

Creating a Nation of Learners



INSTITUTE of
Museum and Library
SERVICES



October 10, 2012
ARL Membership Meeting
Washington, DC

**Ensuring Accessibility in Library
Services: Emerging Technologies and
Federal Disability Law; WIPO Update**

Nancy E. Weiss, General Counsel

Accessibility and Emerging Technologies

- **A quickly-changing technological landscape.**
- **Transition from print to digital materials.**
- **A moment of great opportunity to expand access to people with disabilities.**

Federal Disability Laws – Overview

The Americans with Disabilities Act (“ADA”), signed July 26, 1990

- Civil rights protections for people with disabilities, covering areas including
 - employment relationships;
 - interactions with state and local governments (*public schools*);
 - public transportation;
 - places of public accommodation (*libraries, private schools, etc.*).

Federal Disability Laws – Overview

The Rehabilitation Act of 1973

- **No qualified individual with a disability “shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance”**

29 U.S.C. § 794.

Case Study: E-Book Readers

- **Department of Education FAQ's**
Provide the opportunity for students with disabilities to acquire:
 - **Same information (EQUAL CONTENT).**
 - **Engage in the same interactions.**
 - **Enjoy the same services as patrons with substantially equivalent ease of use.**
- **Department of Justice Settlement Agreement**
 - **Same technological features.**

Case Study: E-Book Readers

BEST PRACTICES

- **Build accessible services from the outset.**
- **Make accessibility a key service criterion.**
- **Ask pointed questions of vendors, and have vendors demonstrate and document their responses.**

World Intellectual Property Organization

- **17 – 19 October:** Special Intersessional Meeting of the Standing Committee on Copyright and Related Rights (SCCR) to continue work on print disabilities working document – SCCR/24/9 Prov.
- **19 – 23 November:** SCCR 25 with substantial time devoted to continued work on print disabilities working document.
- **17 – 18 December:** Special session of WIPO General Assemblies to assess whether to convene a diplomatic conference in 2013.

World Intellectual Property Organization

- **National Law L&E for Print Disabilities:**
 1. A general requirement that a country establish such exceptions;
 2. A detailed system for national law exceptions to fulfill #1 using authorized entities;
 3. Alternative – country can fulfill #1 by any other exception that meets the 3-step test;
 4. Reflects that a country can make its L&E for print disabilities subject to either a commercial availability (or market failure) requirement and/or remuneration.

World Intellectual Property Organization

- **For Cross-Border Exchange:**
 1. A general requirement that if a special format copy is made under a national law a country should allow its distribution for beneficiary persons in other parties to the instrument;
 2. A detailed system to fulfill #1 using authorized entities;
 3. Alternative – country can fulfill by any other exception that meets the 3-step test;
 4. Recognition that a country can make this cross-border exchange subject to commercial availability (or market failure) requirement and/or remuneration.