

Response from IAML (UK&Irl) to the draft Statutory Instruments relating to the copyright exceptions for people with disabilities

About IAML (UK & Irl)

IAML (UK&Irl) is the UK and Ireland branch of the International Association of Music Libraries, Archives and Documentation Centres. It exists to represent and promote the interests of music librarians and libraries, music-related archives and music information providers throughout the United Kingdom and Ireland.

IAML (UK & Irl) is broadly encouraged by the draft legislation which supports a more balanced copyright regime. We offer below some comments and would request that these are carefully considered to ensure that the objectives of the Hargreaves Review are fully achieved.

Comments on the draft legislation

IAML (UK&Irl) is generally in favour of the proposals made in the draft legislation, which we believe will benefit library users with disabilities, and we are therefore only addressing points where we have specific comment to make.

We are encouraged that the draft legislation extends the existing exceptions for visually impaired people to include all types of disability that prevent someone from accessing a copyright work. Within the field of music in particular, there is a high rate of disclosed learning disabilities e.g. dyslexia and dyspraxia and we would encourage that the legislation should make clear that these kinds of impairments are included within the definition of “disabled people”. There is already a precedent for this in the recently revised terms of the Copyright Licensing Agency licence, and the Music Publishers Association has also this year included specific provision for users with reading impairments in its Code of Fair Practice.

We welcome the fact that the existing exceptions are to be extended to all types of copyright work. However we note an inaccuracy in the commentary on the draft legislation. Paragraph 3 states that section 31A of the CDPA allows an accessible copy of a “book” to be made, whereas in fact the current provision is wider than this, allowing the copying of any “literary, dramatic, musical or artistic work”.

A general point that we think would benefit from specific reference is the issue of the retention of files produced in the process of making accessible copies for blind/partially sighted users. There are a number of different scenarios in which such a file may be produced:

- A library scanning (and possibly editing) a piece of music for a blind user prior to producing an embossed copy.
- A library scanning a music score into a music notation software programme and enlarging it for a partially sighted user.
- As various eye conditions will dictate different solutions, in some instances a piece may need to be specifically modified for the individual’s needs. In those circumstances one could have a situation where many different versions of a work could exist under the umbrella of modified stave notation.

- A person with difficulties which mean that neither braille nor any form of print notation is appropriate may need to learn the music from a described approach where the explanation can be further added to by the use of music being played or fed into a computer for musical output.

Technological developments increase the number of options for access, but with this comes a proliferation of different versions of files. It would greatly increase efficiency if libraries were able to retain files for future use, rather than having to go back to square one each time a request for the same material was made. It would be helpful if the legislation could address this issue.

Section 31A : Disabled persons – making copies of copyright works for personal use

Subsection 1

For clarity, we would recommend the addition of the word “and” after each sub-clause.

Subsection 1(c) makes reference to an already available commercial copy. We have received feedback from blind music library users that over time a variety of formats have been adopted for the presentation of braille music and that it should not be assumed that all braille music readers will be familiar with each of these various formats. Another practical issue is how the copy in question was produced. A specific method of duplication when copying from a master copy is found to be very difficult by some readers, and there have been examples where pieces of music have had to be re-transcribed to avoid this situation. In summary, the IPO should be aware that there may be instances when a work is commercially available in a format which one might imagine to be accessible to blind people, but in fact this may not necessarily be the case.

Subsection 3

We believe it is useful to include examples, but that limiting these to the two provided in the draft legislation is not helpful. In particular the fact that there is no mention of the making of Braille copies is a significant omission, as this medium is of such importance to blind people. Whilst accepting that - for reasons of future-proofing as much as anything else – such a list cannot be exhaustive, we would recommend an expansion of the list of examples, preceded by wording stating that the exception authorises acts “including but not limited to:”

Subsection 7

We welcome the fact that the exception cannot be overridden by contractual terms. However it should be noted that technological protection measures (TPMs) can act as a significant barrier to disabled people in terms of both accessing digital material and in the conversion of such material into accessible formats, and this issue needs to be addressed in order for disabled people to benefit from this provision.

Section 31B : Making copyright works for disabled persons generally

Not all establishments have the necessary resources to make accessible copies in-house. As such, we believe that provision must be made within the legislation for establishments to sub-contract this work, with appropriate safeguards.

Subsections 1 and 2

As with section 31A subsection 1, we would recommend the addition of the word “and” after each sub-clause.

Subsection 1(c) makes reference to commercially available works, and we would re-iterate the point we make in the equivalent section of 31A.

Subsection 4

Please see our comments on Section 31A, subsection 3 above, which equally apply here (noting the additional requirement of retaining the reference to the “intermediate copy”, which we are pleased to see).

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