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**EIFL contributed to text of the WTO TRIPS COVID waiver statement.**

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## **Statement on Copyright and Proposal of a Waiver from Certain Provisions of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement for the Prevention, Containment and Treatment of COVID-19 (IP/C/W/669)**

March 22, 2021

We support the work and interests of millions of researchers, educators, libraries, archives and museums around the world who are contributing to the prevention, containment and treatment of the COVID-19 pandemic through promotion of access to knowledge.

We applaud the efforts of World Trade Organization (WTO) Members to address copyright barriers to an equitable response to COVID-19.

Access to copyrighted works, in addition to patents and know-how, is needed to prevent and contain COVID-19 and to develop treatments.

COVID-19 has aggravated deep inequalities in access to knowledge. In some countries with flexible copyright systems, residents are able to access and use essential materials in remote educational, learning and research activities, virtually access and use the collections of libraries and other institutions, and contribute to research on treatments using advanced processes such as text and data mining.

But these activities are not taking place everywhere because they are not lawful everywhere.

In too many countries, copyright laws do not enable remote digital uses of works for essential activities. Educational uses are too often limited to activities “within” educational institutions or in “face to face” teaching. Uses of the collections of libraries and other public repositories are often limited to “the premises” of such institutions.

In too many countries, researchers lack the rights they need to use the most advanced research methodologies, such as text and data mining, to help find and develop treatments to COVID-19. Indeed, the virus itself was discovered by a text and data mining research project that would not be lawful in many countries.

Inequity in the possibilities to use products of knowledge and culture violates the right to health, to receive and impart information, to education, to participate in cultural life, and to benefit from scientific progress.

We strongly support international solidarity in addressing the copyright barriers to the prevention, containment and treatment of COVID-19. It is critical that research and other resources are made available immediately everywhere in the world to use and build upon. Removing legal barriers to knowledge is a key complement to efforts to remove patent and other barriers needed for the massive, urgent scale-up of vaccine production.

We urge all WTO Members to endorse the TRIPS waiver proposal, including provisions on copyright. Such a move will reflect the emergency that COVID-19 presents. It will give vital reassurance to governments that they may issue urgent edicts, adopt emergency interpretations of their laws, and amend and otherwise overcome copyright hurdles to access to knowledge needed to address the pandemic.

Adopting the TRIPS waiver is not enough. We call on the WTO and other agencies in charge of promoting the public interest in access to and production of knowledge to act urgently to further guide

countries in addressing copyright barriers to access to knowledge that have been illuminated and magnified by COVID-19. Specifically, we call for urgent action to clarify that all copyright and related rights treaties, including the copyright provisions of the TRIPS Agreement:

- Can and should be interpreted and implemented to respect the primacy of human rights obligations during the pandemic and other emergencies, including the rights to seek, receive and impart information, to education, and to freely participate in cultural life and share in scientific advancement and its benefits, while protecting the moral and material interests of authors;
- Permit governments to protect and promote vital public interests during a health or other emergency;
- Permit governments to carry forward and appropriately extend into the digital environment limitations and exceptions that are appropriate in the digital network environment, particularly during a health or other emergency.

## **Signatories**

### *Organizations*

1. Academy of Science of South Africa (ASSAf)
2. African Library & Information Associations & Institutions (AfLIA)
3. All India Drug Action Network
4. All India Peoples Science Network (AIPSN), India
5. ANSOL - Associação Nacional para o Software Livre, Portugal
6. Asociación de Bibliotecólogos del Uruguay
7. Association of Research Libraries, United States
8. Association for Proper Internet Governance, Switzerland
9. Australian Digital Alliance
10. Blind SA, South Africa
11. Brazilian Institute of Information in Science and Technology
12. CCAOI, India
13. Centrum Cyfrowe, Poland
14. Center for Health, Human Rights and Development (CEHURD), Uganda
15. Center for Intellectual Property and Information Technology Law, Kenya
16. Centre for Internet and Society, India
17. Civil Liberties Union for Europe (Liberties)
18. Committee of Higher Education Libraries of South Africa (CHELSA), South Africa
19. COMMUNIA
20. Consortium of Uganda University Libraries (CUUL)
21. Corporacion Innovarte, Chile
22. Creative Commons
23. Creative Commons Brasil
24. Creative Commons Italy
25. Creative Commons México
26. Creative Commons Portugal
27. Creative Commons South Africa
28. Creative Commons Uganda
29. Creative Commons Uruguay
30. Creative Commons Venezuela
31. CulturalAction, Korea
32. D3 - Defesa dos Direitos Digitais, Portugal

33. Datsysoc, Uruguay
34. DAWN (Development Alternatives with Women for a New Era)
35. Derechos Digitales, Latin America
36. DiGiCULT/UFERSA - DigiCult - Studies and Research Group on Digital Law and Cultural Rights of the Federal Rural University of the Semi-arid Region, Brazil
37. Documentary Filmmakers' Association of South Africa
38. Educational International
39. EIFL (Electronic Information for Libraries)
40. epicenter.works - for digital rights, Austria
41. Fight for the Future, United States
42. Fundación IFARMA, Colombia
43. Fundación Karisma, Colombia
44. Fundación Vía Libre, Argentina
45. Free Knowledge Advocacy Group EU (Wikimedia)
46. Global Expert Network on Copyright User Rights
47. Hiperderecho, Perú
48. Iniciativa Educação Aberta, Brazil
49. Initiative for Health & Equity in Society, India
50. Instituto Educadigital, Brazil
51. Instituto Nacional de Ciência e Tecnologia (INCT) Proprietas, Brazil
52. Intellectual Property Institute (IPI), Slovenia
53. International Treatment Preparedness Coalition (ITPC)
54. InternetLab, Brazil
55. International Federation of Library Associations and Institutions (IFLA)
56. Intervezes - Coletivo Brasil de Comunicação Social, Brazil
57. IP Unit (University of Cape Town), South Africa
58. iRights e.V., Germany
59. ISUR - Centro de Internet y Sociedad de la Universidad del Rosario, Colombia
60. IT for Change, India
61. Indonesia for Global Justice (IGJ)
62. Kenya Libraries and Information Consortium
63. Knowledge Commune, Korea
64. Knowledge Ecology International
65. Lesotho Library Consortium (LELICO)
66. LIASA, South Africa
67. Library Copyright Alliance, United States
68. Lithuanian Research Library Consortium
69. Mongolian Libraries Consortium
70. Núcleo de Pesquisa em Propriedade Intelectual - NUPPI/UFSC, Brasil
71. NUREP - Núcleo de Pesquisa em Direitos Fundamentais, Relações Privadas e Políticas Públicas/Research Group on Fundamental Rights, Private Relations and Public Policy (UFRRJ), Brazil
72. Observatorio del Tratado de Marrakech en América Latina
73. Open Access India
74. Open Content, Czech Republic
75. Open Future Foundation, Netherlands
76. Open Knowledge Brazil
77. Pan African Treatment Access Movement
78. Program on Information Justice and Intellectual Property, American University, USA
79. Public Citizen, United States
80. Public Knowledge, United States

81. R3D: Red en defensa de los derechos digitales, Mexico
82. ReCreate South Africa
83. Red de Educación Popular entre Mujeres - REPEM, Latino América y el Caribe
84. Research Center for Intellectual Property, Internet and Innovation (GNet-UFMG), Brazil
85. Réseau québécois sur l'intégration continentale, Canada
86. Right 2 Know Campaign, South Africa
87. Salud y Farmacos, USA
88. SECTION27, South Africa
89. Society for Technology Studies, Ethiopia
90. Software Preservation Network
91. Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI), Uganda
92. SPARC
93. SPARC Africa
94. SPARC Europe
95. The Democracy Collaborative
96. Third World Network
97. Treatment Action Group, USA
98. Universities Allied for Essential Medicines
99. Universities South Africa
100. Vrijschrift Foundation, Netherlands
101. Wikimedia Deutschland
102. Wikimédia France
103. Wikimedia Italia
104. Wikimedia ZA, South Africa
105. Wiki Movimento Brasil
106. Yolse, Santé Publique et Innovation
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