a person without a print disability. The accessible format copy must respect the integrity of the original work and be used exclusively by persons with print disabilities.

*[Possible enumeration of different formats.]*

**"authorized entity"**

means a governmental agency, a non-profit entity or non-profit organization that has as one of its primary missions to assist persons with print disabilities by providing them with services relating to education, training, adaptive reading, or information access.

An authorized entity maintains policies and procedures to establish the bona fide nature of persons with print disabilities that they serve.

An authorized entity has the trust of both persons with print disabilities and copyright rights holders. It is understood that to obtain the trust of rightholders and beneficiary persons, it is not necessary to require the prior permission of said rightholders or beneficiary persons.<sup>1</sup>

If an authorized entity is a nation-wide network of organizations, then all organizations, institutions, and entities that participate in the network must adhere to these characteristics.

**"reasonable price for developed countries"**

means that the accessible format copy of the work is available at a similar or lower price than the price of the work available to persons without print disabilities in that market.

---

<sup>1</sup> Member States/Contracting parties should encourage rightholders and beneficiary parties to cooperate and participate in authorized entities.

