

## **Towards European Accessibility for All**

### **Proposed Directive and Regulation implementing the Marrakesh Treaty Summary observations by FEP**

We welcome the Marrakesh Treaty and the proposed Directive and Regulation reflecting the European Commission policy as outlined on 21<sup>st</sup> October 2014. Collaboration between visually impaired persons and their representatives and publishers is the decisive factor to achieve its ultimate objective to make books accessible to blind, visually impaired, and otherwise print disabled persons. Involvement of publishers in the process of making books accessible will ensure the prompt and cost efficient production of accessible format copies or born accessible publications.

The growing availability of electronic books provides an opportunity for people with print impairment - whether blind or partially sighted, dyslexic, or without sufficient dexterity to handle printed materials - to be able to read mainstream published products ideally at the same time and same cost as any other customer.

Books are already becoming more accessible, particularly in trade publishing. The goal is for print disabled people to find and read accessible books with the same ease as is the experience of sighted readers. To make it that simple, all stakeholders need to handle complexity in the background bringing together formats, technology, discovery, devices, workflow, data and standards. This is because the process of producing accessible format copies involves multifaceted technological operations. Publishers have been driving the process for some time, but more needs to be done.

We suggest three main broad areas of amendments to both European Commission proposals of 14<sup>th</sup> September 2016 which would speed up the process of achieving the objective of the Marrakesh Treaty.

#### **1. Collaboration based on trust is key (trusted intermediaries as authorised entities)**

The aim of collaboration in the field of accessibility of books is to support the growth of the number of accessible formats of books, while improving the quality of the reading experience and the timing of delivery. Such collaboration between publishers and specialist organisations that produce accessible format copies of books is already happening at a practical level in most

member states; it enables publishers to understand the needs of print impaired persons and cater for them accordingly.

Collaboration is based on recognition of the positive contribution of all stakeholders and on mutual trust. It is more than a missed opportunity not to refer to trust in the current proposals. Practical initiatives to make books accessible to blind, visually impaired, and otherwise print disabled persons have all been based on trust, a concept recognised under the 2010 Memorandum of Understanding on access to works for dyslexic or visually impaired readers. Following the model established under this Memorandum, specialist organisations receive books directly from publishers in a format which enables the production of accessible versions. This removes the need for such organisations to convert the books e.g. by scanning, thus dramatically reducing the cost of conversion and enabling the provision of accessible versions more rapidly and often of better quality.

**An international network of trusted intermediaries ensures an effective system of providing accessible copies across borders in a timely and cost efficient manner, thereby avoiding duplication and a waste of resources spent in the production of accessible copies.** From a publisher's perspective it is essential to be able to rely on trusted intermediaries in order to be able to provide specialist organisations with the original file of a work, thereby enabling production of accessible format copies of the highest quality and at the lowest possible cost. A practical example is the Accessible Books Consortium which operates under three main pillars: [Capacity building](#), [Inclusive publishing](#) and [TIGAR services](#). The TIGAR (Trusted Intermediary Global Accessible Resources) service, hosted at WIPO, makes it easier for participating institutions to search internationally for books in accessible formats, and to exchange them across national borders. It currently contains titles in accessible formats in some 55 languages.

**We urge the European institutions to introduce the concept of trust in the proposals, e.g. by introducing the established concept of trusted intermediaries in Article 2 (4) of the proposed [Directive](#) and the [Regulation](#) implementing the Marrakesh Treaty.**

## **2. Commercial availability and born accessible publications**

Article 4 (4) of the Marrakesh Treaty offers the option of making the exception subject to the commercial availability of accessible format copies on reasonable terms by or with the authority of the copyright owner.



Such a system contributes to the provision of a comprehensive solution; it incentivises publishers to produce born accessible publications, ensuring timely and cost efficient access for blind, visually impaired, and otherwise print disabled persons.

It is to be noted that the continuous dialogue with publishers in a trusted environment allows specialist organisations to be fully informed about the availability of born accessible books. Specialist organisations usually have good information regarding the availability of accessible books since this is important in order to best serve their community. Publishers are actively supporting this. Detailed information about accessibility is increasingly available in customary channels of trade, thanks to the development of ad hoc fields in the main metadata standards (ONIX and Schema.org). Even when specialist organisations are not aware of the availability of a born accessible copy of a work, they will learn of the existence of the born accessible copy during the first step of their production process, when they ask the publisher for the file of that work so to reduce their conversion costs. Therefore, there is no additional burden for specialist organisations to check the availability of born accessible publications. Commercial availability is information acquired in the course of their customary operational activity.

In the absence of commercially available copies, authorised entities are able to produce accessible copies themselves. Making the exception subject to commercial availability provides an incentive for publishers to produce born digital products, thereby reducing the costs for authorised entities representing print impaired people. Recital 11 as currently worded seems to prohibit systems based on commercial availability. The wording of Recital 11 needs to be amended. Express reference to commercial availability creates additional clarity for all parties.

**Reference to commercial availability should be reflected in the Directive and the Regulation. Recital 11 needs to be amended.**

### **3. Lawful access**

An important element of the Marrakesh Treaty and the respective provisions in member states is that the beneficiary should have lawful access in order to benefit from the exception. **It should be clear that beneficiaries should have acquired lawful possession to the work to be authorised to produce or receive a free accessible format copy.**