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Legal Background
Print Impaired People

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!Not Legal Advice!

Overview

- **Legal framework**
 - Equality Act 2010
 - The Copyright and Rights in Performances (Disability) Regs 2014
 - 2013 WIPO Marrakesh Treaty
(International – cross border supply of accessible copies)
- **Resulting publishers responsibilities**
 - Non discrimination
 - Dealing with requests promptly and fairly
- **Implementation of Marrakesh Treaty might trigger further responsibilities (cross border access)**

UK Regulations 2014

- **Equality Act 2010**
- **UK Regs in force since June 2014 - new ss 31A - 31F CDPA**
 - Nb repeal of Sections 31 D and E – licensing schemes
 - Only applicable in UK!
- **Based on Article 5 (3b) Info Soc Directive**
Extend Visually Impaired exception 2002 to all (relevant) Print Impaired people “if and to the extent that such a person is unable to access a copyright work due to their disability”
- **Main provisions:**
 - Section 31 A Disabled persons: copies of works for personal use
 - Section 31 B Making and supply of accessible copies by authorised bodies

S 31A Disabled persons: copies of works for personal use

Making of an accessible copy

Version of work enabling fuller enjoyment of the work by disabled persons; may include facilities for navigating around the version of the work, but must not include any unrelated changes to the work (e.g. Braille, large print or audio)

- **Disabled person**

Person who has a physical or mental impairment preventing enjoyment to the same degree as a person without impairment, NB n/a if correctable

- **Lawful possession or lawful use of a copy**
- **Not commercially available** (on reasonable terms)
- **No “dealing with”**
- **Ban on contractual overrides**
- **TPM (general)**

S 31B Accessible copies and authorised bodies

Authorised body

Educational establishment, or a body that is not conducted for profit.

- **Lawful possession of published work**
- **Not commercially available** (on reasonable terms)
- **No “dealing with”**
- **Ban on Contractual overrides**
- **TPM (nb. Retain TPM)**
- **“Accessible Copies” and “Intermediate Copies“, S 31BA**
- **Records and notification required, S 31BB**

Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or otherwise Print Impaired

- **Background and Status (ratification and EU position)**
Principles: non-discrimination, equal opportunity, accessibility and full and effective participation and inclusion in society
- **Two aspects:**
 - Limitation/ Exception for the benefit of persons with print disabilities
 - Limitation/ Exception for “authorized entities” to export and import “accessible format copies” cross border supply
- **Literary and artistic works (including audio books)**
- **Beneficiaries: Blind or visual impairment or perceptual or reading or other relevant physical disability**
- **Optional: Commercial availability**
- **TPM**

Cross-Border Exchange of Accessible Format Copies

- **Accessible format copies**
- **Authorized entity**
- **Articles 5 (export) and 6 (import) Marrakesh Treaty:**
- **Accessible format copies may be distributed by an authorized entity to a beneficiary person or an authorized entity (nb WIPO Copyright Treaty compliance) if:**
 - They have lawful access to that work or a copy of that work;
 - No substantial changes to work
 - Exclusively for use by beneficiary persons; and
 - Non-profit basis
- **Changes to EU Copyright Acquis/ UK Regs required?**
- **Accessible Books Consortium**

Marrakesh Treaty Definitions

- “**Accessible format copy**” means a copy of a work in an alternative manner or form which gives a beneficiary person access to the work as feasibly and comfortably as a person without visual impairment or other print disability. E.g. Braille, audio or large print.
- “**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. 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
 - (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.”

What publishers need to remember

- **Publishers must not discriminate against Print Impaired People**

Discriminating: treating less favourably, or failing to make reasonable adjustments such as offering “reasonable alternative method”

- **Publishers must deal promptly and fairly with Print Impaired requests**

Publishers to do everything reasonably possible to facilitate - or at least not delay or hinder - the making and supply of Accessible copies for Print Impaired People.

- **Cross-Border supply of Accessible Copies will soon be legal**
- **Publisher best practice is outlined in WIPO (and PA/AAG) Guidelines**