

One Hundred Fifteenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the third day of January, two thousand and eighteen*

An Act

To amend title 17, United States Code, to implement the Marrakesh Treaty, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Marrakesh Treaty Implementation Act”.

SEC. 2. IMPLEMENTATION AMENDMENTS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended—

(1) in section 121—

(A) in subsection (a)—

(i) by inserting “in the United States” after “distribute”;

(ii) by striking “, nondramatic”;

(iii) by inserting “or of a previously published musical work that has been fixed in the form of text or notation” after “literary work”;

(iv) by striking “specialized formats” and inserting “accessible formats”; and

(v) by striking “blind or other persons with disabilities” and inserting “eligible persons”;

(B) in subsection (b)(1)—

(i) in subparagraph (A)—

(I) by inserting “in the United States” after “distributed”;

(II) by striking “a specialized format” and inserting “an accessible format”; and

(III) by striking “blind or other persons with disabilities” and inserting “eligible persons”; and

(ii) in subparagraph (B), by striking “a specialized format” and inserting “an accessible format”;

(C) in subsection (c)(3), by striking “specialized formats” and inserting “accessible formats”; and

(D) in subsection (d)—

(i) by striking paragraphs (2) and (4);

(ii) by redesignating paragraph (1) as paragraph (2);

(iii) by redesignating paragraph (3) as paragraph (4);

(iv) by inserting before paragraph (2), as so redesignated, the following:

“(1) ‘accessible format’ means an alternative manner or form that gives an eligible person access to the work when the copy or phonorecord in the accessible format is used exclusively by the eligible person to permit him or her to have access as feasibly and comfortably as a person without such disability as described in paragraph (3);”;

(v) by inserting after paragraph (2), as so redesignated, the following:

“(3) ‘eligible person’ means an individual who, regardless of any other disability—

“(A) is blind;

“(B) has a visual impairment or perceptual or reading disability that cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or

“(C) is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading; and”;

(vi) in paragraph (4), as so redesignated, by striking “; and” at the end and inserting a period; and

(2) by inserting after section 121 the following:

“§ 121A. Limitations on exclusive rights: reproduction for blind or other people with disabilities in Marrakesh Treaty countries

“(a) Notwithstanding the provisions of sections 106 and 602, it is not an infringement of copyright for an authorized entity, acting pursuant to this section, to export copies or phonorecords of a previously published literary work or of a previously published musical work that has been fixed in the form of text or notation in accessible formats to another country when the exportation is made either to—

“(1) an authorized entity located in a country that is a Party to the Marrakesh Treaty; or

“(2) an eligible person in a country that is a Party to the Marrakesh Treaty,

if prior to the exportation of such copies or phonorecords, the authorized entity engaged in the exportation did not know or have reasonable grounds to know that the copies or phonorecords would be used other than by eligible persons.

“(b) Notwithstanding the provisions of sections 106 and 602, it is not an infringement of copyright for an authorized entity or an eligible person, or someone acting on behalf of an eligible person, acting pursuant to this section, to import copies or phonorecords of a previously published literary work or of a previously published musical work that has been fixed in the form of text or notation in accessible formats.

“(c) In conducting activities under subsection (a) or (b), an authorized entity shall establish and follow its own practices, in keeping with its particular circumstances, to—

“(1) establish that the persons the authorized entity serves are eligible persons;

“(2) limit to eligible persons and authorized entities the distribution of accessible format copies by the authorized entity;

“(3) discourage the reproduction and distribution of unauthorized copies;

“(4) maintain due care in, and records of, the handling of copies of works by the authorized entity, while respecting the privacy of eligible persons on an equal basis with others; and

“(5) facilitate effective cross-border exchange of accessible format copies by making publicly available—

“(A) the titles of works for which the authorized entity has accessible format copies or phonorecords and the specific accessible formats in which they are available; and

“(B) information on the policies, practices, and authorized entity partners of the authorized entity for the cross-border exchange of accessible format copies.

“(d) Nothing in this section shall be construed to establish—

“(1) a cause of action under this title; or

“(2) a basis for regulation by any Federal agency.

“(e) Nothing in this section shall be construed to limit the ability to engage in any activity otherwise permitted under this title.

“(f) For purposes of this section—

“(1) the terms ‘accessible format’, ‘authorized entity’, and ‘eligible person’ have the meanings given those terms in section 121; and

“(2) the term ‘Marrakesh Treaty’ means the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities concluded at Marrakesh, Morocco, on June 28, 2013.”.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 121 the following:

“121A. Limitations on exclusive rights: reproduction for blind or other people with disabilities in Marrakesh Treaty countries.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*