

Statement on behalf of Creative Commons to the Thirty-Ninth Standing Committee on Copyright and Related Rights (SCCR/39)

Diane M. Peters, General Counsel, Creative Commons
Geneva, 21 October 2019
(2 minutes only)

Mr. Chairman:

I thank you for providing me the opportunity to address this body. I speak on behalf of Creative Commons, the world's leading non profit organization supporting the sharing and collaboration of creative works. We create, maintain, and steward the CC licenses, which are the international standard for open copyright licensing.

Notwithstanding CC's widespread success, problems remain that open licensing cannot solve. Today, I wish to focus my remarks on two high level concerns regarding Limitations and Exceptions.

Firstly, we urge you not to accept any premise that licensing is the best or exclusive solution to, or can ever serve as an adequate replacement for, Limitations and Exceptions.

- Limitations and Exceptions to copyright are essential to a free and democratic world.
- Depending on Collective Rights Management Organizations as the sole or dominant means for accessing and using creative works via licensing rather than Limitations and Exceptions **denies the public** the ability to freely provide critical analysis and to build upon those works and ideas.
- Licenses – even open licenses -- will never fill this vital function. To rely solely on CC, CMOs or statutory licensing, is short-sighted and ill-advised.

Secondly as relates to the Broadcast Treaty, I wish to start by emphasizing that the creation of new, additional rights atop copyright such as broadcast rights is dangerous and should be avoided at all cost. These rights complicate the freedom to exercise rights granted by law or via public licenses on underlying creative works. CC has and will continue to object as a matter of principle to the creation of new rights atop copyright such as the draft broadcast treaty.

- If, however, broadcast treaty rights are pursued, it is essential that **at least** those exceptions and limitations that coincide with copyright are included, so that the underlying works do not become unusable because they are entangled in such a new right.
- In all events, we urge this body ensure that a healthy and full debate take place amongst all stakeholders, including those representing the public interest, in order to better understand the

complications that may ensue as a result of these new rights and the need for proper, fair and balanced limitations and exceptions.

Thank you.