

**Standing Committee on Copyright and Related Rights: 42nd Session
(Geneva, Switzerland)**

The International Authors Forum general statement

The International Authors Forum (IAF) represents authors from the text, screenwriting and visual arts sectors and their interests in copyright. Its members are over 70 organisations representing well over 700,000 authors worldwide. IAF campaigns for authors in a variety of areas including fair contracts, remuneration rights and copyright issues.

Article 27 of the Universal Declaration of Human Rights states that ‘everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits’. Therefore, the ability of professional authors everywhere to make a living is vital if this participation in culture is to proliferate across the world.

Article 27 further states that everyone ‘has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he [or she] is the author’. Ultimately, it is authors' works is being considered in the matters discussed at the World Intellectual Property Organization (WIPO). There are individual authors whose rights are involved in all countries. Those rights must be given primary consideration to ensure the continued creation of the culture we value today. Authors must be rewarded for their contribution to society and maintain rights to control how their work is used.

In recent years, we have seen significant pressure to devalue copyright and the mechanisms by which authors are remunerated for their work. This has been argued on the basis that the author will be somehow rewarded otherwise, having gone unpaid for their work. Such measures are also proposed simply as an easy cost to cut without consideration for the consequences of not compensating the author. This comes when multiple studies and surveys from around the world have found that the earnings of authors are in significant decline. It is more important than ever that we recognise the impact these policies can have on authors and a nation’s culture and find ways to ensure that the work of WIPO helps authors share in the global growth of creative industries in the digital age.

Authors around the world play an essential role in ensuring the prosperity of their societies. This makes it imperative that they have a conducive environment in which to work, are valued for their diverse creations, retain the right to make a decent living from their work, and are supported by a robust copyright framework. Yet, numerous studies and surveys from developed countries across the world have found that the earnings of authors are in significant decline, despite international growth in the creative industries that make use of their works. There is an urgent need for a better understanding of the issues authors worldwide currently face when it comes to earning a creative living. In many countries, authors have seen an overall decline in their earnings in recent years.

It is hoped that opportunities can be taken to reverse the decline in authors’ incomes and better remuneration rights can be established that ensure authors’ earnings reflect the way their work is enjoyed. Potential measures for this include rights such as the Public Lending Right (PLR), Artist’s Resale Right, also known as *droit de suite*, and a remuneration rights for online uses of work. Understanding the issue of authors’ earnings will be an ongoing challenge, in many countries there are no in-depth studies on authors’ earnings, and far

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more can be done to understand the international situation of the author. As the COVID-19 pandemic has an ongoing effect around the world there will be even more challenges to contend with. We hope the IAF study on authors' earnings will help to illustrate the need for action to ensure authors in every country can sustainably create and contribute to diverse cultures around the world. The IAF report, *Creating a Living: challenges for authors' incomes*, is available in [English](#), [French](#) and [Spanish](#).

In the face of the COVID-19 pandemic authors earnings have struggled significantly through a huge range of opportunities to work, while society has continued to rely on the content that they have created. At this time it is more important than ever to consider ways to support creators around the world, it is good to see that this is being considered in areas such as Resale Right and Public Lending Right, which can both be important measures to reward and support the development of creators around the world. We hope that in these areas there will be a positive consideration given the unique position and opportunity of WIPO and this Committee to enable information finding and sharing on these subjects to better equip national governments.

Exceptions and Limitations

The International Authors Forum (IAF) is thankful for the opportunity to submit its statement on the topic of Exceptions and Limitations for discussion at SCCR42. Authors want the widest possible lawful access to their works. Authors welcome libraries, archives and educational institutions as vital points of access to their works, but there must be a balance of access and reward to ensure that they can continue to create the works that are enjoyed. Research in the UK, *An economic analysis of education exceptions* (2012, PriceWaterhouseCooper), identified that many authors, particularly of educational works, would potentially stop creating these works due to declining remuneration if a licensing scheme was not in place to fairly reward them for their efforts. Recent cases in Canada have shown that the unregulated expansion of the educational exception in their Copyright Modernization Act (2012) has led to significant losses of income for Canadian authors: a likely unintended consequence but an unjust, detrimental effect on authors nonetheless, considering it is their work that is being used without compensation.

In the context of the COVID-19 pandemic authors in many countries have suffered but have still made significant efforts to make their works accessible to users in these difficult times, conscious of the benefits their work can bring to so many people. The need to support authors is more urgent than ever and this should not be a time to weaken the rights of creators.

In a webinar IAF hosted on the subject of exceptions and limitations we heard loud and clear messages that the creative industries need some certainty to invest in creators who take a significant risk in creating their work typically with no certainty of remuneration. We also heard how in some countries authors and publishing industries are struggling where there are poorly designed exceptions and limitations, in comparison to counties where copyright legislation is flexible and responsive to both enable use and pay authors. The panellists at this event made clear that overly broad exceptions and limitations can have a significantly negative impact. This discussion can be watched online and is important for considering the view of authors on this subject.

Authors play an important role in rights to access education and culture, as the initial creators of the creative works that users around the world access. With their works forming

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the foundation of educational resources around the world, authors continue to create resources for people to learn throughout their lives. A good environment for authors ensures authors can create quality education, as well as inclusive education for their communities. It should not be the case that a country has to rely on the dominant creative industries of western countries for educational materials. Student should have some access to educational materials that reflect the diverse cultures and languages of the world and the student.

Authors believe that existing provisions contain enough flexibility for countries represented at WIPO to continue to work towards national solutions, such as licensing frameworks, which can be developed according to local needs. Authors recognise that each country must aim to respond to its local needs. However, in no country are authors able to work and create effectively when they are entirely either denied remuneration or inadequately paid. While each country represented at WIPO has libraries, archives and educational institutions seeking to secure access to works, it must not be forgotten that there are authors in each of the WIPO Member State whose rights and property are affected.

In many countries, there are already copyright provisions in place that establish licensing frameworks which enable access through libraries, archives and educational institutions while ensuring fair payment to authors and respect of their rights regarding their works. In *An economic analysis of education exceptions* (2012, PriceWaterhouseCooper) it was found that almost 25% of authors in the UK derived more than 60% of their income from secondary licensing income, while a 10% decline in authors' income would lead to a 20% drop in output. There is a clear case for fair licensing and collective management organisations as a means to efficiently ensure the balance of access to works and reward to authors. IAF opposes any blanket expansion of copyright exceptions and limitations that would not properly consider the needs of authors and would prefer to see the work focused on ensuring authors can sustainably generate creative and educational works for readers. Instead of any such approach that would threaten the sustainability of authors' ability to create, where possible IAF would encourage consideration for positive solutions that can ensure the ability of authors to create looking at best practices with considerations for the digital environment.

Resale Right

The International Authors Forum (IAF) is thankful for the opportunity to submit its statement on Resale Right for discussion at SCCR42. Resale Right, through its global application, not only helps authors receive fair payment for work that will be sold before its value is known to them but can also be a means of fairness to artists when their work is resold into an international market. Resale Right provides a fair contribution to artists from the proceeds of ongoing sales in the global art market, as well as an incentive to continue creating.

IAF wishes to express its thanks and support to the proposal from Senegal and Congo to include Resale Right as a standing item on the future agenda of the SCCR. It is important that artists in all countries can benefit from the resale of their creations. This is a matter of equity with how creators of other works are respected and rewarded for the continued enjoyment of their creation. Resale Right can comprise a significant part of an artist's income. A survey of artists in the UK found that 81% spent payments from Resale Right on their living expenses (DACS, 2016. *Ten Years of the Artist's Resale Right: Giving artists their fair share*). The study in document SCCR/35/7 provides evidence that the Resale Right does

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not have a negative impact on arts markets, while better supporting artists so is a net positive to support the arts.

The Artists Resale Right can work as an important element of justice in the arts market. It both rewards artists when their work continues to be used

It has been good to see reports from the Resale Right Task force at WIPO, the increase of information on this subject will be of benefit to all countries that already have or can establish Resale Right. Given the obvious benefits of the Resale Right to artists, IAF hopes that more countries will establish this right. As Resale Right acts as a matter of global fairness IAF hopes that the Task Force will be able to look at the opportunities reciprocity of Resale Right bring to achieve its intention of fairness. IAF strongly supports the inclusion of Resale Right on the SCCR agenda and the progress of the Resale Right Task Force at WIPO.

Public Lending Right

IAF strongly supports the 'Proposal for a Study Focused on Public Lending Right in the Agenda and Future Work of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization (WIPO)' put forward by Sierra Leone, Panama and Malawi.

IAF wholeheartedly supports any effort to increase understanding of measures such as Public Lending Right (PLR), which fairly rewards authors and ensures they can keep creating, while helping to maintain indigenous arts, literature, language and culture.

PLR is a positive mechanism that provides recognition for authors for the loans of their books from libraries. The scheme is greatly valuable to authors both as a connection to ongoing readers and enhancing literacy, as well as providing the seed of the authors' next creation. It can be a valuable way for governments to support authors writing in local languages and is a means to reward authors for the contribution they make to a vital public good; the availability of culture in public libraries.

PLR can also be a valuable way for governments to protect authors' writing in local languages. It's a recognition of creators' contributions to culture and also supports the role of education, helps maintain psychological health and protects a country's cultural heritage by preserving literature and language. PLR makes it possible to ensure that public libraries ensure access to culture for all while ensuring the principle of payment for use to creators, to ensure the sustainability of culture.

IAF hosted an event "Creating a living; how PLR helps". At this event a range of speakers, being authors, authors' representatives and PLR experts discussed the positive impact it had on the ability of authors to make a living from their work. PLR experts at this event also detailed some of the technical challenges that PLR systems had faced and how these had been successfully overcome to the benefit of authors and users. This discussion can be watched online and is important for considering the view of authors and experts on this subject.

IAF supports the development of centrally funded PLR schemes that are to the benefit of authors – writers and visual artists alike – readers and libraries, and hopes the committee can look to support international cooperation to this end. Government support for libraries remains as vital as ever, and goes hand in hand with PLR, and PLR encourages the surge of industry support for cultural goods from local creators in indigenous languages.

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IAF believes that there is a unique opportunity for information sharing here. As this is a measure that is not common to all of the countries represented at the WIPO SCCR it would be good to have opportunities for information finding and sharing to help inform and equip national governments.

IAF strongly supports the proposal for a study, outlined in SCCR/40/3. IAF particularly supports the intent to study the benefits of PLR for authors. It is particularly positive that the proposal considers opportunities for setting up PLR in developing countries, while considering the benefits for a nation's cultural and linguistic support. This proposal is a significant step to achieve support for authors and diverse cultures around the world.

Authors in the digital environment

In the digital environment, creators' works are used more than ever and we would like to thank the members and speakers who have acknowledged the importance of appropriate remuneration to foster the work of creators. IAF hopes that analysis of Copyright Related to the Digital Environment propose by Group of Latin American and Caribbean Countries (GRULAC) could holistically consider the impact of the digital environment on authors and, in particular, the impact of business models in streaming on creators. We thank the GRULAC for its proposal on this important area of work and hope this issue will remain on the agenda.

While the works of authors across the world are now being accessed online more than ever before, creators are not always fairly remunerated for such access. Screenwriters, for example, often remain unpaid for the use of their work online despite audio-visual works generating significant revenues for on-demand services. It is often difficult to resolve this lack of remuneration, given the huge inequality in the negotiating relationship between producer and screenwriter. Authors' organisations such as the Federation of Screenwriters in Europe (FSE) and the Federation of European Film Directors (FERA) have called for the need for an additional right as well as better creator contracts to resolve this. Therefore, authors urgently need remuneration rights that reflect the myriad uses of their works in the digital age. An Unwaivable Right to Remuneration (URR) for online uses would ensure that authors are properly rewarded for their contribution to the vast libraries of work now being made available by on-demand streaming services. At a webinar hosted by IAF earlier this year on URR we heard about the success of URR in Spain, Italy, France and Belgium. We would urge WIPO to consider the role of URR in the digital environment, particularly given the rising dominance of streaming platforms.