

**LABARRE LAW OFFICES, P.C.**

**Scott C. LaBarre**

**1660 South Albion, Suite 918**

**Denver, Colorado 80222**

**Voice: 303-504-5979**

**Fax: 303-757-3640**

**E-mail: [slabarre@labarrelaw.com](mailto:slabarre@labarrelaw.com)**

**MEMORANDUM**

To: U.S. Copyright Office

From: Scott C. LaBarre, Esq.

Date: December 4, 2009

Re: Reply Comment from the National Federation of the Blind Regarding the Proposed Treaty from Brazil, Ecuador, and Paraguay

I offer these brief comments on behalf of the National Federation of the Blind. They should be considered in combination with our previous comments filed by Dr. Marc Maurer on April 21, 2009, and filed by me on November 13, 2009.

On November 13, 2009, a number of groups filed comments in opposition to the proposed treaty. Here, I wish to respond to some of the main arguments contained in those comments.

One argument is that the existing U.S. Copyright exemption contained in the Chafey Amendment is sufficient and no new international norm is necessary. There are several problems with this assertion.

First, despite the Chafey Amendment, the vast majority, well over ninety percent, of published works are not available in accessible formats usable by the blind and reading disabled. That fact alone is enough to demonstrate that although a step in the right direction, the Chafey Amendment is not nearly enough to permit meaningful access to published works.

Additionally, the Chafey Amendment came into being prior to the explosion of possibilities made available by digital means. The proposed international treaty more fully takes into account the advent and proliferation of electronic texts and therefore is helpful in modernizing our law.

Current law also fails us when attempting to access works in foreign languages. It is often difficult for blind and visually impaired individuals to pursue educations in foreign languages, especially those concentrating on literature. Much effort is expended putting such foreign literature into accessible forms. That effort could be largely eliminated if we were allowed to share accessible works across

borders. Not only would there be a tremendous benefit to citizens of other countries from this treaty, there would be a substantial benefit to our own citizens.

Promoting global harmonization is also a very important objective. Because putting books into accessible formats for the blind can be a very specialized process, it only makes sense that we have a uniform way of doing so. This treaty would promote such uniformity and conservation of world-wide resources for an underserved population.

Another significant problem with the assertions made by those opposing this treaty is the claim that this treaty would dismantle U.S. and international copyright law leading to more prevalent infringement upon the rights of right holders. This is simply an argument without any objective evidence behind it. It is the introduction of the parade of horrors and rests on a very slippery slope. Chafey has been in effect for well over a decade. There is no proof that current copyright exemptions have led to a problem in protecting the rights of copyright holders. Current and proposed provisions contain sufficient protections to protect intellectual property.

It is said that knowledge is power. Although this statement is often over used, its truth and profundity cannot be overstated. The blind and reading disabled are largely shut out of the plethora of published works. Technology now makes it possible to provide real and meaningful access. It is imperative that we support measures to bring greater access and critical that we do not arbitrarily and artificially limit the ability of the blind and reading disabled to participate fully in the mainstream of our information age.

I thank you for your consideration of our views. I urge you to support the proposed treaty!

Scott C. LaBarre, Esq.  
Counsel for National Federation of the Blind