

Objectives and Principles for Exceptions and Limitations for Educational, Teaching, and Research Institutions

Submitted by the United States of America

GENERAL

The copyright system as a whole is an engine of scholarly research and publication. It plays a critical role in developing and disseminating works of authorship used in education, and in promoting educational, teaching and research objectives. An appropriate balance of rights and exceptions and limitations, consistent with international law, sustains the missions and activities of educational, teaching and research institutions.

ADOPTION OF NATIONAL EXCEPTIONS AND LIMITATIONS

Objective:

Encourage Member States to adopt exceptions and limitations in their national laws, consistent with their international obligations, that allow certain uses of copyrighted works for nonprofit educational purposes, maintaining the balance between the rights of authors and the larger public interest, particularly education, research, and access to information.

Principles:

Exceptions and limitations for education and research support the core functions of nonprofit educational institutions at all levels, by facilitating access to and dissemination of knowledge for teaching and learning.

Exceptions and limitations for education and research also further societal goals by helping individuals to achieve their potential and to participate meaningfully in public life.

Exceptions and limitations for education and research should take into account the valuable contributions of authors and publishers in the creation and dissemination of works that benefit the educational community and the public overall, and be consistent with international obligations including the three-step test.

PROMOTE ACCESS TO EDUCATIONAL AND RESEARCH MATERIALS BY FOSTERING A VIBRANT COMMERCIAL MARKET AND THE USE OF INNOVATIVE LICENSING MODELS

Objectives:

Promote access to educational and research materials by supporting the commercial market for

these resources, and the use of innovative licensing models, to maximize the availability of high-quality copyrighted works.

Encourage and support flexible and voluntary licensing models that allow copyright owners and users to establish mutually satisfactory relationships, including through open licenses, micro-licensing, sub-licensing, and other flexible licensing arrangements.

Principles:

A vibrant commercial market, coupled with the use of innovative licensing models, facilitates access to high-quality educational and research materials, greatly increasing the number of published works that are available to the public.

This commercial marketplace, especially when coupled with the use of innovative licensing models, serves the entire spectrum of educational institutions and audiences, including public and private entities, as well as a range of experiences from early primary education through advanced university degree programs, and adult education programs.

Flexible and voluntary licensing models can enable and facilitate educational uses of copyrighted works that are not covered by limitations and exceptions in national law, allowing materials to be made available to students and educators in a variety of forms and in a range of interoperable formats, from printed books to digital texts to multimedia works.

The private and public sectors can also facilitate the availability of educational materials online, thus promoting further creativity, innovation, and new teaching techniques for the twenty-first century.

Access to educational materials is also promoted by continuing to incentivize the creation and distribution of educational and academic works.

SUPPORT EXCEPTIONS AND LIMITATIONS FOR USE IN TECHNOLOGICALLY EVOLVING LEARNING ENVIRONMENTS

Objective:

Support exceptions and limitations, consistent with international obligations, that recognize the importance of copyright while continuing to foster and allow certain uses in technologically evolving learning environments.

Principles:

Exceptions and limitations that support technologically evolving learning environments, such as online and blended learning, are an important way to keep pace with new technology and methods of learning, and can enhance and encourage broader dissemination of learning tools.

Specific exceptions and limitations that permit the nonprofit use of reasonable and limited portions of works in connection with some online learning and other technology-supported learning approaches may enable a wide variety of learners who lack physical access to educational facilities.

OTHER GENERAL PRINCIPLES

Other exceptions and limitations, not specific to the educational context, may also play an important role in enabling certain educational, teaching, and research institutions to carry out their public service mission.

Member States should, consistent with their international obligations, recognize appropriate limitations on certain types of monetary damages applicable to non-profit educational, teaching, and research institutions, and their employees and agents when they prove that they acted in good faith, believing or having reasonable grounds to believe that their conduct is in accordance with copyright law.

Rightsholders have a critical role in ensuring sustainable access to copyrighted works in developed and developing countries. Where rapidly changing technology requires flexible solutions, Member States should encourage collaborative and innovative solutions among all stakeholders.

Educational, teaching, and research institutions should have adequate safeguards in place to ensure the responsible and lawful exercise of exceptions and limitations benefiting such institutions.