

[1]Joe Clark: Accessibility | Design | Writing

Second submission of comments  
on access to literary works  
by people with print disabilities

The following is my second submission to the Library of Congress's  
[2]Notice of Inquiry and Request for Comments on the Topic of  
Facilitating Access to Copyrighted Works for the Blind or Other  
Persons With Disabilities.

Location of this submission

This submission, dated 2009.11.10, is permanently filed online at  
[3]joeclark.org/access/loc2009-2/. My previous response is located at  
[4]joeclark.org/access/loc2009/

If you aren't reading this in HTML in a browser, then the Library of  
Congress has created an unauthorized derivative work.

Summary

My position has not changed. I reiterate the points in my previous  
[5]submission. In particular:

\* The original notice mentions how "concerns over... downstream  
infringement" have "prevent[INS: [ed] :INS] the marketplace of  
accessible works from growing to its full potential." Concerns  
over downstream infringement are comparable to concerns over  
unicorns. You can't be "concerned" about something that doesn't  
exist, never has existed, and never will exist.

As I stated before, print publishers have never actually intended  
to provide alternate-format works. Publishers have disingenuously  
acted as though alternate formats were viable market substitutes  
for print works. They acted like alternate formats were a vector  
for what they would now call "piracy." They acted like they were  
about to lose sales of books that print-disabled people, by  
definition, could not read. Publishers acted as though alternate  
formats were attractive product choices for nondisabled people and  
represented lost sales of print books.

None of those "concerns" is based on reality. It isn't just that  
they're incorrect; they're outright lies, incantations recited in  
the hope of casting a spell. In this case, the spell publishers  
hope to cast is legally prohibiting any kind of alternate format  
they do not completely control, imposing DRM, or otherwise  
hobbling the system even worse than it already is hobbled.

Publishers cannot prove that "downstream infringement" even exists, let alone is a problem.

\* Similarly, the original notice's insistent use of terms like "trusted organizations" and "trusted intermediaries" signifies that the Library of Congress intends not to fix the system. Again as I stated before, the Chafee amendment authorizes only certain organizations - nonprofits or charities - to make alternate-format copies of works. The proven result is slower production and fewer books. Nondisabled people are never expected to funnel their reading through "trusted organizations" or "trusted intermediaries." By implication, blind and other print-disabled people are "untrustworthy."

A treaty that limits production of alternate formats to nonprofits, charities, or any "trusted" entity is a treaty that isn't even pretending to solve the problem. Moreover, the term "trusted" suggests the use of DRM - specifically Microsoft DRM, arguably the worst kind.

"Any additional possible methods of improving accessibility"

To respond to ¶4 of the notice's "Subjects of Inquiry," additional possible methods of improving accessibility are as itemized in my previous submission. The most important steps are to remove limitations on delivery format and limitations on who can produce alternate-format materials. To give a concrete example, a for-profit company should be legally empowered to create a talking book in MP3 if that's what a blind person wants.

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Posted: 2009.11.10

## References

1. LYNXIMGMAP:[http://joeclark.org/access/crtc/loc2009-2/#joeclark\\_angie\\_02IX\\_Map](http://joeclark.org/access/crtc/loc2009-2/#joeclark_angie_02IX_Map)
2. <http://www.copyright.gov/docs/sccr/>
3. <http://joeclark.org/access/loc2009/>
4. <http://joeclark.org/access/loc2009/>
5. <http://joeclark.org/access/loc2009/>