

WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS  
30th session: 29 June – 3 July, 2015

Statement of the Canadian Library Association on Preservation

Thank you Mr. Chair for the opportunity to address preservation

The Canadian Library Association has represented individuals and libraries of all types in Canada since 1946, including public, academic, specialized, government, and school libraries. Libraries and archives hold works and materials that record the knowledge and the heritage of the peoples of the world. The preservation of these works is ‘one of the fundamental missions’ of libraries and archives<sup>1</sup>.

By preservation, we understand this to include reproduction, both digital and physical reproduction, for the purpose of preserving and archiving a copyrighted work. Preservation ensures that the valuable copyrighted work that is available today will continue to be available for use in the future. We see no role for licensing in ensuring the preservation of works. Professor Crews identified that 99 countries authorize libraries to make copies for preservation, leaving 89 countries without this exception.

Libraries use these exceptions to ensure preservation of rare works, fragile works, or works at risk of vandalism, where replacing the work would be difficult or impossible, and where the work has local or national cultural significance. In some situations, the library may preserve the original work in storage, and offer the copy for regular use. In the course of ensuring preservation, the library may create multiple copies, complying with prevailing preservation standards that change over time.

For fragile physical works, libraries may need to format-shift to ensure long term availability of the material. For example, a library that holds a collection of historical photographs on plates that are degrading may create copies in print or in digital format to allow users to view the photographs without causing further damage or speeding the degradation of the original.

Format shifting also applies to digital works. A DVD is easily scratched or damaged, and rendered unusable as a result. A library may create a back-up DVD to ensure preservation of the content. These works are not offered for use to library patrons unless the original can no longer be used. Some library vendors of digital content offer back up or preservation copies of database content on disc to ensure a library's continued access to content they have purchased, recognizing that platforms for accessing digitised or digital works can become obsolete, sometimes within five years, and that library vendors are not eternal.

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<sup>1</sup> Kenneth Crews, *Study on Copyright Limitations and Exceptions for Libraries and Archives*, WIPO SCCR/17/2, p 50, available at: [http://www.wipo.int/edocs/mdocs/copyright/en/sccr\\_17/sccr\\_17\\_2.pdf](http://www.wipo.int/edocs/mdocs/copyright/en/sccr_17/sccr_17_2.pdf)

An international exception is needed to permit the supply by one library or archive of a copy of a work to replace a copy of that work that had been preserved in the receiving library or archive but that has been lost or destroyed. The two institutions could be in different countries so the laws of both countries would need to permit the making, transfer and receipt of the preservation copy.

UNESCO's *Charter on the Preservation of Digital Heritage* of 2003 and *Vancouver Declaration of 2012* recognize the important role legal frameworks play in international digital preservation efforts<sup>2</sup>.

Thank you Mr. Chair

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<sup>2</sup> [http://portal.unesco.org/en/ev.php-URL\\_ID=17721&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=17721&URL_DO=DO_TOPIC&URL_SECTION=201.html)