

LEGISLATIVE COUNCIL BRIEF

Copyright Ordinance
(Chapter 528)

COPYRIGHT (AMENDMENT) BILL 2019

INTRODUCTION

A

At the meeting of the Executive Council on 30 April 2019, the Council ADVISED and the Chief Executive ORDERED that the Copyright (Amendment) Bill 2019 (“the Bill”) at Annex A should be introduced into the Legislative Council (“LegCo”) to enhance the copyright exceptions in the Copyright Ordinance (Cap. 528) (“CO”) relating to persons with a print disability, to bring them into line with the standards under the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (“Marrakesh Treaty”) (Annex B).

B

JUSTIFICATIONS

The Marrakesh Treaty

2. The Marrakesh Treaty is an international agreement concluded under the auspices of the World Intellectual Property Organization (“WIPO”)¹. Its main goal is to facilitate and enhance access to copyright works in accessible forms for persons with a print disability. The Marrakesh Treaty was adopted by the Member States of the WIPO on 27 June 2013 and came into force on 30 September 2016. There are 80 signatories to the Treaty. As at 15 October 2019, 61 countries have ratified or acceded to it. The People’s Republic of China is a signatory to the Treaty but has yet to ratify it. The Central People’s Government may apply the Marrakesh Treaty to Hong Kong in accordance with Article 153 of the Basic Law upon ratification.

3. The Marrakesh Treaty requires contracting parties to provide for limitations or exceptions in their domestic laws such that persons with a print disability (identified as “beneficiary person(s)” under Article 3 of the Marrakesh Treaty) and certain organisations (identified as “authorized entity(ies)” under Article 2(c) of the Marrakesh Treaty) may perform a range of acts in relation to

¹ WIPO is an agency under the United Nations overseeing services and policies of intellectual property, with 192 Member States.

certain types of copyright works for the benefit of those beneficiary persons without infringing copyright if certain conditions are fulfilled. For example, a blind or a visually impaired person shall be allowed to make an accessible format copy² of a work for the personal use of that person; and a school providing education to blind or visually-impaired persons on a non-profit basis shall be allowed to make accessible format copies of a work and supply those copies to blind or visually-impaired persons on the condition (among others) that the activity is undertaken on a non-profit basis.

4. The Marrakesh Treaty also requires contracting parties to provide for exchange across borders of accessible format copies of works produced in accordance with the conditions under the Marrakesh Treaty. For example, an authorized entity shall be allowed to distribute or make available accessible format copies to an authorized entity in another contracting party for the exclusive use of beneficiary persons, provided that prior to doing so, the originating authorized entity did not know or did not have reasonable grounds to know that the accessible format copies would be used for persons other than beneficiary persons. This seeks to enable contracting parties to pool their respective efforts in creating accessible format copies and increase the overall number of accessible works circulated worldwide.

5. While Hong Kong is under no obligation to comply with the Marrakesh Treaty at present, we see merits in reviewing and enhancing as appropriate our copyright exceptions in order to meet the international standards set out in the Marrakesh Treaty.

The existing exceptions under the Ordinance for persons with a print disability

6. The existing sections 40A to 40F of the CO, which were enacted in 2007, have already set out specific exceptions or permitted acts that allow the production of specially adapted copies of copyright works for the personal use by persons with a print disability. These existing exceptions have met most of the requirements under the Marrakesh Treaty in respect of the making of accessible copies³ and the types of copyright works which are covered by the exceptions. In order to stay in line with the standards under the Marrakesh Treaty, there is a need to enhance a number of areas in the provisions under the CO.

7. The Government conducted a three-month public consultation from May to August 2017 on possible areas that would require enhancement. We attended a briefing session organised by the Hong Kong Blind Union with participation of different user groups on 8 July 2017. A total of 12 written

² In the Marrakesh Treaty, “accessible format copy” means a copy of a work in an alternative manner or form which gives a beneficiary person access to the work, including to permit the person to have access as feasibly and comfortably as a person without visual impairment or other print disabilities.

³ In the CO, “accessible copy”, in relation to a copyright work, means “a version which provides improved access to the work for a person with a print disability”.

submissions from various respondents including user groups and copyright owners were received. The respondents in general supported the Government's initiative to amend the relevant provisions in the CO with a view to aligning with the Marrakesh Treaty.

Relevant provisions requiring enhancement

8. Having carefully considered the views and suggestions received from the public consultation and the subsequent engagement with stakeholders, we have identified the following key areas in the existing copyright exceptions in the CO which require enhancement in view of the standards under the Marrakesh Treaty –

- (a) Since the scope of “beneficiary person(s)” in the Marrakesh Treaty extends to persons with a perceptual or reading disability, and such disability has not been set out in the definition of “print disability” in our CO, we need to expand the definition to cover such disability. We also see merits to include a reference to “dyslexia” as an example of such disability to facilitate understanding. The above proposals would enable persons with a perceptual or reading disability, including dyslexia, to enjoy the relevant copyright exceptions, as required under the Marrakesh Treaty;
- (b) The Marrakesh Treaty has clarified that for the purposes of the Treaty, copyright “works” includes works in audio form, such as audiobooks, but this has not been specified in our existing provisions. For greater clarity, we see merits in providing in our law that the master copy of a work from which accessible copies may be made includes the audio form of such work but does not include certain sound recordings comprising only of the performance of a musical or dramatic work;
- (c) At present, the copyright works from which multiple accessible copies could be made is confined to the “commercial publication” of the applicable works⁴. In order to align with the Marrakesh Treaty, we will allow the making of accessible copies from such works that are published or otherwise made publicly available in any media;
- (d) Permitted acts under the existing provisions of the CO include the acts of making and supplying of accessible copies to persons with a print disability. We see merits in clarifying that the act of “supplying” in the existing provisions includes “distribution” and “making available”, so as to better align with the formulation used in the Marrakesh Treaty;

⁴ Under our existing CO, specified bodies are only permitted to make or supply multiple accessible copies of a “commercial publication” of a literary, dramatic, musical or artistic work for the personal use of persons with a print disability.

- (e) At present, the exercise of exceptions in sections 40B and 40C of the CO is subject to a number of conditions, e.g. a person with a print disability or the specified body is required to make accessible copies from a master copy of a copyright work “possessed” by them which is not an infringing copy. To align with the formulation used in the Marrakesh Treaty and to clarify the existing condition⁵, we consider it appropriate to amend the wording used in the condition so that the maker of an accessible copy has to possess or otherwise has “lawful access to” a copy of the copyright work concerned which is not an infringing copy; and

- (f) As mentioned in paragraph 4 above, the Marrakesh Treaty provides for cross-border exchanges of accessible format copies made pursuant to the exceptions, i.e. exporting/supplying such copies to or importing/obtaining such copies from other contracting parties for use by beneficiary persons. This is an area which is not covered by the existing CO. Accordingly, we need to introduce new permitted acts (with relevant conditions) to allow cross-border exchange of accessible copies with authorized entities in other jurisdictions. Such conditions include, for example, the making of a record on, say, the date on which the exchange is conducted and the name of the authorized entity outside Hong Kong involved in the exchange (record keeping requirements)⁶. In order to boost the availability of accessible copies and benefit a wider print-disabled population, we consider it appropriate to allow such exchanges with authorized entities to take place not only with those from a contracting party to the Marrakesh Treaty, but also those from any member of the World Trade Organization⁷.

⁵ Some stakeholders, for example, ask whether the print-disabled may make accessible copies from copies to which they have lawful access (e.g. borrowed books).

⁶ Other conditions include:

- (a) For exports/supply of an accessible copy to an authorized entity outside Hong Kong: (i) the specified body in Hong Kong has obtained the confirmation of such an entity that no accessible copy of the relevant copyright work can be obtained at a reasonable commercial price in the jurisdiction concerned; and (ii) the specified body does not know, and does not have reasonable grounds for believing, that the copy would be used otherwise than by persons with a print disability for their personal use; or
- (b) For imports/obtainment of an accessible copy from an authorized entity outside Hong Kong: the specified body in Hong Kong is satisfied, after making reasonable enquiries, that no accessible copy of the relevant copyright work can be obtained at a reasonable commercial price.

⁷ Members of the World Trade Organization are required to provide for the minimum standards of protection and enforcement for intellectual property rights covered under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

THE BILL

9. The main provisions of the Bill are set out below.
- (a) **Clause 4** amends section 40A of the CO to expand the definition of “print disability” (paragraph 8(a) above); add a definition for “authorized entity” outside Hong Kong for the new provisions concerning the cross-border exchange of accessible copies (paragraph 8(f) above); allow the use of audio forms of the existing types of works (such as audiobooks) in the production of accessible copies (paragraph 8(b) above); and add a definition of “supply” to clarify its meaning (paragraph 8(d));
 - (b) **Clause 5** amends section 40B of the CO to allow the making of a single accessible copy if a print-disabled person has lawful access to a copy of a work (paragraph 8(e) above);
 - (c) **Clause 6** amends section 40C of the CO to allow the making of multiple accessible copies if a specified body has lawful access to a copy of a work (that has been published or otherwise made publicly available in any media) and to provide for the making of further accessible copies from accessible copies made (paragraph 8(c) and (e) above);
 - (d) **Clause 7** introduces new permitted acts which allow the cross-border exchange of accessible copies together with the relevant conditions for such exchange, and introduces a provision on the master copy which reorganises several existing provisions and includes provisions to exclude the use of certain sound recordings for making accessible copies (paragraph 8(f) above); and
 - (e) **Clause 9** introduces new subsections to section 40E of the CO on the record-keeping requirements for the new permitted acts governing cross-border exchange of accessible copies (paragraph 8(f) above).

LEGISLATIVE TIMETABLE

10. The legislative timetable will be as follows –

Publication in the Gazette	1 November 2019
First Reading and commencement of Second Reading debate	13 November 2019
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

11. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no economic, financial, civil service, competition, environmental, gender and productivity implications. It will not affect the current binding effect of CO. The family and sustainability implications are set out in **Annex C**.

C

PUBLIC CONSULTATION

12. The legislative proposals have taken into account the views and suggestions received from the public consultation conducted from May to August 2017. We briefed the LegCo Panel on Commerce and Industry on 27 February 2018 on the outcome of the consultation and our legislative proposals as outlined in paragraph 8 above. Members were generally supportive of the legislative proposals. We also engaged key stakeholders including the Hong Kong Blind Union, the Hong Kong Society for the Blind and the local publishing industry, when formulating the detailed legislative proposals. Our present legislative proposals have their support.

PUBLICITY

13. A press release will be issued on 1 November 2019. A spokesperson will be available to answer media enquiries.

ENQUIRIES

14. Enquiries on this brief may be addressed to Miss Alice Choi, Principal Assistant Secretary for Commerce and Economic Development (Commerce and Industry) at telephone number 2810 2862.

Commerce and Economic Development Bureau

30 October 2019

Copyright (Amendment) Bill 2019

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A BILL

To

Amend the Copyright Ordinance to enhance copyright exceptions relating to persons with a print disability, in order to bring those exceptions into line with the standards set out in the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Copyright (Amendment) Ordinance 2019.

2. Copyright Ordinance amended

The Copyright Ordinance (Cap. 528) is amended as set out in sections 3 to 10.

3. Section 35 amended (meaning of *infringing copy*)

(1) Section 35(7)(b), Chinese text—

Repeal

“文本”

Substitute

“格式版”.

(2) Section 35(7)(c), Chinese text—

Repeal

“文本”

Substitute

“格式版”。

- (3) After section 35(7)(c)—

Add

- “(ca) section 40CA(11) (accessible copies made by specified bodies for export or supply);
- (cb) section 40CB(7) (accessible copies imported or obtained by specified bodies);”.

4. Section 40A amended (definitions for sections 40A to 40F)

- (1) Section 40A—

Renumber the section as section 40A(1).

- (2) Section 40A(1), definition of *accessible copy*—

Repeal

“文本”

Substitute

“格式版”。

- (3) Section 40A(1), definition of *print disability*, paragraph (c)—

Repeal

“; or”

Substitute a semicolon.

- (4) Section 40A(1), definition of *print disability*, paragraph (d), after the semicolon—

Add

“or”。

- (5) Section 40A(1), definition of *print disability*, after paragraph (d)—

Add

- “(e) a perceptual or reading disability (including dyslexia) which cannot be improved to give the person (*relevant person*) visual function substantially equivalent to that of a person who has no such disability, such that the relevant person is unable to read to substantially the same degree as a person who has no such disability;”.

- (6) Section 40A(1), definition of *specified body*—

Repeal paragraph (d)**Substitute**

- “(d) an organization that—

- (i) is not established or conducted for profit; and
- (ii) has a main object or main function that is charitable or otherwise concerned with the advancement of welfare for persons with a print disability;”.

- (7) Section 40A(1)—

Add in alphabetical order

“*authorized entity* (獲授權實體) means a body—

- (a) that is in a jurisdiction outside Hong Kong that—
- (i) is a member of the World Trade Organization; or
- (ii) is a contracting party to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled adopted at Marrakesh in 2013, as revised or amended from time to time; and

- (b) that—

- (i) is not established or conducted for profit; and
- (ii) has a main object or main function that is charitable or otherwise concerned with the advancement of welfare for persons with a print disability;

copy (文本)—see subsection (2);

supply (供應), in relation to an accessible copy, includes—

- (a) make the copy available, by wire or wireless means, in such a way that the person to whom the copy is made available may access it from a place and at a time chosen by the person (for example, make the copy available through the Internet); and
- (b) distribute the copy.”.

(8) After section 40A(1)—

Add

“(2) A reference in section 40B, 40C, 40CA or 40CB to a copy of the whole or part of a work includes a copy of the whole or part of the work in audio form, such as an audiobook.”.

5. Section 40B amended (making a single accessible copy for a person with a print disability)

(1) Section 40B, Chinese text, heading—

Repeal

“文本”

Substitute

“格式版”.

(2) Section 40B—

Repeal subsection (1)

Substitute

“(1) Subject to section 40CC, if a person with a print disability possesses, or otherwise has lawful access to, a copy of the whole or part of a literary, dramatic, musical or artistic work (*master copy*), and the master copy is not accessible to the person because of the disability, making an accessible copy of the master copy by or on behalf of the person for the person’s personal use is not an infringement of copyright in the work or—

- (a) for a published edition of the work—in the typographical arrangement of the published edition; or
- (b) for an audio form of the work—in the sound recording of the work.”.

(3) Section 40B—

Repeal subsection (2).

(4) Section 40B—

Repeal subsection (3)

Substitute

“(3) Subsection (1) does not apply unless, at the time when the accessible copy is made, the maker of the copy is satisfied, after making reasonable enquiries, that no copy of the relevant copyright work in a form that is accessible to the person with a print disability can be obtained at a reasonable commercial price.”.

(5) Section 40B(4), Chinese text—

Repeal

everything before “而招致”

Substitute

“(4) 如任何人根據本條，代閱讀殘障人士製作便於閱讀格式版，並就此收取費用，該費用不得超逾為製作和供應該格式版”。

(6) Section 40B(5), Chinese text—

Repeal

“文本(若非因本條即屬侵犯版權複製品者)按照本條製作或供應，但其後該文本”

Substitute

“格式版(若非因本條即屬侵犯版權複製品者)按照本條製作或供應，但其後該格式版”。

(7) Section 40B(5)(a), Chinese text—

Repeal

“文本”

Substitute

“格式版”。

(8) Section 40B(5)(b), Chinese text—

Repeal

“文本”

Substitute

“格式版”。

6. Section 40C amended (making multiple accessible copies by specified bodies for persons with a print disability)

(1) Section 40C, Chinese text, heading—

Repeal

“文本”

Substitute

“格式版”。

(2) Section 40C—

Repeal subsection (1)

Substitute

“(1) Subject to section 40CC, if a specified body possesses, or otherwise has lawful access to, a copy of the whole or part of a literary, dramatic, musical or artistic work that has been published or otherwise made publicly available in any media (*master copy*), and the master copy is not accessible to persons with a print disability, the doing of an act specified in subsection (1A) by the body is not an infringement of copyright in the work or—

(a) for a published edition of the work—in the typographical arrangement of the published edition; or

(b) for an audio form of the work—in the sound recording of the work.

(1A) The following acts are specified for the purposes of subsection (1)—

(a) making accessible copies of the master copy for persons with a print disability for their personal use;

(b) supplying the accessible copies to those persons for their personal use.

(1B) If a specified body has made an accessible copy of a master copy under subsection (1), the doing of an act specified in subsection (1C) by the body is also not an infringement of copyright in the work or—

(a) for a published edition of the work—in the typographical arrangement of the published edition; or

- (b) for an audio form of the work—in the sound recording of the work.
- (1C) The following acts are specified for the purposes of subsection (1B)—
- (a) making further accessible copies from the accessible copy concerned for persons with a print disability for their personal use;
- (b) supplying the accessible copies so made to those persons for their personal use.”.
- (3) Section 40C—
Repeal subsection (2).
- (4) Section 40C—
Repeal subsection (3)
Substitute
“(3) Subsections (1) and (1A) do not apply unless, at the time when the accessible copies are made, the specified body is satisfied, after making reasonable enquiries, that no copy of the relevant copyright work in a form that is accessible to a person with a print disability can be obtained at a reasonable commercial price.
- (3A) Subsections (1B) and (1C) do not apply unless, at the time when the further accessible copies are made, the specified body is satisfied, after making reasonable enquiries, that no copy of the relevant copyright work in a form that is accessible to a person with a print disability can be obtained at a reasonable commercial price.”.
- (5) Section 40C(4)(a), Chinese text—
Repeal

- “文本之前的一段合理時間內，將其製作或供應該等便於閱讀文本”
Substitute
“格式版之前的一段合理時間內，將其製作或供應該等格式版”.
- (6) Section 40C(4)(b), Chinese text—
Repeal
“文本之後的一段合理時間內，將它已製作或供應該等便於閱讀文本”
Substitute
“格式版之後的一段合理時間內，將它已製作或供應該等格式版”.
- (7) Section 40C(5)—
Repeal
“The requirement under subsection”
Substitute
“Subsection”.
- (8) Section 40C(6), Chinese text—
Repeal
everything before “而招致”
Substitute
“(6) 如指明團體根據本條，製作和供應便於閱讀格式版，並就此收取費用，該費用不得超逾為製作和供應該格式版”.
- (9) Section 40C(7), Chinese text—
Repeal
“文本(若非因本條即屬侵犯版權複製品者)按照本條製作或供應，但其後該文本”

Substitute

“格式版(若非因本條即屬侵犯版權複製品者)按照本條製作或供應，但其後該格式版”。

- (10) Section 40C(7)(a), Chinese text—

Repeal

“文本”

Substitute

“格式版”。

- (11) Section 40C(7)(b), Chinese text—

Repeal

“文本”

Substitute

“格式版”。

7. Sections 40CA, 40CB and 40CC added

After section 40C—

Add

“40CA. Export or supply of accessible copies by specified bodies to authorized entities

- (1) Subject to section 40CC, if a specified body possesses, or otherwise has lawful access to, a copy of the whole or part of a literary, dramatic, musical or artistic work that has been published or otherwise made publicly available in any media (*master copy*), and the master copy is not accessible to persons with a print disability, the doing of an act specified in subsection (2) by the body is not an infringement of copyright in the work or—

- (a) for a published edition of the work—in the typographical arrangement of the published edition; or
 (b) for an audio form of the work—in the sound recording of the work.

- (2) The following acts are specified for the purposes of subsection (1)—

- (a) making an accessible copy of the master copy for the purpose of export or supply to an authorized entity;
 (b) exporting or supplying the accessible copy to the entity.

- (3) Subsections (1) and (2) do not apply unless both of the following conditions are met by the specified body before exporting or supplying an accessible copy to an authorized entity—

- (a) the body has obtained the entity’s confirmation that no copy of the relevant copyright work in a form that is accessible to persons with a print disability can be obtained at a reasonable commercial price in the jurisdiction the entity is in;

- (b) the body does not know, and does not have reasonable grounds for believing, that the accessible copy would be used otherwise than by persons with a print disability for their personal use.

- (4) If a specified body has made an accessible copy of a master copy under section 40C, the doing of an act specified in subsection (5) by the body is also not an infringement of copyright in the work or—

- (a) for a published edition of the work—in the typographical arrangement of the published edition; or
 - (b) for an audio form of the work—in the sound recording of the work.
- (5) The following acts are specified for the purposes of subsection (4)—
- (a) making another accessible copy from the accessible copy concerned for the purpose of export or supply to an authorized entity;
 - (b) exporting or supplying that other accessible copy to the entity.
- (6) Subsections (4) and (5) do not apply unless both of the following conditions are met by the specified body before exporting or supplying an accessible copy to an authorized entity—
- (a) the body has obtained the entity's confirmation that no copy of the relevant copyright work in a form that is accessible to persons with a print disability can be obtained at a reasonable commercial price in the jurisdiction the entity is in;
 - (b) the body does not know, and does not have reasonable grounds for believing, that the accessible copy would be used otherwise than by persons with a print disability for their personal use.
- (7) In determining whether a specified body does not know, or does not have reasonable grounds for believing, that an accessible copy would be used otherwise than by persons with a print disability for their personal use, the court may have regard to all the circumstances including

- whether the body has obtained a confirmation from the authorized entity that the copy would only be provided to persons with a print disability for their personal use.
- (8) The specified body must—
- (a) within a reasonable time before making, exporting or supplying the accessible copy, notify the relevant copyright owner of its intention to make, export or supply the copy; or
 - (b) within a reasonable time after making, exporting or supplying the accessible copy, notify the relevant copyright owner that it has made, exported or supplied the copy.
- (9) Subsection (8) does not apply if the specified body cannot, after making reasonable enquiries, ascertain the identity and contact details of the relevant copyright owner.
- (10) If the specified body charges for making, exporting or supplying an accessible copy under this section, the sum charged must not exceed the cost incurred in making, exporting or supplying the copy.
- (11) Where an accessible copy which apart from this section would be an infringing copy is made, exported or supplied in accordance with this section but is subsequently dealt with, it is to be treated as an infringing copy—
- (a) for the purpose of that dealing; and
 - (b) if that dealing infringes copyright, for all subsequent purposes.
- (12) In subsection (11)—
- dealt with* (被用以進行交易) means sold, let for hire, or offered or exposed for sale or hire.

40CB. Import or obtainment of accessible copies by specified bodies from authorized entities

- (1) The doing of an act specified in subsection (2) by a specified body for the purpose of supplying accessible copies of the whole or part of a literary, dramatic, musical or artistic work to persons with a print disability for their personal use is not an infringement of copyright in the work or—
 - (a) for a published edition of the work—in the typographical arrangement of the published edition; or
 - (b) for an audio form of the work—in the sound recording of the work.
- (2) The following acts are specified for the purposes of subsection (1)—
 - (a) importing or obtaining an accessible copy of the work from an authorized entity;
 - (b) possessing the accessible copy so imported or obtained;
 - (c) making further accessible copies from the accessible copy so imported or obtained;
 - (d) supplying the accessible copies so imported, obtained or made.
- (3) Subsections (1) and (2) do not apply if—
 - (a) the accessible copy records, or the making of the accessible copy would involve recording, a performance of the whole or part of a musical work; or
 - (b) the accessible copy records, or the making of the accessible copy would involve recording, a

performance of the whole or part of a dramatic work.

- (4) Also, subsections (1) and (2) do not apply unless, at the relevant time, the specified body is satisfied, after making reasonable enquiries, that no copy of the relevant copyright work in a form that is accessible to persons with a print disability can be obtained at a reasonable commercial price.
- (5) In subsection (4)—

relevant time (有關時間) means—

 - (a) in relation to importing or obtaining an accessible copy of a work from an authorized entity—the time when the copy is imported or obtained; and
 - (b) in relation to making a further accessible copy from an accessible copy of a work—the time when the further accessible copy is made.
- (6) If the specified body charges for importing, obtaining, making or supplying an accessible copy under this section, the sum charged must not exceed the cost incurred in importing, obtaining, making or supplying the copy.
- (7) Where an accessible copy which apart from this section would be an infringing copy is imported, obtained, possessed, made or supplied in accordance with this section but is subsequently dealt with, it is to be treated as an infringing copy—
 - (a) for the purpose of that dealing; and
 - (b) if that dealing infringes copyright, for all subsequent purposes.
- (8) In subsection (7)—

dealt with (被用以進行交易) means sold, let for hire, or offered or exposed for sale or hire.

40CC. Provisions relating to master copy

- (1) Sections 40B(1), 40C(1) and 40CA(1) do not apply if—
- (a) the relevant master copy is an infringing copy;
 - (b) the relevant master copy is a copy of a sound recording that comprises only of the performance of—
 - (i) the whole or part of a musical work;
 - (ii) music in which words are spoken, or are sung, incidentally to or in association with the music;
 - (iii) the whole or part of a dramatic work; or
 - (iv) any combination of the items described in subparagraphs (i), (ii) and (iii);
 - (c) the relevant master copy is of the whole or part of a musical work, and the making of an accessible copy would involve recording a performance of the whole or part of the work; or
 - (d) the relevant master copy is of the whole or part of a dramatic work, and the making of an accessible copy would involve recording a performance of the whole or part of the work.
- (2) In this section—
- relevant master copy* (有關原版文本), in relation to section 40B(1), 40C(1) or 40CA(1), means a master copy as defined by that section.”.

8. Section 40D amended (intermediate copies)

- (1) Section 40D(1), Chinese text—
- Repeal**
“文本的指明團體，可管有任何在製作該便於閱讀文本”
- Substitute**
“格式版的指明團體，可管有任何在製作該便於閱讀格式版”.
- (2) Section 40D(1)(a), Chinese text—
- Repeal**
“文本”
- Substitute**
“格式版”.
- (3) Section 40D(3), Chinese text—
- Repeal**
“文本”
- Substitute**
“格式版”.
- (4) Section 40D(5)—
- Repeal**
“The requirement under subsection”
- Substitute**
“Subsection”.

9. Section 40E amended (records to be kept by specified bodies)

- (1) Section 40E(1), Chinese text—
- Repeal**

“必須在根據第 40C 條製作或供應任何便於閱讀文本之後，在切實可行範圍內，盡快就該便於閱讀文本”

Substitute

“須在根據第 40C 條製作或供應任何便於閱讀格式版之後，在切實可行範圍內，盡快就該便於閱讀格式版”。

- (2) Section 40E(2)(a), Chinese text—

Repeal

“文本”

Substitute

“格式版”。

- (3) Section 40E(2)(b), Chinese text—

Repeal

“文本”

Substitute

“格式版”。

- (4) Section 40E(2)(c), after “copy”—

Add

“or, if the title, publisher or edition is not known, a description of the relevant master copy”。

- (5) Section 40E(2)(d)—

Repeal

“where the accessible copy is made for or supplied to a body or a class of persons,”

Substitute

“if the accessible copy is made for or supplied to a body or a class of persons—”。

- (6) Section 40E(2)(e)—

Repeal

“where more than one copy of the accessible copy is made or supplied,”

Substitute

“if more than one copy of the accessible copy is made or supplied—”。

- (7) After section 40E(2)—

Add

“(2A) A specified body must make a record of any accessible copy exported or supplied under section 40CA as soon as practicable after it is exported or supplied.

(2B) The record referred to in subsection (2A) must include—

- (a) the date on which the specified body sent the accessible copy to the authorized entity;
- (b) the form of the accessible copy;
- (c) the title, publisher and edition of the relevant master copy or, if the title, publisher or edition is not known, a description of the relevant master copy; and
- (d) the name of the authorized entity to which the accessible copy is exported or supplied.

(2C) A specified body must make a record of any accessible copy imported or obtained under section 40CB as soon as practicable after it is imported or obtained.

(2D) The record referred to in subsection (2C) must include—

- (a) the date on which the accessible copy is received by the specified body;
- (b) the form of the accessible copy;

- (c) the title, publisher and edition of the relevant copyright work or, if the title, publisher or edition is not known, a description of the relevant copyright work;
- (d) the name of the authorized entity from which the accessible copy is imported or obtained;
- (e) the name or description of the person or persons to whom the accessible copy is supplied under section 40CB; and
- (f) if more than one copy of the accessible copy is so supplied—the total number of such copies.”.

(8) Section 40E(4)(c), after “copy”—

Add

“or, if the title, publisher or edition is not known, a description of the relevant master copy”.

(9) Section 40E(5)(a)—

Repeal

“(1)”

Substitute

“(1), (2A), (2C)”.

10. Section 40F amended (supplementary provisions for sections 40A to 40E)

(1) Section 40F(2)—

Repeal

everything after “section 40B”

Substitute

“, 40C, 40CA or 40CB) of a copyright work is taken to be accessible to a person with a print disability only if it is as

accessible to the person as it would be if the person were not suffering from the disability.”.

(2) Section 40F(3), Chinese text—

Repeal

“文本”

Substitute

“格式版”.

(3) Section 40F(4), Chinese text—

Repeal

“文本”

Substitute

“格式版”.

Explanatory Memorandum

The main purposes of this Bill are to amend the Copyright Ordinance (Cap. 528) (*Ordinance*) to enhance copyright exceptions relating to persons with a print disability, in order to bring those exceptions into line with the standards set out in the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

2. Clause 1 sets out the short title.
3. Clause 4 amends section 40A of the Ordinance to amend and add terms used in sections 40A to 40F of the Ordinance. In particular, the scope of *print disability* is widened, and the new definitions of *authorized entity* and *supply* are added.
4. Clause 5 amends section 40B of the Ordinance so that a print-disabled person or another person acting on the person's behalf with lawful access to a copy of the whole or part of a literary, dramatic, musical or artistic work (*section 40B master copy*) may make an accessible copy of a section 40B master copy for the print-disabled person's personal use without infringing relevant copyrights. The scope of a section 40B master copy is also clarified to include a section 40B master copy in audio form.
5. Clause 6 amends section 40C of the Ordinance so that a specified body (as defined by section 40A(1) of the Ordinance) (*specified body*) that possesses, or has lawful access to, a copy of the whole or part of a literary, dramatic, musical or artistic work that has been published or otherwise made publicly available in any media (*section 40C master copy*) may make accessible copies (including further accessible copies) of a section 40C master copy and supply such accessible copies to print-disabled persons for their personal use without infringing relevant copyrights. The scope of a section

40C master copy is also clarified to include a section 40C master copy in audio form.

6. Clause 7 adds the new sections 40CA, 40CB and 40CC to the Ordinance.
7. Section 40CA effectively provides that a specified body that possesses, or has lawful access to, a copy of the whole or part of a literary, dramatic, musical or artistic work that has been published or otherwise made publicly available in any media (*section 40CA master copy*) may make an accessible copy from a section 40CA master copy, or another accessible copy of an accessible copy, and export or supply such an accessible copy to an authorized entity without infringing relevant copyrights. It also provides for conditions that must be met by a specified body before an accessible copy can be exported or supplied to an authorized entity, and notification and other requirements.
8. Section 40CB effectively provides that a specified body may import or obtain from an authorized entity an accessible copy, possess an accessible copy so imported or obtained, make further accessible copies, and supply accessible copies so imported, obtained or made to print-disabled persons for their personal use without infringing relevant copyrights. It also provides for conditions that must be met by a specified body before an accessible copy can be imported, obtained or made, and other requirements.
9. Section 40CC excludes certain types of master copies from the scopes of sections 40B(1), 40C(1) and 40CA(1).
10. Clause 9 amends section 40E of the Ordinance to provide for record requirements in relation to accessible copies exported or supplied under section 40CA and accessible copies imported or obtained under section 40CB.

**Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind,
Visually Impaired, or Otherwise Print Disabled***

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* This Treaty was adopted by the Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities on June 27, 2013.

Preamble

The Contracting Parties

Recalling the principles of non-discrimination, equal opportunity, accessibility and full and effective participation and inclusion in society, proclaimed in the Universal Declaration of Human Rights and the United Nations Convention on the Rights of Persons with Disabilities,

Mindful of the challenges that are prejudicial to the complete development of persons with visual impairments or with other print disabilities, which limit their freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds on an equal basis with others, including through all forms of communication of their choice, their enjoyment of the right to education, and the opportunity to conduct research,

Emphasizing the importance of copyright protection as an incentive and reward for literary and artistic creations and of enhancing opportunities for everyone, including persons with visual impairments or with other print disabilities, to participate in the cultural life of the community, to enjoy the arts and to share scientific progress and its benefits,

Aware of the barriers of persons with visual impairments or with other print disabilities to access published works in achieving equal opportunities in society, and the need to both expand the number of works in accessible formats and to improve the circulation of such works,

Taking into account that the majority of persons with visual impairments or with other print disabilities live in developing and least-developed countries,

Recognizing that, despite the differences in national copyright laws, the positive impact of new information and communication technologies on the lives of persons with visual impairments or with other print disabilities may be reinforced by an enhanced legal framework at the international level,

Recognizing that many Member States have established limitations and exceptions in their national copyright laws for persons with visual impairments or with other print disabilities, yet there is a continuing shortage of available works in accessible format copies for such persons, and that considerable resources are required for their effort of making works accessible to these persons, and that the lack of possibilities of cross-border exchange of accessible format copies has necessitated duplication of these efforts,

Recognizing both the importance of rightholders' role in making their works accessible to persons with visual impairments or with other print disabilities and the importance of appropriate limitations and exceptions to make works accessible to these persons, particularly when the market is unable to provide such access,

Recognizing the need to maintain a balance between the effective protection of the rights of authors and the larger public interest, particularly education, research and access to information, and that such a balance must facilitate effective and timely access to works for the benefit of persons with visual impairments or with other print disabilities,

Reaffirming the obligations of Contracting Parties under the existing international treaties on the protection of copyright and the importance and flexibility of the three-step test for limitations and exceptions established in Article 9(2) of the Berne Convention for the Protection of Literary and Artistic Works and other international instruments,

Recalling the importance of the Development Agenda recommendations, adopted in 2007 by the General Assembly of the World Intellectual Property Organization (WIPO), which aim to ensure that development considerations form an integral part of the Organization's work,

Recognizing the importance of the international copyright system and desiring to harmonize limitations and exceptions with a view to facilitating access to and use of works by persons with visual impairments or with other print disabilities,

Have agreed as follows:

Article 1 Relation to Other Conventions and Treaties

Nothing in this Treaty shall derogate from any obligations that Contracting Parties have to each other under any other treaties, nor shall it prejudice any rights that a Contracting Party has under any other treaties.

Article 2 Definitions

For the purposes of this Treaty:

(a) “works” means literary and artistic works within the meaning of Article 2(1) of the Berne Convention for the Protection of Literary and Artistic Works, in the form of text, notation and/or related illustrations, whether published or otherwise made publicly available in any media¹;

(b) “accessible format copy” means a copy of a work in an alternative manner or form which gives a beneficiary person access to the work, including to permit the person to have access as feasibly and comfortably as a person without visual impairment or other print disability. The accessible format copy is used exclusively by beneficiary persons and it must respect the integrity of the original work, taking due consideration of the changes needed to make the work accessible in the alternative format and of the accessibility needs of the beneficiary persons;

(c) “authorized entity” means an entity that is authorized or recognized by the government to provide education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis. It also includes a government institution or non-profit organization that provides the same services to beneficiary persons as one of its primary activities or institutional obligations².

An authorized entity establishes and follows its own practices:

- (i) to establish that the persons it serves are beneficiary persons;
- (ii) to limit to beneficiary persons and/or authorized entities its distribution and making available of accessible format copies;
- (iii) to discourage the reproduction, distribution and making available of unauthorized copies; and

¹ Agreed statement concerning Article 2(a): For the purposes of this Treaty, it is understood that this definition includes such works in audio form, such as audiobooks.

² Agreed statement concerning Article 2(c): For the purposes of this Treaty, it is understood that “entities recognized by the government” may include entities receiving financial support from the government to provide education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis.

- (iv) to maintain due care in, and records of, its handling of copies of works, while respecting the privacy of beneficiary persons in accordance with Article 8.

Article 3 Beneficiary Persons

A beneficiary person is a person who:

- (a) is blind;
- (b) has a visual impairment or a perceptual or reading disability which cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or³
- (c) is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading;

regardless of any other disabilities.

Article 4 National Law Limitations and Exceptions Regarding Accessible Format Copies

1. (a) Contracting Parties shall provide in their national copyright laws for a limitation or exception to the right of reproduction, the right of distribution, and the right of making available to the public as provided by the WIPO Copyright Treaty (WCT), to facilitate the availability of works in accessible format copies for beneficiary persons. The limitation or exception provided in national law should permit changes needed to make the work accessible in the alternative format.

(b) Contracting Parties may also provide a limitation or exception to the right of public performance to facilitate access to works for beneficiary persons.

2. A Contracting Party may fulfill Article 4(1) for all rights identified therein by providing a limitation or exception in its national copyright law such that:

(a) Authorized entities shall be permitted, without the authorization of the copyright rightholder, to make an accessible format copy of a work, obtain from another authorized entity an accessible format copy, and supply those copies to beneficiary persons by any means, including by non-commercial lending or by electronic communication by wire or wireless means, and undertake any intermediate steps to achieve those objectives, when all of the following conditions are met:

(i) the authorized entity wishing to undertake said activity has lawful access to that work or a copy of that work;

(ii) the work is converted to an accessible format copy, which may include any means needed to navigate information in the accessible format, but does not introduce changes other than those needed to make the work accessible to the beneficiary person;

(iii) such accessible format copies are supplied exclusively to be used by

³ Agreed statement concerning Article 3(b): Nothing in this language implies that “cannot be improved” requires the use of all possible medical diagnostic procedures and treatments.

beneficiary persons; and

(iv) the activity is undertaken on a non-profit basis;

and

(b) A beneficiary person, or someone acting on his or her behalf including a primary caretaker or caregiver, may make an accessible format copy of a work for the personal use of the beneficiary person or otherwise may assist the beneficiary person to make and use accessible format copies where the beneficiary person has lawful access to that work or a copy of that work.

3. A Contracting Party may fulfill Article 4(1) by providing other limitations or exceptions in its national copyright law pursuant to Articles 10 and 11⁴.

4. A Contracting Party may confine limitations or exceptions under this Article to works which, in the particular accessible format, cannot be obtained commercially under reasonable terms for beneficiary persons in that market. Any Contracting Party availing itself of this possibility shall so declare in a notification deposited with the Director General of WIPO at the time of ratification of, acceptance of or accession to this Treaty or at any time thereafter⁵.

5. It shall be a matter for national law to determine whether limitations or exceptions under this Article are subject to remuneration.

Article 5

Cross-Border Exchange of Accessible Format Copies

1. Contracting Parties shall provide that if an accessible format copy is made under a limitation or exception or pursuant to operation of law, that accessible format copy may be distributed or made available by an authorized entity to a beneficiary person or an authorized entity in another Contracting Party⁶.

2. A Contracting Party may fulfill Article 5(1) by providing a limitation or exception in its national copyright law such that:

(a) authorized entities shall be permitted, without the authorization of the rightholder, to distribute or make available for the exclusive use of beneficiary persons accessible format copies to an authorized entity in another Contracting Party; and

(b) authorized entities shall be permitted, without the authorization of the rightholder and pursuant to Article 2(c), to distribute or make available accessible format copies to a beneficiary person in another Contracting Party;

provided that prior to the distribution or making available the originating authorized entity did not know or have reasonable grounds to know that the accessible format copy would be used for other than beneficiary persons⁷.

⁴ Agreed statement concerning Article 4(3): It is understood that this paragraph neither reduces nor extends the scope of applicability of limitations and exceptions permitted under the Berne Convention, as regards the right of translation, with respect to persons with visual impairments or with other print disabilities.

⁵ Agreed statement concerning Article 4(4): It is understood that a commercial availability requirement does not prejudice whether or not a limitation or exception under this Article is consistent with the three-step test.

⁶ Agreed statement concerning Article 5(1): It is further understood that nothing in this Treaty reduces or extends the scope of exclusive rights under any other treaty.

⁷ Agreed statement concerning Article 5(2): It is understood that, to distribute or make available accessible format copies directly to a beneficiary person in another Contracting Party, it may be appropriate for an authorized entity to apply further measures to confirm that the person it is serving is a beneficiary person and to follow its own practices as described in Article 2(c).

3. A Contracting Party may fulfill Article 5(1) by providing other limitations or exceptions in its national copyright law pursuant to Articles 5(4), 10 and 11.

4. (a) When an authorized entity in a Contracting Party receives accessible format copies pursuant to Article 5(1) and that Contracting Party does not have obligations under Article 9 of the Berne Convention, it will ensure, consistent with its own legal system and practices, that the accessible format copies are only reproduced, distributed or made available for the benefit of beneficiary persons in that Contracting Party's jurisdiction.

(b) The distribution and making available of accessible format copies by an authorized entity pursuant to Article 5(1) shall be limited to that jurisdiction unless the Contracting Party is a Party to the WIPO Copyright Treaty or otherwise limits limitations and exceptions implementing this Treaty to the right of distribution and the right of making available to the public to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the rightholder^{8,9}.

(c) Nothing in this Article affects the determination of what constitutes an act of distribution or an act of making available to the public.

5. Nothing in this Treaty shall be used to address the issue of exhaustion of rights.

Article 6 **Importation of Accessible Format Copies**

To the extent that the national law of Contracting Party would permit a beneficiary person, someone acting on his or her behalf, or an authorized entity, to make an accessible format copy of a work, the national law of that Contracting Party shall also permit them to import an accessible format copy for the benefit of beneficiary persons, without the authorization of the rightholder¹⁰

Article 7 **Obligations Concerning Technological Measures**

Contracting Parties shall take appropriate measures, as necessary, to ensure that when they provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures, this legal protection does not prevent beneficiary persons from enjoying the limitations and exceptions provided for in this Treaty¹¹.

Article 8 **Respect for Privacy**

In the implementation of the limitations and exceptions provided for in this Treaty, Contracting Parties shall endeavor to protect the privacy of beneficiary persons on an equal basis with others.

⁸ Agreed statement concerning Article 5(4)(b): It is understood that nothing in this Treaty requires or implies that a Contracting Party adopt or apply the three-step test beyond its obligations under this instrument or under other international treaties.

⁹ Agreed statement concerning Article 5(4)(b): It is understood that nothing in this Treaty creates any obligations for a Contracting Party to ratify or accede to the WCT or to comply with any of its provisions and nothing in this Treaty prejudices any rights, limitations and exceptions contained in the WCT.

¹⁰ Agreed statement concerning Article 6: It is understood that the Contracting Parties have the same flexibilities set out in Article 4 when implementing their obligations under Article 6.

¹¹ Agreed statement concerning Article 7: It is understood that authorized entities, in various circumstances, choose to apply technological measures in the making, distribution and making available of accessible format copies and nothing herein disturbs such practices when in accordance with national law.

Article 9

Cooperation to Facilitate Cross-Border Exchange

1. Contracting Parties shall endeavor to foster the cross-border exchange of accessible format copies by encouraging the voluntary sharing of information to assist authorized entities in identifying one another. The International Bureau of WIPO shall establish an information access point for this purpose.
2. Contracting Parties undertake to assist their authorized entities engaged in activities under Article 5 to make information available regarding their practices pursuant to Article 2(c), both through the sharing of information among authorized entities, and through making available information on their policies and practices, including related to cross-border exchange of accessible format copies, to interested parties and members of the public as appropriate.
3. The International Bureau of WIPO is invited to share information, where available, about the functioning of this Treaty.
4. Contracting Parties recognize the importance of international cooperation and its promotion, in support of national efforts for realization of the purpose and objectives of this Treaty¹².

Article 10

General Principles on Implementation

1. Contracting Parties undertake to adopt the measures necessary to ensure the application of this Treaty.
2. Nothing shall prevent Contracting Parties from determining the appropriate method of implementing the provisions of this Treaty within their own legal system and practice¹³.
3. Contracting Parties may fulfill their rights and obligations under this Treaty through limitations or exceptions specifically for the benefit of beneficiary persons, other limitations or exceptions, or a combination thereof, within their national legal system and practice. These may include judicial, administrative or regulatory determinations for the benefit of beneficiary persons as to fair practices, dealings or uses to meet their needs consistent with the Contracting Parties' rights and obligations under the Berne Convention, other international treaties, and Article 11.

Article 11

General Obligations on Limitations and Exceptions

In adopting measures necessary to ensure the application of this Treaty, a Contracting Party may exercise the rights and shall comply with the obligations that that Contracting Party has under the Berne Convention, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the WIPO Copyright Treaty, including their interpretative agreements so that:

- (a) in accordance with Article 9(2) of the Berne Convention, a Contracting Party may permit the reproduction of works in certain special cases provided that such reproduction does

¹² Agreed statement concerning Article 9: It is understood that Article 9 does not imply mandatory registration for authorized entities nor does it constitute a precondition for authorized entities to engage in activities recognized under this Treaty; but it provides for a possibility for sharing information to facilitate the cross-border exchange of accessible format copies.

¹³ Agreed statement concerning Article 10(2): It is understood that when a work qualifies as a work under Article 2(a), including such works in audio form, the limitations and exceptions provided for by this Treaty apply *mutatis mutandis* to related rights as necessary to make the accessible format copy, to distribute it and to make it available to beneficiary persons.

not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author;

(b) in accordance with Article 13 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, a Contracting Party shall confine limitations or exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the rightholder;

(c) in accordance with Article 10(1) of the WIPO Copyright Treaty, a Contracting Party may provide for limitations of or exceptions to the rights granted to authors under the WCT in certain special cases, that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author;

(d) in accordance with Article 10(2) of the WIPO Copyright Treaty, a Contracting Party shall confine, when applying the Berne Convention, any limitations of or exceptions to rights to certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

Article 12

Other Limitations and Exceptions

1. Contracting Parties recognize that a Contracting Party may implement in its national law other copyright limitations and exceptions for the benefit of beneficiary persons than are provided by this Treaty having regard to that Contracting Party's economic situation, and its social and cultural needs, in conformity with that Contracting Party's international rights and obligations, and in the case of a least-developed country taking into account its special needs and its particular international rights and obligations and flexibilities thereof.

2. This Treaty is without prejudice to other limitations and exceptions for persons with disabilities provided by national law.

Article 13

Assembly

1. (a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented in the Assembly by one delegate who may be assisted by alternate delegates, advisors and experts.

(c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.

2. (a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.

(b) The Assembly shall perform the function allocated to it under Article 15 in respect of the admission of certain intergovernmental organizations to become party to this Treaty.

(c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.

3. (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.

4. The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of WIPO.

5. The Assembly shall endeavor to take its decisions by consensus and shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

Article 14 **International Bureau**

The International Bureau of WIPO shall perform the administrative tasks concerning this Treaty.

Article 15 **Eligibility for Becoming Party to the Treaty**

1. Any Member State of WIPO may become party to this Treaty.

2. The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.

3. The European Union, having made the declaration referred to in the preceding paragraph at the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty.

Article 16 **Rights and Obligations Under the Treaty**

Subject to any specific provisions to the contrary in this Treaty, each Contracting Party shall enjoy all of the rights and assume all of the obligations under this Treaty.

Article 17 **Signature of the Treaty**

This Treaty shall be open for signature at the Diplomatic Conference in Marrakesh, and thereafter at the headquarters of WIPO by any eligible party for one year after its adoption.

Article 18
Entry into Force of the Treaty

This Treaty shall enter into force three months after 20 eligible parties referred to in Article 15 have deposited their instruments of ratification or accession.

Article 19
Effective Date of Becoming Party to the Treaty

This Treaty shall bind:

- (a) the 20 eligible parties referred to in Article 18, from the date on which this Treaty has entered into force;
- (b) each other eligible party referred to in Article 15, from the expiration of three months from the date on which it has deposited its instrument of ratification or accession with the Director General of WIPO.

Article 20
Denunciation of the Treaty

This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification.

Article 21
Languages of the Treaty

1. This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.
2. An official text in any language other than those referred to in Article 21(1) shall be established by the Director General of WIPO on the request of an interested party, after consultation with all the interested parties. For the purposes of this paragraph, “interested party” means any Member State of WIPO whose official language, or one of whose official languages, is involved and the European Union, and any other intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

Article 22
Depositary

The Director General of WIPO is the depositary of this Treaty.

Done in Marrakesh on the 27th day of June, 2013.

[End of document]

IMPLICATIONS OF THE PROPOSAL

Family Implications

Enhancing the copyright exceptions relating to persons with a print disability will facilitate and enhance access to copyright works. This will help the print-disabled people better achieve self-reliance, increase their sense of belonging to the society and involvement in the community, and contribute to the general well-being of families with members with print disabilities.

Sustainability Implications

2. Facilitating access to copyright works for persons with a print disability may help improve the opportunities for these persons to participate in more leisure and cultural activities. This will help contribute to the development of equal opportunities and social cohesion, and thus the sustainable development of our society.