



香港圖書館協會

HONG KONG LIBRARY ASSOCIATION

**A Submission to**  
**The Commerce and Economic Development Bureau**  
**Intellectual Property Department**  
**in**  
**response to the**  
**Consultation on Review of Copyright Exceptions**  
**for Persons with a Print Disability**

July 2017

## **1. Preamble**

2. Hong Kong Library Association (HKLA) is a registered non-profit organization established in 1958 with members from all sectors of librarianship in Hong Kong. We are committed to a free and open exchange of information.

The objectives of the Association are:

1. To encourage the development of policies promoting the provision of information and library services in Hong Kong. This shall include the provision of guidelines and standards for such services.
  2. To provide for librarianship and information work, a focal point as well as a network of formal and informal communication within Hong Kong and with China and other countries.
  3. To unite and promote the interests of all persons engaged in library and information work in Hong Kong, and to ensure the effective representation of the interests of members.
  4. To encourage professional education and training for librarianship and information work in Hong Kong.
- 
3. The Association is governed by an elected council, membership of which is listed in Appendix 1.
  4. Hong Kong Library Association welcomes this review and we believe that aligning the Copyright Ordinance with the Marrakesh Treaty will enable libraries to offer an improved service to persons who are blind, visually impaired or otherwise print disabled.

## **5. Hong Kong Library Association Responses**

14.1 Should the Copyright Ordinance be amended to expand the scope of “beneficiary person(s)” in line with Article 3 of the Marrakesh Treaty

so that people with a “perceptual or reading disability” would be covered by the relevant exception?

*Yes, please align in order to extend coverage, for example to include people with physical disabilities who cannot hold a book.*

14.2 Is the generic reference to “perceptual or reading disability” clear enough for the operation of the exceptions? If not, how should the scope of “beneficiary person(s)” be better defined in the Hong Kong context? Is it necessary or practical to, say, list each specific type of perceptual or reading disability?

*The definition of “beneficiary person(s)” should align with that of the Marrakesh Treaty. It is not practical to list each specific type of perceptual or reading disability.*

17.1 Should the definition of “specified body” in section 40A of the Copyright Ordinance be expanded? If so, what other kinds of organizations should be covered for the objective of aligning with the Marrakesh Treaty?

*The definition of “specified body” in section 40A of the Copyright Ordinance should align with that of the Marrakesh Treaty. In particular we wish to see the role of **providing information access to persons with a print disability** included in the definition.*

20.1 Should the scope of the exceptions be amended in line with the Marrakesh Treaty to cover copyright works that are published or otherwise made publicly available in any media?

*Yes, please amend in line with the Marrakesh Treaty.*

23.1 Are there any formats which should be added to the definition of “accessible copies” in section 40F(3) of the Copyright Ordinance?

*No. The wording “any other specialized format of the work” should be sufficiently broad to cope with future technology developments.*

26.1 Do you agree that amendment should be made to clarify that supply of accessible copies to beneficiaries may include distribution as well as by way of making available to the public?

*Yes.*

26.2 Is there a need to provide for an additional exception to the right of public performance in order to facilitate access to works for beneficiary persons? If so, what are the circumstances justifying that such an exception is required?

*Yes. While this is not a mandatory requirement under the treaty, we suggest providing an exception for the right of public performance in order that beneficiaries may access works to fully participate in public performance.*

28.1 Do you agree that the current conditions (such as the requirement to make reasonable enquiries as to “commercial availability” and to notify the copyright owner of intention to make or supply accessible copies) for utilizing the exceptions provided under the Copyright Ordinance should be retained?

*Yes for the sake of balance between the rights of copyright holders and the wider society.*

28.2 If not, in what ways can we modify the terms of the conditions or requirements before one may invoke the exceptions and why?

*N/A*

31.1 Whether persons with a print disability or the specified bodies have in practice any difficulties in gaining access to copyright works for the purpose of making accessible copies? If so, please briefly explain the problems encountered.

*Problems include either lack of response from publishers, or lack of timely response.*

31.2 Whether the above difficulties could be resolved by non-legislative means such as requesting the copyright owner concerned to provide copies of the works for making the accessible copies?

*A non-legislative approach could include establishing a clearing house or government body that is responsible for obtaining copyright to make accessible copies. Such bodies exist in Australia and the USA. A code of conduct for publishers setting out their commitment to supporting the Hong Kong legislation and the vision of the Marrakesh Treaty, as well as published timely response to requests might improve the situation.*

31.3 If non-legislative means are not desirable, whether the Copyright Ordinance should be amended to exempt print disability-related exceptions from technological protection measures provisions and if so, under what conditions should the persons with a print disability (or the specified bodies) be allowed to use the exception?

*We suggest that if there is no response from the copyright holder within a designated number of days, persons with print disabilities or specified bodies should be allowed to use the exception.*

34.1 Do you agree that cross-border exchange of accessible copies should be permitted? Should any additional conditions be imposed in relation to cross-border exchange of accessible copies, so as to strike a reasonable balance between the rights of copyright owners and the users, and to avoid abuse?

*Yes. To strike a reasonable balance a secure mechanism to transfer accessible digital books across borders could be required. For countries that do not have laws consistent with the Marrakesh Treaty, authorization from the copyright owner prior to the transfer of requested books could be sought. The Accessible Books Consortium (ABC), ABC Global Book Service established under WIPO already offers an appropriate service to enable cross-border exchange.*

## Appendix 1

### HKLA Council Members

<b>Post</b>	<b>Name</b>
President	Ms Louise Jones
Vice President	Mr Peter Sidorko
Honorary Secretary	Ms Linda Lee
Honorary Treasurer	Ms Lily Ko
Membership Secretary	Ms Doris Chan
Minutes Secretary	Ms. Vivian Lam
Education and Training Officer	Ms. Helen Chan
IT Officer	Mr. Alexander Wong
Newsletter Editor	Ms Melissa Man
Programme Officer	Mr Lai Tsz Chun
Academic Libraries Liaison Officer	Ms Annabelle Pau
Public Libraries Liaison Officer	Mr Daniel Li
School Libraries Liaison Officer	Mrs Annie Tam
Special Libraries Liaison Officer	Ms. Jeannette Ma