

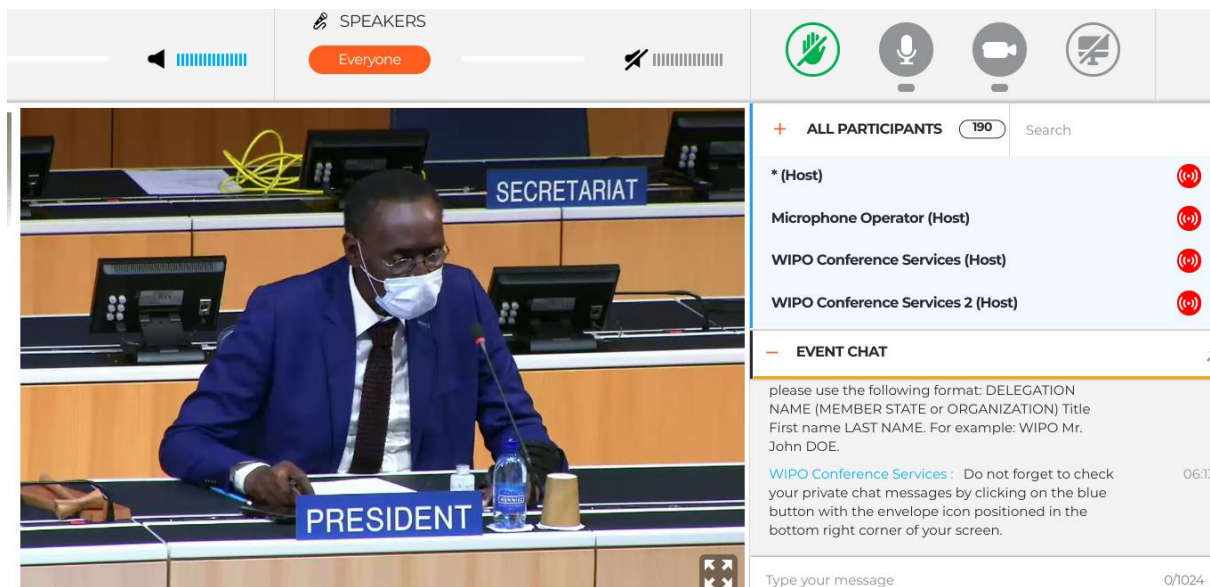
# Blog: Global negotiations on copyright

Rebecca Deegan, Director Policy & Public Affairs

The 40<sup>th</sup> WIPO Standing Committee on Copyright & Related Rights happened online. It was nothing short of a logistics feat (and at some points almost a nightmare). There were representatives from all over the world and interpreters for all. I can only imagine the number of hours spent making it happen.

Given it was online and therefore the proceedings were formal and linear (as opposed to allowing room for debate) it seemed that rather than progressing discussions the meetings were used as opportunity for Member States to confirm their position on the various agenda items and their priorities for how discussions should develop at future meetings.

This was my first time attending one of these events and so I thought it may be useful to share my learnings with those who have an interest in what's on the global copyright agenda....



## Limitations and exceptions

We heard from a range of jurisdictions and NGOs about their view on limitations and exceptions for:

- libraries and archives
- educational and research institutions
- persons with other disabilities

The four key topics were preservation; reproduction; access; and cross-border exchange or works.

I was struck by the breadth of opinion on the relative merits or risks for each of the proposals surrounding exceptions.

- Preservation was identified as a priority and took priority in many Member State's feedback. The report suggested that most Member States believe that there should be international minimum standards for preservation, with mechanisms and guidance in place to allow benchmarking; but these should enable each Member State to develop its own national legislation cognisant of their own culture and legal framework. It was identified that support is needed by some Member States to support capacity building.

- Though they stated that it should be the responsibility of each Member State to ensure that it has a balanced copyright system; and that WIPO has a role in supporting some Member States to strengthen their technical capacity and institutional framework.
- There were a range of views on whether current exceptions go far enough, and whether discussions about limitations and exceptions should be conducted hand-in-hand or separated. For example, Chile stated that licensing and contractual issues are not relevant to the SCCR's discussion on exceptions and if anything could hold up progress. This position was not unanimous, Japan notable spoke in opposition to this position.
- Another major topic was the digitalisation of content and the implications this has for cross-border exchange of works, particularly in the realms of research and education. This led to a number of robust statements about whether the current system has adapted as quickly as it needed to in response to the Pandemic. Solutions discussed included recognised international guidance to facilitate cross-border access to works in order to share cultural content and research that progresses scientific understanding. Improved legislative norms and more dialogue between rightsholders and educational institutes to balance both of their needs.
- The UK reiterated its position that creators must be fairly remunerated and that this should not be inhibited through overly broad exceptions. The UK along with many others (such as Trinidad & Tobago, Ecuador... ) spoke about the need to maintain licensing solutions and that over broad exceptions could impact creativity and lead to legal uncertainty.
- The African Group pushed for WIPO to work towards (an) international instrument(s) and said that from their perspective children are being denied an education because of restrictive copyright legislation and that open source is an essential enabler to solving common health challenges, and therefore urgent action is required. Whereas Pakistan spoke openly about wanting a high-level principles-based approach that can be looked at nationally – though it acknowledged the need for better tools in order to support progress at the national level.
- Kenya outlined the major impediments it faces such as copyright legislation not being updated because of a lack of technical capacity, inadequate infrastructure to facilitate access and cross-border cooperation, weak licensing frameworks and CMOS, as well as a lack of supporting tools.
- Brazil and Chile were interesting as it was one of the few countries to focus on the Marrakesh Treaty specifically. It advocated for future seminars to address the issue of limitations and exceptions for people with other disabilities, focusing on new technologies and accessibility for those with a disability.

A number of Member States' contributions were so bland I can only assume they were happy that no progress was made during the meeting, but instead it was a round-up of the various Member States' positions...

In terms of the NGOs – broadly speaking - those representing creatives were supportive of maintaining the licensing framework and gave examples of how well it has responded during the Pandemic; and those representing museums, libraries and archives called for broader exceptions.