

Copyright and Related Rights: Marrakesh and Beijing Treaties
WIPO Regional Workshop, Moscow, September 11- 12, 2017



Topic 5: The Role of Authorized Entities

Library perspectives on implementation

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Libraries and the Marrakesh Treaty

Libraries are key to the success of the treaty for two main reasons:

- Throughout the world, libraries are one of the primary sources of Braille, audio, large print and digital format materials for blind and visually impaired people.
- Only blind people's organizations, libraries and other so-called "authorized entities" can send accessible format copies to other countries.

Authorized entities

Definitions Article 2(c):

- is an entity that is authorized or recognized by the government to provide education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis.
- It **also** includes a government institution or non-profit organization that provides the same services to beneficiary persons as one of its primary activities or institutional obligations.

Thus any library that meets the broad criteria set out in Article 2(c) qualifies as an authorized entity e.g. academic, public, special.

Libraries as authorized entities

Article 2(c) (contd)

- To ensure that the accessible copies are used for bona fide purposes, the authorized entity establishes its **own** practices in this regard:
 - (i) to establish that the persons it serves are beneficiary persons;
 - (ii) to limit to beneficiary persons and/or authorized entities its distribution and making available of accessible format copies;
 - (iii) to discourage the reproduction, distribution and making available of unauthorized copies; and
 - (iv) to maintain due care in, and records of, its handling of copies of works, while respecting the privacy of beneficiary persons in accordance with Article 8 [on respect for privacy].
- It is important to note that the Treaty neither contemplates rules nor an approval process being established for it by the government.

Key provisions for libraries

Mandatory exceptions:

- allows the creation & distribution of accessible format works - Art 4(1)
- permits a library or other authorized entity to send an accessible format copy to another country - Art 5(1)
- allows an authorized entity or beneficiary person to receive an accessible format copy from another country - Art 6
- ensures a technological protection measure (TPM) cannot prevent enjoyment of the exceptions - Art 7

Key provisions for libraries

Respect for privacy - Art 8

- The Treaty should not interfere with the privacy of beneficiary persons e.g. in distribution mechanisms for accessible formats.

Protection for persons with disabilities not mandated by the Treaty - Art 12(2)

- Countries should avail of this flexibility to support universal equality.

Key provisions for libraries

Copyright and related rights - Agreed statement to Art 10(2)

- Countries should ensure that exceptions apply to copyright and related rights.
- This is because text-based works that contain embedded material, such as sound recordings or artistic performances, may be subject to related rights.

Maximize the benefits of the treaty

Do not add restrictions

Non-commercial availability – optional restriction Art 4(4)

Such a restriction would be fundamentally inconsistent with the MT's overarching goal of ensuring that individuals with print disabilities have an equal opportunity to enjoy covered works on the same terms as sighted person.

- Impossible for a library to ascertain with certainty if a work is available in a particular format at a reasonable cost, especially in cross-border situations.
- Delays making the copy, resource intensive to check on a case-by-case basis.
- If a work is available for purchase, the library can always decide to buy it in any case. (Producing accessible formats requires a big amount of work).

Maximize the benefits of the treaty - do not add restrictions

Non-commercial availability - Art 4(4)

Evidence from the UK that a commercial availability test does not result in more works becoming commercially available

- Just over 7% of all books published from 2006-2010 were found to be fully accessible, that is, commercially available in all three formats of unabridged audio, braille and large print.
- Just 0.25% of titles were fully accessible in traditional formats (hard copy braille, hard copy large print, human voice audio) with an increase of 6.80% accessible as e-books.
- Inclusion of accessible e-books makes a considerable impact on availability, VIPs are still unable to access 80.25% of titles in any accessible format.

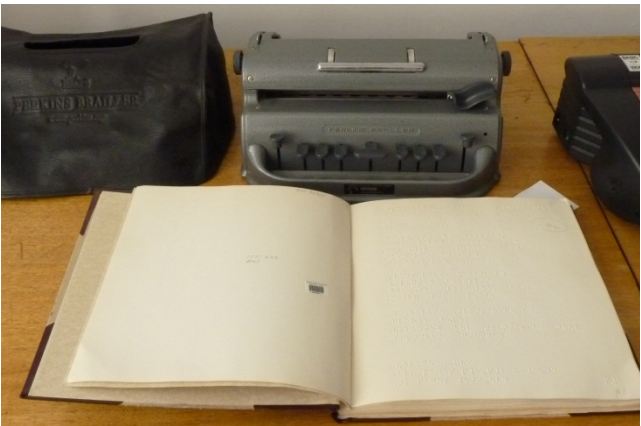
Maximize the benefits of the treaty

Do not make subject to remuneration – optional restriction Art 4(5)

- The original work has already been paid for or **lawfully acquired**.
- No double payment (once to purchase, and twice to make the accessible format copy).
- The accessible format copy is made for the sole purpose of providing **equal access** to the work.
- The activity is undertaken on a **non-profit** basis.
- Chilling effect on making of accessible copies, especially in low-income countries.

Trust the Professionals

- Help us to make the treaty a success
- Make *it is as easy to serve users with print disabilities as others*



Further reading

THE MARRAKESH TREATY: AN EIFL GUIDE FOR LIBRARIES

<http://www.eifl.net/resources/marrakesh-treaty-eifl-guide-libraries>

МАРРАКЕШСКИЙ ДОГОВОР: РУКОВОДСТВО EIFL ДЛЯ БИБЛИОТЕК

<http://www.eifl.net/resources/marrakesh-treaty-eifl-guide-libraries-russian>

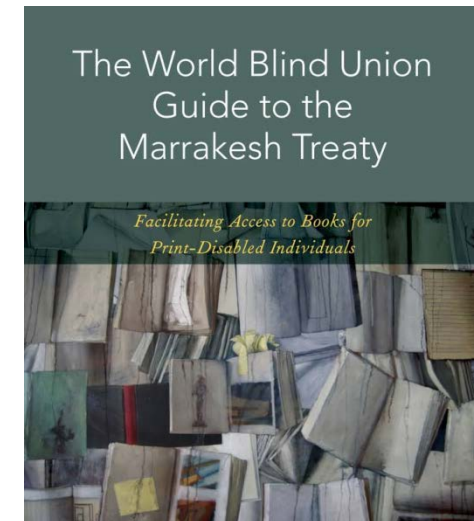


The World Blind Union Guide to the Marrakesh Treaty: Facilitating Access to Books for Print-Disabled Individuals

[http://www.worldblindunion.org/English/our-work/our-priorities/Documents/WBU Guide to the Marrakesh Treaty.docx](http://www.worldblindunion.org/English/our-work/our-priorities/Documents/WBU%20Guide%20to%20the%20Marrakesh%20Treaty.docx)

Руководство Всемирного союза слепых по Марракешскому договору Об облегчении доступа слепых, и лиц с нарушениями зрения или иными ограниченными способностями воспринимать печатную информацию

[http://www.worldblindunion.org/English/our-work/our-priorities/Documents/WBU Guide to Marrakesh Treaty- RU.docx](http://www.worldblindunion.org/English/our-work/our-priorities/Documents/WBU%20Guide%20to%20Marrakesh%20Treaty- RU.docx)



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Thank you

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