

Reply comment of the North American Broadcasters Association (NABA)

In the matter of the Copyright Office Notice of Inquiry and Request for Comments on the Topic of Facilitating Access to Copyrighted Works for the Blind or Other Persons With Disabilities

The members of the North American Broadcasters Association (NABA)¹ are committed to providing service to all members of their communities, including those with disabilities. As such, NABA applauds the advocacy and work of organizations such as the World Blind Union (WBU), which is committed to helping those with visual disabilities gain access to the services provided by broadcasters.

NABA members have a long history of working to expand access to their services throughout Canada, Mexico, and the United States. In particular, broadcasters throughout North America are committed to helping those with disabilities benefit from their services, including through working with affected communities to further understand their particular needs. For example, National Public Radio Labs is recommending to receiver manufactures the following features: (1) auditory displays to provide consumers with device state; (2) utilizing tactile symbols on keys that show their function, allowing consumers to identify and locate keys using touch alone; (3) incorporating control features with which consumers have had the most experience to increase accessibility (e.g., telephone pad layout for panel design) and equally important they are researching and developing a Captioning Service for Digital Radio. In Canada, through the National Broadcast Reading Service's "The Accessible Channel," major programming and movies are aired with descriptive audio, providing accessibility to those with disabilities.

While supporting the goal of increasing access to broadcast services for all, NABA does not believe that these goals would be accomplished through the creation of new exceptions to intellectual property law that would impinge on the rights of broadcasters to control their own programming content and signals. Therefore, while NABA fully supports increased access to its programs by the disabled communities, NABA does not support a new international treaty regarding access to works by the blind and visually impaired at this time.

The current system of limitations and exceptions is sufficiently flexible to support other endeavors to provide increased access to protected works, including for example through voluntary mechanisms that facilitate cooperation between service providers and affected communities, and promote much needed investment to counter the lack of financial and physical resources, which are the primary barriers to access. NABA believes that current law allows WBU's goals to be met without a new treaty, and that this issue would be better served through focusing on practical solutions for those that are disadvantaged as a result of a lack of access to protected works. Based on the comments submitted to the United States Copyright Office's request for comments regarding the WBU Treaty, NABA has not seen any specific evidence that the disabled communities are being denied access in any systemic way that can be remedied through changes to copyright law.

Current intellectual property law allows for those with disabilities to access broadcast services while still protecting broadcasters' rights to protect their signals. For example, there are specific laws in NABA member countries that allow for access to intellectual property by the disabled communities that do not conflict with the current international legal framework. Instead, an exchange of information on such national experiences would be a valuable means towards educating governments and policymakers on means to increase access at the national level.

Other commenters have pointed out flaws of the WBU's particular treaty proposal in detail. NABA agrees that discussions about particular treaty provisions are premature. A new treaty creating a uniform exception to copyright protection is an unnecessary dismantling of current international intellectual property law, in light of the lack of evidence for the need for such treaty. Instead, NABA would encourage WIPO to promote similar national laws in places where they do not exist instead of adopting an inflexible and overly broad international treaty that limits intellectual property protection.

¹ National Public Radio does not join in these comments and filed separate comments regarding this treaty.