



Mr Michel Barnier

Commissioner for Internal Market and
Services

European Commission

200 rue de la Loi

1049 Bruxelles

14 May 2013

Dear Commissioner,

I am writing to you to voice our concerns about the risk of a premature and incomplete outcome of the convened on 17-28 June 2013 in Morocco World Intellectual Property Organisation (WIPO) Diplomatic Conference on a treaty to improve access by the visually-impaired and persons with print disabilities to copyrighted works ("VIP Treaty").

We support, in general, efforts by the EU and the international community to find effective solutions to the challenges faced by these groups in accessing copyrighted works. In particular, we support the conclusion of a balanced and workable international agreement in favour of the visually-impaired, provided it respects the fundamental ownership rights of those who create copyright-protected works while also re-affirming the copyright limitations and exceptions (L/E) that have worked for more than a century to balance stakeholders' interests.

Despite the Commission's efforts, the current draft VIP Treaty does not reflect the appropriate balance between copyright protection on the one hand and L/E to copyright protection on the other hand. The international copyright infrastructure is fundamentally based on this balance. By casting it aside, the VIP Treaty could set a very harmful precedent affecting broader debates about global IPR rules at the United Nations Framework Convention on Climate Change (UNFCCC), World Trade Organisation (WTO), World Health Organisation (WHO), WIPO and elsewhere.

It is crucial that the VIP Treaty is consistent with existing international IPR agreements, including the Berne Convention and the WTO TRIPS Agreement, as well as with internal EU law.

The current draft does not ensure the appropriate balance:

- It isolates L/E from the basic copyright protections to which they relate even though many of the eventual signatory countries do not provide any copyright protection whatsoever. This would create an illogical outcome in relation to certain jurisdictions, where L/E to copyright would be instituted in a vacuum.



- Notwithstanding EU's efforts to incorporate the internationally recognised "three-step" test setting limits on L/E, an inadequate and confusing compromised version of it is in the current draft. The test must clearly apply to the entire agreement and to all signatories consistently with the original EU proposal.
- In addition, it is strongly supported by the same group of NGOs and advanced emerging economy countries that pursue a general IPR-weakening agenda at WIPO and other international forums. They would rely on the harmful precedent set by its hasty conclusion.

The current state of the VIP Treaty negotiations in tandem with WIPO's broader work programme emphasizing L/E to IPR risks putting into question the fundamental principles on which the global IP system is based. Continued EU leadership will be needed to ensure that the VIP Treaty addresses the challenges faced by the visually-impaired without leading to global IPR weakening.

It is unlikely that all of the flaws in the current draft VIP Treaty can be addressed between now and the June Diplomatic Conference. In this context, the only option at this time may be to postpone the Conference and to continue negotiations until an effective and acceptable outcome can be achieved.

Better access to print works for the visually-impaired and persons with print disabilities is essential, but must be done properly. An unworkable treaty that creates major gaps in the existing, delicately balanced global IPR framework is not in the interest of European industry and not in the broader interest of the EU. Moreover, because such an outcome would face uncertain ratification and implementation prospects in many WIPO Members, it would not be to the benefit of the visually impaired either.

A similar letter is sent to Commissioner De Gucht.

We look forward to discussing next steps with you and your services, and to continuing to work with you on this important issue.

Yours sincerely,

Markus J. Beyrer