

8 March 2017

**Re: Implementation of the Marrakesh Treaty in Europe**

Dear Deputy Permanent Representative to the EU,

Dear Members of the European Parliament,

We are writing on behalf of the Trans-Atlantic Consumer Dialogue (TACD), a network of over 75 organisations representing consumers' interest in the US and the EU, concerning the implementation at national level of the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities.

TACD has been an active player on the World Intellectual Property Organisation (WIPO) negotiations of the Treaty advocating for the right to access culture and knowledge for visually impaired people.

After many years of difficult negotiations an agreement was reached within WIPO, which requires a swift implementation by the signatory parties. The treaty codifies what TACD has long fought for: exceptions to copyright which make it easier to create accessible versions of copyright works, for instance books, for visually impaired persons.

In September 2016, the European Commission published its proposal implementing the Treaty into EU and national legislation. Recital 11 of the proposed Directive explicitly prohibits Member States from introducing additional requirements for the exercise of the above-mentioned copyright exceptions. This includes also compensation schemes, like those existing for private copying.

TACD members are asking the European legislator to uphold the principle of the Commission's proposal in the ongoing negotiations and to reject any attempts to allow the payment of a compensation to publishers for the adaptation of the works. The right to access culture and knowledge for visually impaired persons will be undermined if such compensation schemes are allowed at national level for accessible format copies of books.

If publishers are allowed to claim compensation for adapting the books, the costs will result in few works being made accessible in fewer formats, and both delays and higher prices for the works that are made accessible. This would run against the objective of the Treaty to promote the "full and effective participation and inclusion in society" of persons with disabilities.

Additionally, for the proper functioning of the exceptions introduced by the Treaty, TACD members ask to make clear in the text of the directive that the use of Technical Protection Measures restricting uses of the works cannot hinder the exercise of the exceptions. This is the very spirit of the Treaty.

However, due to the current design of the EU Copyright Directive further clarification is needed about the interplay between the rules on Technical Protection Measures and the exceptions provided for in article 3 and 6 of the European Commission's proposal.

In this regard, authorised entities should be allowed to bypass Technical Protection Measures and, to request an accessible copy for the purpose of the adaptation of the works from rights holders.

Thank you in advance for taking these recommendations into account during the adoption of the measures implementing the Marrakesh Treaty into EU and national laws.

Yours sincerely,

**Agustín Reyna**, Senior Legal Officer, BEUC (The European Consumer Organisation)

EU Co-Chair of the TACD Intellectual Property Policy Committee

**James Love**, Director, Knowledge Ecology International

US Co-Chair of the TACD Intellectual Property Policy Committee

**On behalf of the TACD Intellectual Property Policy Committee**