



**SOCIETY OF
American
Archivists**

**Statement to WIPO Standing Committee on Copyright and
Related Rights
SCCR 37**

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28 November 2018**

The idea of copyright exceptions for archives and libraries first came to SCCR in 2006. Five years later, in November 2011, Brazil, Ecuador, and Uruguay brought SCCR23 a proposal for a treaty document. At that same session, the United States presented a paper on objectives and principles for exceptions. These actions made the Society of American Archivists realize that it needed to be present at SCCR to address the pressing needs of archivists for an overarching treaty that provides for consistent limitations and exceptions. Archives and our users worldwide need this because even the smallest archives anywhere contains unique resources with a global audience. In fact, just 11 days before SCCR23 convened in 2011, UNESCO adopted its *Universal Declaration on Archives* (unesdoc.unesco.org/images/0021/002134/213423e.pdf), which outlined the importance of international action for policies and practices to preserve and make archives accessible in order to protect citizens' rights and enhance their quality of life. This is not possible with the current jumble of laws in which there are few or no exceptions—and those that do exist are not consistent from country to country.

SAA has focused on the opportunity that SCCR provides to explain how we do our jobs and why we need copyright exceptions that work across international borders. The archives that our members manage extend well beyond national or regional governments; they also include a universe of businesses, museums, sports federations, educational and religious institutions, international organizations, and more.

The materials that we curate include correspondence, technical reports, architectural drawings, photographs, and all types of audio, video, and computer records. Regardless of record type, all of these require us to make copies for non-commercial purposes. Why? Sometimes it is to acquire. Often it is to preserve and make them available to local or remote users. Sometimes it is to bridge across obsolete formats.

These essential functions are hamstrung by antiquated copyright laws. SAA was pleased that SCCR36's Action Plan called for an archives study, but we are disappointed there is no draft study available today. We encourage the Secretariat to quickly commission the substantive work to be presented at the next SCCR.

The ability to copy is essential for our mission. The *Universal Declaration on Archives* states that archives *must* be accessible to everyone to safeguard societal memory. Thus, we need to copy for purposes of education, research, heritage, and the securing of personal rights. Without balanced exceptions that work across borders to enable these types of activities, what recourse do we have? Should archivists just ignore the law? SAA's members want to be ambassadors for the copyright system. That is why we seek exceptions that will enable us to meet the public's needs. As the *Declaration* demands, we want to respect "the pertinent laws and the rights of individuals, creators, owners and users." We want to "contribute to the promotion of responsible citizenship." Without your help, we cannot meet the mandate of the *Universal Declaration on Archives* without violating this ill-fitting law.



The Society of American Archivists (SAA) is the oldest and largest association of professional archivists in North America. Representing more than 6,100 individual and institutional members, SAA is the authoritative voice in the United States on issues that affect the identification, preservation, and use of historical records. SAA serves the education and information needs of its members and provides leadership to help ensure the identification, preservation, and use of the nation's historical record.

Since the 1960s, SAA has spoken in regard to archives and intellectual property and has issued more than 20 policy statements on copyright since the mid-1990s. SAA believes that archivists must take an active role in promoting the importance of archives and archivists in order to increase public support, shape public policy, and obtain the resources necessary to protect the accessibility of archival records that serve cultural functions as well as ensure the protection of citizens' rights, the accountability of organizations and governments, and the accessibility of historical records. Further, archivists promote and provide the widest possible accessibility of materials, consistent with any mandatory access restrictions. Although access may be limited in some instances, archivists seek to promote open access and use when possible.

Archivists are the custodians of writings and other materials that have been created by their own organizations and by third-party authors. Archivists try to provide access to these materials within the bounds of law, donor concerns, and public policy. Yet copyright law is perhaps the most important challenge that archivists face in providing wider access to our collections, especially digitally. It is also a challenge for the students and scholars wishing to use our collections in their research and study.

SAA created the Intellectual Property Working Group in May 2001. The Working Group responds to requests for assistance from the SAA Governing Council, tracks intellectual property issues of concern to archivists, and drafts responses or position papers for the Council as needed.

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