

## Are Germany and other Western Countries aware of International Developments in Intellectual Property Right Policies?

Stimulated by a proposal from Argentina and Brazil, WIPO, the UN-organisation for Intellectual Property Rights (IPR), is momentarily involved in an intensive debate concerning its future position. While WIPO has been mainly interested in protecting the rights of rights holders in the past, there is now an increasing demand for a so-called Development Agenda, in particular as a means of overcoming digital divides.

The Development Agenda of WIPO found support in the Geneva Declaration on the Future of WIPO – an initiative arising from numerous NGOs and single individuals. The crucial question of this declaration is: “Humanity stands at a crossroads, a fork in our moral code and a test of our ability to adapt and grow. Will we evaluate, learn and profit from the best of these new ideas and opportunities, or will we respond to the most unimaginative pleas to suppress all of this in favour of intellectually weak, ideologically rigid, and sometimes brutally unfair and inefficient policies?”

A similar position is taken by IFLA, the International Federation of Library Associations and Institutions. Its Committee on Copyright recommend supporting the Geneva Declaration on the Future of WIPO: „IFLA has taken this action because IFLA's core values include the belief that people, communities and organizations need universal and equitable access to information, ideas and works of imagination for their social, educational, cultural, democratic and economic well-being". In Europe, EBLIDA, the umbrella organisation for libraries and other information organisations, also aims at an open IPR policy which supports development.

Irrespective of the legal IPR stipulations the Open-Access movement, initiated by the Budapest Declaration and later supported by the Bethesda and Berlin Declarations, as well as the Creative-Commons licensing initiative are gaining worldwide recognition and establishing creative alternatives to a strict copyright regime. New business and financing models for knowledge products are developing which emphasise transparency and free use and allow a faster development of innovative products and services.

It is time for parliaments and governments – also in Germany – to stop blindly following old and partially obsolete WTO, WIPO and EU guidelines and acknowledge instead international trends towards development, openness and freedom of access. It is time to create a modern IPR policy which is appropriate for the information society.

## Coalition for Action “Copyright for Education and Research”

The answer to the question 'How accessible are knowledge and information?' will determine the opportunities for education and development open to every citizen in the information society and the opportunities future generations will have to build on existing knowledge. The legal provisions set out in German copyright law will determine whether open, networked communications structures will continue to develop in our society in the long term. They will also affect the quality of our education system, the inventiveness of the sciences and the innovative capacity of trade and industry. In a global, competitive environment, they play a vital role in promoting social, cultural and economic development and hence in securing the future of our society.

With regard to the implementation of Directive 2001/29/EC in Germany, the legislature has so far mainly addressed the concerns of rightholders regarding the commercial use of digital media and networks as additional distribution channels. The prime concern here has been to minimise the risks related to private copying rather than to encourage exploiting the opportunities afforded by the new technical media to the public at large. The latter point is particularly important for the fields of education and science, because it is here that the information society contains new potential for imparting knowledge and promoting co-operation between scientists. The way these new opportunities are used is a decisive competitive factor on the global stage.

We, the undersigned, undertake to ensure that the full potential of the digital media and communications systems remain open for use by the general public and, in particular, by science, and that these media and systems are not subject to restrictions which primarily serve the commercialisation of information by the private sector.

In a digitised and networked information society, access to global information for the purposes of education and science must be guaranteed at all times from any place.

Further information online: [www.urheberrechtsbuendnis.de](http://www.urheberrechtsbuendnis.de)

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## Coalition for Action “Copyright for Education and Research”

Göttingen Declaration on  
Copyright for Education and  
Research of 5 July 2004

# Goals

**Education and research** must be allowed unrestricted use of the new ways of disseminating and acquiring knowledge and information. However, the limitations in German copyright law (particularly sections 52a and 53) no longer set out the privileges needed by education and science in a positive, clearly understandable and practicable way. Instead, these privileges are subject to considerable restrictions which are likely to create uncertainly or even criminalise those working in education and science, instead of offering the legal certainty they require to perform work for the benefit of the general public.

**Schools, universities and colleges** have developed and successfully tested, in countless projects, the use of new digital, networked media for disseminating knowledge (eLearning) and for communicating and co-operating with others. A considerable amount of effort has gone into this, supported by funds from federal and state levels. In many schools, universities and colleges, the use of network-based learning environments now accounts for a significant part of regular curricular activities, and has brought about a lasting improvement in the quality of learning and teaching. The various forms of eLearning also hold enormous potential for vocational qualification programmes and further training schemes. Hence, in the information society, it is extremely important for teaching staff that their academic freedoms and access to information are not restricted unreasonably, and that both staff and students enjoy the legal protection necessary for them to exploit and develop eLearning to the full in future.

**Science and research** use and develop the latest knowledge in a continuous communicative process that involves scientists working in small local teams as well as their exchanging information on a worldwide basis. These flows of information and communication must not be obstructed by restrictive provisions in the copyright law. Free access to information and its continued protection, as well as free access to knowledge and our cultural heritage must be encouraged and maintained. There must be an unhindered exchange of knowledge if science is to continue making a productive contribution to society. These are core issues for science and its development.

The legally prescribed duty of **public information institutions**, such as libraries, multimedia libraries and archives, to supply society with information must be strengthened and supported so that they can work more efficiently. This means, above all, sustainable long-term archiving programs and the provision of access to the collections of these institutions using modern digital communications and information systems. Only in this

way can the sustainable preservation of our cultural heritage be ensured and global access guaranteed.

Free access to information and knowledge does not mean that there should be no remuneration. Copyright law should establish **fair and balanced terms and conditions** to ensure remuneration for the use of protected works and unrestricted access for the purposes of education and science. Technological protection measures which restrict access to information in order to maximise commercial profits, which impose far-reaching restrictions that impinge upon the private sphere and make secure, long-term archiving impossible are, therefore, the wrong approach. They hinder the free development of education and science and, consequently, the economic development of our society, too. The appropriate remuneration of rightholders through a system of flat-rate payments made through collecting societies has a long tradition Germany. This system has worked well for several decades now. Similar systems of collective compensation can also be applied to Internet usage and must be preferred to all restrictions that rely on technological protection measures.

With these goals, we consider that we are in agreement with

- the German government and its resolutions on a 'Master Plan for the Information Society' (3 December 2003) and the government policy statement issued by Chancellor Gerhard Schröder on 25 March 2004,
- the declaration of principles and the action programme of the UN World Summit on the Information Society also signed by the German government (Geneva, 12 December 2003), and
- President of Germany Horst Köhler and his warning: 'In my opinion, Germany is proceeding too slowly along the road to the science society. Germany must become a country of ideas!' (23 May 2004)

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Thank you for supporting our coalition!

### Declaration of Accession

The Coalition for Action "Copyright for Education and Research" invites you as a representative of your organisation to join our coalition. You may sign the "Göttingen Declaration" on this card or ask an authorised person of your organisation to sign. Please detach the card and send it to the DINI office. You may also sign as a personal capacity to declare your support to our goals. (Please write in block letters.)

Organisation	Acronym
Name of the Undersigned	Name and E-Mail of a Contact Person
Place, Date	Signature and Stamp

Urheberrecht für Bildung und Wissenschaft  
c/o DINI Geschäftsstelle  
SUB Göttingen  
Papendiek 14  
37073 Göttingen  
Germany