

The answers to this questionnaire have been provided on behalf of:

Country: Bhutan

by

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Limitations and Exceptions

Part I: General

1. Does your national statute provide for a limited number of specific statutory limitations and exceptions, an open system of limitations and exceptions (such as fair use or fair dealing) or a mix of both systems?

- Others

Section 12.1 says that the act shall be permitted without the authorization of the author of, or other owner of the copyright in the work:

For face to face teaching, in educational institutions whose activities do not serve direct or indirect commercial gain.

2. Does your national statute include the three-step test as a general provision on copyright limitations and exceptions?

- No

3. Does your national statute provide limitations and exceptions as free uses (there is no need for authorization or for payment of remuneration)?

- Yes

If yes, please describe: _____

Free - use Copyright limitations and exceptions;

- Any official text of a legislative, administrative or legal nature, as well as any official translation thereof. (7. A)

- Private reproduction for personal purposes(10)
- The reproduction of a short part of a published work, in the form of quotation, in another work. The quotation shall be accompanied by the indication of its source and the name of the author (11)
- Reproduction for teaching –
 - a. the reproduction of a short part of a published work, by way of illustration, in writing or sound or visual recordings for teaching (12.1-a)
- Face to face teaching, in educational institutions whose activities do not serve direct or indirect commercial gain (12.1.b)
- Reprographic reproduction by libraries and archives for preservation and lending; educational use (13)
- The reproduction in a newspaper or periodical, the broadcasting or other communication to the public, of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character; (14.a)
- The reproduction in one copy of the adaptation of a computer program ; for archival purposes, for the replacement of the lawfully owned computer program in the event that the lawfully obtained copy of the computer program is lost, destroyed or rendered unusable.(15)
- Importation of a copy of a work, by a physical person, for his personal purposes(16)
- Display of work (17)

4. Does your national statute include limitations and exceptions based on statutory licenses (direct permission granted by the law against remuneration)?

No

If yes, please describe:_____

5. Does your national statute include limitations and exceptions based on compulsory licenses (obligation of the rights owners under the law to grant licenses against remuneration)?

No

6. Does your national statute include specific limitations or exceptions permitting the use of copyrighted works for private or personal purposes, without previous authorization of the copyright or related rights owner?

Yes

The private reproduction of a published work in a single copy, where the reproduction is made by a physical person exclusively for his own personal purposes, shall be permitted, without the authorization of the author of, or other owner of copyright in, the work (10.1)

7. Does your national statute provide remuneration for private or personal uses (for instance, copyright levies)?

No

8. Does your national statute allow parties to agree in licensing agreements or other binding contracts not to engage in conduct that would otherwise be permitted under the national statute's exceptions and limitations?

No

9. Does your national statute subject the exercise of limitations and exceptions to the condition of a lawful or authorized source requirement (for instance, that copies are made from a lawful source)?

No

10. Does your national statute protect technological measures?

Yes

11. Does your national statute protect rights management information?

Yes

12. Does your national statute provide specific mechanisms to ensure that limitations or exceptions continue to apply despite the existence of any technological measures implemented by the copyright or related rights owners?

No

13. If the recourse to legal proceedings is needed, what is the average time to ensure the exercise of limitations and exceptions if some type of technological measures of protection is applied by copyright and related rights owners?

There is no time limit

14. Does your national statute provide that certain limitations or exceptions prevail over the prohibitions on the act of circumventing technological protection measures or rights management information?

Yes

Section 31(1) the following acts shall be considered unlawful;

- i) the manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work or to impair the quality of copies made (the latter device or

means hereinafter referred to as "copy-protection or copy-management device or means");

- ii) the manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted program, which is broadcast or otherwise communicated to the public, by those who are not entitled to receive the program.
- iii) The removal or alteration of any electronic rights management information without authority

15. If the recourse to legal proceedings is needed, what is the average time to succeed in ensuring legal certainty of limitations and exceptions regarding the prohibition of circumventing the technological measures of protection and digital rights management?

No rules on this.

16. Does your national statute include limitations and exceptions especially for the use of computer programs?

No

Please describe: _____

17. Does your national statute provide limitations and exceptions for the temporary use of digital works?

Yes

Section 15.3: The temporary reproduction of a work shall be permitted if all of the following conditions are met:

- a. the reproduction is made in the process of a transmission of the work or an act of making a stored work perceptible;
- b. it is caused by a person or entity that, by way of authorization by the owner of copyright or of operation of law, is entitled to make that transmission or making perceptible of the work; and
- c. it is an accessory to the transmission or making perceptible that occurs during the normal operation of the equipment used and entails the automatic deletion of the copy without enabling the retrieval of the work for any other purpose than those referred to in subsections (a) and (b) above.

18. Does your national statute include limitations and exceptions for the activities of the service providers of digital transmission of works?

Yes

Section 15.1 The reproduction in one copy of the adaptation of a computer program shall be permitted, without the authorization of the author of, or other owner of copyright in, a computer program, by the lawful owner of a copy of that computer program, provided that the copy or adaptation is necessary.

- a. for the use of the computer program in conjunction with a computer for the purpose, and to the extent, for which the computer program has been obtained;
- b. for archival purposes, and, for the replacement of the lawfully owned copy of the computer program in the event that the lawfully obtained copy of the computer program is lost, destroyed or rendered unusable.

19. Does your national statute provide that certain limitations or exceptions prevail over the prohibition on the acts of trafficking with devices or providing services that allow the circumvention of technological protection measures or rights management information?

Yes

Section 31.1 The following acts shall be considered unlawful;

- i) the manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work or to impair the quality of copies made (the latter device or means hereinafter referred to as "copy-protection or copy-management device or means");
- ii) the manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted program, which is broadcast or otherwise communicated to the public, by those who are not entitled to receive the program;
- iii) The removal or alteration of any electronic rights management information without authority;
- iv) The distribution, importation for distribution, broadcasting, communication to the public or making available to the public, without authority, of works, performances, sound recordings or broadcasts, knowing or having reason to know that electronic rights management information has been removed or altered without authority.

20. If the recourse to legal proceedings is needed what is the average time to succeed in ensuring legal certainty of limitations and exceptions regarding the prohibition of dealing with devices or providing services to circumvent the technological protection measures and rights management information?

No time limit

Part II: Limitations and Exceptions related to Educational Activities

21 . If your national statute is included in the analysis of specific exceptions contained in any of the studies on limitations and exceptions for educational or research activities (documents SCCR/19/4, SCCR/19/5, SCCR/19/6, SCCR/19/7, SCCR/19/8)¹, do you consider that the analysis is correct?

The national statute was not included in the analysis

22. Does your national statute provide specific limitations and exceptions for educational purposes?

Yes

- Reproduction for teaching –
 - a. the reproduction of a short part of a published work, by way of illustration, in writing or sound or visual recordings for teaching (12.1.a)
- Face to face teaching, in educational institutions whose activities do not serve direct or indirect commercial gain (12.1.b)
- Reprographic reproduction by libraries and archives for preservation and lending; educational use (13)
- The reproduction in a newspaper or periodical, the broadcasting or other communication to the public, of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character; (14.a)

23. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

Face-to-face activities

Distance education

Both

Please list them: _____

- Reproduction for teaching –
 - a. the reproduction of a short part of a published work, by way of illustration, in writing or sound or visual recordings for teaching (12.1-a)
- Face to face teaching, in educational institutions whose activities do not serve direct or indirect commercial gain (12.1.b)

- Reprographic reproduction by libraries and archives for preservation and lending; educational use (13)
- The reproduction in a newspaper or periodical, the broadcasting or other communication to the public, of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character; (14.a)

On performances I

24. Does your national statute provide specific limitations and exceptions allowing performances for educational purposes, such as performances by teachers in classrooms or school concerts?

No

25. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions that permit performances for educational purposes?

No

26. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing performances for educational purposes?

No

27. Who is eligible to engage in activity covered by the specific limitations and exceptions allowing performances for educational purposes? (more than one option can be selected)

Teachers

Students

Educational institutions

28. In case educational institutions are eligible to engage in activities covered by specific limitations and exceptions allowing performances for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

For-profit

Not-for-profit

Public

Private

Others.

No provision on this

On reproduction

29. Does your national statute provide targeted limitations and exceptions allowing reproduction for educational purposes?

No

Reproduction for Teaching

12.1 The following acts shall be permitted without the authorization of the author of, or other owner of the copyright in, the work:

a. The reproduction of a short part of a published work, by way of illustration, in writings or sound or visual recordings for teaching, provided that

- i) such reproduction is compatible with fair practice, and
- ii) its extent does not exceed the extent justified by the purpose;

b. The reprographic reproduction, for face-to-face teaching in educational institutions whose activities do not serve direct or indirect commercial gain, to the extent justified by the purpose, of a published article or other short work or short extract of a writing, with or without illustrations, provided that

i) the act of reproduction is an isolated one occurring, if repeated, on separate and unrelated occasions, and

ii) there is no collective license available (that is, offered by a collective administration organization in a way that the educational institution is aware or should be aware of the availability of the license) under which such reproduction can be made.

(2) On any copy made under paragraph (1), its source and the name of the author shall be indicated, as far as practicable.

30. What kind of reproduction is covered by those limitations and exceptions? (more than one option can be selected)

Reprography

Digital copying

Others. Please describe: _____

Reprography

Digital copying

Broadcasting

-Not applicable

31. Do the limitations or exceptions allowing reproduction include the preparation of course packs, compilations or anthologies?

- No provision

32. Does your national statute provide remuneration for the exercise of the specific limitations and exceptions allowing reproduction for educational purposes?

No

33. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing reproduction for educational purposes?

No

34. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing reproduction for educational purposes? (more than one option can be selected)

- Teachers
- Students
- Educational institutions

35. In case educational institutions are eligible to engage in activities covered by the enumerated limitations and exceptions allowing reproduction for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- No provision

36. Does your national statute subject the limitations and exceptions on reproduction for educational purposes to the use of technological measures?

- No provision

39. Does your national statute include any other specific limitations or exceptions related to educational purposes that have not been covered above?

No

On translations

37. Does your national statute provide specific limitations and exceptions allowing translations for educational purposes?

No

38. Does your national statute provide remuneration against the exercise of specific limitations and exceptions allowing translations for educational purposes?

No

39. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the enumerated limitations and exceptions allowing translations for educational purposes?

No

40. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing translations for educational purposes? (more than one option can be selected)

Teachers

Students

Educational institutions

Others.

- No provision

41. In case educational institutions are eligible to engage in activities covered by any of the enumerated limitations and exceptions allowing translations for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- No condition
-

On making available in digital networks

42. Does your national statute provide specific limitations and exceptions for making available in digital networks for educational purposes?

- No

43. Do the specific limitations or exceptions for making available in digital networks include course packs, compilations or anthologies?

- No specific provision

44. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions for making available in digital networks for educational purposes?

- No specific provision

45. Does your national statute include any specific requirement regarding the qualitative or quantitative limits extent and nature of the works or objects of related rights covered by the specific limitations and exceptions for making available in digital networks for educational purposes?

- No specific provision

46. Who is eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes? (more than one option can be selected)

- No specific provision

47. In case educational institutions are eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- No specific provision

48. Does your national statute subject the limitations and exceptions on making available in digital networks for educational purposes to the use of technological measures?

- No specific provision

49. Does your national statute include any other specific limitations or exceptions related to educational purposes that have not been covered above?

- No

50. If not, what other limitations and exceptions for educational purposes would be necessary?

- No specific provision

51. Are there impediments to the use of limitations and exceptions for educational purposes (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

- Yes

Section 12.1 The following acts shall be permitted without the authorization of the author of, or other owner of the copyright in, the work:

a. the reproduction of a short part of a published work, by way of illustration, in writings or sound or visual recordings for teaching, provided that

- i) such reproduction is compatible with fair practice, and
- ii) its extent does not exceed the extent justified by the purpose;

b. the reprographic reproduction, for face-to-face teaching in educational institutions whose activities do not serve direct or indirect commercial gain, to the extent justified by the purpose, of a published article or other short work or short extract of a writing, with or without illustrations, provided that

- i) the act of reproduction is an isolated one occurring, if repeated, on separate and unrelated occasions, and
- ii) there is no collective license available (that is, offered by a collective administration organization in a way that the educational institution is aware or should be aware of the availability of the license) under which such reproduction can be made.

Part III: Limitations and Exceptions related to Libraries and Archives

52. If your national statute is included in the analysis of specific exceptions contained in the Annex of the WIPO Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2)2, do you consider that the analysis is correct?

- Yes

53. Does your national statute contain any limitations or exceptions that permit copying by libraries and/or archives for purposes of preservation or replacement?

- Yes

Section 13. A library or archive whose activities do not serve direct or indirect gain may without the authorization of the author of, or other owner of copyright in, the work, make a single copy of the work by reprographic reproduction.

13.b. where the making of such a copy is in order to preserve and, if necessary (in the event that it is lost, destroyed or rendered unusable), replace a copy, or to replace, in the permanent collection of another similar library or archive, a copy which has been lost, destroyed or rendered unusable, provided that

- i) It is impossible to obtain such a copy under reasonable conditions, and
- ii) the act of reprographic reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions.

54. What types of works may be reproduced for these purposes?

- All literary and artistic works

55. Does your national statute establish qualitative or quantitative limits for these purposes?

- Quantitative

The reproduction of a published work in a single copy can be made by a physical person exclusively for his own personal use

56. What other conditions must be met in order for such reproduction to be authorized?

- No condition

57. Does your national statute contain any limitations or exceptions that permit copying by libraries or archives for patron use?

- No provision

58. What types of works may be reproduced for these purposes?

- No provision

59. Does your national statute include specific provisions regarding orphan works?

- No

60. Does your country have plans to include or modify the specific exceptions and limitations related to the activities of libraries and archives?

- No

61. If not, what other limitations and exceptions for libraries and archives would be necessary?

- No provision

62. Are there impediments to the use of limitations and exceptions related to the activities of libraries and archives (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

- No

63. Does your national statute establish qualitative or quantitative limits for these purposes?

- No

64. What other conditions must be met in order for such reproduction to be authorized?

- No condition

65. Does your national statute contain any limitations or exceptions that permit libraries to reproduce and/or distribute works (either reprographic and/or digital) for the purposes of interlibrary lending?

- No

66. Does your national statute contain any limitations or exceptions that permit any other organizations (such as museums or educational institutions) to reproduce or distribute works for archival, preservation, or replacement purposes?

Yes.

Please describe: Where the making of such a copy is in order to preserve and if necessary (in the event that it is lost, destroyed or rendered unusable), replace a copy, or to replace, in a permanent collection of another similar library or archive, a copy which has been lost, destroyed or rendered unusable, provided that:

1. It is impossible to obtain such a copy under reasonable conditions, and
2. The act of reprographic reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions.

Part IV: Limitations and Exceptions for Persons with Disabilities

67. If your national statute is included in the analysis of specific exceptions contained in Annexes 2 and 3 of the Study on Limitations and Exceptions for the Visually Impaired (document SCCR/15/7)², do you consider that the analysis is correct?

- No

68. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for visually impaired persons, including the reading impaired?

- No

69. Does your national statute specify the formats (for instance, Braille or large print) that fall under this exception?

- No
-

70. What other conditions must be met in order for such uses to be authorized?

- No condition

71. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to the visually impaired persons, including the reading impaired?

- No

72. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for deaf persons?

- No

73. Does your national statute specify the formats that fall under this exception?

- No

74. What other conditions must be met in order for such uses to be authorized?

- No condition

75. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to the deaf persons?

- No

76. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with any other disabilities?

- No

77. Does your national statute specify the formats that fall under this exception?

- No

78. What other conditions must be met in order for such uses to be authorized?

- No condition

79. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with any other disabilities?

- No

80. Does your country have plans to include or modify the specific exceptions related to visually impaired persons or other persons with disabilities?

- Yes

81. If not, what other the limitations and exceptions for persons with disabilities would be required?

Please describe: _____

82. Are there impediments to guarantee the use of the limitations and exceptions mentioned in the previous question (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

- No

Part V: Religious, social and cultural exceptions

83. Does your national statute provide limitations and exceptions for religious, social and cultural purposes?

- No

84. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

Religious activities

Cultural Activities

Social Activities

- No

85. Does your national statute subject the exercise of limitations and exceptions on uses for religious purposes to the condition of the nature of religious activities?

- No

86. Does your national statute provide remuneration for the exercise of limitations and exceptions on uses for religious purposes?

- No

87. Does your national statute subject the exercise of limitations and exceptions on uses for religious purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?

- No

88. Does your national statute subject the exercise of limitations and exceptions on uses for cultural purposes to the condition of the nature of cultural activities?

- No

89. Does your national statute provide remuneration for the exercise of limitations and exceptions on uses for cultural purposes?

- No

90. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the limitations and exceptions on uses for cultural purposes?

- No

91. Does your national statute subject the exercise of limitations and exceptions on uses for social purposes to the condition of the nature of social activities?

- No

92. Does your national statute provide remuneration for the exercise of limitations and exceptions on uses for social purposes?

- No

93. Does your national statute subject the exercise of limitations and exceptions on uses for social purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?

- No

Part VI: Other questions on digital technology

94. Does your national statute provide any limitations or exceptions for reverse engineering?

- No

95. Does your national statute impose any kind of liability (direct, indirect, or secondary) according to which a party can be held liable for the copyright infringement of third parties under certain circumstances (such as when that party has the ability to control an infringer's actions or contributes to a third party's infringing actions)?

- No

96. With respect to liability that arises from the infringement of third parties, does your

national statute, for purposes such as to encourage online service providers to cooperate with rightsholders in deterring infringement, provide limitations or exceptions to the liability of online service providers in any way?

- No

97. With respect to liability that arises from the infringement of a third party, for which of the following activities, if any, does your national statute provide limitations or exceptions to the liability of online service providers?

Acting as a conduit for infringing material (e.g., transmitting, routing, or supplying connections for material)

Caching infringing material

Storing infringing material at the direction of a user

Providing access by means of information search tools such as indices, references, hyperlinks and directories to infringing materials that users post

Others.

Please specify: _____

- No

98. What conditions, if any, must be met in order for an online service provider to qualify for the limitation of liability, exception to liability, or statutory safe harbor (statutory safe harbor refers to any statutory enactment which provides that a person will not be liable upon taking certain measures)?

- No condition

Part VII: General questions to cover areas left out in Part I to VI

1. Are the following limitations or exceptions included in your national statute? (more than one option can be selected)

right of quotation

news reporting

ephemeral copies

incidental uses

government uses

non-voluntary license for broadcasting

non-voluntary license for mechanical reproduction of musical works

Please describe: _____

Quotation

Section 11. The reproduction of a short part of a published work, in the form of quotation, in another work, shall be permitted without authorization of the author of, or other owner of the copyright in, the work from which the quotation is taken, provided that such a reproduction is compatible with fair practice and its extent does not exceed the extent justified by the purpose. The quotation shall be accompanied by the indication of its source and the name of the author if his name appears in the work from which the quotation is taken.

News reporting

Section 14. The following acts shall be permitted, without the authorization of the author of, or other owner of copyright in, the work, subject to the obligation to indicate, as far as practicable, the source and the name of the author:

- b. the reproduction and the broadcasting or other communication to the public, for the purpose of reporting current events, of short excerpts of a work seen or heard in the course of such an event, to the extent justified by the said purpose;
- c. the reproduction in a newspaper or periodical, the broadcasting or other communication to the public of a political speech, a lecture, address, sermon or other work of similar nature delivered in public, or a speech delivered during legal proceedings, the extent justified by the purpose of providing current information.

2. Does your national statute include limitations and exceptions for any other activities that are not covered in the questionnaire so far?

Yes

No

If yes, please describe: _____

3. Has your country signed, or is in the process of negotiating, a Free Trade Agreement (FTA) containing clauses on copyright and related rights exceptions and limitations?

- No

4. If so, with which country or group of countries?

- Nil

5. Please add any further comments and information you deem interesting for this questionnaire.

No comments
