



**Asia-Pacific
Economic Cooperation**

**APEC - IPEG Survey on Copyright
Limitations & Exceptions
Report on Copyright L&E in
APEC Economies**

APEC Intellectual Property Experts' Group

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EXECUTIVE SUMMARY

The APEC-IPEG Survey on Copyright Limitations and Exceptions (the “Survey”) was distributed by the Intellectual Property Experts’ Group (IPEG) of the Asia-Pacific Economic Cooperation (APEC) forum after a proposal submitted by Chile to study copyright Limitations and Exception (L&E)¹ among APEC Member Economies, accepted at the XXIII APEC Intellectual Property Experts’ Group meeting in August 2006 at Guadalajara, Mexico².

The Survey comprises 34 questions separated into five sections: (1) L&E relating to the use of digital technology; (2) L&E relating to educational use; (3) L&E relating to use by libraries and archives; (4) L&E relating to use by persons with disabilities; and (5) L&E not included in the first four categories, such as fairness-based doctrines and non commercial use. The Survey requested that Member Economies answer based not only on their domestic acts or statutes, but also on any other relevant source of law as well as on pending legislations.

This Report contains the results submitted by the fourteen Member Economies³, six of them developing Economies, and represents a snapshot of the information submitted by Member Economies until February 2009.

The information gathered shows important differences in the L&E systems between developed and developing Economies. Also the report reveals that in the cases where L&E are exactly the same, their scope and conditions differ across the board.

Additionally, the Report is accompanied by a Table of Copyright L&E, which is meant to be read in conjunction with the report and presents in tabular format the information provided by APEC Member Economies in their survey responses about L&E in their copyright laws.

Methodology

The methodology used in the preparation of this Report includes a summary of the questions, the number of Member Economies that report that their copyright laws provide L&E inquired about and a description of the L&E reported; and finally there are mentions of examples of how the reported L&E vary between the reporting Member Economies.

The survey results presented in the Report were analyzed only using the responses of the fourteen Member Economies that responded the Survey. It must be underlined that throughout the Report the use of the term “copyright law” should be understood as not only referred to domestic acts or statutes, but also to administrative

¹ For the purposes of this Report the expression “L&E” refers not only to “limitations and exceptions” but also to “limitations or exceptions”, “limitation and exception” and “limitation or exception”.

² “Project Proposal: APEC IPEG Survey on Laws and Best Practices on L&E to Copyright among APEC Economies,” Submitted by: Chile, APEC Document 2006/IPEG23/048 [hereinafter “Survey Proposal”], available at http://aimp.apec.org/Documents/2006/IPEG/IPEG2/06_ipeg2_048.doc.

³ The Member Economies that responded to the Survey are: Australia; Canada; Chile; China; Hong Kong, China; Japan; Mexico; New Zealand; Peru; Singapore; Chinese Taipei; Thailand; the United States; and Viet Nam.

regulations, case law or judicial interpretations, and pending legislation or other pending reforms.

In this regard, the survey responses submitted identify both current law and pending or potential legislation pertaining to copyright L&E. Four Member Economies — Chile, New Zealand, Chinese Taipei and Thailand — reported that legislation is proposed or pending in their Member Economies regarding copyright L&E. In June 2007, Hong Kong, China passed its Copyright (Amendment) Bill 2006, now codified and referred to as the Copyright (Amendment) Ordinance 2007⁴. In addition, Peru indicated that it may amend its copyright law if a commercial agreement with the United States is approved⁵. The information on Canada has been updated to February 2009.

Lastly, even though the Report has been reviewed by the IPEG Member Economies as of July 2009, the Government of Chile is exclusively responsible for any factual, stylistic or grammatical error done during the drafting process of this Report.

Digital Technology

Copyright L&E related to digital technology include subjects such as software reverse engineering, temporary copies, as well as liability for online service providers and technological protection measures. For each of these L&E, a majority of responding Member Economies report that their copyright laws do contain such L&E, and the highest consensus is the exception for temporary copies among the economies. The responses indicate that the conditions under which such L&E may be exercised vary significantly from one Member Economy to the other.

Educational Uses

L&E involving educational uses may allow unauthorized performances, transmissions, or reproductions of copyrighted work. All responding Member Economies report that their laws provide L&E relating to educational use of copyrighted work but their scope differs widely among the different Economies.

Libraries and Archives

The Survey inquires about four L&E concerning uses of copyrighted work by libraries and archives: reproduction of work for preservation or replacement, reproduction of a work for patron use, reproduction of a work in response to a user request, and other exceptions. All responding Member Economies report that their copyright laws provide certain L&E where the reproduction of work for preservation or replacement is the most common.

Disabilities

The Survey addresses reproduction of copyrighted work for persons with visual disabilities, hearing disabilities, and other disabilities. Almost all of the responding Member Economies report that they have either enacted or proposed legislation that provides L&E that permit the reproduction of copyrighted work into a format accessible to people with disabilities. The most prevalent L&E reported by the Member Economies

⁴ Hong Kong, China supplemental comments. Parts of the Copyright (Amendment) Ordinance 2007 are not yet in force.

⁵ As noted in a communication by the US of March 10th, 2009, the Peru - United States Trade Promotion Agreement entered into force in January 1, 2009.

concern the use of copyrighted material by those visually impaired⁶ and more than a half report L&E pertaining to persons with hearing disabilities⁷.

General L&E

The Survey inquires about other specific L&E that do not fall into the preceding categories, including: fairness-based exceptions, such as fair use or fair dealing; exceptions for non-commercial and non-profit use; exceptions for translations; exceptions for photocopying; and exceptions for the performance, display and transmission of copyrighted works. Almost all of the Member Economies report that their laws provide L&E regarding photocopying, performance, display and transmission of copyrighted works, and non-profit and/or non-commercial use. Nine Member Economies report that their laws contain a fairness-based doctrine⁸, where as six report existing or pending exceptions concerning translations of copyrighted works⁹.

Additional Issues Identified

During the process of collecting information on L&E, some Member Economies highlighted other issues regarding copyright L&E that would be useful to be address by the IPEG. The issues mentioned were: the legitimate scope of personal use exceptions (Australia); the relationship between exceptions and contracts (Chile); exceptions for education, libraries and the visually impaired (Chile); exceptions for temporary copying of copyrighted works and for media/format shifting (Hong Kong, China); the issue of format shifting and the status of digital articles, books and libraries (Singapore); and exemptions for technological protection measures (Thailand).

Conclusions

Finally, the Report provides some conclusions and insights regarding the responses made by Member Economies.

⁶ Thailand reports that its law does not provide this exception, and Chile reports pending legislation that would include such an exception.

⁷ Australia; Canada; Hong Kong, China; Japan; Mexico; Chinese Taipei; and the United States.

⁸ Australia; Canada; China; Hong Kong, China; Singapore; Chinese Taipei; Thailand; and the United States. New Zealand reports that its Copyright Act provides specific fair dealing exceptions for the purposes of criticism, review, and news reporting as well as research or private study.

⁹ Canada; Chile (pending legislation); Japan; Chinese Taipei; Thailand; and Viet Nam.

I. INTRODUCTION

This Report presents the results submitted by the fourteen Member Economies that have responded to the APEC-IPEG Survey on Copyright L&E (“Survey”). This Report is accompanied by a Table of Copyright L&E, which is meant to be read in conjunction with the report and presents in tabular format the information provided by APEC Member Economies in their survey responses about L&E in their copyright laws¹⁰.

1. Background

At the XXIII APEC Intellectual Property Experts Group Meeting, held in August 2006 at Guadalajara, Mexico, Chile proposed that a survey be conducted which would “collect information on L&E contained in the domestic APEC Member Economies’ legislations.” The survey was proposed “for both public interest purposes and for the development of the digital economies”¹¹. The proposal was accepted by IPEG at the August 2006 meeting.

The Survey Proposal sets forth the objectives of the present report:

*“to improve the understanding on the need for L&E, particularly in a digital economy, through the exchange of information and exceptions for copyright contained in the domestic laws and regulations of APEC Members; and as a second step, to identify the best practices of the APEC Economies in this area with the view of encouraging the development of efficient copyright systems that promote economic activities based on both IP works and access to knowledge and education for the population ”*¹².

In order to meet these objectives, the Survey Proposal recommended that the project be achieved in two phases. During the first phase of the project, a survey was prepared and distributed that collected information on L&E contained in the domestic APEC Economies legislations, for public interest purposes as well as for the development of the digital economies. This Report reflects the findings of this first phase of the project.

¹⁰ For purposes of this paper, the term “copyright” also includes its related rights.

¹¹ “Project Proposal: APEC IPEG Survey on Laws and Best Practices on L&E to Copyright among APEC Economies,” Submitted by: Chile, APEC Document 2006/IPEG23/048 [hereinafter “Survey Proposal”], available at:

http://www.apec.org/content/apec/documents_reports/intellectual_property_rights_experts_group/2006.MedialibDownload.v1.html?url=/etc/medialib/apec_media_library/downloads/committees/cti/ipeg/mtg/2006/word.Par.0052.File.v1.1.13_Survey_Proposal.

¹² Survey Proposal.

2. Survey Overview

The Survey was prepared between October 2006 and March 2007. The APEC Member Economies and others assisted in developing the Survey by offering comments and suggestions.

The Survey was distributed in April 2007. It comprises 34 questions separated into five sections:

- L&E relating to the use of digital technology;
- L&E relating to educational use;
- L&E relating to use by libraries and archives;
- L&E relating to use by persons with disabilities; and
- L&E not included in the first four categories, such as fairness-based doctrines and non-commercial use.

The results discussed in this Report identify both the current law of the responding Member Economies and pending legislation that the Member Economies identified. Four of the fourteen Member Economies reported pending legislation regarding copyright L&E¹³. In June 2007 Hong Kong, China passed its Copyright (Amendment) Bill 2006. This bill is now codified and is now referred to as the “Copyright (Amendment) Ordinance 2007.” In addition, at the time the Survey was distributed, Peru indicated that it may amend its copyright law if a commercial agreement with the United States is approved¹⁴.

3. Report and Table

This Report presents the results submitted by the fourteen Member Economies that responded the Survey. This Report is accompanied by a Table of Copyright L&E, which is meant to be read in conjunction with the report and presents in tabular format the information provided by APEC Member Economies in their survey responses about L&E in their copyright laws.

4. Methodology

The following methodology was used in the preparation of this Report: First, the Report summarizes the questions asked in the Survey; Second, the Report states the number of Member Economies that report that their copyright laws provide L&E inquired about; Third, the reported L&E are described; and Fourth, where Member Economies report that their copyright laws provide an L&E, the Report provides examples of how the reported L&E vary between the reporting Member Economies.

The survey results presented in the Report were analyzed only using the responses of the fourteen Member Economies that responded the Survey. It must be underlined that throughout the Report the use of the term “copyright law” should be understood as not only referred to domestic acts or statutes, but also to administrative

¹³ Chile; New Zealand; Chinese Taipei; and Thailand.

¹⁴ Please see *supra* at note 5.

regulations, case law or judicial interpretations, and pending legislation or other pending reforms.

Throughout this Report, citations to Member Economies' statutes or regulations are based on provisions of the Member Economies' copyright laws as reported by the Member Economies in their Survey Responses. For a complete list of the Member Economies' reported copyright statutes, please refer to Appendix A: Key to Statutory References.

II. L&E RELATED TO DIGITAL TECHNOLOGY

The Survey asked the Member Economies to inform whether their copyright laws provide L&E pertaining to reverse engineering, the liability of online service providers ("OSPs"), temporary copies, and technological protection measures ("TPMs"). The Survey also requested that the Member Economies describe the L&E as well as list the purposes for which, and conditions under which, such L&E are available. The Survey also posed questions specific to each type of limitation and exception inquired about.

As can be seen from the responses to the Survey, the implementation of copyright L&E relating to digital technology is an ongoing process. Some of the Member Economies reported that they are discussing amendments and possible changes to their copyright laws. New Zealand inform that a bill is pending that introduces new provisions for L&E related to digital technology¹⁵. Chinese Taipei reports that an amendment to its Copyright Law is pending that will limit the liability of OSPs for copyright infringement. Hong Kong, China has enacted a new Copyright (Amendment) Ordinance 2007 that provides additional civil liabilities and new criminal liabilities to enhance protection against circumvention of TPMs and exceptions for circumvention activities to address users' legitimate concerns¹⁶. The new provisions for anticircumvention and related exceptions have not yet commenced and will come into force on a day to be specified by notice in the Government Gazette. Hong Kong, China has also sought public comment regarding the current role of online service providers in combating online piracy. Chile reports pending legislation, which if passed will include new exceptions relating to digital technology¹⁷. Peru indicates that it will add new limitations on the liability for online service providers if it enters into a trade agreement with the United States¹⁸. Throughout the Report, such measures are referred to as "pending legislation."

¹⁵ Copyright (New Technologies and Performers' Rights) Amendment Bill, § 43.

¹⁶ Copyright (Amendment) Ordinance of 2007, Ord. No. 15 of 2007, §§ 273D(1), 273E(2), 273F(2).

¹⁷ Chile Survey Response.

¹⁸ Peru Survey Response. Please see also *supra* at note 5..

1. Reverse Engineering

The Survey asked the Member Economies to report whether their copyright laws provide L&E for reverse engineering. Where Member Economies reported that their laws provide such a L&E, the Survey asked the Member Economies to describe them, to state the purposes for which reverse engineering is permitted, to state whether there are any other restrictions or conditions on the ability to reverse engineer a software, and to state whether the L&E permits the circumvention of technological protection measures employed by the software.

Ten of the fourteen APEC Member Economies responded that their current laws or pending legislation provide L&E relating to reverse engineering¹⁹. The most common exceptions provide that certain specified acts are permitted upon compliance with a set of required conditions; permitted acts include the creation of interoperable computer programs and the studying and testing of a computer program to understand its underlying elements. Other Member Economies report that more generally applicable exceptions in their copyright laws, such as fair dealing or fair use, would permit reverse engineering of a computer program in some circumstances²⁰.

Specific Exceptions

Where specific exceptions for reverse engineering are contained in responding Member Economies' copyright laws, these exceptions often permit reverse engineering of a computer program for two different purposes, which are often enumerated in adjacent provisions in the statutes. These purposes are: (1) interoperability; and (2) to understand the underlying ideas and principles of the program. While these two purposes are the most common, Member Economies also identify other specific exceptions for reverse engineering.

Reverse Engineering for Purposes of Interoperability

Australia, New Zealand, Peru, Singapore, and the United States report exceptions that permit or are related to reverse engineering of a computer program for the purpose of obtaining information to create an independent computer program that can interoperate with the original or another program²¹. All five of these Member Economies allow for the reproduction of computer programs for interoperability purposes and New Zealand and Singapore report that their law or pending legislation

¹⁹ Australia; Canada, Chile (pending legislation); Hong Kong, China; New Zealand (pending legislation); Peru; Singapore; Chinese Taipei; Thailand; and the United States. Canada notes that reverse engineering is a matter of interpretation of more generally worded provisions in its Copyright Act especially fair dealing.

²⁰ For example, Chinese Taipei provides a generally applicable exception for fair use that permits reverse engineering of a computer program in §65(2) of its Copyright Act. The United States reports that it is generally recognized that there is an exception to reverse engineering of computer programs under the fair use doctrine as recognized in judicial decisions and that exceptions in this area have developed not through legislation but through judicial interpretation.

²¹ Australia Copyright Act 1968, Act No. 63, 1968, §47D; New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, §80A; Peru Survey Response; Singapore Survey Response; the United States reports that "[i]t is generally recognized there is an exception to reverse engineering of computer programs under the fair use doctrine as recognized in judicial decisions." Additionally, the United States permits circumvention of technological measures to determine the interoperability of computer software under 17 U.S.C. § 1201(f).

permits the decompilation of computer programs for interoperability purposes²². New Zealand, Peru, and Singapore report, among other conditions, four common conditions that must be met before this exception can be utilized. The conditions are as follows:

- The information obtained in the process of reverse engineering the program must be used only to achieve interoperability between programs;
- The reproduction must be made either by or on behalf of the “owner or licensee of a copy” or by a “lawful user” of a computer program²³;
- The information required must not be readily available; and
- The permitted reproduction must be confined to the acts necessary for achieving interoperability. For instance, Peru’s exception provides that the permitted acts “must be limited strictly to those parts of the original software necessary to achieve interoperability”²⁴.

Singapore’s copyright law, New Zealand’s pending legislation, and Peru’s copyright law require that, in addition to the four conditions set forth above, the information obtained not be used to make a new program that is substantially similar in its expression to the computer program decompiled or reverse engineered²⁵. Singapore’s copyright law and New Zealand’s pending legislation also require that the information obtained must not be shared with any person unless it is necessary to supply the information in order to create an independent program²⁶. Peru reports that in order for this exception to apply under its copyright law, the information necessary to achieve interoperability cannot already be available and cannot be available upon request from the rights holder²⁷. Other Member Economies report similar requirements.

New Zealand’s pending legislation provides that a term or condition in an agreement for the use of software has no effect so far as it prohibits or restricts decompilation for purposes of interoperability or copying or adapting a computer program if necessary for lawful use of the program²⁸.

Reverse Engineering for Purposes of Studying and Testing

Some of the responding APEC Member Economies report L&E relating to reverse engineering that permit the reproduction of a computer program for the purpose of studying and testing the program to determine the program’s underlying ideas and principles. Australia and Thailand report that their laws contain a specific exception for reverse engineering for studying and testing purposes, and Singapore reports that its law

²² Singapore Copyright Act, Cap. 63, § 39B; New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 80A.

²³ Singapore’s Copyright Act provides that “a person is a lawful user of a computer program if he has a right to use the computer program, whether under a license to do any act restricted by the copyright in the computer program or otherwise.” Copyright Act, Singapore Statutes Cap. 63, § 39A(5); see also New Zealand Copyright Act 1994, 1994 No. 143, § 2. Similarly, Peru requires that the copy be “made by a licensed user or by any[one] legally authorized to use that software or by a person duly authorized by the right holder.” Peru’s Survey Response.

²⁴ Peru Survey Response.

²⁵ Singapore Copyright Act, Singapore Statutes Cap. 63, § 39A(2)(d)(i); see New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 80A(3)(d); Peru Survey Response.

²⁶ Singapore Copyright Act, Singapore Statutes Cap. 63, § 39A(2)(c); see New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 80A(3)(c); Peru Survey Response.

²⁷ Peru Survey Response.

²⁸ New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 80C.

contains a specific exception related to reverse engineering which provides that the copyright in a computer program is not infringed in certain circumstances for studying and testing purposes.

Australia requires reproductions under this exception to be made by or on behalf of the owner, licensee of a copy of the program, or by a lawful user in an automatic process of running the program²⁹. Singapore also stipulates that the reproduction must be made by a lawful user in an automatic process of running the program, and requires that the copy be made “while performing any of the acts of loading, displaying, running, transmitting or storing the computer program which [a lawful user] is entitled to do”³⁰. Thailand recognizes this activity to the extent that the reproduction does not conflict with the normal exploitation of the program by the right holder or prejudice the legitimate right of the copyright owner³¹. Singapore reports that its copyright law prohibits the right holder from contractually restricting a lawful user’s ability to study and test a computer program³².

Reverse Engineering for Other Purposes

A number of the Economies identify other permitted acts for reverse engineering in specific statutes. These acts include:

- Reproduction of computer programs for security testing³³;
- Reproduction of computer programs to correct errors³⁴;
- Reproduction of computer programs in order to make back up copies³⁵; and
- Reproduction and adaptation for purposes of research and development³⁶.

Fair Dealing and Fair Use Exceptions

Fair dealing or fair use exceptions that may permit the reverse engineering of a computer program, under certain circumstances, have been reported by Hong Kong, China, the United States³⁷ and Canada³⁸.

These Member Economies report that under this type of exception reverse engineering is allowed in order to make programs interoperable and, in some Member Economies, for research and private study. The courts in these Member Economies³⁹ determine whether the use of the work is permissible under the Member Economies’ fairness-based doctrine by analyzing the facts of each case according to various factors.

²⁹ Australia Copyright Act 1968, Act No. 63, 1968, § 47B.

³⁰ Singapore Copyright Act, Singapore Statutes Cap. 63, § 39(B).

³¹ Copyright Act, B.E. 2537 (1994), § 35(1).

³² Singapore Copyright Act, Singapore Statutes Cap. 63, § 39B(2).

³³ E.g., Australia Copyright Act 1968, Act No. 63, 1968, § 47F of the Copyright Act; Australia Survey Response.

³⁴ E.g., Australia Copyright Act 1968, Act No. 63, 1968, § 47E of the Copyright Act; Australia Survey Response; and New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 80B(1).

³⁵ E.g., Australia Copyright Act 1968, Act No. 63, 1968, § 47C of the Copyright Act; Australia Survey Response.

³⁶ E.g., Chile.

³⁷ See supra at note 21.

³⁸ Canada indicates in its response that this is a matter of interpretation. See Copyright Act, R.S., 1985, s. 29 of the Copyright Act.

³⁹ The US has a case law stating that reverse engineering is allowed for the purposes of interoperability but no judicial cases have been ruled when it is done for purposes of research and private study.

For the tests used by these Member Economies to determine whether a use falls within their fairness-based doctrines, please see the discussion of Fairness-Based Doctrines in Part V, General L&E, below.

Circumvention of Technological Protection Measures (TPMs) employed by Computer Programs

Australia, Hong Kong, China, Chinese Taipei, and the United States report that their copyright laws or pending legislation, provide exceptions to prohibitions against the circumvention of TPMs, for the purpose of reverse engineering of a computer program to achieve interoperability⁴⁰. Chinese Taipei's Copyright Act provides that provisions prohibiting circumvention of TPMs shall not apply where the circumvention was done "to conduct reverse engineering"⁴¹. In addition, Peru notes that it will add an exception that permits the circumvention of TPMs for reverse engineering to achieve interoperability if a new commercial agreement with the United States is approved.

Examples of how an exception may vary across different domestic legislations

The copyright laws of the responding Economies vary with respect to the conditions under which reverse engineering may be allowed. For example, five Member Economies permit reproduction for the purpose of reverse engineering under the condition that they be authorized or the reproduction be done from the original copy⁴². Three Member Economies require that the information not be readily available or at a reasonable price⁴³. Two Member Economies require, under some circumstances, that the reverse engineering be necessary or essential⁴⁴; where as, Australia does not allow a back up copy if program modification are necessary, and Hong Kong, China's law provides that reverse engineering be lawful only if it is done for the sole purpose of achieving interoperability⁴⁵. Thailand requires that reverse engineering not be for profit⁴⁶, which is also a factor under Hong Kong, China's fair dealing doctrine⁴⁷.

2. Limitations on Liability for Online Service Providers

Overview

The Survey asked Member Economies to inform whether their copyright laws impose direct, indirect or secondary liability according to which an Online Service Providers (OSPs) can be held liable for copyright infringements of third parties. For Member Economies with laws that do impose such liability, the Survey inquired as to whether those Member Economies provide L&E to the liability of ISP.

⁴⁰ Australia Copyright Act 1968, Act No. 63, 1968, § 47D; Hong Kong, China Copyright Ordinance, Cap. 528, § 273 D(1) (This provision has not yet come into force yet); Chinese Taipei Copyright Act, art. 80ter; the United States 17 U.S.C. § 1201(f).

⁴¹ Chinese Taipei Copyright Act, Art. 80ter.

⁴² Australia; Chile; Hong Kong, China; Peru; and Singapore.

⁴³ Australia; Hong Kong, China; and Peru.

⁴⁴ Canada and Peru.

⁴⁵ Australia Copyright Act 1968, Act No. 63, 1968, § 47C; Hong Kong, China Survey Response.

⁴⁶ Copyright Act, B.E. 2537 (1994), § 35(1).

⁴⁷ Hong Kong, China Copyright (Amendment) Ordinance of 2007, Ord. No. 15 of 2007, § 38(3) and Survey Response.

Nine responding Member Economies report that their copyright law or pending copyright legislation imposes some kind of limitation on the extent to which third parties can be held liable for acts of copyright infringement committed by others⁴⁸. Ten Member Economies provide either in their current copyright law or in pending legislations, safe harbors or limitations on this type of liability, under certain conditions, that are specific to OSPs⁴⁹.

Five Member Economies report that they are in, or may begin, the process of amending their copyright laws in ways that would add limitations on the liability of OSPs⁵⁰. Hong Kong, China reports that it is in the process of reviewing the role of OSPs in combating online privacy⁵¹. Chile, New Zealand, and Chinese Taipei inform pending legislation that will introduce limitations on potential liability for OSPs⁵², and finally, Peru also indicates that it may introduce limitations on the liability of OSPs if an agreement with the United States is approved⁵³.

Limitations on Liability

The Survey asked to inform whether their copyright laws provide L&E to the liability of OSPs for purposes such as to encourage OSPs to cooperate with right holders in deterring infringements, and which activities fall under such L&E.

All Member Economies that report that their copyright laws impose liability on third parties for acts of copyright infringements done by others also indicate some limitations on, or a safe harbor from this type of liability for OSPs.

Ten Member Economies provide either in their current copyright law, or in pending legislation, safe harbors or limitations on this type of liability for copyright infringement by a third party under certain conditions that are specific to OSP⁵⁴. In the case of some Member Economies, the exceptions or limitations on liability are part of an overall system that creates or retains incentives for OSPs to cooperate with right holders in expeditiously halting infringing activity on their systems or networks.

The Survey inquired about certain activities or categories of conduct by an OSP that might qualify for the limitation, exception, or safe harbor:

- Transmitting, routing, or supplying connections for material (or in other words, acting as a conduit for infringing material);
- Caching infringing material;

⁴⁸ Australia; Canada; Chile (general norms or rules of civil liability apply); China; Hong Kong, China; New Zealand; Chinese Taipei; and United States. Canada indicates in its survey response that while its law does not have a doctrine equivalent to secondary liability, it does include a concept of authorization under which it is an infringement to authorize without consent from the owner anything that the copyright owner has the sole right to do.

⁴⁹ Australia; Canada; Chile (pending legislation); China; Hong Kong, China (potential legislation); Japan; New Zealand (pending legislation); Singapore; Chinese Taipei (pending legislation); and United States.

⁵⁰ Chile; Hong Kong, China; New Zealand; Peru; and Chinese Taipei.

⁵¹ Hong Kong, China, Consultation Document on “Copyright Protection in the Digital Environment”.

⁵² Chile Modifica la ley N° 17.336, sobre propiedad intelectual, Art. 85 L-85; New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 53; Chinese Taipei Survey Response.

⁵³ Peru Survey Response.

⁵⁴ See supra at note 52. While Japan and Singapore do not report that their laws create liability for third parties, they do indicate in their survey responses that their Copyright Laws provide exceptions for OSP liability.

- Storing infringing material at the direction of a user; and
- Providing access by means of information search tools such as indexes, references, hyperlinks and directories to infringing materials that users post

As discussed below, each of these activities qualifies for a limitation, exception, or safe harbor in at least one Member Economy.

Acting as a Conduit

Eleven responding Member Economies report that their copyright laws, or pending or potential legislation, limit liability for OSPs acting as a conduit⁵⁵. They do so in two ways. First, some Member Economies set forth at least one condition that OSPs must meet. The OSP's liability is limited to the extent that it arises from transmitting, routing, and providing connections or the communication of infringing material.

Second, some Member Economies, including Hong Kong, China, Canada and New Zealand report that their copyright laws limit the liability of an OSP for acting as a conduit by providing that an OSP does not perform an infringing act when it merely provides the means of telecommunication, i.e. the physical facilities for enabling copies of copyrighted works to be made available to the public⁵⁶.

Caching Infringing Material

The majority of Member Economies limit the liability of OSPs when they make automatic electronic copies of a work to facilitate efficient access to the material by an OSP's user under some circumstances⁵⁷. Member Economies may also require that the copy be temporary or created in response to the action of a user⁵⁸.

Under this limitation, some Member Economies require that the OSP may not modify the content of the material and must remove or disable access to the copy of the material at some point⁵⁹. Other conditions to this exception identified by the responding Member Economies include requirements that the OSP comply with certain access restrictions⁶⁰ and not interfere with the lawful use of technology to obtain data on the use of the material⁶¹.

⁵⁵ Australia; Chile (pending legislation); China; Hong Kong, China; Japan; New Zealand (pending legislation); Peru (pending legislation); Singapore; Chinese Taipei; and the United States. Canada reports that its Act specifies that if a person's only act in respect of the communication of a work or other subject matter to the public consists of providing the means of telecommunication, then that person does not communicate the work or other subject-matter to the public.

⁵⁶ E.g., Canada s. 2.4(1)(b), and see *supra* at note 56; Hong Kong, China §26(4).

⁵⁷ Australia; Chile (pending legislation); China; Japan; New Zealand (pending legislation); Singapore; Chinese Taipei; and the United States.

⁵⁸ See e.g. United States 17 USC § 512.

⁵⁹ E.g., Singapore Copyright Act, Singapore Statutes Cap. 63, § 193D(1)(a); Chinese Taipei (pending Bill § 90quinquies(1)(ii)); the United States 17 U.S.C. 512.; China, Article 21 Regulations on the Protection of the Right of Communication through Information Network.

⁶⁰ United States 17 U.S.C. § 512.

⁶¹ Australia Survey Response; the United States 17 U.S.C. § 512.

Storing Infringing Material at the Direction of a User

Seven responding APEC Economies report that their copyright laws limit an OSP's liability when it stores infringing material on its servers at the direction of its users⁶².

While the conditions under which an OSP may be eligible for this limitation vary among APEC Members, some Member Economies report similarities. The copyright laws of Japan and pending legislation in New Zealand, for example, require that if an OSP stores infringing material, it does not do so knowingly⁶³. These Member Economies also require the OSP to delete or disable access to the infringing material when it receives notice that the material infringes a copyright. In addition to the example above, Japan, New Zealand, and Chinese Taipei require that an OSP provide a notice to the user after it deletes or disables access to the user's material that it determines to be infringing. United States law provides that the OSP must, pursuant to receipt of a proper notification, take reasonable steps promptly to notify the subscriber that it has removed or disabled access to the material⁶⁴.

Some Member Economies also require compliance with various additional conditions. For instance, Singapore's copyright law, the United States copyright law, Chile's pending legislation, China's Regulations on the Protection of the Right of Communication through Information Network, and Chinese Taipei's pending Copyright Bill stipulate that an OSP can receive no financial benefit directly attributable to the infringement, provided that the OSP has the right and ability to control the infringing activity⁶⁵.

Providing access by means of Information Search Tools such as Indexes, References, Hyperlinks and Directories to infringing materials that Users Post

Among the responding APEC Members, Australia, China, Singapore, Chinese Taipei, and the United States inform that their copyright laws limit the liability for OSPs that provide access by means of information search tools such as indexes, references, hyperlinks and directories to infringing materials posted by users. For a comparison of the limitations and conditions of these Members Economies please see the table of copyright L&E.

⁶² Australia; Chile (pending legislation); China; Japan; Singapore; Chinese Taipei; and United States.

⁶³ Japan: Law on Restrictions on the Liability for the Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identity Information of the Sender; New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 92C. See also Chinese Taipei (pending Bill §90quinquies(1)(iii)).

⁶⁴ New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 92(c)(3); Japan: Law on Restrictions on the Liability for the Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identity Information of the Sender; Chinese Taipei (pending Bill §90octies(2)); the United States 17 U.S.C. § 512 (g) (2). Note that Singapore also has a similar requirement, except that the OSP does not have the responsibility to monitor its service or affirmatively seek facts indicating infringing activity. See Singapore Copyright Act., Singapore Statutes Cap. 63, § 193DA(2).

⁶⁵ Singapore Copyright Act, Singapore Statutes Cap. 63, § 193D(2)(a); China Regulations on the Protection of the Right of Communication through Information Network, Article 22 (4); Chinese Taipei (pending Bill §90sexis); the United States 17 U.S.C. § 512(c)(1).

Definition of Online Service Providers

The Survey asked Member Economies to inform how their copyright law defines “online service provider” and/or how that term has been interpreted, the type of entity that qualifies as an OSP, and what conditions must be met in order for an OSP to qualify for the limitation, exception, or statutory safe harbor.

The APEC Member Economies that have responded to the Survey use different terms to describe organizations that transmit, store or make copyrighted works available via the Internet. The terms used include “service providers”⁶⁶, “internet service providers”⁶⁷, “carriage service provider”⁶⁸, and “network service providers”⁶⁹.

Six of the responding Member Economies define an online service provider in terms of the organization’s activities⁷⁰. For example, Singapore defines “network service provider” as “a person who provides services relating to, or provides connections for, the transmission or routing of data,” and “a person who provides, or operates facilities for, online services or network access”⁷¹.

Six of the responding Member Economies report that their laws require that an OSP maintain some form of procedure to disable access to infringing material posted by third parties⁷². These Member Economies report that an OSP must take down the infringing material when it gains knowledge that the material infringes the copyright of another.

There is variation among the reporting Member Economies as to what level of knowledge is sufficient. For example, Japan requires that the OSP receive notice that specifies the infringing information, the right claimed to be infringed, the basis for the infringement claim, and a request that the service provider disable access to the infringing material⁷³. New Zealand reports that the OSP must take action to remove or disable access to the infringing material when it “obtains knowledge” that the material infringe a copyright⁷⁴. Some of these six Member Economies also require an OSP to notify its subscribers of its take-down policies; the United States requires that the OSP inform its subscribers of its termination policy⁷⁵, whereas Chinese Taipei in its pending legislation requires OSPs to inform its users of its copyright protection policy through contracts or other appropriate means⁷⁶.

Examples of how an exception may vary across different domestic legislations

With respect to limitations on liability for OSPs there are some variations between responding Member Economies that relate to the scope of activity which is

⁶⁶ The United States 17 U.S.C. §512(k). It must be noted that the United States Government has used the terms OSP and ISP interchangeably in various United States government documents.

⁶⁷ New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, §53.

⁶⁸ Australia Copyright Act 1968, Act No. 63, 1968, § 10.

⁶⁹ Singapore Copyright Act, Singapore Statutes Cap. 63, §§ 193A, etc.

⁷⁰ Australia; Japan; New Zealand (pending legislation); Singapore; Chinese Taipei; and the United States.

⁷¹ Singapore Copyright Act, Singapore Statutes Cap. 63, § 193A(1).

⁷² Chile (pending legislation); Japan; New Zealand (pending legislation); Singapore; Chinese Taipei (pending legislation); and the United States.

⁷³ Japan: Law on Restrictions on the Liability for the Damages of Specified Telecommunications Service Providers and the Right to Demand Disclosure of Identity Information of the Sender.

⁷⁴ New Zealand Survey Response.

⁷⁵ The United States 17 U.S.C. § 512.

⁷⁶ 78 Chinese Taipei Survey Response. See also pending Bill §90quinquies(2)

excluded under the L&E or safe harbor. Of the four consulted activities for which OSP liability might be restricted (acting as a conduit for infringing material, caching infringing material, storing infringing material at the direction of the user, and providing access by means of information search tools), Australia, Chile (in pending legislation), Peru (in pending legislation), Singapore, Chinese Taipei, and the United States report that their copyright laws or pending legislation provide exceptions for all four acts⁷⁷. The remaining Member Economies that provide this type of limitation or exception provide general limitations on liability or limitations for a smaller combination of the abovementioned activities.

3. L&E for Making Temporary Copies

The Survey requested Member Economies to report whether, under their copyright laws, the creation of temporary copies constitutes making a “copy.” The Survey then asked the Member Economies to inform if under their copyright laws provide L&E for making temporary copies. Where it was indicated that such a L&E exist, the Survey asked the Member Economies to indicate the situations in which such a L&E will apply (and any restrictions on the ability to make a copy under the limitation or exception), requested a description of the situation, inquired about conditions that must be met in order for the limitations or exceptions to apply, and asked who may make the copy or adaptation.

Eleven of the responding Member Economies indicate that the creation of temporary copies constitutes making a copy under their copyright laws⁷⁸.

Most of the responding Member Economies⁷⁹ indicate that at the same time their copyright laws provide L&E to permit the temporary reproduction of a work, including software, generally in random access memory⁸⁰ or in certain other places. Where APEC Member Economies provide exceptions to copyright infringement for the temporary reproduction of a work, the Member Economies most commonly do so when the copy is made:

- In connection with Internet browsing ;
- As an essential step in the use of a computer program;
- For archival purposes (such as making a back-up copy); and
- In order to correct errors on a computer program in Connection with Internet Browsing.

⁷⁷ Australia Survey Response; Chile Survey Response; Singapore Survey Response; Chinese Taipei Survey Response; the United States Survey Response.

⁷⁸ Australia; Chile (pending legislation); Hong Kong, China; Japan; New Zealand; Peru; Singapore; Chinese Taipei; Thailand; the United States; and Viet Nam.

⁷⁹ Australia; Canada; Chile (pending legislation); Hong Kong, China; Japan; New Zealand (pending legislation); Singapore; Chinese Taipei; Thailand; and the United States. Canada reports that it only allows copies of computer programs to be made for archival purposes such as making back-up copies. Viet Nam reports that it allows temporary copies to be made outside of the computer software context and for the broadcasting of audiovisual works.

⁸⁰ The discussion of this exception is limited to the temporary reproduction of computer programs and other material through the use of digital technology. It does not address the limitations or exceptions for temporary reproductions relating to traditional broadcasting. Viet Nam reports an exception for broadcasting and audiovisual works.

In connection with Internet Browsing

Six responding APEC Members report exceptions to copyright infringement for making a temporary reproduction of a work that is incidentally made as part of the technical process of making or receiving a communication, either in their existing laws or in pending legislation⁸¹. In addition to the requirement that the copy be made as part of a technical process, various responding Member Economies also identify conditions that include: requiring that the act of communication itself does not constitute copyright infringement⁸²; a prohibition on the subsequent use of the reproduction⁸³; and that the reproduction is not economically significant⁸⁴.

When a Copy is Required as an Essential Step in the Use of a Program

Ten Member Economies report that their copyright laws or pending legislation permit the reproduction of a software when it is required as an essential step in the use of that computer program⁸⁵.

Generally, Member Economies report two types of statutory provisions setting forth this type of exception, and they are distinguished by purpose and by the type of user activity that the statutes permit. One type of statutory provision requires that the reproduction be necessary or be an essential step in using the program⁸⁶. For instance, in Hong Kong, China, “[a] lawful user of a copy of a computer program may copy or adapt the program ... if the copying or adapting is necessary for his [or her] lawful use”⁸⁷.

Another version of this is found in the United States where a copy or adaptation is permitted when it is “created as an essential step in the utilization of the computer program in conjunction with a machine”⁸⁸. A second type of statutory provision requires that the copy must be incidentally and automatically made as part of a technical process and usually comes with a number of additional conditions. For instance, Australia requires that “the reproduction [must be] incidentally and automatically made as part of the technical process of running a copy of the program”⁸⁹.

⁸¹ Australia Copyright Act 1968, Act No. 63, 1968, § 43A; Chile Survey Response (pending legislation); New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 43A; Singapore Copyright Act, Singapore Statutes Cap. 63, § 38A; Chinese Taipei Copyright Act, art. 22. According to According to §65 of Chinese Taipei's Copyright Act, temporary copies occurring in network browsing are permitted when requirements are met. In addition Hong Kong, China has sought public views on (i) whether a general communication right should be introduced and (ii) whether and if so how the existing scope of copyright exceptions for temporary reproduction of copyright works should be expanded. Hong Kong, China reported in late 2007 that it is now carefully considering the views received and may release preliminary proposals in 2008; Japan: revised Japan Copyright Act (it is scheduled to come into effect in January, 2010), §47 *quinquies* and §47 *octies*. In addition, the United States reports that depending on how characterized, internet caching under 17 U.S.C. §512 may be applicable.

⁸² Australia Copyright Act 1968, Act No. 63, 1968, § 43^a; Singapore Copyright Act, Singapore Statutes Cap. 63, § 38A.

⁸³ Singapore Copyright Act, Singapore Statutes Cap. 63, § 38A.

⁸⁴ New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 43A; Chinese Taipei Copyright Act, art. 22

⁸⁵ Australia; Chile; Hong Kong, China; Japan; New Zealand (pending legislation); Peru; Singapore; Chinese Taipei; the United States; and Viet Nam.

⁸⁶ Hong Kong, China; Japan; Peru; Singapore; and the United States.

⁸⁷ Copyright Ordinance, Cap. 528, § 61(1)

⁸⁸ 90 17 U.S.C. § 117(a)(1). Australia; Chinese Taipei; and New Zealand.

⁸⁹ Copyright Act 1968, Act No. 63, 1968, § 47B(1)(a).

Several responding APEC Member Economies with laws that contain this exception require that it be a lawful user of a computer program that makes a copy of a computer program⁹⁰. The definition of “lawful user” varies among the Member Economies. In Australia, for example, this exception applies to a copy made by or on the behalf of an owner or licensee of the original copy whereas in the case of Viet Nam this exception only applies to broadcasting organizations. In some cases, provisions that require a temporary copy to be made as an essential step allow for broader use of the work than those provisions that require the temporary copy be made as part of a technical process. In Hong Kong, China’s provision, for example, a lawful user may copy or adapt the computer program⁹¹. In contrast, Australia’s provision limits the permitted activity to reproduction of the program⁹².

For Archival Purposes (Such as Making a Back-Up Copy)

Ten APEC Member Economies report that a lawful user or owner of a copy of a computer program may make a back-up copy⁹³, while some Member Economies generally state that a user is permitted to make a back-up copy⁹⁴, others require that the copy be made only for such a purpose⁹⁵.

Several responding APEC Member Economies require the back-up copy to be legally purchased⁹⁶, made by the lawful user⁹⁷, or made by or for the owner of the program or a copy thereof⁹⁸. Often the person who can make the back-up copy is the same person that can reproduce a computer program under the “essential step” exception discussed above. For instance, Hong Kong, China permits a lawful user to make a backup copy and a copy when necessary for the use of the program⁹⁹.

The circumstances under which the backup copy can be used vary among responding APEC Member Economies. For example, Australia allows the owner or licensee of a copy to use the back-up copy and store the original, or to use the back-up copy in lieu of the original if the original is lost, destroyed, or rendered unusable¹⁰⁰. Singapore, on the other hand, only permits the use of the back-up copy in lieu of the original if the original is lost, destroyed or rendered unusable¹⁰¹.

In many cases, the responding Member Economies indicate that their copyright laws require additional conditions in order for this exception to apply. These include: permitting only one back-up copy¹⁰²; prohibiting copies made from infringing copies¹⁰³;

⁹⁰ E.g., Australia; Chinese Taipei; Hong Kong, China; Peru.; Singapore and the United States.

⁹¹ Copyright Ordinance, Cap. 528, § 60; see also Japan; Peru; Singapore; and the United States.

⁹² Copyright Act 1968, Act No. 63, 1968, § 47C; see also New Zealand and Chinese Taipei.

⁹³ Australia; Canada; Chile; Hong Kong, China; Japan; Peru; Singapore; Chinese Taipei; the United States; and Viet Nam.

⁹⁴ Australia; Chile; Hong Kong, China; Singapore; Chinese Taipei (see Copyright Act art. 59); and the United States.

⁹⁵ Canada and Peru.

⁹⁶ E.g., Peru and Singapore.

⁹⁷ E.g., Hong Kong, China. ç

⁹⁸ E.g., Australia; Canada; Chinese Taipei; Japan; Singapore; and the United States.

⁹⁹ Copyright Ordinance, Cap. 528, § 61.

¹⁰⁰ Copyright Act 1968, Act No. 63, 1968, § 47C.

¹⁰¹ 104 Copyright Act, Singapore Statutes Cap. 63, § 39(1).

¹⁰² Canada Copyright Act, R.S., 1985, s. 30.6.

¹⁰³ Singapore Copyright Act, Singapore Statutes Cap. 63, § 39.

and requiring that the copy be destroyed after the owner no longer rightfully owns the copy¹⁰⁴.

In Order to Correct Errors in a Computer Program

The copyright exceptions permitting the reproduction and adaptation of a computer program in order to correct errors most often fall within the exception discussed above, permitting the reproduction or adaptation of a computer program when required as an essential step in the utilization of a computer program. Three of the responding APEC Member Economies report that it may be necessary for the lawful use of a computer program to copy or adapt the computer program for the purpose of correcting errors in the computer program¹⁰⁵. Other Member Economies report a separate statutory provision for correcting errors that require the compliance with a number of conditions.

Examples of how an exception may vary across different domestic legislations

As noted above, significant variation among the laws of the responding Member Economies exist in the scope of situations in which temporary copies are allowed. The survey responses identify eight different purposes for copying, as discussed above. Some Member Economies permit temporary copies for as many as five of these purposes¹⁰⁶ while others permit temporary copies for as few as one purpose¹⁰⁷.

4. Technological Protection Measures (TPMs)

The Survey asked the Member Economies if their copyright laws contain prohibitions on the act of circumventing TPMs, and if so, whether their laws provide limitations or exceptions to the prohibitions and whether their laws require right holders who have implemented TPMs to provide the means for the exercise of L&E to copyright. The Survey further asked the Member Economies whether their copyright laws prohibit the making or the provision of services or devices that allow the circumvention of TPMs, and if so, whether their laws contain L&E to the prohibitions. Finally, the Survey asked Member Economies whether their copyright laws prohibit the incorporation of TPMs in certain cases, or a certain class of TPMs.

Ten responding Member Economies report copyright laws or pending legislation that prohibit the act of circumventing TPMs without authorization¹⁰⁸. Of this group, eight Member Economies indicate that their laws provide L&E to such prohibitions¹⁰⁹, and Peru reports that if a new commercial agreement is approved with the United States, various exceptions to TPM prohibitions will be included in Peruvian legislation¹¹⁰.

¹⁰⁴ Canada Copyright Act, R.S., 1985, s. 30.6; the United States 17 U.S.C. § 117.

¹⁰⁵ Singapore; Hong Kong, China; New Zealand (pending legislation with an additional condition required).

¹⁰⁶ Chinese Taipei.

¹⁰⁷ Thailand.

¹⁰⁸ Australia; Chile (indicating that it will send a bill to Congress on this subject); China; Hong Kong, China; Japan; Mexico; Singapore; Chinese Taipei; the United States; and Viet Nam.

¹⁰⁹ Australia; China; Hong Kong, China; Japan; Singapore; Chinese Taipei; the United States; and Viet Nam.

¹¹⁰ Peru Survey Response. Please see supra at note 5.

Ten responding Member Economies report copyright laws or pending legislation that prohibit the making or providing of services or devices that allow the circumvention of TPMs¹¹¹. Of this group, seven Member Economies indicate that their laws or pending legislation contain L&E to such prohibitions¹¹², and Peru reports that if a new commercial agreement is approved with the United States, various exceptions to TPM prohibitions will be included in Peruvian legislation¹¹³.

The Survey also asked Member Economies whether their copyright laws prohibit the incorporation of TPMs in certain cases, or a certain class of TPMs. New Zealand reports in its response to this question that its copyright law “currently prohibits so-called ‘copy-protection measures’”¹¹⁴. Australia indicates that its Copyright Act does limit protection against circumvention to TPMs to those that come within the definitions in § 10 of the Act¹¹⁵.

Of the Member Economies that indicate that their copyright laws provide limitations or exceptions to prohibitions on the circumvention of TPMs, eight provide different limitations or exceptions depending on whether the limitations or exceptions apply to prohibitions on the act of circumventing a TPM as for the making or providing of devices or services to circumvent a TPM¹¹⁶. For instance, Singapore reports that its copyright law permits circumvention of TPMs in a number of circumstances while still prohibiting the manufacture and distribution of a device or provision of a service to enable the circumvention of the TPM¹¹⁷.

Some Member Economies report laws or pending legislation that distinguish between the circumvention of copy control TPMs and the circumvention of access control TPMs¹¹⁸. For example, the United States reports a prohibition of circumvention of access control TPMs¹¹⁹ and Australia reports that there is no liability for

¹¹¹ Australia; China; Hong Kong, China; Japan; Mexico; New Zealand; Singapore; Chinese Taipei; the United States; and Viet Nam.

¹¹² Australia; Hong Kong, China; Singapore; Chinese Taipei; the United States; and Viet Nam. New Zealand indicates that while its law does not contain limitations or exceptions, its Act would not apply in cases where devices, means, or information were used to circumvent “copy-protection” and intended to be used to make infringing copies of copyright works,” where there is no copyright infringement, or where the device, means, or information “could enable infringement of all the copyright owner’s exclusive rights, not just copying.” New Zealand also indicates that its Copyright (New Technologies and Performers’ Rights) Amendment Bill introduces new provisions that enable the actual exercise of permitted acts where TPMs have been applied. New Zealand Survey Response (emphasis in original); New Zealand Copyright Amendment Bill section 226 cl. 89.

¹¹³ Peru Survey Response. Please see *supra* at note 5.

¹¹⁴ Survey Response; Copyright Act 1994, 1994 No. 143, § 226.

¹¹⁵ Survey Response; Copyright Act 1968, Act No. 63, 1968, § 10 (defining “technological protection measure”).

¹¹⁶ Australia; Hong Kong, China (pending legislation); Japan; Mexico; Singapore; Chinese Taipei; the United States; and Viet Nam.

¹¹⁷ Survey Response; Copyright Act, Singapore Statutes Cap. 63, § 261E.

¹¹⁸ Australia; Hong Kong, China; New Zealand; Singapore; Chinese Taipei (Copyright Act arts. 3(1)(xviii) and 80ter(1)(2)); and the United States.

¹¹⁹ The United States 17. U.S.C. § 1201. In the United States, the prohibition on the act of circumvention applies only to circumvention of technological measures that control access to works protected by copyright, and not to circumvention of technological measures that only protect exclusive rights of a copyright owner. Additionally, the United States prohibits the manufacturing, import, offering to the public, providing, or otherwise trafficking in any technology, product, service, device, component or part therefore that is primarily designed to or produced for, has only limited commercially significant purpose or use other than, or is marketed primarily as a device that circumvents a technological measure that

circumventing a TPM that is not an access control TPM¹²⁰. In contrast, New Zealand reports that its copyright law provides liability only for the circumvention of copy control TPMs¹²¹. Hong Kong, China and Singapore refer in their responses to provisions of their copyright laws that prohibit circumvention of both access- and copy control TPMs¹²².

With respect to prohibitions on the act of circumvention of TPMs, Member Economies that report that their copyright laws provide limitations or exceptions to prohibitions on the act of circumvention of TPMs generally state various circumstances under which the limitation or exception will apply, and the L&E themselves are subject to numerous conditions. The most common exceptions include:

- Where an authorized government official or office determines that the technology adversely affects non-infringing uses¹²³;
- Acts done regarding computer programs for the sole purpose of achieving interoperability¹²⁴;
- Acts for security testing or encryption research¹²⁵;
- Acts done for the purpose of preventing access by minors to material on the internet¹²⁶; and
- Acts done for the purpose of testing or correcting security flaws in a computer or computer network¹²⁷.

With respect to prohibitions on devices or services that enable circumvention of TPMs, the responding Member Economies generally report two types of L&E on such prohibitions. First, some L&E apply when such services or devices are used for a permitted act. Such permitted acts are similar to the specific acts permitted above, and include: achieving interoperability¹²⁸; encryption research¹²⁹; acts included with a component of a device for the purpose of preventing access by minors to material on the internet¹³⁰; and computer security testing¹³¹.

effectively controls access to a protected work, or circumvents protections afforded by a technological measure that effectively protects a right of a copyright owner.

¹²⁰ Survey Response; Copyright Act 1968, Act No. 63, 1968, §§ 116AN (civil liability), 132APC (criminal liability).

¹²¹ Copyright Act 1994, 1994 No. 143, § 226. New Zealand notes in its survey response that while its Copyright Act “currently allows copyright owners to take action against persons who supply or manufacture devices, means or information specifically designed to circumvent ‘copy-protection’ and intended to be used to make infringing copies of copyright works.” (emphasis in original)

¹²² Hong Kong, China Copyright Ordinance, Cap. 528, § 273 (please note that the new provisions have not yet come into force); Singapore Copyright Act, Singapore Statutes Cap. 63, § 261; and the United States 17 U.S.C. §1201 (a)(2), (b) (See at supra note 119).

¹²³ Hong Kong, China; Peru (potential legislation); Singapore §261D(2) and the United States.

¹²⁴ Australia; Hong Kong, China; Peru (potential legislation); Singapore Statutes Cap. 63, §261D(1)(d); Chinese Taipei, see “Directions Defining the Content of Subparagraphs” of Paragraph 3 of Article 80-2 of the Copyright Act; and the United States.

¹²⁵ Australia; China; Hong Kong, China; Peru (potential legislation); Singapore Statutes Cap. 63, §261D(1)(e); Chinese Taipei; and the United States.

¹²⁶ Hong Kong, China; Peru (potential legislation); Singapore Statutes Cap. 63, §261D(1)(f); Chinese Taipei; and the United States.

¹²⁷ Australia; China; Hong Kong, China; Peru (potential legislation); Singapore Statutes Cap. 63, §261D(1)(g); Chinese Taipei; and the United States.

¹²⁸ Australia; Hong Kong, China; Singapore and the United States 17 U.S.C. §1201(f)(2).

¹²⁹ Australia; Hong Kong, China; Singapore; Chinese Taipei; and the United States.

¹³⁰ Hong Kong, China; Singapore; and Chinese Taipei and the United States 17 U.S.C. §1201(h).

Second, the L&E of five Member Economies specify that certain types of parties may utilize the limitation or exception¹³². For example, New Zealand's pending legislation permits the making, importation, sale and renting of a device for circumventing a TPM so long as it will enable a qualified person, a prescribed library or archive or an educational establishment to perform the act of circumvention¹³³. A qualified person may then use the device to: exercise a permitted act; correct an error in a computer program; achieve the interoperability of software; or undertake encryption research¹³⁴.

Examples of how an exception may vary across different domestic legislations

Some variations can be perceived in the purposes for which circumvention of TPMs are allowed under various L&E. With respect to prohibitions on devices or services that enable circumvention of TPMs, for example, the responding Member Economies report different types of limitations or exceptions on such prohibitions: some apply when such services or devices are used for a permitted act, while others specify that certain types of parties may utilize the L&E.

III. L&E RELATED TO EDUCATIONAL USES

The Survey posed questions about L&E to Member Economies' copyright laws in the following areas: performances and displays of works for educational purposes; transmissions of works for distance learning purposes; copying of materials by educational organizations or for educational use; copying and distribution of works for classroom use; copying for use in collections and/or textbooks intended for educational purposes; and other exceptions related to use for educational purposes.

When the existence of such L&E were indicated, the Survey inquired about the types of organizations that are permitted, the types of works that fall under the L&E, and any other requirements that must be met in order to make use of the L&E.

All fourteen responding Member Economies report either explicit or implied L&E in their copyright statutes permitting the performance and display of copyrighted works for educational purposes, or more general performance exceptions which include such uses. Several of the responding Member Economies answered that their laws contain explicit provisions for distance learning purposes¹³⁵, that such uses are covered by other exceptions, or that such limitations or exceptions will be addressed in pending legislation¹³⁶. All responding Member Economies report some form of exception for

¹³¹ Australia; Hong Kong, China; Singapore; Chinese Taipei and the United States 17 U.S.C. §1201(j)(4).

¹³² Australia; New Zealand; Singapore; Chinese Taipei; and the United States.

¹³³ Copyright (New Technologies and Performers' Rights) Amendment Bill, § 89.

¹³⁴ Id.

¹³⁵ Australia; Japan; and the United States.

¹³⁶ Chile, New Zealand; and Peru. Hong Kong, China indicates that its Copyright (Amendment) Bill 2006 was passed in June 2007. The new exception for the fair dealing with a copyright work by or on behalf of a teacher or by a pupil for the purposes of giving or receiving instruction in a specified course of study provided by an educational established came into force on 6 July 2007. Though there is no express

copying for educational organizations or other educational uses. The majority of respondents provide for copying and distribution for classroom use under certain circumstances¹³⁷, and in addition, a majority of reporting Member Economies report that their laws expressly permit copying either for use in collections and/or textbooks¹³⁸ or for other related uses¹³⁹. These reported exceptions vary greatly across the Member responses, and display considerable differences in terms of scope and specificity.

1. Performances and Displays of a Work

General Description

The Survey asked Member Economies whether their copyright laws provide L&E for performances of works for educational purposes, such as for instructional activities in the classroom. Where it was indicated that such L&E exist, the Survey asked for a description, the organizations or entities that may utilize them, and what requirements must be met, if any, in order for a performance to fall under the L&E.

All responding Member Economies report that their laws permit the live performance of a work, the playing or display of a recorded work, or both types of activities for educational use, at least in some circumstances. Some Member Economies, such as Canada and the United States, explicitly allow for both kinds of performances¹⁴⁰, whereas Peru reports a general provision that permits performances that take place “in the course of educational activities”¹⁴¹. Viet Nam reports a limitation or exception that permits “directly recording and reporting performances for public information and educational purposes”¹⁴². Chinese Taipei and Japan report that their statutes provide no express exception for performances of works for educational uses, but such performances are allowed under a broader non-profit performance exception¹⁴³. Finally, Mexico reports that its statute contains an exception for performances for educational uses, which is included in a general grant of a compulsory license for the “publication or translation of literary or artistic works” under certain conditions such as when necessary for the advancement of national science, culture, and education¹⁴⁴.

Permitted Organizations

The majority of responding Member Economies state that for an organization to be eligible to utilize these limitations or exceptions, the organization must be an educational institution or establishment, the definition of which is generally found

exception for transmission of a work for distance learning purposes in Hong Kong, China’s Copyright Ordinance, the new fair dealing exception may cover this use.

¹³⁷ Australia; Canada; Hong Kong, China; Japan; New Zealand; Peru; Singapore; Chinese Taipei; Thailand; and the United States.

¹³⁸ Chile (pending legislation); Hong Kong, China; Japan; New Zealand; Peru (no exception apart from general one for quotations); Singapore; Chinese Taipei (Copyright Act art. 47); and the United States (no specific exception, but non-specific exceptions such as fair use may apply).

¹³⁹ Australia; Canada; Japan; Mexico; and Chinese Taipei.

¹⁴⁰ Australia; Canada; New Zealand; Singapore; and the United States.

¹⁴¹ Peru Survey Response

¹⁴² Viet Nam Survey Response.

¹⁴³ Japan Copyright Act, Act No. 48 of 1970, art. 38; Chinese Taipei Copyright Act, art. 55.

¹⁴⁴ Mexico Survey Response.

elsewhere in the Member's law¹⁴⁵. Australia, for instance, defines such institutions as including "pre-schools, kindergartens, primary and secondary schools, universities, colleges of advanced education, and several other types of institutions"¹⁴⁶, while Canada identifies two types of non-profit institutions and any governmental body or agency prescribed by regulation¹⁴⁷. China states that permitted organizations are education organizations approved by education authorities for teaching purposes.

Many Member Economies, such as New Zealand and the United States, stipulate that the educational institution be of a non-profit or non-commercial nature¹⁴⁸. Chinese Taipei and Japan report that their copyright laws allow for use of such exceptions by any organization or individual so long as it is for a non-profit purpose¹⁴⁹. Mexico indicates that the Secretariat of the Public Education may grant compulsory licenses at the request of a party¹⁵⁰.

Requirements for Use

In order for the performance of a work to be protected under the aforementioned educational use exceptions, the majority of responding Member Economies require compliance with various conditions of at least one of the following types:

- Category of work;
- Identity of performers;
- Identity of audience;
- Location of performance;
- Non-profit status of performance;
- Payment of compensation to the right-holder; and
- No prejudice to author's or copyright owner's rights.

The substance of these conditions varies greatly across the responding Member Economies' copyright laws. In addition, the responding Economies generally do not distinguish between live performances of a work as oppose to performances of recorded works.

Several responding Member Economies explicitly identify the categories of works which may be performed for educational purposes¹⁵¹. Australia, Hong Kong, China, New Zealand, and Singapore, for example, generally allow for the performance of such general categories of works as dramatic, literary, musical, and artistic, as well as more specific types like sound recordings, films, and broadcasts¹⁵². Canada reports that its statute provides exceptions for the live performance of a work, sound recordings, copies

¹⁴⁵ Australia; Canada; Chile; China; Hong Kong, China; New Zealand; Peru; Singapore; and Thailand. The United States also recognizes an exception for educational institutions to utilize these exemptions, and extends the privilege to certain other groups including governmental bodies and charitable organizations.

¹⁴⁶ Copyright Act 1968, Act No. 63, 1968, § 10.

¹⁴⁷ Copyright Act, R.S., 1985, s. 2.

¹⁴⁸ Canada; Chile; New Zealand; Peru; Singapore and the United States

¹⁴⁹ Japan Copyright Act, Act No. 48 of 1970, art. 38; and Chinese Taipei Copyright Act, art. 55.

¹⁵⁰ Mexico Survey Response.

¹⁵¹ E.g., Australia; Canada; Hong Kong, China; New Zealand; Singapore; and the United States.

¹⁵² Australia Copyright Act 1968, Act No. 63, 1968, § 28; Hong Kong, China Copyright Ordinance, Cap. 528, § 43; New Zealand Copyright Act 1994, 1994 No. 143, § 47; Singapore Copyright Act, Singapore Statutes Cap. 63, § 23.

of news programs and news commentary programs, and works communicated to the public by telecommunication¹⁵³. In its survey response, the United States refers to provisions in its statute that do not specify the types of works that may be performed, but do state that the performance or display of illegal copies of a work will not be protected if the person or institution showing them knew or had reason to know of the works' illegal origin¹⁵⁴. Viet Nam reports that its law does not extend an exception for educational purposes to the performance or display of architectural works, fine art works, and computer programs¹⁵⁵. The remaining responding Member Economies generally make no specific reference to categories, and only use the general term "work."

A number of responding Member Economies report requirements in their copyright laws relating to the identities of the performers of a work and/or the intended audience¹⁵⁶. Hong Kong, China, New Zealand, Peru, and Singapore, for example, state that their laws require the performance to be carried out by students, teachers, or staff members, and that the audience be limited to those directly connected to the institution¹⁵⁷. Canada's statute stipulates that the audience consist "primarily of students"¹⁵⁸..

Some responding Member Economies indicate that their copyright laws refer to the location of the performance¹⁵⁹. Canada's statute, for example, requires that the work be shown on the premises of an educational institution, while Singapore reports that its law permits performances to take place elsewhere as long as they are part of school activities¹⁶⁰.

Seven of the responding Member Economies indicate that the performance of a work must be made for non-profit or non-commercial purposes in order to qualify for an education-related limitation or exception under their copyright law¹⁶¹. Chinese Taipei's statute states that no fees may be collected either directly or indirectly from the viewers or listeners, and no compensation may be given to the performers¹⁶². Likewise, Japan specifies that the performance must be made without charge to the audience or spectators, or payment to the performers or reciters¹⁶³. Peru reports that its law makes the more general provision that "no direct or indirect commercial interest" will be permitted, and the United States' statute provides that the performance must be made "in the course of face-to-face teaching activities of a nonprofit educational institution"¹⁶⁴.

¹⁵³ Copyright Act, R.S., 1985, s. 29.5, 29.6.

¹⁵⁴ The United States 17 U.S.C. § 110.(1). (2).

¹⁵⁵ Viet Nam Survey Response.

¹⁵⁶ Australia; Canada; Hong Kong, China; New Zealand; Peru; Singapore; and the United States.

¹⁵⁷ Hong Kong, China Copyright Ordinance, Cap. 528, § 43; New Zealand Copyright Act 1994, 1994 No. 143, § 47; Peru Survey Response; and Singapore Copyright Act, Singapore Statutes Cap. 63, § 23 (except with respect to performances of musical works).

¹⁵⁸ Copyright Act, R.S., 1985, s. 29.5.

¹⁵⁹ Canada; Chile; Hong Kong, China; Singapore; and the United States.

¹⁶⁰ Canada Copyright Act, R.S., 1985, s. 29.5; and Singapore Copyright Act, Singapore Statutes Cap.63, § 23.

¹⁶¹ Canada; Chile; Japan; Peru; Chinese Taipei; Thailand; and the United States.

¹⁶² Copyright Act, art. 55.

¹⁶³ Copyright Act, Act No. 48 of 1970, art. 38.

¹⁶⁴ Peru Survey Response; the United States 17 U.S.C. § 110.

Two of the responding Member Economies report an express requirement for payment of compensation to the copyright holder for the performance or display of a work¹⁶⁵. Mexico reports that its statute allows a party to obtain a license from the copyright holder upon payment of a “compensatory remuneration”; such payment is only necessary when it is not possible to obtain the consent of the right-holder¹⁶⁶. Canada’s law provides for payment of royalties to the right-holder for copies of news or news commentary programs made for the purpose of display to students of an educational institution; such royalties are only required if the institution remains in possession of the copy for more than one year after the date of its creation¹⁶⁷.

Four responding Member Economies report some form of condition requiring that the performance or display of a work not prejudice the rights of either the author of the work or those of the copyright owner. Thailand reports that under its statute, use of a work which “does not unreasonably prejudice the legitimate right of the owner of copyright is not deemed an infringement of copyright,” while Viet Nam reports that its law requires that the use of the work not “prejudice the rights of the authors or copyright owners”¹⁶⁸. Australia states that under its “special purposes” exemption, a performance or display of a work must not “unreasonably prejudice the legitimate interests of the copyright owner”¹⁶⁹ and China states that “other rights enjoyed by the copyright owner according to this Law may not be infringed”¹⁷⁰.

Examples of how an exception may vary across different domestic legislations

The copyright laws of the responding Economies vary with respect to the conditions required in order for L&E permitting performances of works for educational purposes to apply. The conditions identified include category of work, identity of performers, identity of audience, location of performance, non-profit status of performance, payment of compensation to the right holder, and absence of prejudice to the rights of the author or copyright owner.

2. Transmissions of a Work for Purposes of Distance Learning

General Description

The Survey asked Member Economies to comment whether their copyright laws provide L&E for transmissions of works by non-profit or educational institutions for distance learning purposes. When indicated that such L&E exist the Survey further requested a description of the limitation or exception, inquired about organizations or entities that may utilize the limitation or exception, and the requirements that must be met in order for a transmission to fall under the limitation or exception.

Five responding Member Economies – China, Japan, Singapore, Australia and the United States – report that their laws provide limitations or exceptions for transmissions of works for the purposes of distance learning. Japan, for example, allows for the transmission of works to those who take lessons of schools or other educational

¹⁶⁵ Canada; and Mexico.

¹⁶⁶ Mexico Survey Response.

¹⁶⁷ Copyright Act, R.S., 1985, s. 29.6.

¹⁶⁸ Thailand Copyright Act, B.E. 2537 (1994), § 32(1); Viet Nam Survey Response.

¹⁶⁹ Copyright Act 1968, Act No. 63, 1968, § 200AB.

¹⁷⁰ China, Article 22, Copyright Law of the People’s Republic of China.

institutions at the same time at a place other than where such lessons are given, while Singapore states that an educational institution may communicate portions of a work from the educational institution premises¹⁷¹.

In addition, New Zealand reports a provision in pending legislation that indirectly addresses this issue by allowing “educational establishments to copy and communicate communication works”¹⁷². Hong Kong, China reports that such uses may be eligible under a fair dealing exception for education passed in 2007, and Peru states that transmissions for distance learning purposes would fall under the same exception as performances of works¹⁷³.

Permitted Organizations

Several responding Member Economies that report this type of L&E in their copyright laws permit transmissions only by educational institutions¹⁷⁴. The United States, further allows for transmissions for distance learning by governmental bodies in addition to allowing transmissions for educational institutions¹⁷⁵. Additionally, Japan, Singapore, and the United States report that their laws further require that the educational institution be non-profit in nature¹⁷⁶.

Requirements for Use

The responding Member Economies attach a variety of different conditions to use of this type of exception. For example, Japan requires that the transmitted work already be published, and that the work be transmitted to students taking lessons at the same time but in a different place from where the live lesson is being given; the Japanese law also stipulates that the transmission may not unreasonably prejudice the copyright owner’s interests¹⁷⁷. The United States refers to provisions in its copyright law stating that, among other requirements, the transmission must be made solely for and received solely by students or government employees enrolled in the course for which the transmission is made; that the transmitting body provide information regarding copyright laws to faculty and students; and in the case of digital transmissions, obliges such transmitting bodies to apply technological measures to prevent the retention or unauthorized subsequent dissemination of the transmitted work¹⁷⁸. Singapore reports that its statute requires that the transmission be made from the premises of educational institutions for purposes of an educational course, and New Zealand’s pending legislation would similarly allow only for recordings or communications made by or on behalf of an educational establishment¹⁷⁹. In addition,

¹⁷¹ Japan Copyright Act, Act No. 48 of 1970, art. 35(2); and Singapore Copyright Act, Singapore Statutes Cap. 63, § 51(1A).

¹⁷² New Zealand Survey Response.

¹⁷³ Hong Kong, China Copyright (Amendment) Ordinance of 2007, Ord. No. 15 of 2007, § 41A; and Peru Survey Response.

¹⁷⁴ Australia; China; Japan; Peru and Singapore;

¹⁷⁵ The United States, 17 U.S.C § 110(2).

¹⁷⁶ Japan Copyright Act, Act No. 48 of 1970, art. 35(2); Singapore Statutes Cap. 63, § 7; and the United States 17 U.S.C §110(2). The United States further requires that exceptions for distance learning involve an accredited nonprofit educational institution.

¹⁷⁷ Japan Copyright Act, Act No. 48 of 1970, art. 35(2).

¹⁷⁸ The United States, 17 U.S.C. §110.

¹⁷⁹ New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 28; and Singapore Copyright Act, Singapore Statutes Cap. 63, § 51.

New Zealand reports that pending legislation would prohibit the copying or communication of a work in the event that licenses are available¹⁸⁰.

Examples of how an exception may vary across different domestic legislations

The scope of limitations or exceptions for transmissions of works for distance learning reported by the responding Member Economies varies significantly from one Member Economy to another. For example, Hong Kong, China reports that under its pending legislation, its exception may fall under a fair use doctrine which could allow for a broad interpretation of the exception, and Singapore refers in its response to § 51(1A) of its Copyright Act, which broadly allows for communications from an educational institution premises for the purposes of a course of education provided by the institution¹⁸¹. Other Member Economies, however, report relatively narrow exceptions. For example, Japan requires that the lessons be taken at the same time; Article 35(2) of its Copyright Act specifically provides for the public transmission and interactive transmission of a published work for those taking lessons at the same time but at a different place from the one where the lessons are being given

3. Copying of Materials by Educational Organizations or for Educational Use

The Survey requested Member Economies to comment whether their copyright laws provide L&E for the copying of materials by educational organizations or for educational use. When indicated that such L&E exist, the Survey further requested a description, including whether it covers reprographic copying, digital copying, or both, inquires about the type of organizations or entities that may utilize the L&E, and inquires about what types of works may be copied under these L&E.

General Description

All responding Member Economies report L&E of some sort in their copyright laws providing for the reproduction of materials by educational organizations or for educational uses¹⁸² these range from the very general to the very specific. One example of a general limitation or exception is that of New Zealand, which reports that its law allows for copying “by any means for the purpose of instruction”¹⁸³. Similarly, Thailand states that its law allows for any “reproduction by an instructor for the benefit of instruction provided that the act is not for profit,” as well as “reproduction by an instructor or educational institution so as to distribute or sell to students in a class or in an educational institution provided that the act is not for profit”¹⁸⁴. Hong Kong, China reports that copying for giving or receiving instruction in a specified course of study provided by an educational establishment is allowed if it constitutes fair dealing with a copyrighted work, and was made by or on behalf of a teacher or by a pupil¹⁸⁵.

Examples of more specific copying L&E can be seen in the responses of such Member Economies as Singapore and Hong Kong, China. Singapore, for example,

¹⁸⁰ New Zealand Copyright (New Technologies and Performers' Rights) Amendment Bill, § 28.

¹⁸¹ Hong Kong, China; and Singapore.

¹⁸² Australia; Canada; Chile (current law and pending legislation); China; Hong Kong, China; Japan; Mexico; New Zealand; Peru; Singapore; Chinese Taipei; Thailand; the United States; and Viet Nam.

¹⁸³ Copyright (New Technologies and Performers' Rights) Amendment Bill, § 28.

¹⁸⁴ Copyright Act, B.E. 2537 (1994), §§ 32(6)-(7).

¹⁸⁵ Copyright Ordinance, Cap. 528, § 41A.

allows for multiple copies of a part of a work to be made if the copying is carried out on the premises of an educational institution for the purposes of a course of education provided by the institution. In instances where the copying comprises of more than 5 pages of the work, the exception will not apply unless there are more than 500 pages in that edition of the work and the total number of pages copied does not exceed 5% of the total number of pages in that edition. In addition, Singapore and Japan have an exception which permits copying to be carried out for the purposes of an examination¹⁸⁶. Hong Kong, China reports that its statute contains three types of provisions for this purpose, one of which permits copying of literary, dramatic, musical, and artistic works by any means other than a reprographic process, and another which allows “anything done for the purposes of an examination by way of setting the questions, communicating the questions to the candidates or answering the questions”¹⁸⁷. In addition, Hong Kong, China reports that under its law, reprographic copies of artistic works or of a passage from published literary, dramatic, or musical works may, to a reasonable extent, be made by or on behalf of an educational establishment for the purposes of giving instruction, or by a pupil for the purposes of receiving instruction in a specified course of study by an educational establishment¹⁸⁸.

Permitted Organizations

Most responding Member Economies that report this type of L&E state that only educational institutions or establishments are authorized to exercise this type of limitation or exception. Hong Kong, China reports that its statute specifies that a person giving or receiving instruction may utilize this exception¹⁸⁹. The United States also allows governmental bodies, libraries, and archives to utilize this type of exception so long as such entities satisfy the qualifications under fair use¹⁹⁰, and Viet Nam reports that its limitation or exception is open to “persons and legal entities”¹⁹¹. China states that only education organizations approved by education authorities for class room teaching purposes may use this exception¹⁹².

Permitted Works

The responding Member Economies report a wide variety of categories of works that may or may not fall under this limitation or exception. Six Member Economies report that their statutes allow for copying of materials that fall into certain categories of works such as literary, dramatic, musical, or artistic works¹⁹³. Hong Kong, China’s law permits reproduction of all of these types of works, as well as sound recordings, films, broadcasts, and cable programs¹⁹⁴. Mexico restricts its exception to “literary and artistic works already disclosed,” and Viet Nam allows for literary, artistic and scientific works,

¹⁸⁶ Copyright Act, Singapore Statutes Cap. 63, §§51(3),52A; and Japan Copyright Act, Act No. 48 of 1970, art 36.

¹⁸⁷ Copyright Ordinance, Cap. 528, § 41.

¹⁸⁸ Copyright Ordinance, Cap. 528, § 45.

¹⁸⁹ Copyright Ordinance, Cap. 528, §§41, 41A, 44, 45.

¹⁹⁰ The United States, 17 U.S.C. §§ 108, 110 (2), 112(f).

¹⁹¹ Viet Nam Survey Response.

¹⁹² China Survey Response.

¹⁹³ Australia; Hong Kong, China; Mexico; New Zealand; Singapore; and Viet Nam. Australia also reports that its copyright law permits copying by educational organisations for educational use of sound broadcasts provided they are made on, or behalf, of a person or authority in charge of a place of education and therecording is not for profit and not used except in that place of education.. Australia Copyright Act 1968, Act No. 63, 1968, §§ 200(2) and (2A).

¹⁹⁴ Hong Kong, China Copyright Ordinance, Cap. 528, §§ 41, 44, 45.

but not architectural works, works of fine art, or computer programs¹⁹⁵. Canada's law only requires that the permitted works not be "commercially available in a medium that is appropriate for referred purposes."¹⁹⁶.

Examples of how an exception may vary across different domestic legislations

As discussed above, some responding Member Economies report that their laws provide broad L&E that permit a wide range of copying by educational institutions or for educational use, while others report relatively specific and, enumerated instances in which copying is permitted.

4. Copying and Distribution of Works for Classroom Use

The Survey requested Member Economies to note whether their copyright laws provide limitations or exceptions for the copying and distribution of works for classroom use. When indicated that such L&E exist, the Survey further requested a description of the limitation or exception, inquired as to the type of organization that may utilize the limitation or exception, asked whether there is a limit on the number of copies that may be made, and inquired about any other applicable conditions.

General Description

Ten responding Member Economies report some form of L&E in their copyright laws or in pending legislation that provide for the copying and distribution of works for use in the classroom¹⁹⁷. Although most of these provisions are similar to those seen in the previous section, some Member Economies do outline additional uses and conditions specific to this type of L&E. For example, Canada reports that its statute permits works to be manually reproduced on a dry-erase board or other surface intended for displaying hand-written material¹⁹⁸. In its Survey response, the United States refers to provisions in its copyright statute¹⁹⁹ and, finally, Chinese Taipei and Thailand report that in addition to allowing for reproduction, the L&E in their copyright laws specifically permit the distribution of materials to students²⁰⁰.

Permitted Organizations

All of the responding Member Economies that report this type exception in their statutes indicate that they allow for use by schools or other educational institutions.

Permitted Number of Copies

Three of the responding Member Economies report provisions dealing specifically with limits on the number of copies that may be made²⁰¹. Japan, for example, reports that its law provides that the number of copies should not exceed the number of students in the class (along with other conditions)²⁰². New Zealand's statute makes the number of permitted copies contingent on several factors, such as whether the

¹⁹⁵ Mexico Survey Response; and Viet Nam Survey Response.

¹⁹⁶ Copyright Act, R.S., 1985, s. 29.4(2)(a).

¹⁹⁷ Australia; Canada; Hong Kong, China; Japan; New Zealand; Peru; Singapore; Chinese Taipei; Thailand; and the United States.

¹⁹⁸ Canada Copyright Act, R.S., 1985, s. 29.4(1)(a); Canada Survey Response.

¹⁹⁹ The United States, 17 U.S.C. §107.

²⁰⁰ Chinese Taipei Copyright Act, art. 46, 63(3); Thailand Copyright Act, B.E. 2537 (1994), § 32(7).

²⁰¹ Japan; New Zealand and Singapore;

²⁰² Japan Copyright Act, Act No. 48 of 1970, art. 35(1).

copying is done by reprographic means or other means, by whom the copying is performed, and on whose behalf it is performed²⁰³.

Conditions for Use

Nine responding Member Economies state that their statutes contain additional conditions for use of this exception²⁰⁴. Japan, for example, reports that the work must already be published, and that the reproduction must not unfairly prejudice the copyright owner's interests²⁰⁵. Singapore states that its law requires that a record be made of the particulars of the copying, and that reproduction of an article contained in a periodical publication is only permitted where copies cannot be obtained within a reasonable time at an ordinary commercial price²⁰⁶.

Examples of how an exception may vary across different domestic legislations

In regards to L&E for copying for classroom use, some responding Member Economies report that their laws provide broad L&E while other Member Economies report relatively narrow L&E. Peru's survey response, for example, states that copies may be made without the author's consent for teaching or the holding of exams at educational institutions. In contrast, Hong Kong, China reports that § 41 and § 44 of its Copyright Ordinance enumerate a number of specific circumstances under which its L&E will apply, such as where the person giving or receiving instruction is doing the copying, the copying is done in the course of instruction or of preparation for instruction, and the copying is not done by means of a reprographic process²⁰⁷.

5. Copying of Works for Use in Collections and Textbooks

The Survey asked Member Economies whether their copyright laws provide L&E for copying for use in collections (such as course packets, readers, or anthologies), and/or textbooks intended for educational purposes not addressed in previous responses. When the existence of such L&E was reported, the Survey requested a description, including whether it covers reprographic copying, digital copying, or both, and inquired about what organizations or entities may utilize the L&E, the types of works that may be copied, and what other conditions must be met in order for someone to utilize this limitation or exception.

General Description

Seven of the responding Member Economies report specific provisions in their laws or in pending legislation regarding the copying of materials for use in collections and textbooks²⁰⁸. Japan reports a detailed exception that allows for the reproduction of

²⁰³ New Zealand Copyright Act 1994, 1994 No. 143, § 44(1).

²⁰⁴ Australia; Canada; Hong Kong, China; Japan, New Zealand; Peru; Singapore; Chinese Taipei and Thailand. Australia notes that there are conditions under its law for such copying including: limitations on the amount of a work that can be reproduced; whether the work is available in a reasonable time at a reasonable commercial price; and whether a remuneration notice is in force with the relevant collecting society. Australia Copyright Act 1968, Act No. 63, 1968, Part VB, Div 2 and 2A.

²⁰⁵ Copyright Act, Act No. 48 of 1970, art. 35(1).

²⁰⁶ Copyright Act, Singapore Statutes Cap. 63, § 52

²⁰⁷ Hong Kong, China Copyright Ordinance, Cap. 528, § 41(i); Hong Kong, China Survey Response.

²⁰⁸ Canada; Chile (pending legislation); China; Hong Kong, China; Japan; New Zealand; and Singapore. Chile reports that in its pending legislation ““references the possibility of including some small works or parts of works in course packs and text books.” Canada reports that, while its law contains an exception

any published works in school textbooks authorized or compiled by the Ministry of Education and Science²⁰⁹. Chinese Taipei, likewise, permits the copying of published works for use in pedagogical texts, as well as the preparation of supplementary teaching aids²¹⁰. Hong Kong, China, New Zealand, and Singapore allow for the reproduction of short passages in textbooks, while Peru reports that its law does not contain a specific L&E for copying for textbook use, it does allow for the reproduction of quotations²¹¹. The United States reports that while its copyright law does not contain a limitation or exception specifically related to this type of copying, non-specific L&E like fair use may still apply in some circumstances²¹². China reports that its Copyright Law does not provide limitations on the form of copies.²¹³

Permitted Organizations

Of the responding Member Economies that report this type of limitation or exception in their copyright laws, Singapore, New Zealand, and Hong Kong, China report that their statutes allow for use of this limitation or exception by educational institutions²¹⁴, Japan states that its statute does not specify the organizations permitted, and Chile's pending legislation is intended to permit the use by anyone²¹⁵.

Permitted Works

The responding Member Economies that report this type of L&E in their copyright laws detail that their copyright laws specify which works are permitted to be copied under this L&E. For example, Hong Kong, China and Singapore report that their laws allow for the reproduction of literary and dramatic works, and Singapore's statute additionally permits the copying of several other types of works including musical, artistic works and sound recordings²¹⁶. New Zealand reports that its law similarly allows for the copying of literary and dramatic works, but it expressly excludes computer programs²¹⁷. Japan states that its statute permits reproduction of any "works already made public" for normal textbooks, but copying for use in enlarged textbooks for "weak-sighted pupils" is limited to "letters and illustrations" used in works already reproduced in other textbooks²¹⁸. China reports that its Copyright Law "does not provide limitations on the type of works allowed to be copied, which are generally interpreted to be works publishable through printing in practices".²¹⁹

for the reproduction of short passages in textbooks, it is actually intended for use by publishers, only confers an indirect benefit on educational users, and is "not relevant in the context of this question."

²⁰⁹ Copyright Act, Act No. 48 of 1970, art. 33.

²¹⁰ Copyright Act, art. 47.

²¹¹ Hong Kong, China Copyright Ordinance, Cap. 528, § 42; New Zealand Copyright Act 1994, 1994 No. 143, § 46; Peru Survey Response; Singapore Copyright Act, Singapore Statutes Cap. 63, § 40.

²¹² The United States Survey Response.

²¹³ Article 23 Copyright Law of the People's Republic of China

²¹⁴ 218; Hong Kong, China Copyright Ordinance, Cap. 528, § 42; New Zealand Copyright Act 1994, 1994 No. 143, § 46; Singapore Copyright Act, Singapore Statutes Cap. 63, § 40.

²¹⁵ Chile Copyright Act, Ley N°17.336 sobre Propiedad Intelectual, art. 71M, 71N; Japan Copyright Act, Act No. 48 of 1970, art. 33.

²¹⁶ Hong Kong, China Copyright Ordinance, Cap. 528, § 42; Singapore Copyright Act, Singapore Statutes Cap. 63, § 40(1).

²¹⁷ New Zealand Copyright Act 1994, 1994 No. 143, § 46(5).

²¹⁸ Japan Copyright Act, Act No. 48 of 1970, art. 33(2).

²¹⁹ China Survey Response

Conditions for Use

Various conditions attached to the use of this exception are reported in the responding Member Economies' copyright laws. For example, Canada, Hong Kong, China, and New Zealand report that their laws require that the anthology or collection consist mainly of non-copyrighted material, and that the source of the reproduced passage must not have been intended for educational use²²⁰. Canada, Hong Kong, China, Japan and Singapore also require that the author of the work be sufficiently acknowledged²²¹. Finally, Japan's statute requires payment of compensation to the copyright holder for such types of reproduction, and the amount of compensation shall be fixed each year by the Commissioner of the Agency for Cultural Affairs, taking into account such factors as the type and usage of the work and the ordinary royalty rate²²²; likewise, Chinese Taipei's statute requires that the exploiter of the work reproduced for a textbook shall notify and pay compensation to the right holder²²³.

Examples of how an exception may vary across different domestic legislations

When Member Economies report that their copyright laws provide L&E for copying for use in collections and/or textbooks, there is significant variation with regard to the conditions under which the L&E may be exercised. In addition, to the above, there are some differences with respect to whether the author must receive acknowledgement and/or compensation for the use of material. Chile, Hong Kong, China, Peru, and Singapore, for example, report that their laws require acknowledgement of the author. Japan reports a general exception for educational purposes, but the copier must inform the author and pay compensation. Chinese Taipei also reports that its copyright law requires payment of compensation to the copyright owner²²⁴.

6. Other L&E Related to Educational Uses

The Survey requested the Member Economies state whether their copyright laws provide L&E related to distance learning or use by or for educational organizations not covered by previous responses. When indicated, the Survey requested a description of the L&E.

Four of the responding Member Economies report additional exceptions related to educational uses beyond those about which the Survey specifically inquires²²⁵. Canada, for example, indicates that its copyright law provides for copying using photocopiers installed on the premises of educational institutions, so long as the institutions comply with notice, license, and tariff requirements²²⁶. Chinese Taipei's Copyright Act permits public broadcast within a reasonable scope by educational

²²⁰ Canada Copyright Act, R.S., 1985, s.30; Hong Kong, China Copyright Ordinance, Cap. 528, § 42; New Zealand Copyright Act 1994, 1994 No. 143, § 46.

²²¹ Canada Copyright Act, R.S., 1985, s. 30; Hong Kong, China Copyright Ordinance, Cap. 528, § 42; Japan Copyright Act, Act No.48 of 1970, art 36; New Zealand Copyright Act 1994, 1994 No. 143, § 46(2); Singapore Copyright Act, Singapore Statutes Cap. 63, § 40.

²²² Japan Copyright Act, Act No. 48 of 1970, art. 33.

²²³ Chinese Taipei Copyright Act, art. 47(4).

²²⁴ Id.

²²⁵ Australia; Canada; Japan; Mexico; and Chinese Taipei.

²²⁶ Copyright Act, R.S., 1985, s. 30.3. For more information, please refer to Part VI, Section 4, General Limitation and Exception: Photocopying.

institutions of publicly released works, provided that notice and reasonable compensation are provided to the copyright holder²²⁷.

IV. L&E RELATED TO LIBRARIES AND ARCHIVES

The Survey inquired about L&E in the Member Economies' copyright laws that relate to reproduction, distribution, or other use by libraries and archives. Where those L&E exists, the Survey requested information about L&E in the following categories: reproduction for preservation and replacement purposes; reproduction for patron use; reproduction in response to user requests; interlibrary lending; and reproduction by institutions other than libraries and archives.

All of the responding Member Economies report some form of L&E in either their current or pending legislation for the purposes of preservation and replacement of copyrighted materials; ten of the responding Member Economies report exceptions in current or pending legislation concerning patron use or in response to user requests²²⁸, and nine Member Economies report that their laws contain other related exceptions concerning uses such as interlibrary lending²²⁹.

1. Copying for Purposes of Preservation or Replacement

The Survey requested that Member Economies state whether their copyright laws provide L&E that permit copying by libraries and/or archives for purposes of preservation or replacement. When indicated that such a L&E exists, the Survey further requested a description of the limitation or exception, the type of work that may be reproduced, the number of copies allowed, any other conditions, and the permitted uses.

All responding Member Economies report some form of L&E in either current or pending legislation allowing libraries and/or archives to reproduce copyrighted works for the purposes of preservation or replacement, as well as other related uses. These provisions vary widely, ranging from the highly general to the highly specific. Within these exceptions, the responding Member Economies' laws contain additional conditions or qualifications, as discussed below.

General Description and Permitted Uses

The responding Member Economies report a variety of uses that are permitted in their copyright laws under this type of exception, ranging from the general to the specific. Viet Nam, for example, reports that its copyright law allows for copying by a library for purposes of research or study²³⁰. New Zealand reports that its law permits reproduction of protected documents for the purposes of preservation or replacement

²²⁷ Copyright Act, art. 47.

²²⁸ Australia; Canada; Chile (pending legislation); Hong Kong, China; Japan; New Zealand; Singapore; Chinese Taipei; Thailand; and the United States.

²²⁹ Australia; Canada; Hong Kong, China; New Zealand; Peru; Singapore; Chinese Taipei; Thailand; and the United States.

²³⁰ Viet Nam Survey Response.

only, under certain conditions²³¹. Mexico allows copying for “security and preservation reasons,” but makes no mention of replacement, and Japan reports that its statute permits reproduction “necessary for the purpose of preserving library materials”²³². China reports that its law permit the use of a work for the purposes of displaying or preserving copies, to reproduce a work in its collection by a library, archives center, memorial hall, museum art gallery or similar institutions.²³³

Some responding Member Economies define preservation and replacement more specifically, or report additional permitted uses. Australia, Singapore, and the United States, for example, state that replacement copies may be made, under certain conditions, of works that have been “damaged, deteriorating, lost, or stolen,” whereas Mexico reports that its law stipulates that copying is allowed “when the work is out-of-print, no longer catalogued and in danger of disappearing”²³⁴. In terms of additional uses, both Canada and the United States permit reproduction of a work if the format of the original is obsolete or requires updating, among other prerequisite conditions²³⁵. Canada also enumerates a number of other permitted uses, such as on-site consultation, internal record-keeping, and insurance or police investigations²³⁶. Hong Kong, China permits a work of historical or cultural importance to be copied and deposited at a library if it is likely to be lost through sale or export, all subject to various conditions²³⁷.

Permitted Works

The responding Member Economies report a wide range of conditions concerning the types of works eligible for the preservation/replacement exception. Some Member Economies, such as Canada, Peru, Chinese Taipei, and Japan report that their statutes allow for any works found in the library or archive’s permanent collection to be reproduced. Others define a field of eligible works; Hong Kong, China, for example, permits copying of “literary, dramatic or musical works; sound recording, film or typographical arrangement of published edition”²³⁸. Australia allows normal libraries and archives to reproduce certain works such as manuscripts or other original artistic works, which includes a broad range of items such as paintings, sculpture, or first prints of film or sound recordings²³⁹. The United States permits published works to be copied for replacement purposes, but specifically excludes certain genres such as musical works, pictorial, graphic or sculptural works, and motion pictures or other audiovisual works (apart from audiovisual works dealing with news) from the exception with respect to some uses. Unpublished works may also be copied but only for preservation purposes²⁴⁰. Finally, Viet Nam’s statute denies protection to the same categories of

²³¹ New Zealand Copyright Act 1994, 1994 No. 143, § 55.

²³² Japan Copyright Act, Act No. 48 of 1970, art. 31(ii); and Mexico Survey Response.

²³³ China, Article 22 .8, Copyright Law of the People’s Republic of China.

²³⁴ Australia Copyright Act 1968, Act No. 63, 1968, § 51A; Mexico Survey Response; Singapore Statutes Cap. 63 § 48(1), and the United States 17 U.S.C. § 108.

²³⁵ Canada Copyright Act, R.S., 1985, s. 30.1; the United States 17 U.S.C. § 108.

²³⁶ Copyright Act, R.S., 1985, s. 30.1.

²³⁷ Hong Kong, China Copyright Ordinance, Cap. 528, § 53.

²³⁸ Hong Kong, China Copyright Ordinance, Cap. 528, § 51; Japan Copyright Act, Act No. 48 of 1970, Art. 31(ii); Peru Survey Response; and Chinese Taipei Copyright Act, Art.48.

²³⁹ Copyright Act 1968, Act No. 63, 1968, §§ 51A, 51B; The Australian Copyright Act 1968 defines a “key cultural institution” as: (1) one developing or maintaining the collection under the law of the Commonwealth; or, (2) it is prescribed by the Regulations; or, (3) the work in question is of historical or cultural significance to Australia.

²⁴⁰ 17 U.S.C. § 108(b) and (c).

works as in its educational uses exception: architecture, fine art works, and computer programs²⁴¹.

Number of Copies

Some of the responding Member Economies allow for a certain maximum number of copies to be made under this exception²⁴². Mexico, New Zealand, Peru, Singapore, and Viet Nam permit only one copy for preservation and/or replacement purposes; Japan's statute makes no provisions, and China's Copyright Law does not provide for the quantity of copies.²⁴³ Australia generally permits only one copy, but up to three may be made by "key cultural institutions"²⁴⁴. The United States allows for three copies of an unpublished work, and three copies of a published work, under certain conditions²⁴⁵. Hong Kong, China and Chinese Taipei both state that the number may vary depending on the conditions and the purposes of reproduction, and neither Canada nor Thailand reports any specific limit on the number of copies²⁴⁶.

Conditions for Use

All but one of the responding Member Economies attach some type of additional condition to the reproduction of works under this exception²⁴⁷. A common requirement is that the library or archive first attempt to acquire a replacement copy at a fair commercial price with Australia, Canada, Hong Kong, China, Peru, New Zealand, Singapore, and the United States all reporting some version of this condition²⁴⁸. Japan and the United States also require that the reproduction must be carried out for non-commercial purposes, or within the scope of the institution's non-profit activities²⁴⁹. Mexico, Thailand, and Viet Nam state that the reproduction must not unfairly prejudice the rights of the copyright holder, or otherwise affect normal commercial exploitation of the work²⁵⁰.

Examples of How an Exception may vary Across Different Domestic Legislations

While all fourteen responding Member Economies report either current laws or pending legislation allowing for L&E related to copying of copyrighted material by libraries and archives for preservation and replacement, these differ widely. The

²⁴¹ Viet Nam Survey Response.

²⁴² Australia; Mexico; New Zealand; Peru; Singapore; the United States; and Viet Nam.

²⁴³ Japan Survey Response; Mexico Survey Response; New Zealand Copyright Act 1994, 1994 No. 143, § 55; Peru Survey Response; Singapore Copyright Act, Singapore Statutes Cap. 63, § 48(1); Viet Nam Survey Response; China Survey Response.

²⁴⁴ Copyright Act 1968, Act No. 63, 1968, § 51B.

²⁴⁵ 17 U.S.C. §108. The conditions for allowing copies of a published work are: (1) the library has determined that an unused replacement cannot be obtained at a fair price; and (2) any such copy reproduced in digital format is not made available to the public in that format outside the library or archives.

²⁴⁶ Canada Copyright Act, R.S., 1985, s. 30.1; Hong Kong, China Copyright Ordinance, Cap. 528, § 53; Chinese Taipei Copyright Act, art. 48; Thailand Copyright Act, B.E. 2537 (1994), § 34(1).

²⁴⁷ Chile does not report any additional conditions.

²⁴⁸ Australia Copyright Act 1968, Act No. 63, 1968, § 51A; Canada Copyright Act, R.S., 1985, s. 30.1; Hong Kong, China Copyright Ordinance, Cap. 528, § 51; Peru Survey Response; New Zealand Copyright Act 1994, 1994 No. 143, § 55; Singapore Copyright Act, Singapore Statutes Cap. 63, §§ 45(5); the United States 17 U.S.C. § 108.

²⁴⁹ Japan Copyright Act, Act No. 48 of 1970, art. 31(ii); the United States 17 U.S.C. § 108.

²⁵⁰ Mexico Survey Response; Thailand Copyright Act, B.E. 2537 (1994), § 34(1); Viet Nam Survey Response.

categories of use and types of works that fall under the L&E vary, as well as the conditions under which such reproduction is allowed.

For example, Thailand reports that its copyright law provides for any type of reproduction for use in a library, and that it permits any kind of copyrighted works to be reproduced. The United States, in contrast, enumerates several specific uses, such as preservation and security, deposits for research, and to replace lost, damaged, or obsolete items, and several categories of works may not be copied including musical, some pictorial, graphic or sculptural, and motion pictures or other audiovisual works²⁵¹.

In addition, as discussed above, the conditions placed on the L&E related to preservation and replacement widely differ across the board.

2. Copying for Patron Use and in Response to User Requests

The Survey requested that Member Economies provide information whether their copyright laws provide L&E that permit copying by libraries or archives for patron use, or in response to user requests. Where its existence was indicated, the Survey requested a description, the number of copies allowed, any other conditions, and the permitted uses. Although the Survey made separate inquiries regarding patron use and user requests, this Report discusses these inquiries together in the same section due to the similarities in responses to the two questions.

Ten responding Member Economies reported some form of L&E either in current or pending legislation that permits libraries and archives to reproduce protected works for use by their patrons or in response to user requests²⁵².

General Description and Permitted Uses

All ten Members that reported that their copyright laws provide this type of L&E permit its utilization for a similar purpose: that the reproduction be performed for the requesting patron's private research and study²⁵³. Some Member Economies, such as Australia, Canada, Hong Kong, China, Singapore, and the United States also generally stipulate that the library be satisfied that the patron will not use the copy for anything other than personal research, and in Australia, Hong Kong, China, and Singapore there is an additional requirement that the patron provide a written statement testifying to this fact²⁵⁴.

²⁵¹ 17 U.S.C. § 108.

²⁵² Australia; Canada; Chile (pending legislation); Hong Kong, China; Japan; New Zealand; Singapore; Chinese Taipei; Thailand; and the United States.

²⁵³ Id.

²⁵⁴ Australia Copyright Act 1968, Act No. 63, 1968, § 49 (requiring a written declaration, signed by a requesting user stating that the reproduction is for the sole purpose of research or study, and that the reproduction has not been previously provided); Canada Copyright Act, R.S., 1985, s. 30.2; Hong Kong, China Copyright Ordinance, Cap. 528, §§ 47, 48, 52; Japan Copyright Act, Act No. 48 of 1970, art. 31; New Zealand Copyright Act 1994, 1994 No. 143, §§ 51, 52, 56; Singapore Copyright Act, Singapore Statutes Cap. 63, § 45(1)(b)(i); Chinese Taipei Copyright Act, art. 48; Thailand Copyright Act, B.E. 2537(1994), § 34(2); the United States 17 U.S.C. § 108.

Number of Copies

All of the responding Member Economies show some form of limitation on the number of copies that may be made under this type of exception, and seven state that their laws allow for only one copy to be made for patron use or in response to a user request²⁵⁵. Hong Kong, China reports three categories of permitted amounts of copies: no more than one copy of the same article in a periodical may be made; no more than one copy, or no more than a reasonable proportion, of a published literary, dramatic, or musical work, may be made; and no more than one copy of either all or part of an unpublished literary, dramatic, or musical work from a document, film, or sound recording is allowed²⁵⁶. Thailand reports that its statute generally permits “reasonable reproduction in part of a work”²⁵⁷. Finally, Canada reports that an unspecified number of copies may be made pursuant to its general fair dealing exception, but such reproduction is restricted to purposes of research, private study, criticism, and review; in addition, only one copy of a scholarly, scientific, or technical periodical is allowed per patron, and likewise only one copy is permitted of a newspaper or periodical in publication for more than a year prior to the copying²⁵⁸..

Conditions for Use

In addition to the previously mentioned general condition that the requested copy be used only for the patron’s private research and study, the majority of responding Member Economies that report this type of exception report that their statutes contain some version of at least one of the following conditions:

- Types of works permitted;
- Percentage of works that may be copied; and
- If the work has already been published, and the length of time since its publication

For example, Chinese Taipei’s statute contains two of these types of conditions in some form; it limits reproduction for patrons to a part of a work that has been publicly released, a single article from a seminar paper, or a single article from a periodical that has been publicly released²⁵⁹. Australia and Singapore provides examples of the use of percentages to restrict copying; their respective statutes require that no more than a “reasonable portion” of the work be copied, which is defined as no more than 10% of literary, dramatic and musical works (not computer programs) over ten pages in length²⁶⁰. Canada and Japan report that their statutes contain requirements regarding the length of time since the work’s publication; Canada reports that under its copyright law, if an article is reproduced from a periodical other than a “scholarly, scientific, or technical” one, then the periodical must have been in publication for at least a year prior to copying, while Japan reports that its law contains a general stipulation that if a patron wants to reproduce an entire published periodical, it must have been in publication for “a considerable period of time”²⁶¹.

²⁵⁵ Australia; Canada (only one copy of works in certain articles permitted); Japan; New Zealand; Singapore; Chinese Taipei; and the United States.

²⁵⁶ Copyright Ordinance, Cap. 528, §§ 47, 48, 52.

²⁵⁷ Copyright Act, B.E. 2537 (1994), § 34(2).

²⁵⁸ Copyright Act, R.S., 1985, s. 30.2(1), 30.2(2), 30.2(4).

²⁵⁹ Copyright Act, art. 48.

²⁶⁰ Copyright Act 1968, Act No. 63, 1968, § 10(2); Singapore Statutes Cap. 63 § 7(2) and § 7(2A).

²⁶¹ Canada Copyright Act, R.S., 1985, s. 30.2(2); Japan Copyright Act, Act No. 48 of 1970, art. 31(i).

Examples of How an Exception may Vary Across Different Domestic Legislations

Important differences with regards to this type of L&E are found in the scope of the conditions under which the L&E may be utilized. Some Member Economies limit the types of copyrighted material that are allowed to be copied and the number of copies, while others do not establish those kind of restrictions. For example, Chinese Taipei reports that Article 48(1) of its Copyright Act limits the types of works that may be reproduced to: a part of a work that has been publicly released; a single article from a seminar paper; or a single article from a periodical that has been publicly released²⁶². In addition, the Act only allows for one copy per requesting patron²⁶³. Thailand, in contrast, allows for reasonable reproduction in part of a work for research and study, and places no specific limits on the number of copies that may be made or what types of works may be reproduced.

3. Other Exceptions Related to Libraries and/or Archives

The Survey inquired as to whether Member Economies' copyright laws include any other L&E related to use by libraries and archives that were not included in previous responses in this section of the Survey, including any that permit libraries to reproduce and/or distribute works for the purposes of interlibrary lending. When indicated the Survey asked for a description of the L&A identified. It also asked if any other organizations, such as museums or educational institutions, are permitted under L&A to reproduce or distribute works for archival preservation, or replacement purposes.

Ten of the responding Member Economies state additional exceptions related to reproduction by libraries and archives, for purposes such as interlibrary lending²⁶⁴. New Zealand reports that its law provides a broad interlibrary lending exception, which permits librarians to exchange copies of literary, dramatic, or musical works under several conditions, such as that an attempt be made to find an ordinary commercial copy first; similarly, Chinese Taipei states that its statute permits libraries to lend works that are out of print or difficult to purchase²⁶⁵.

The Survey also inquired about provisions permitting reproduction by institutions other than libraries and archives. Australia, Canada, China and Chinese Taipei report provisions in their copyright laws that allow for museums to perform copying in certain situations, and Australia and Chinese Taipei permit copying by "cultural institutions"²⁶⁶.

Finally, Canada reports that their copyright law provides general fairness-based exceptions, such as fair dealing or fair use, which may permit libraries and archives to

²⁶² Copyright Act, art. 48(1).

²⁶³ Id.

²⁶⁴ Australia; Canada; China; Hong Kong, China; New Zealand; Peru; Singapore; Chinese Taipei; Thailand and the United States.

²⁶⁵ New Zealand Copyright Act 1994, 1994 No. 143, § 54; Chinese Taipei Copyright Act, art. 48(3), 63(3).

²⁶⁶ Australia Copyright Act 1968, Act No. 63, 1968, § 51(B); Canada Copyright Act, R.S., 1985, s. 30.2; Chinese Taipei Copyright Act, art. 48(3), 63(3).

reproduce materials without authorization under certain circumstances, and Australia, reports a “special purpose” exception allowing for similar uses in some circumstances by libraries and archives²⁶⁷. Australia reports that these doctrines in their law contain conditions for the use of this provision and also that its statute states that the use should not be for commercial advantage or profit²⁶⁸. Chinese Taipei reports that its Copyright Act provides exceptions, under its fairness based doctrine, that permit libraries and archives to reproduce a work without authorization²⁶⁹.

V. L&E RELATED TO USES BY PERSONS WITH DISABILITIES

The Survey inquired about L&E that concern the use of copyrighted materials by persons with disabilities.

All but one²⁷⁰ of the responding APEC Member Economies report copyright laws or pending legislation that provide L&E permitting the reproduction, distribution, and/or another form of utilization of works for blind or partially sighted persons. All such provisions address the issue of copying works for the blind and partially-sighted; however, as set forth below, only six of the responding Member Economies provide similar L&E for copying for deaf persons, and five report L&E for those with other disabilities. The Survey inquires about three areas in the Member Economies’ responses: permitted uses; permitted formats into which works may be reproduced; and conditions under which the L&E may be utilized.

1. L&E for the Blind and Partially-Sighted

The Survey asked Member Economies whether their copyright law provide L&E that permit reproduction, distribution and /or other form of utilization of works for blind or partially sighted persons, and a description of them. Where it was indicated that such a L&E exists, the Survey asked: whether the law specifies the formats such as Braille or large print that fall under the exception, or whether accessibility is defined according to the type of use being made accessible; any conditions that must be met; and whether the law permits the importation and/or exportation of material accessible to the blind or partially sighted.

General Description and Permitted Uses

All but one of the responding Member Economies report either current or pending legislation permitting copyrighted material to be used for the benefit of the blind and partially-sighted²⁷¹. The L&E reported, however, vary greatly in terms of their specificity. Mexico’s statute, for example, permits the reproduction of all or part of several types of works for the exclusive purpose of making them accessible to the blind

²⁶⁷ Australia Copyright Act 1968, Act No. 63, 1968, § 200AB; Canada Copyright Act, R.S., 1985, s. 29;

²⁶⁸ Australia Copyright Act 1968, Act No. 63, 1968, § 200AB;

²⁶⁹ Chinese Taipei Copyright Act art. 65(2).

²⁷⁰ Thailand.

²⁷¹ Australia; Canada; Chile (pending legislation); China; Hong Kong, China; Japan; Mexico; New Zealand; Peru; Singapore; Chinese Taipei; the United States; and Viet Nam.

or “deaf-mute”, while Chinese Taipei reports that it allows for the reproduction of any published work²⁷². New Zealand reports a somewhat less expansive provision in its statute, which allows prescribed bodies to make “copies or adaptations of published literary or dramatic works for the print disabled”, while Australia’s statute provides a statutory license scheme permitting authorized organizations to “reproduce and communicate literary and dramatic works in the form of sound recordings, or published literary and dramatic works in certain other accessible formats”²⁷³. Hong Kong, China also allows specified bodies, subject to certain conditions, to make and supply copies of published literary, dramatic, musical, or artistic works accessible to persons with a print disability²⁷⁴.

The United States and Japan identify specific types of uses in their statutes and regulations. The United States enumerates several permitted uses, including the right to perform for the blind dramatic literary-works published at least ten years prior to the performance. Additionally, the United States allows the performance of non-dramatic literary works for the blind or other handicapped persons without the ten year prior publication requirement seen with dramatic literary works²⁷⁵. Japan reports that its statute specifies three distinct categories of permitted uses: first, the reproduction of any published work into Braille or the public transmission of Braille data through a computer network; second, reproduction of published textbooks to copy in large print or other formats for disabled children or pupils; and third, making an interactive transmission of closed caption with the program which are broadcasted or cablecasted in real time for the purpose of use by hearing impaired persons²⁷⁶.

Permitted Formats

The majority of responding Member Economies specify which types of formats may be used when making copyrighted works accessible to the blind and partially sighted; the most commonly mentioned format is Braille, but some Member Economies also permit audio and digital texts²⁷⁷, sound recordings²⁷⁸, large-print textbooks²⁷⁹, and “verbal imagery”²⁸⁰. Some Member Economies limit the accepted formats to those enumerated in the statute: Australia and Singapore, for example, both expressly permit Braille, large-print, and photographic versions of texts, and Australia’s statute additionally allows for sound recordings and electronic versions²⁸¹. New Zealand permits Braille but also states that any other format is permitted as required by the user; Canada makes no reference to any specific format but reports that its law “excludes the making of large-print books”²⁸², and China states that its Copyright law permits the transliteration of a published work into a Braille publication and, in the case of

²⁷² Mexico Survey Response; Chinese Taipei Copyright Act, arts. 53, 63(3).

²⁷³ Australia Copyright Act 1968, Act No. 63, 1968, Part VB Division 3; New Zealand Copyright Act 1994, 1994 No. 143, § 69.

²⁷⁴ Copyright Ordinance, Cap. 528, § 40C.

²⁷⁵ The United States 17 U.S.C. §§ 110(8), 110(9), 121. Canada likewise reports that its law provides an exception for the public performance of a literary or dramatic work in a suitable format. Canada Copyright Act, R.S., 1985, s. 32.

²⁷⁶ Japan Art. 33bis, 37.

²⁷⁷ See, e.g., Australia Survey Response.

²⁷⁸ See, e.g., Hong Kong, China Survey Response.

²⁷⁹ See, e.g., Japan Survey Response.

²⁸⁰ Chinese Taipei Survey Response.

²⁸¹ Australia Copyright Act 1968, Act No. 63, 1968, Part VB Division 3; Singapore Copyright Act, Singapore Statutes Cap. 63, § 54.

²⁸² Canada Copyright Act, R.S., 1985, s. 32; New Zealand Copyright Act 1994, 1994 No. 143, § 69.

communication through information networks, permit use made with non profit purposes.²⁸³

Conditions for Use

The responding Member Economies report a wide variety of conditions attached to the use of exceptions for the blind and partially-sighted. Both Hong Kong, China and Peru's statutes, for example, stipulate that the reproduced work be only for the personal use of the blind or disabled person²⁸⁴, and Singapore further requires that the copying be for the "handicapped reader's research or study purposes"²⁸⁵. The United States and New Zealand both require that the reproduction of a work be carried out only by certain governmental agencies, non-profit organizations or by certain publishers of print instructional materials, while Australia and Canada also explicitly allow for individuals to perform copying²⁸⁶. Canada, Hong Kong, China, New Zealand, and Singapore require that the work not be commercially available in the desired format at a reasonable price, or that the requesting user make reasonable attempts to locate a copy²⁸⁷. Finally, Japan and Chinese Taipei report that the work in question must be published or "publicly released" prior to copying²⁸⁸.

Importation and/or Exportation of Material Accessible to the Blind

One reporting Member Economy report an exception in their laws permitting either the importation or exportation of materials accessible to the blind and partially-sighted²⁸⁹. Chile reports that its law recognizes international exhaustion for right of distribution, and thus if works are legally placed on the market then they may be imported or exported²⁹⁰.

Examples of How an Exception may Vary Across Different Domestic Legislations

In regards to the reported L&E permitting the use of works for the blind and partially-sighted persons, the conditions set for the L&E greatly differ. Some Member Economies report as many as five conditions (Japan, New Zealand), whereas others report none (Mexico) or one (Canada). Moreover, as discussed above, the specific conditions reported vary greatly.

2. L&E for the Hearing-Impaired

The Survey requested that Member Economies report whether their copyright laws provide L&E that permit a reproduction, distribution, and/or other form of utilization of works for deaf persons. Where the existence of such a L&E was stated, the

²⁸³ China Survey Response.

²⁸⁴ Hong Kong, China Copyright Ordinance, Cap. 528, § 40B; Peru Survey Response.

²⁸⁵ Singapore Copyright Act, Singapore Statutes Cap. 63, § 54(1).

²⁸⁶ Australia Copyright Act 1968, Act No. 63, 1968, §§ 43C, 47J, 109A, 110AA; Canada Copyright Act, R.S., 1985, s. 32; New Zealand Copyright Act 1994, 1994 No. 143, § 69; the United States 17 U.S.C. §§121(d)(1).

²⁸⁷ Canada Copyright Act, R.S., 1985, s. 32(3); Hong Kong, China Copyright Ordinance, Cap. 528, §§ 40B, 40C; New Zealand Copyright Act 1994, 1994 No. 143, § 69; Singapore Copyright Act, Singapore Statutes Cap. 63, § 54.

²⁸⁸ Japan Copyright Act, Act No. 48 of 1970, art. 33bis, 37; Chinese Taipei Copyright Act, art. 53.

²⁸⁹ Chile.

²⁹⁰ Chile Survey Response.

Survey requested, a description and any conditions that must be met, and asked whether importation and/or exportation of the material is permitted.

General Description and Permitted Uses

Six responding Member Economies report exceptions in their copyright laws that pertain to the use of protected works by deaf persons²⁹¹. The United States refers in its response to provisions in its copyright statute that expressly allow for the transmission of performances of non-dramatic literary works primarily directed to the deaf. Hong Kong, China states that its law permits designated governmental bodies to make subtitled or other modified works for the deaf and hard-of-hearing, as well as copies of television broadcasts and cable programs²⁹². Chinese Taipei reports that it allows for works to be reproduced with accompanying sign language for the hearing impaired, and that these may be used by “legally accredited non-profit institutions or organizations”²⁹³. Japan’s statute allows for the interactive transmission of subtitled works for the deaf²⁹⁴. Australia reports that a general “special purposes” exception in its Copyright Act 1968 permits use without permission in some circumstances by or for a person with a disability that causes difficulty in hearing the work or other subject matter²⁹⁵. In addition, Canada reports that its Copyright Act contains provisions pertaining to persons with perceptual disabilities which are of a general nature and not specific to blind or deaf persons²⁹⁶.

Conditions for Use

The responding Member Economies that report L&E permitting use by the deaf report a range of conditions attached to the use of this type of exception. The United States, for example, refers to a provision in its copyright statute that permits the non-profit transmission of a work intended for the deaf to be made through the facilities of a governmental body or other limited entities such as a non-commercial educational broadcast station, radio subcarrier authorization, or cable system. Additionally, the United States permits entities entitled to transmit such performances on behalf of the deaf, to make a limited number of copies of that performance for future use and archival purposes under certain conditions²⁹⁷. Hong Kong, China reports that under its statute, “the exemption for the deaf does not apply, if licenses under licensing schemes are available authorizing the act in question and the person so acting knew or ought to have been aware of that fact”²⁹⁸. Chinese Taipei states that its statute requires a work to be publicly released prior to use for the deaf, while Japan stipulates that the interactive transmission be carried out by a person authorized by Cabinet Order, and that the transmission be exclusively for use by the deaf²⁹⁹.

Importation and/or Exportation of Material Accessible to the Deaf

None of the responding Member Economies report an exception for this purpose in their laws.

²⁹¹ Australia; Hong Kong, China; Japan; Mexico; Chinese Taipei; and the United States. 17 U.S.C. § 110(8).

²⁹² Copyright Ordinance, Cap. 528, § 83.

²⁹³ 83Copyright Act, arts. 53, 63(3).

²⁹⁴ Copyright Act 1968, Act No.48 of 1970, art. 37bis.

²⁹⁵ Copyright Act 1968, Act No. 63, 1968, § 200AB.

²⁹⁶ Canada. Survey Response; Canada Copyright Act, R.S., 1985, s. 32(1), 32(2), 32(3).

²⁹⁷ The United States 17 U.S.C. § 110(8), §112(d).

²⁹⁸ Hong Kong, China Copyright Ordinance, Cap. 528, § 83; Hong Kong, China Survey Response.

²⁹⁹ Japan Copyright Act, Act No. 48 of 1970, art. 37bis; Chinese Taipei Copyright Act, arts. 53, 63(3).

Examples of How an Exception may Vary Across Different Domestic Legislations

While six Member Economies that report an exception permitting utilization for the deaf, the scope of the activity permitted by the exceptions varies significantly. For example, Mexico's survey response states that its law broadly allows for the reproduction of complete works or parts of such works as phonograms and video grams for the exclusive object of making them accessible to the deaf-mute, and Australia reports that uses by deaf persons may fall under a general "special purposes" exception³⁰⁰. Japan reports that only a person designated by Cabinet Order can use the exception provided in its law. Hong Kong, China's exception is similar to Japan in this regard. Finally, Chinese Taipei reports that works may be used by "legally accredited non-profit institutions or organizations".

3. L&E for Persons with Other Disabilities

The Survey inquired whether Member Economies' copyright laws provided L&E that permit reproduction, distribution and/or other form of utilization of works for persons with any other disabilities. Where it was indicated that such a L&E, the Survey requested a description, the types of disabilities covered, and any conditions, and asked whether importation and/or exportation is permitted. The Survey also asked whether there are any other L&E related to use or for individuals with disabilities that were not covered by previous responses in this section.

As with exceptions for the deaf, some responding Member Economies specifically provide for uses of copyrighted material by persons with other disabilities beyond visual or hearing impairment³⁰¹. Hong Kong, China extends the same exception to the "physically and mentally handicapped" as it does to the deaf, and Canada mentions that the same provisions applying to the blind and the deaf also cover other sorts of "perceptual" disabilities³⁰². Australia reports that its law allows for the use of broadcasts by institutions assisting persons with an intellectual disability for the purpose of assisting such persons³⁰³, and also provides a statutory license scheme permitting designated institutions to reproduce and communicate eligible items and copy and communicate broadcasts for the sole purpose of assistance to persons with an intellectual disability³⁰⁴. This scheme requires a remuneration notice to be in force with the relevant collection society.

³⁰⁰ Copyright Act 1968, Act No. 63, 1968, § 200AB.

³⁰¹ Australia; Canada; Hong Kong, China; Mexico; Singapore; and Chinese Taipei.

³⁰² Canada Copyright Act, R.S., 1985, s. 32 Hong Kong, China Copyright Ordinance, Cap. 528, § 83.

³⁰³ Copyright Act 1968, Act No. 63, 1968, § 200AA.

³⁰⁴ Copyright Act 1968, Act No. 63, 1968, Part VA, Division 2 and Part VB, Division 4

VI. GENERAL L&E

The final section of this APEC Survey addresses L&E to the copyright laws of the APEC Member Economies in areas not covered by the previous sections of the Survey. The Survey inquired about L&E in six categories:

- Fairness-based doctrines;
- Non-profit and non-commercial entities/uses;
- Translations;
- Photocopies;
- Exceptions for performance, display, or transmission of copyrighted works.; and
- Any other general limitations or exceptions that were not covered elsewhere in the Survey.

1. Fairness-Based Doctrines

The Survey inquired whether Member Economies' copyright laws included a fairness-based doctrine that limits the exclusive rights of the copyright holder. Where it was indicated that such a doctrine exists, the Survey inquired as to the requirements that must be met in order to show that a particular use is "fair." It also asked whether the fairness-based doctrine creates limitations or exceptions in the certain areas, and where such a limitation or exception was indicated to exist, the Survey asked for a description of the limitation. The areas inquired about are: digital technology; distance learning; education; and use by persons with disabilities.

Nine APEC Member Economies reported that their copyright laws contain some form of fairness-based doctrine or fair dealing exception that limits or provides exceptions to the exclusive rights of the copyright holder³⁰⁵. Generally, such doctrines are not codified in statutes, and exempt from infringement liability various uses of copyrighted material that may not be covered by other, more specific, statutory exemptions. However, some Member Economies have codified the fair use doctrines into specific in statutes as well³⁰⁶.

Requirements for Use to be "Fair"

The responding Member Economies that report this type of doctrine identify several factors used by courts to determine whether the use of a work is a fair dealing. The factors reported by the nine Member Economies include:

- The purpose and character of the activity, including whether it is for a non-profit making purpose and whether the dealing is of a commercial nature³⁰⁷;

³⁰⁵ Australia; Canada; China; Hong Kong, China; New Zealand (Copyright Act contains specific fair dealing exceptions for certain purposes); Singapore; Chinese Taipei; Thailand; and the United States.

³⁰⁶ See e.g. Australia Copyright Act 1968, Act No. 63, 1968, §§ 40, 41, 41A, and 42 (literary, dramatic, musical, and artistic works) and §§ 103A, 103AA, 103 B, and 103C (other subject matter); Chinese Taipei Copyright Act, art. 65(2); and the United States 17 U.S.C. § 107.

³⁰⁷ Australia; Hong Kong, China; New Zealand (pending legislation); Singapore; Chinese Taipei; and the United States.

- The nature of the work at issue³⁰⁸;
- The amount and substantiality of the use of the work in relation to the whole work³⁰⁹;
- The effect of the activity on the potential market or value of the work³¹⁰;
- Available alternatives to using the work or whether the work could have been obtained within a reasonable time at an ordinary commercial price³¹¹; and
- Whether the source of the original work has been acknowledged³¹².

Exceptions in Specified Areas

When Member Economies indicated that their copyright laws contain a fairness-based doctrine, the Survey inquired about whether these doctrines created L&E in four areas: digital technology; distance learning; education; and use by persons with disabilities.

Four of the nine Member Economies that reported that their copyright laws include a fairness-based doctrine indicate that their doctrine may be applicable in cases that implicate digital technology³¹³. Chinese Taipei identifies two additional exceptions for digital technology created by its fairness-based doctrine: (1) the public transmission or works publicly released in the name of a central or local government agency or a public juristic person; and (2) the public transmission on a network of social events and political and social commentary that appear in a newspaper, magazine, or network.

Australia, Hong Kong, China, Singapore, and the United States indicate in their survey responses that their fairness based doctrines may create exceptions for distance learning.

Australia, China; Hong Kong, China, and Chinese Taipei, Thailand, and the United States report that their fairness-based doctrines may be applicable in cases involving educational uses in some circumstances. Hong Kong, China's fair dealing exception allows for the use of a work by a teacher or student for the purposes of giving or receiving instruction. In comparison, Chinese Taipei's fairness-based doctrine allows teachers to reproduce copyrighted works that have been publicly released for the purpose of teaching. This exception also includes the preparation of pedagogical texts and supplementary teaching aids, provided the books are used exclusively for teaching purposes.

Five Member Economies report that their fairness-based doctrines may create L&E in copyright law for use by persons with disabilities in some circumstances. These Member Economies are Australia, China, Chinese Taipei, Singapore, and the United States.

³⁰⁸ Australia; Hong Kong, China; New Zealand (pending legislation); Singapore; Chinese Taipei; and the United States.

³⁰⁹ Australia; Hong Kong, China; New Zealand (pending legislation); Singapore; Chinese Taipei; and the United States.

³¹⁰ Australia; Hong Kong, China; New Zealand (pending legislation); Singapore; Chinese Taipei; Thailand; and the United States.

³¹¹ Hong Kong, China; New Zealand (pending legislation); and Singapore.

³¹² Canada and Hong Kong, China.

³¹³ China; Hong Kong, China; Chinese Taipei; and the United States.

In addition to the exceptions established about which the Survey asked specifically, the responding Member Economies that reported that their laws contain fairness-based doctrines identify various other uses of a copyrighted work that might fall under this type of exception in certain circumstances. The uses identified include, among other things:

- Research, scholarship, or study³¹⁴;
- Criticism, review, or parody³¹⁵;
- News reporting³¹⁶;
- Judicial dealings or professional advice³¹⁷; and
- Giving or receiving instruction provided by an educational institution³¹⁸.

Eight of the Member Economies that reported having a fairness-based doctrine expressed that these recognize fair dealing exceptions concerning research or study, and report fair dealing exceptions concerning criticism, reviewing, or news reporting³¹⁹. Singapore and Chinese Taipei report that their copyright laws provide a fair dealing exception for judicial dealings and/or professional advice³²⁰. Hong Kong, China and Chinese Taipei report a fair-dealing exception permitting the use of a work by or on behalf of a teacher or by a pupil for purposes of giving or receiving instruction in a specified course of study provided by an educational institution³²¹.

Examples of How an Exception may Vary Across Different Domestic Legislations

Each fairness-based doctrine reported by responding Member Economies is unique. As discussed above, the exceptions that have been developed differ from one Member Economy to another. In addition, the factors under which the doctrine may be exercised vary among the reporting Member Economies. For example, courts employing the United States' fair use doctrine generally consider four factors in determining whether a particular use of the copyrighted work will be permitted; these factors are codified in the United States' copyright statute³²². The factors are: the purpose and character of the use; the nature of the copyrighted work; the amount and

³¹⁴ eg. Australia Copyright Act 1968, Act No. 63, 1968, § 200AB; Canada Copyright Act, R.S., 1985, § 29; Copyright Act 1994, 1994 No. 143, §43(3); Thailand Copyright Act, B.E. 2537 (1994), §§ 32(1); 35(1)).

³¹⁵ E.g., Australia Copyright Act 1968, Act No. 63, 1968, § 200AB; Canada reports that its law does not provide an exception for parody Canada Copyright Act, R.S., 1985, §29; Hong Kong, China Copyright Ordinance, Cap. 528, § 39; New Zealand Copyright Act 1994, 1994 No. 143, § 43(3).

³¹⁶ E.g., Australia Copyright Act 1968, Act No. 63, 1968, § 200AB; Canada Copyright Act, R.S., 1985, §29; Hong Kong, China Copyright Ordinance, Cap. 528, § 39; New Zealand Copyright Act 1994, 1994 No. 143, § 43(3). (All responding Member Economies with this exception require the acknowledgement of the work.). In the case of the United States "news reporting" would be construed under a "fair use" test.

³¹⁷ E.g., Australia Copyright Act 1968, Act No. 63, 1968, § 200AB; Hong Kong, China; Chinese Taipei Copyright Act, art. 45.

³¹⁸ E.g., Australia Copyright Act 1968, Act No. 63, 1968, § 200AB; Hong Kong, China; Chinese Taipei Copyright Act, art. 46; 47(1), (2).

³¹⁹ Australia; Canada; China; Hong Kong, China; New Zealand; Singapore; and Chinese Taipei.

³²⁰ Singapore Copyright Act, Singapore Statutes Cap. 63, § 38 (permitting the use of a work for purposes of a judicial proceeding or a report thereof, for the purpose of giving or seeking professional advice from an advocate or solicitor); Chinese Taipei Copyright Act, art. 45 (permitting the use of a work necessary for judicial proceedings, but not for professional advice).

³²¹ Hong King, China Copyright Ordinance, Cap. 528, § 41(A); Chinese Taipei Copyright Act, art. 46.

³²² 17 U.S.C. § 107.

substantiality of the portion used; and the effect of the use on the potential market for the work³²³. In contrast, Thailand reports that in order for a use to be considered “fair” under its copyright law it must be not for profit³²⁴. In addition, Thailand reports, “an act against a copyright work of another person which does not conflict with a normal exploitation of the copyright work by the owner of copyright and does not unreasonably prejudice the legitimate right of the owner of copyright is not deemed an infringement of copyright”³²⁵.

2. Non Commercial and Non Profit Entities/Uses

The Survey asked Member Economies whether their copyright laws provide a L&E that addresses uses of copyright materials by non-profit and/or non-commercial entities. Where such a limitation or exception was indicated to exist, the Survey asked for a description and the type of organization that is entitled to it, and asked what conditions must be met in order to be able to use the L&E.

Eleven of the fourteen responding Member Economies indicate that their copyright law recognizes exceptions applicable in many cases involving reproduction of copyrighted work for non-commercial use or use by non-profit entities³²⁶. While New Zealand reports that its copyright law does not recognize a general exception for non-commercial use, it notes that its law contains specific limitations that fall within this exception.

Eligible Entities

Eleven Member Economies that report exceptions for non-commercial use also identify various types of entities that may be eligible for non-commercial use; the types of eligible entities vary from Economy to Economy³²⁷. The United States, for example, reports various exceptions for a wide variety of non-profit entities³²⁸. Eligible non-profit entities identified by responding Member Economies that report this type of limitation or exception include:

- Religious, charitable, and fraternal organizations;
- Educational institutions;
- Government agencies;
- Libraries, museums, and cultural institutions;
- Judges and judicial agents; and
- Individuals, where the use of the copyrighted work is personal and/or non-commercial.

None of these Member Economies classify non-profit entities in exactly the same manner, although all Member Economies that report this type of exception generally

³²³ The United States refers in its survey response to 17 U.S.C. § 107, court cases, and a Fact Sheet on fair use available on the website of the United States Copyright Office.

³²⁴ Thailand Survey Response; § 32 paragraph 1, § 35 paragraph 1.

³²⁵ Id.

³²⁶ Australia; Canada; Chile; China; Hong Kong, China; Japan; Mexico; Singapore; Chinese Taipei; and the United States:

³²⁷ Australia; Canada; China; Hong Kong, China; Japan; Mexico; Singapore; Chinese Taipei; Thailand; and the United States:

³²⁸ 17 U.S.C. §§107, 108, 109, 110, 111, 114, 118, 121, 504, 1201, 1203, 1204, 1008.

indicates that the exception will not apply if the entity makes a profit from its use of the copyrighted work.

Member Economies that report this type of L&E also report that their copyright laws limit the types of uses of the copyrighted works, and no Member Economy indicates that its laws allow for a blanket exception for a non-commercial entity. Instead, the exceptions come with limitations related to non-profit use. For example, while eight Member Economies allow their respective exempt entities to perform works publicly, the Member Economies place different limitations on the entities' ability to perform³²⁹. For instance, Canada limits its public performance exception to religious, charitable, educational, and fraternal organizations and to live musical performances and live performances of sound recordings; and Viet Nam limits its public performance exception to mass cultural, communication, or mobilization activities that do not charge a fee to attendees, and to works other than architectural works, fine art works, or computer programs³³⁰.

Eligible Uses

The Survey asked Member Economies whether their copyright laws provide a L&E that addresses uses of copyrighted materials for non-profit and/or non-commercial purposes. Where the existence of such a L&E was indicated, the Survey asked for a description, the type of organization permitted to use it, conditions that must be met, and asked whether the L&E requires that a broadcasting entity provide fair compensation to the copyright holder.

Nine of the responding Member Economies provide exceptions for certain types of non-commercial uses of a work regardless of the user's identity³³¹. In such cases, an individual or entity will not be held liable for copyright infringement for the non-commercial reproduction of copyrighted work for personal use when the requirements for the exception have been met. For example, Australia, Hong Kong, China, and Singapore have identified an exception for the making of a recording of broadcast or cable program for private and domestic use for the purpose of enabling it to be viewed or listened to at a more convenient time, subject to various conditions. Singapore and Hong Kong, China also allow any person to show or play a broadcast or cable program in public to an audience, as long as the audience does not pay for the viewing, among other conditions. Mexico reports that its copyright law allows a one-time reproduction of a single copy of a literary or artistic work for the personal and private use of the person who does it, so long as it is not reproduced for a profit and it does not effect the normal exploitation of the work. Finally, Chinese Taipei allows an individual or family to reproduce for non-commercial uses, under certain circumstances, a work that has been publicly released under certain circumstances³³².

³²⁹ Canada; Hong Kong, China; Japan; Mexico; Chinese Taipei; Thailand; the United States; and Viet Nam.

³³⁰ Viet Nam Survey Response.

³³¹ Australia (in the miscellaneous section); Canada (interpretation); Hong Kong, China; Japan; Mexico; Peru; Chinese Taipei; the United States; and Viet Nam.

³³² Chinese Taipei Copyright Act, art. 55.

Canada, the United States³³³, and Viet Nam require that an entity broadcasting film or television programs for non-commercial purposes provide the copyright holder with some type of compensation.

Examples of How an Exception may Vary Across Different Domestic Legislations

The most noticeable difference in the reported L&E regarding non-profit and/or non-commercial uses is the scope of the exceptions themselves. For example, Mexico reports that certain literary and artistic works may be used without authorization for the personal and private use of the person who does it, and not for a profit (among other conditions), and that use of performances, phonograms, videograms, or broadcasts will not constitute infringements of the rights of the performers or producers if a direct economic benefit is not pursued (among other conditions)³³⁴. Chinese Taipei, in contrast, reports eighteen different exceptions that address non-profit and/or non-commercial purposes (including, among other things: reproduction in pedagogical texts; alteration or reproduction of a computer program; and exploitation of artistic and architectural works), and seven different exceptions that address uses of copyrighted materials by non-profit and/or non-commercial entities³³⁵.

3. Translations

General Description

The Survey asked Member Economies whether their copyright laws provide L&E that deal with translation of a copyrighted work into another language. Where such a L&E was indicated to exist, the Survey asked what conditions must be met, which are the organizations that can utilize them, and whether there is a limit on the number of translations permitted.

Seven of the fourteen responding Member Economies indicate that their copyright law or pending legislation provides a L&E that deals with translation of copyrighted work into another language³³⁶. Both Japan and Chinese Taipei enumerate the exceptions from liability for copyright infringement for translating copyrighted works, and both Member Economies recognize exceptions for translations for educational use, governmental use, and uses that benefit the visual and hearing impaired. Viet Nam reports, “Derivative works shall only be protected if they do not infringe the copyrights in respect of the works used to make derivative works”³³⁷.

None of the Member Economies that report that their laws provide this form of L&E report an express limit on the number of translations that a permissible user may make.

³³³ In the case of the United States this exception can only be used by public broadcasting entities.. 17 U.S.C. §118.

³³⁴ Mexico Survey Response.

³³⁵ Chinese Taipei Survey Response.

³³⁶ Canada; China; Japan; Chinese Taipei; Thailand; and Viet Nam. Chile reports that legislation is pending that will provide an exception for translations for librarians

³³⁷ Viet Nam Survey Response.

Examples of How an Exception may Vary Across Different Domestic Legislations

In regards to L&E that permit translation of a copyrighted work into another language, there is significant variation in the number and type of parties that may utilize the limitations or exception, and the scope of conditions that must be met. Canada, for example, reports that its copyright law only permits educational institutions to translate works for a test or an examination³³⁸. In contrast, Japan reports that its copyright law allows any party to utilize the limitations or exceptions as long as the party meets one of a list of enumerated exceptions for translations, which include: reproduction for personal use; reproduction in school textbooks; and reproduction in Braille³³⁹.

4. Photocopying

General Description

The Survey asked Member Economies whether their copyright laws include L&E that permit users to make photocopies or digital copies of copyrighted works. Where it was indicated that such provisions existed the Survey requested a description, whether it permits copying for private use by individuals, whether there is a limit on the number of photocopies or digital copies that can be made, whether the ability to make copies is limited by the use by which the copies will be put, and finally whether a system of compensation exists for copies made under this limitation or exception.

All of the responding Member Economies except Japan report exceptions for photocopying in their copyright laws and pending legislation³⁴⁰.

The nine Member Economies that recognize a fairness-based doctrine in their copyright laws report that photocopying of copyrighted works may be permitted under the doctrine in some circumstances³⁴¹. In addition, ten of the fourteen responding Member Economies report a L&E for photocopying for educational use³⁴².

Copying for Private Use by Individuals

³³⁸ Copyright Act, R.S., 1985, § 29.4(2)(a).

³³⁹ Japan Copyright Act, Act No. 48 of 1970 Article 43.

³⁴⁰ Japan reports that its copyright law does not address limitations or exceptions for photocopying because under Japanese law “‘reproduction’ means the reproduction in a tangible form and includes photocopies and digital copies of works. Therefore, Japan does not establish the limitations for photocopies or digital copies particularly because the person can make photocopies or digital copies without authorization of right holders by using the limitations concerning the right of ‘reproduction.’” Japan Survey Response.

³⁴¹ Australia; Canada; Hong Kong, China; New Zealand; Singapore; Chinese Taipei; Thailand; and the United States: Photocopying for personal use may fall within the fair use doctrine in the United States under some circumstances.

³⁴² These Member Economies include: Australia; Canada; Chile; China; Hong Kong, China; New Zealand; Peru; Singapore; Chinese Taipei; and Viet Nam. While there is no express exception in the United States, photocopying for educational purposes would constitute fair use under some circumstances.

Twelve of the responding Member Economies report an L&E in their copyright laws that permit the copying of works for private use by individuals, at least in some cases and under certain circumstances³⁴³.

Limits on the Number of Copies that Can Be Made

Of the Member Economies that report L&E for photocopying, eight of them report L&E that impose a limit on the number of photocopies or digital copies that can be made³⁴⁴. Most of these Member Economies indicate that the limits vary depending on the circumstances under which the copies are made³⁴⁵. Other Member Economies report exceptions that permit only one copy to be made³⁴⁶.

Limitations on the Uses to Which Copies May Be Put

Eight of the responding Member Economies also report that their exceptions for photocopying are limited by the use to which the copies will be put³⁴⁷. The limitations that the Member Economies identify vary broadly from Economy to Economy.

Compensation Systems

Australia and Chinese Taipei report compensation systems for copies made under this exception³⁴⁸. Australia reports that under its statutory licensing scheme, there is a distinction between free exemptions and statutory licensing. Thus, while there is a licensing scheme in place that requires remuneration to be made through the relevant collecting societies, not all of the exemptions require such payment. For example, exceptions for photocopying for educational institutions require remuneration to the right holder of the work being copied, whereas copying under Australia's fairness-based doctrine does not require remuneration. In addition, Australia and Chinese Taipei indicate that right holders must be notified and compensated when their copyrighted works are used in course packs solely for educational purposes. The United States reports that while compensation for photocopies that fall under this exception is not required, there is a system in place for the collection of royalties from sales of digital audio recording devices and digital audio recording media.

Examples of How an Exception may Vary Across Different Domestic Legislations

With respect to L&E that permit photocopies or digital copies of copyrighted works, significant variations can be seen in the scope of allowed exceptions. Viet Nam, for example, reports an exception for photocopying one single copy for the non-commercial uses by consumers who use certain digital audio recording devices, digital recording media, or analog recording devices). On the other hand, Chinese Taipei reports that its law contains over a dozen exceptions for photocopying, including: reproduction of artistic work; reproduction for examination questions; and nonprofit use by an individual or family

³⁴³ Australia; Canada; China; Hong Kong, China; Mexico; New Zealand; Peru; Singapore; Chinese Taipei; Thailand; the United States (17 U.S.C. § 1008 provides that no action may be brought for some home taping).

³⁴⁴ Australia; Canada; China; Chinese Taipei; Hong Kong, China; Mexico; Singapore; and Viet Nam

³⁴⁵ Australia; Canada; Hong Kong, China; and Singapore; and Chinese Taipei.

³⁴⁶ Mexico and Viet Nam.

³⁴⁷ Australia; China; Hong Kong, China; New Zealand; Peru; Singapore; Chinese Taipei; and Viet Nam.

³⁴⁸ Australia Survey Response and supplemental comments; Chinese Taipei Copyright Act, art. 47 paragraphs 1, 2, 4.

5. Exceptions for Performance, Display, or Transmission of Copyrighted Work

General Description

The Survey asks Member Economies whether their copyright laws provide L&E for the performance, display or transmission of works for religious purposes, for promoting sales of work, or for any other purposes. Where such a limitation or exception was indicated to exist, the Survey requested a description of the limitation or exception.

Eleven of the fourteen responding Member Economies indicate that their copyright laws provide exceptions for the performance, display, or transmission of copyrighted works³⁴⁹.

Performance, Display or Transmission of Works for Religious Purposes

Seven of the eleven responding Member Economies recognize an exception for live performances of copyrighted works for religious purposes³⁵⁰. Of those Member Economies, Canada, Chile, Hong Kong, China; Chinese Taipei, Thailand and the United States also provide an exception for live performance of a copyrighted work for charitable and educational purposes. The types of copyrighted works that can be performed vary with each Member Economy.

Performance, Display or Transmission of Works for Promoting Sales of a Work

Hong Kong, China, Mexico, and the United States recognize an exception for the performance, display, and/or transmission of copyrighted works for the purpose of promoting sales of the work under certain circumstances³⁵¹. Chinese Taipei allows for the reproduction of a work of art in a pamphlet to explain or introduce the work to spectators³⁵².

Performance, Display or Transmission of Works for Other Purposes

Six of the responding Member Economies reported that their copyright law establishes a statutory or compulsory license system permitting broadcasts of copyrighted works in certain cases³⁵³.

In addition, six Member Economies indicated that their laws provide for the reproduction of ephemeral sound or visual recordings when broadcasting³⁵⁴. These Member Economies cited certain limitations to this exception.

³⁴⁹ Canada; Chile; Hong Kong, China; Japan; Mexico; New Zealand; Singapore; Chinese Taipei; Thailand, Peru; and the United States.

³⁵⁰ Canada; Chile; Hong Kong, China; Singapore; Chinese Taipei; Thailand, and the United States.

³⁵¹ Hong Kong, China Copyright Ordinance, Cap. 528, § 72; Mexico Survey Response; the United States 17 U.S.C. § 110(7). In the United States, the exception covers only performance of nondramatic musical works, and does not cover display of works and expressly excludes transmissions beyond the place where a retail establishment is located.

³⁵² Chinese Taipei Copyright Act, art. 57(2).

³⁵³ Canada; Japan; Mexico; Peru; Singapore; and the United States (17 U.S.C. § 111, 119, 122, 118).

³⁵⁴ Japan; Mexico; Peru; Singapore; Chinese Taipei (Copyright Act art. 56); the United States (permitting reproduction of works lawfully included in a transmission).

Examples of How an Exception may Vary Across Different Domestic Legislations

With respect to L&E that permit the performance, display or transmission of works, there is significant differences in the uses for which the limitation or exception may be exercised. Chile, for example, reports that its law allows for the performance, display or transmission of a copyrighted work only for the exhibition of electronic equipment³⁵⁵. In contrast, Peru reports exceptions that allow for the communication of work for religious purposes, for promoting the sale of a work, for private acts that take place in the home, and where the acts are essential to the provision of legal or administrative evidence³⁵⁶.

6. Miscellaneous

The final section of the Survey asked several miscellaneous questions. First, the Survey asked the Member Economies to identify any copyright L&E that were not covered elsewhere in the Survey. In response to this question, each of the responding Member Economies identified various L&E covering a wide range of subject matter.

The most common limitation or exception identified in response to this question is an exception for the quotation of publicly-released copyrighted works. Six of the fourteen responding Member Economies cited some form of this exception in this section³⁵⁷.

The Survey further inquired as to whether the Member Economies have any pending legislation or future plans to include additional copyright L&E. As discussed above, seven Member Economies report pending, recently passed³⁵⁸, or potential legislation³⁵⁹ that addresses L&E in at least one of the areas inquired about. Many of these amendments concern digital technology³⁶⁰; Member Economies also reported legislative developments in the areas of fairness-based doctrines³⁶¹, distance education³⁶², and exceptions for the disabled³⁶³,

Finally, the Survey asked the Member Economies to identify questions or issues regarding L&E to copyright and related rights that would be useful to address in APEC-IPEG. The Member Economies that gave a response identified the following topics:

- The legitimate scope of personal use exceptions (Australia);
- The relationship between exceptions and contracts (Chile);
- Exceptions for education, libraries, and the blind (Chile);

³⁵⁵ Chile Survey Response; Chile Copyright Act, Ley N°17.336 sobre Propiedad Intelectual, art. 42.

³⁵⁶ Peru Survey Response;

³⁵⁷ Canada; Japan; Mexico; Peru; Chinese Taipei (Copyright Act art. 52); and Viet Nam.

³⁵⁸ Hong Kong, China.

³⁵⁹ Peru.

³⁶⁰ The Members who report pending legislation that provide new exceptions in digital technology are: Chile; New Zealand; Chinese Taipei; Japan and Thailand.

³⁶¹ Chile and New Zealand.

³⁶² Id.

³⁶³ Chile; Japan

- Exceptions for temporary copying of copyrighted works and for media/format shifting (Hong Kong, China);
- The issue of format shifting, and the status of digital articles, books, and libraries (Singapore); and
- Exemptions for technological protection measures (Thailand).

VII. CONCLUSION

The survey responses submitted by the Member Economies show a wide variation between them with respect to copyright L&E, but at the same time reveal some common ground. This variation can be seen mainly in three areas: (i) divergence among the responding Member Economies as to whether a particular L&E is present or absent in the Economies copyright laws; (ii) the conditions attached to the use of a particular E&L; and (iii) the amount and level of specificity of the exceptions. Of thirty-two questions about possible L&E, in only one area did the responding Economies unanimously reported having or not having a L&E³⁶⁴, and there were ten occasions in which nine or more of the fourteen responding Economies provided similar responses.

As above mentioned some specific L&E are common to all reporting Member Economies and thus have been subject to development at domestic level. This is the case of exceptions for educational purposes; exceptions for preservation or replacement for libraries and archives; temporary copies; and exceptions for visually impaired. In particular, the latter draws a wider consensus showing a ninety-two percent level of acceptance, but in some cases its application is restricted to specific systems, such as Braille.

In regards to L&E related to digital technologies, the most common of these concern temporary copies, followed by reverse engineering and OSP liability..

Of the responding Member Economies, developed Economies tend to have a larger number of L&E in comparison to the developing Economies. For instance, seven developed Economies reported the existence of “fair use” or “fair dealing” doctrine at a domestic level, whereas only one developing Economy (Thailand) recognize the use of such a doctrine.

Another important fact detected by the survey responses suggest that copyright laws in Member Economies continuously evolve. Half of the responding Economies reported pending, potential, or recently passed legislation that addresses L&E under inquiry, and more than a fourth of them identified additional questions or issues regarding L&E to copyright that should be addressed by the APEC Intellectual Property Expert Group.

The results of the present Report indicate that even in cases of generally accepted L&E, conditions and requirements differ substantially among different Economies. For example, in the case of the patron use exception, some Economies

³⁶⁴ This question, number 22(d), concerned the importation and/or exportation of material accessible to the hearing disabled.

allow for one copy whereas others allow for an unlimited amount of copies. In the case of L&E related to the disabled, exceptions regarding visually impaired draw greater consensus than those intended for those with hearing or other disabilities.

One aspect of technological progress is that flow of information has grown exponentially and Internet has become a common source of information on a daily basis. The replies on L&E related to new technologies by APEC Economies were varied, which provide insights into how copyright L&E, within particular copyright systems, may facilitate both usage and creation of works and knowledge.

Other aspect, which this survey did not enquire about and may be useful to explore in the future, is the interaction of L&E with digital rights management as well as with contracts. In other words, whether L&E can be overridden by contractual arrangements or by control technologies, and how this issue is addressed by the APEC Economies.

Finally, the fact that knowledge based Economies are those that have developed and adapted, in an appropriate manner, their L&E to the requirements of the digital economy, is one aspect that should be taken into account by APEC Member Economies when considering what L&E would be adequate to achieve an intellectual property system that ensure both enhancing access to knowledge and promoting creation of knowledge.

APPENDIX A

KEY TO STATUTORY REFERENCES

With respect to each responding Member Economy, references made in the Report correspond to the following Member Economy statutes cited in the Survey Responses:

Australia-Copyright Act 1968, Act No. 63, 1968, available at

[http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/D058D90B5915FB27CA2572C0001C67E5/\\$file/Copyright1968.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/D058D90B5915FB27CA2572C0001C67E5/$file/Copyright1968.pdf); Copyright Regulations 1969, SR 1969 No. 58, available at

[http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrumentCompilation1.nsf/0/701C003A49DD6992CA2572570016DC03/\\$file/CopyrighRegs1969.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrumentCompilation1.nsf/0/701C003A49DD6992CA2572570016DC03/$file/CopyrighRegs1969.pdf).

Canada-Copyright Act, R.S., 1985, c.C-42, available at

<http://laws.justice.gc.ca/en/C-42>.

Chile-Copyright Act, Ley No.17.336 sobre Propiedad Intelectual, available at

http://www.dibam.cl/derechos_intelectuales/contenido.asp?id_contenido=606&id_submenu=898&id_menu=37.

Pending legislation available at <http://sil.congreso.cl/pags/index.html>, Boletín 5012-3.

China- Links to electronic versions of laws and regulations (the “Laws and Regulations” section at the website of the National Copyright Administration of the People’s Republic of China) available at

http://www.ncac.gov.cn/GalaxyPortal/inner/bqj/include/list_column.jsp?BoardID=175&boardid=11501010111602

Chinese Taipei-Copyright Act, available at

http://www.tipo.gov.tw/en/AllInOne_Show.aspx?path=2557&guid=26944d88-de19-4d63-b89f-864d2bdb2dac&lang=en-us

Hong Kong, China-Copyright Ordinance, Cap.528, available at

<http://www.legislation.gov.hk/eng/home.htm>;

Copyright(Amendment) Ordinance of 2007, Ord. No.15 of 2007, available at

http://www.ipd.gov.hk/eng/intellectual_property/ip_laws/copyright.htm

Japan-*Copyright Act, Act No. 48 of 1970*, available at

<http://www.cas.go.jp/jp/seisaku/hourei/data/CA.pdf>.

Mexico-No statutory reference provided in survey response.

New Zealand-*Copyright Act 1994, 1994 No. 143*, available at

http://legislation.govt.nz/browse_vw.asp?content-set=pal_statutes; Copyright (New Technologies and Performers' Rights)

Amendment Bill, available at

<http://www.parliament.nz/en-NZ/PB/Legislation/Bills/6/3/3/6330f66286634abc833870570f9ccee1.htm>.

Peru-No statutory reference provided in survey response.

Singapore-*Copyright Act, Singapore Statutes Cap. 63*, available at

<http://statutes.agc.gov.sg>.

Thailand-*Copyright Act, B.E. 2537 (1994)*, available at

<http://www.ipthailand.org>.

United States-*Copyright Act of 1976, United States Code (U.S.C.) Title 17*, available at

<http://www.copyright.gov>; Digital Millennium Copyright Act (D.M.C.A.) of 1998, U.S.C.

Title 17, Appendix B, available at <http://www.copyright.gov>; United States Copyright Office Circular 21, available at <http://www.copyright.gov/circs/circ21.pdf>.

Viet Nam-No statutory reference provided in survey response.

APPENDIX B

ACKNOWLEDGEMENTS

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APPENDIX C

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L&E RELATED TO DIGITAL TECHNOLOGY

REVERSE ENGINEERING

	1., 1. a. L&E for reverse engineering	b. Purposes for which reverse engineering is permitted	c. Restrictions or conditions on the ability to reverse engineer	d. Does the L/E for RE permit the circumvention of TPMs?
Australia	Yes	Reproduction for normal use or study of computer programs (s47B); back-up copy of computer programs (s47C); reproducing computer programs to make interoperable products (s47D); reproducing computer programs to correct errors (s47E), reproducing computer programs for security testing (s47F).	Various conditions, including (but not limited to): Reproduction for normal use or study: copy must be made by or on behalf of the owner or licensee of the original copy; cannot be made from infringing copy; cannot be contrary to original license Back-up copy: does not apply if program modification is necessary Interoperability: does not apply unless at the time of making the copy the information is not readily available Correction of errors: does not apply if at the time of making the copy an operational copy of the program is available at reasonable price and time Security testing: the information resulting from the testing must not be readily available	Yes. Corresponding exceptions to liability for circumvention of access control TPMs and computer security testing. Additional exceptions in Copyright Regulations 1969 for interoperability and malfunctioning TPMs.
Canada	No explicit exception in current Act, but may fall within “fair dealing” and “computer program” exceptions (§§ 29, 30.6)	Research and private study or compatibility of a program with a particular computer	For the compatibility exception, only 1 copy can be made, for personal use; must be destroyed if person no longer owns original copy. The copy must	No protection for TPMs in current Act.

	1., 1. a. L&E for reverse engineering	b. Purposes for which reverse engineering is permitted	c. Restrictions or conditions on the ability to reverse engineer	d. Does the L&E for RE permit the circumvention of TPMs?
			also be essential to achieve compatibility with a particular computer.	
Chile	Yes, with respect to computer programs, in pending legislation (draft Art. 71 0(b))	- Interoperability between computer programs - Research and development	Program must be legally obtained	N/A
China	No	N/A	N/A	N/A
Hong Kong, China	Yes. There is a fair dealing exception. (§ 38 of the Hong Kong Copyright Ordinance ("CO")).	CO provides exception for fair dealing for the purposes of research or private study. Fair dealing may apply in situations of incidental copying of a computer program by a lawful user during the course of decompilation or other reverse engineering performed to understand the operation of the program under study, or to develop an interoperable product. CO also provides exceptions to the prohibition against circumventing technological measures. One of the exceptions is to identify or analyze particular elements of a computer program for the sole purpose of achieving interoperability of an independently created computer program with the computer program or another computer program. (§§ 237D(1), 273E(2), and 273F(2)).	In determining whether a dealing is a fair dealing, a court will take into account all circumstances related to a case, and in particular (a) the purpose and nature of the dealing, including whether the dealing is for a non-profit-making purpose and whether the dealing is of a commercial nature; (b) the nature of the work; (c) the amount and substantiality of the portion dealt with in relation to the work as a whole; and(d) the effect of the dealing on the potential market for or value of the work. (§ 38(3)). Circumvention exception in 2006 Bill only applies if circumvention is to identify or analyze elements of a program not readily available to circumventer, if done for sole purpose of achieving interoperability. Copy itself	Yes. The exception for circumvention applies if (a) the measure has been applied in relation to a computer program, (b) the act is done with respect to the identification or analysis of particular elements of the computer program that are not readily available to the person who does the act, (c) the act is done for the sole purpose of achieving interoperability of an independently created computer program with the computer program or another computer program, (d) the copy of computer program in relation to which the act is done is not an infringing copy, and (e) the act of identification or analysis in (b) does not constitute an infringement of copyright. (§ 273 D(1)).

	1., 1. a. L&E for reverse engineering	b. Purposes for which reverse engineering is permitted	c. Restrictions or conditions on the ability to reverse engineer	d. Does the L&E for RE permit the circumvention of TPMs?
		These provisions became law in 2007 but they have not yet come into force.	must not be an infringing copy.	
Japan	No	N/A	N/A	N/A
Mexico	None	N/A	N/A	N/A
New Zealand	None in the current Act. Yet a pending bill, the Copyright Amendment Bill, contains two provisions related to reverse engineering. (Draft Clause 43)	N/A	N/A	N/A
Peru	Yes	It is allowed to reproduce software and translate its form for purposes of achieving interoperability with other software.	Allows reverse engineering of software for interoperability if it is necessary to achieve that interoperability. Must be done by a licensed user, or someone legally authorized to use the software, or by a person duly authorized by the right holder. Information necessary to achieve interoperability has not been made previously available or after a reasonable request to the right holder in an easy and rapid way considering all circumstances. It is limited strictly to those parts of original software necessary to achieve interoperability. Information obtained during this process shall not be used for different	No; but right holders are allowed to insert TPM in order to avoid unauthorized communication, reception, retransmission, reproduction or modification of works. If a new commercial agreement with the US is approved, an exception allowing circumvention for reverse engineering to achieve interoperability will be included. Another exception to circumvention is for good faith research to identify flaws and vulnerabilities; to include a component or part to prevent access of minors to inappropriate on-line content; good faith activities authorized by the owner of a computer to test, investigate or correct security of that computer; or anti-cookie activities. There is also

	1., 1. a. L&E for reverse engineering	b. Purposes for which reverse engineering is permitted	c. Restrictions or conditions on the ability to reverse engineer	d. Does the L&E for RE permit the circumvention of TPMs?
			purposes nor for development, production or commercialization of substantially similar software in its expression or any other infringing action. Information must not be communicated to third parties unless necessary to achieve interoperability.	an exception for non infringing activities provided there is substantial evidence of adverse impact on those non-infringing uses.
Singapore	Yes. (s39B Observing, studying, and testing of computer programs.)	For purposes of determine[ing] the ideas and principles . . . underl[y]ing any element of the computer program.	Limits the researcher to loading, displaying, running, transmitting or storing the computer program. Person studying must be a lawful user of the computer program.	N/A
Chinese Taipei	(§80ter(3)(viii) of the Copyright Act)	The Competent authority has made such an administrative explanation recognizing this exception as falling under the fair use doctrine. And §80ter of our Copyright Act and the “Directions Defining the Content of the Subparagraphs of Paragraph 3 of Article 80ter of the Copyright Act” also exempt uses of reverse engineering from the prohibition on circumventing technological protection measures.	The interoperability exception is limited to the extent of infringement; it is also limited within the bounds of the fair use doctrine. (§65(2) of the Copyright Act)	Yes
Thailand	No	No	No	No

	1., 1. a. L&E for reverse engineering	b. Purposes for which reverse engineering is permitted	c. Restrictions or conditions on the ability to reverse engineer	d. Does the L&E for RE permit the circumvention of TPMs?
			the copyright holder. (Section 35 (1)).	
United States	Yes. Various judicial opinions recognize this exception as falling under the fair use doctrine. (17 U.S.C. 107). Certain uses of reverse engineering from the prohibition on circumventing technological protection measures are also exceptions. (17 U.S.C. 1201(f)) Reverse engineering for the teaching, analyzing and evaluating of the design of a semiconductor chip is also permitted. (17 U.S.C. 906))	Recognized under the fair use doctrine and for the limited purpose of identifying and analyzing the elements of the program that are necessary to achieve interoperability of an independently created program with other programs and that have not previously been readily available to that person. (17 U.S.C 1201(f))	Also limited within the bounds of the fair use doctrine. (17 U.S.C. 107, 1201(f))	Yes, a person who has the right to use a copy of a program may circumvent a technology measure that controls access to a portion of the program in order to achieve interoperability. (17 U.S.C. 1201(f))
Viet Nam	None	N/A	N/A	N/A

LIMITATIONS ON LIABILITY FOR ONLINE SERVICE PROVIDERS

	2. Liability for copyright infringement of others	a. L&E exist for liability for actions of a third party	b. Definition and/or interpretation of “online service provider (OSP)”	c. Entities that qualify as an OSP	d. Conditions for an OSP to qualify for this L&E
Australia	Yes	Acting as a conduit, caching, storing material at the direction of a user, providing search tools	Under Australian law the comparative term is “carriage service provider.” This is defined under s10 of the Act as	Generally internet service providers	Depends on category of activities being undertaken: - Must have policy providing for termination of accounts of repeat infringers - Must

	2. Liability for copyright infringement of others	a. L&E exist for liability for actions of a third party	b. Definition and/or interpretation of “online service provider (OSP)”	c. Entities that qualify as an OSP	d. Conditions for an OSP to qualify for this L&E
			where a person supplies or proposes to supply, a listed carriage: service, to the public using (a) a network unit owned by one or more carriers; or (b) a network unit in relation to which a nominated carrier declaration is in force (Telecommunications Act of 1997 s87).		comply with relevant industry codes (if any) on technical measures used to protect and identify copyright material. Additional, activity-specific conditions at s116H.
Canada		Not applicable. However, it is an infringement of copyright for any person to do anything without the consent of the owner of the copyright, that the copyright owner has the sole right to do, including the authorization of such acts. (§ 27(1)).	None specific to OSP. OPS are not responsible for copyright material communicated through their networks when they have no control over the content (§ 2.4(1)(b)). They may become liable if they exercise some control in the communication of copyright material.	Not applicable.	OPS acting as intermediary only i.e. they have no control over the communication of content.
Chile	No, although general norms or rules of civil liability apply	Pending legislation proposes limits on OSP liability subject to a requirement that OSP collaborate with right holders (draft Arts. 85 L-85 R)	N/A	N/A	Limits on OSP liability are subject to requirement that OSP collaborate with rights holders.

	2. Liability for copyright infringement of others	a. L&E exist for liability for actions of a third party	b. Definition and/or interpretation of “online service provider (OSP)”	c. Entities that qualify as an OSP	d. Conditions for an OSP to qualify for this L&E
China	Yes	Transmission; cache; storage; search. (all items selected).	The term “online service providers (OSPs)” is not clearly defined, nor is it clearly interpreted in the <i>Copyright Law of the People’s Republic of China</i> (the “Copyright Law”). In the <i>Regulations on the Protection of the Right of Communication through Information Network</i> (the “Regulations”), OSPs are classified by rights and obligations into Internet access providers (ISPs, Internet service providers that provide physical infrastructure services, including Internet access, search and information storage space services) and Internet content providers (ICPs), Internet service providers that provide Internet content services, including works, performance and audiovisual products, such as BBS and chatroom). For further information on their limitations and	Entities seeking to qualify themselves as OSPs shall be subject to examination and approval by information industry authorities in certain procedures and under certain conditions.	The Copyright Law provides different conditions for limitations and exceptions according to specific conducts of Internet service providers. For details, please see Articles 20-23 of the Regulations.

	2. Liability for copyright infringement of others	a. L&E exist for liability for actions of a third party	b. Definition and/or interpretation of “online service provider (OSP)”	c. Entities that qualify as an OSP	d. Conditions for an OSP to qualify for this L&E
			exceptions, please see Articles 20-23 of the Regulations.		
Hong Kong, China		Any person who authorizes another person to do an infringing act may attract civil liability. (§ 22(2)). The mere provision of physical facilities for enabling the making available of copies of works to the public is not in itself an act restricted by copyright. (§ 26(4)).	Not defined.	Not defined.	A consultation document was issued in 2006 to collect public views on issues in relation to OSPs, liability, and exceptions.
Japan		Japanese Copyright Act itself does not provide any provision about secondary liabilities. A specific law, “The Law On Restrictions On The Liability For The Damages Of Specified Telecommunications Service Providers And The Right To Demand Disclosure Of Identity Information Of The Sender” limits the liability of specific telecommunications service providers for distribution and transmission of infringing information.	Telecommunications service providers are defined as persons who intermediate the communications of others through the use of specified telecommunications facilities or any other acts of providing specified telecommunications facilities for the use of others’ communications. (Art. 2 (iii))	The statute does not limit which entities can qualify as telecommunications service providers. (Art. 2 (iii)(c))	Article 3(1), re liability for distribution: OSP is not the sender, did not know and no good ground sufficient to find that OSP could have known that third party rights would be infringed. Article 3(2), re liability to sender for preventing transmission: (i) – OSP has good grounds to believe that third party rights would be infringed; or (ii) if OSP receives notice of infringement, contacts sender, asks for consent to prevent transmission, and sender does not deny consent within 7 days of request.

	2. Liability for copyright infringement of others	a. L&E exist for liability for actions of a third party	b. Definition and/or interpretation of “online service provider (OSP)”	c. Entities that qualify as an OSP	d. Conditions for an OSP to qualify for this L&E
Mexico		No	N/A	N/A	N/A
New Zealand		None in the current Act. Yet the pending Copyright Amendment Bill would limit OSP liability in certain situations, including: where an ISP merely provides physical facilities enabling communication to take place, caching by ISPs, and where the ISP does not know the third party’s material infringes copyright and upon receiving notice that it does removes/disables access to it. (Draft Clause 53)	N/A	N/A	ISP must not know that third party material infringes copyright and upon receiving notice that it does, removes/disables access to it.
Peru		None. However, if a commercial agreement with the U.S. is approved, Peruvian will add exceptions for ISPs for transmitting, routing, transient storage, caching, storage occurring through providing internet connections, and providing access to infringing materials that users post by means of search tools like	N/A	N/A	N/A

	2. Liability for copyright infringement of others	a. L&E exist for liability for actions of a third party	b. Definition and/or interpretation of “online service provider (OSP)”	c. Entities that qualify as an OSP	d. Conditions for an OSP to qualify for this L&E
		indices, references, hyperlinks directories.			
Singapore	Generally, network service providers may be liable for the (1) routing, transmission and provision of connections to infringing material; (2) making cached copies of infringing material; and (3) storing and linking to infringing material.	Yes. Generally, the courts will not grant monetary relief to the copyright owner if the network service provider satisfies the relevant conditions.	A network service provider (a) means a person who provides services relating to or provides connections for, the transmission or routing of data; and (b) . . . a person who provides, or operates facilities for online services or network access. (s193A and s246).	ISPs, and certain website hosts	Acting as a Conduit: not initiated by network service provider(NSP), automated process without any selection by NSP, NSP does not select the recipients of the electronic copy of the material except as an automatic response to the request of another person, NSP makes no substantive modification. (s193B(2)). Caching: NSP makes no substantive modification, reasonable steps to remove/disable access upon receipt of prescribed notice by copyright owner, complies with Minister’s requirements. (s193C). Storing/Providing Access: no financial benefit from controllable infringement, takes reasonable steps to remove/disable access to the infringing material when NSP acquires actual knowledge, comes to know of qualify for this limitation

	2. Liability for copyright infringement of others	a. L&E exist for liability for actions of a third party.	b. Definition and/or interpretation of “online service provider (OSP)”.	c. Entities that qualify as an OSP	d. Conditions for an OSP to qualify for this L&E.
					or facts which would lead inevitably to the conclusion that the copyright in the material has been infringed, or receive prescribed notice from copyright owner of infringement, the network service provider has designated a representative to receive notification of alleged infringement. (s193D).
Chinese Taipei	Yes	Not in the present law, but under a draft amendment to the Copyright Act the following exceptions are provided: Acting as a conduit for infringing material; caching infringing material; storing infringing material at the direction of the user; and providing access by means of information search tools such as indices, references, hyperlinks and directories to infringing materials that users post.	OSPs are defined by the types of activities they are limited to. OSPs are entities that provide any of the following services: (1) internet access services; (2) quick access services; (3) information storage services; and (4) search tool services.	OSPs are entities that provide any of the following services: (1) internet access services; (2) quick access services; (3) information storage services; and (4) search tool services.	OSPs should notify subscribers or users of its copyright protection measures through contracts or other appropriate means and employ specific measures or acts to ensure its copyright protection measures are in tact.
Thailand	No	N/A	N/A	N/A	N/A
United States	Yes	(1) Acting as a Conduit For Infringing Material	(Limitation No. 1) An entity offering the transmission, routing or providing of	See 2.b.	limited to: (1) transmission must be initiated by someone other than the

	2. Liability for copyright infringement of others	a. L&E exist for liability for actions of a third party.	b. Definition and/or interpretation of “online service provider (OSP)”.	c. Entities that qualify as an OSP	d. Conditions for an OSP to qualify for this L&E.
		(2) Caching Infringing Material (3) Storing Infringing Material at the Direction of a User (4) Providing Access by Means of Information Search Tool Such as Indices, References, Hyperlinks and Directories to Infringing Materials That Users Post (17 U.S.C. 512)	connections for digital online communications, between or among points specified by a user, or material of the user’s choosing, without modification of the content of the material as sent or received. (Limitations Nos. 2-4) A provider of online services or network access, or the operator of facilities thereof, including an entity described in the first definition. (17 U.S.C. 512(k))		Various conditions are required depending on the activity, including but not OSP; (2) transmission must be carried out through an automatic process; (3) OSP does not select recipients; (4) the material is not maintained for a longer time than necessary; (5) no modification of material content; (6) OSP has policy that allows for termination of repeat infringers; (7) OSP accommodates and does not interfere with standard technical measures. (17 U.S.C. 512)
Viet Nam		None.	N/A	N/A	N/A

TEMPORARY COPIES

	3. Is a temporary copy “copy”?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation
Australia	Yes.	Copy is required as an essential step in the use of the program (s47B) For	Various conditions, including: Essential step: incidentally and	Essential step in the use of the program, back-up copy of computer programs: Done	Exceptions provided under sections 47B and 47C of the Act do not apply in the case

	3. Is a temporary copy "copy"?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation
		<p>archival purposes (back up copy of computer program) (s47C); In connection with internet browsing; Made in course of communication (s43A); Made as part of technical process (s43B).</p>	<p>automatically made as part of technical process of running program for designed or receiving communication. purpose. Made in course of communication: made as part of the technical process of making Technical process: made incidentally as necessary part of technical process of using original copy. Backup copy: for person's own use; storing and use if original copy lost etc.; as normal back-up copying for security purposes. General limitations for essential step, back-up, at s47G.</p>	<p>by, or on behalf of , the owner or licensee of the original copy</p>	<p>where the reproduction or adaptation is made without the consent of the owner of the copyright, or is used, sold, or otherwise supplied to a person for a purpose other than that prescribed in the exceptions. (s47G). Made in course of communication: does not apply if the communication itself is a copyright infringement. (s43A). Technical process: does not apply if original copy is infringing. (s43B). Essential step in use of program: does not apply if copy made from infringing copy, or made contrary to express direction of license given by rightholder (s47B) Back-up copy of the programs: for the exception to apply the copy must be done by, or on behalf of, the owner or licensee of the original and must be made from a legitimate copy with a valid licence. The exception will also not apply where the owner has</p>

	3. Is a temporary copy “copy”?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation
					modified the program so a copy cannot be made without modification of the program(47(c)).
Canada		The Act does not specifically discuss temporary copies, but in regards to computer programs, it is not considered who owns an authorized copy infringement for a person to make a single reproduction of the copy by adapting, modifying, converting, or translating the computer program if it is essential for compatibility with a particular computer, solely for their own use, and destroyed after the person ceases to own the copy; or is making a backup copy. (§ 30.6 Copyright Act).	See 4.a-b.	See 4.a-b.	See 4.a-b.
Chile	Yes. Draft legislation clarifies that copying includes temporary copying (Draft Art. 1(1)(a)).	<ul style="list-style-type: none"> - Temporary copies for ephemeral recordings (Art. 69CL). - Essential step in use of program. - Archival purposes Proposed. - “Transient” copies (draft Art. 71 P). 	With respect to “transient” copies: incidental; integral to an essential part of tech. process; sole purpose is for lawful transmission or lawful use; no independent economic significance.	N/A	N/A

	3. Is a temporary copy “copy”?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation
		- Copies made for repairing or improving security (draft Art. 71 O(c)).			
China	Not clearly provided for.	No.	N/A	N/A	N/A
Hong Kong, China	Yes	<p>1. When required as an essential step in the use of the Program.</p> <p>2. For archival purposes.</p> <p>3. To correct errors on the program.</p> <p>4. In connection with Internet browsing.</p> <p>The HKC Government has also sought public views on whether and if so, how, exceptions in this area should be expanded.</p>	<p>1. A lawful user may copy or adapt a program if necessary for lawful use. (§61(1)).</p> <p>2. A lawful user can make a back-up copy if necessary for purposes of lawful use. (§ 60).</p> <p>3. A lawful user may copy or adapt a program if necessary for lawful use for the purpose of correcting errors. (§ 61(2)).</p> <p>4. A transient and incidental copy that is technically required for the viewing or listening of a work by a member of the public to whom the work is made available. (§ 65).</p>	<p>1. A lawful user.</p> <p>2. A lawful user.</p> <p>3. A lawful user.</p> <p>4. A member of the public</p>	If the conditions set forth in these sections are not met.

	3. Is temporary copy “copy”?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation
Japan	There may be a temporary fixation other than what is stored momentarily or transitionally is fallen under “reproduction”. Whether it is fallen under “reproduction” would be determined on a case-by-case basis.	In the following categories, the limitations may apply, but must be determined on a case-by-case basis to see if it is really a reproduction. 1) a temporary copy of computer programs as an essential step in the use of them on a computer (Art. 47bis.); 2) a temporary copy of computer programs for archival purposes, such as making a backup copy (Art.47bis.); 3) a temporary copy of computer programs for correcting their errors on them (Art. 47bis). Revised Japanese Copyright Act provides the L&E for a temporary copy in connection with internet browsing (Art. 47octies. of revised Japanese Copyright Act - scheduled to come into effect in January, 2010- also provides the L&E for a temporary copy described in 1) above).	See Article 47bis. (Article 47ter. of revised Japanese Copyright Act (it is scheduled to come into effect in January, 2010)), Article 47quinquies. and Article 47octies. of revised Japanese Copyright Act.”	See Article 47bis. (Article 47ter. of revised Japanese Copyright Act (it is scheduled to come into effect in January, 2010)), and Article 47quinquies. and Article 47octies. of revised Japanese Copyright Act.	See Article 47bis. (Article 47ter. of revised Japanese Copyright Act (it is scheduled to come into effect in January, 2010)), and Article 47quinquies. and Article 47octies. of revised Japanese Copyright Act.
Mexico		No	N/A	N/A	N/A

	3. Is temporary copy “copy”?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation
New Zealand	Current Act does not specify whether temporary copies constitute infringement, however, its definition of copying includes transient copying.	None in the current Act. Yet the pending Copyright Amendment Bill would include an exception to the reproduction right for transient copies made by computers or communication networks (such as the Internet) as a result of automatic/inevitable technical processes. (Draft Clause 43A).	N/A	N/A	N/A
Peru	Yes	<ol style="list-style-type: none"> 1. Copy required as essential step for lawful use of computer program 2. Backup copies. 3. Adaptation and error correction 	<ol style="list-style-type: none"> 1. Lawful user; personal use. 2. Solely for backup; necessary for use if legally purchased copy is lost or damaged. 3. Lawful user; exclusively for personal use 	Lawful users / owners.	<ol style="list-style-type: none"> 1. Lawful user; personal use; installing software on networks, workstations, etc. is forbidden. 2. Solely for backup; necessary for use if legally purchased copy is lost or damaged. 3. Lawful user; personal use.
Singapore	Yes S15(1A)	1. The copyright in a work is not infringed by the making of a temporary or transient reproduction of the work during the course of making a communication.	<ol style="list-style-type: none"> 1. The reproduction is made incidentally as part of the technical process of making or receiving a communication; 2. The act of making the communication itself does not constitute an infringement; 3. The work or adaptation that is communicated must not be 	Not specified	Not specified

	3. Is a temporary copy “copy”?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation.
Chinese Taipei	Yes	1. Copy is required as an essential step in the use of the program (§65(2)) 2. For archival purposes (§59(1)) 3. In connection with streaming of audio or video content over the internet (§22) 4. In connection with internet browsing (§22)	1, 3, 4 and 5 Temporary reproduction must be exclusively for the purpose of an infringing copy; and 4. The temporary or transient copy should not be used subsequently (s38A).lawful network relay transmission or for the lawful use of a work, and should be transient and an incidental part of the process without independent economic significance. Also the owner of legal copy of a computer program may reproduce it for back up purposes. It must be necessary for backing up the program or necessary for adaptation for utilization on a machine(§59(1). Furthermore, this I limited to the owner’s personal use.	1, 3, 4, and 5 are not identified. But for 2 only libraries, museums and other cultural institutions open to the public may do so.	None identified.
Thailand	Yes	Copyright Act does not explicitly allow for temporary copies, but definition of reproduction may be construed to include temporary copies. (Articles 32, 35, 43).		only copyright holder	Reproduction shall not conflict with normal exploitation of the work, and not prejudice the rights of the copyright holder. In the case of computer programs, purpose of reproduction must be of a non-profit nature. (Section32(1)).

	3. Is a temporary copy “copy”?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation.
United States	Yes	<p>1. Copy of a computer program when A. Copy is required as an essential step in the use of the computer program; B. Copy is a backup/archival copy; or C. Copy is made for purposes of maintenance or repair of the machine. (17 U.S.C. 117)</p> <p>2. Copy of transmission program of a broadcaster or other transmitting organization entitled to transmit public performances or displays of works. (17 U.S.C. 112)</p> <p>3. Material temporarily copied as a result of an online service provider’s system caching means. (17 U.S.C. 512)</p>	<p>1. Only applicable to computer programs (17 U.S.C. 112, 117, 512). 2. Only if the copyright owner refuses to provide to the transmitting organization, the means for making such copies in a timely manner. (17 U.S.C. 112)</p> <p>3. Conditions include, inter alia: Material is transmitted to subsequent users without modification; The OSP complies with rules concerning the refreshing, reloading or other updating of the material (17 U.S.C. 512(b))</p>	Owners of copies of program or machine, online service providers, transmitting organizations. (17 U.S.C. 112, 117, 512).	<p><u>Essential step</u>: copy must not be used in any other manner, and in the case of OSPs, no copy is maintained on the system or network in a manner accessible to users other than intended recipients, and no copy is maintained longer than reasonably necessary. <u>Backup Copies</u>: must be destroyed in the event that continued possession ceases being rightful <u>Maintenance</u>: must be made due to the activation of the machine; must be destroyed immediately after maintenance is completed (17 U.S.C. 112, 117, 512)</p>
Viet Nam		<p>1. When such a copy is required as an essential step in the use of the program. 2. For archival purposes</p>	<p>1. A broadcasting organization temporarily makes a phonogram by itself for broadcasting when it is entitled to the right to broadcast. 2. Temporary copies made by</p>	Broadcasting organizations	None.

	3. Is temporary copy “copy”?	4., 4.a-b. Situations in which L&E exist for making temporary copies	c. Conditions	d. Who may make the temporary copy for each situation	e. Restrictions on ability to make temporary copy for each situation
			the broadcasting organizations with their own devices and facilities to serve the subsequent broadcasts of the broadcasting organizations. In some special cases, those copies shall be kept at official archives.		

TECHNOLOGICAL PROTECTION MEASURES AND DIGITAL RIGHTS MANAGEMENT

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must rightsholders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
Australia	Yes	Defences (ss116AN (civil) and 132APC (criminal)): Permission; interoperability; encryption research; computer security testing; online privacy; law enforcement and national security; libraries and archives; prescribed acts listed in Schedule 10A of <i>Copyright Regulations 1969</i> . No liability for circumvention of a TPM which is not an access	No	Yes	Defences (ss116AO, 116AP (civil), 132APD and 132APE (criminal)): No promotion, advertising, etc.; interoperability; encryption research; computer security testing; law enforcement and national security; libraries, archives, educational institutions and public non-commercial broadcasters (in relation to criminal liability only.)	No

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must rightsholders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		control TPM.				
Canada	No.	Canadian Copyright Act provides no protection for TPMs	N/A	No	N/A	N/A
Chile	No.	N/A	N/A	No.	N/A	N/A
China	Yes.	Yes. Article 12 of the Regulations on the Protection of the Right of Communication through Information Network provides as follows: Article 12 Under any of the following circumstances, the relevant technical measures may be avoided, whereas the techniques, devices or components of the technical measures may not be provided to any other person and the other rights as enjoyed by the owner according to law may not be injured:	No.	Yes.	No.	No.

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must rightsholders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		<p>(1) Where any published work, performance or audio-visual product is provided to a small number of people that engage in teaching or scientific research through the information network for the purpose of teaching or scientific research, whereby the aforesaid published products can only be accessed through the information network;</p> <p>(2) Where any of the written works as already published is provided not the for the purpose of making profits to the blind through the information network in a unique way as particularly perceptible by the blind, and the aforesaid works can only be acquired through the information network;</p> <p>(3) Where the state organ exercises its functions according to the administrative and judicial procedures; or</p> <p>(4) Carrying out any testing on the computer as well as</p>				

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must rightsholders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		its system or the safety performance of the network through the information network.				
Hong Kong, China	Yes.	Interoperability; research cryptography; to identify or disable a function that collects or disseminates personally identifiable information; to prevent market segmentation; security testing; gaining access to parallel imported copies of copyright works; preventing access by minors to harmful materials on the Internet; law enforcement; library doing the acts permitted in §§ 50, 51, 53 (relating to supplying of copies to other libraries, replacement copies of works, copying articles of culture or historical importance; The Secretary for Commerce and Economic Development may provide additional exceptions for the prohibition on the act of	No.	Yes	A person will incur civil liability if he, knowingly or having reason to believe that it will be used to make infringing copies or infringing fixations (a) makes, imports, exports, sells or lets for hire, offers or exposes for sale or hire, advertises for sale or hire, or possesses for the purpose of, in the course of, or in connection with, any trade or business, any device or means specifically designed or adapted to circumvent the form of copyprotection employed; or (b) publishes information intended to enable or assist person to circumvent that form of copy-protection. (§ 273). The Copyright (Amendment) Ordinance 2007 extends the protection for TPMs to cover both copy protection and access control measures. It provides for a new civil liability for the act of circumvention in addition to	No

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must rightsholders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		circumventing TPMs if he is satisfied that the circumvention would not infringe copyright and there is a risk that the public's legitimate use of works would be adversely impaired as a result of the prohibition (§ 273D, 273E, 273F, 273H). These provisions became law in 2007 but they have not yet come into force.			civil liability against any person who deals in circumvention tools or provides circumvention services for the circumvention of TPMs; and provides for a new criminal offence against any person who is engaged in commercial dealing of circumvention tools or provides circumvention services on a commercial basis (§ 273A, 273B, 273C). The exceptions include: interoperability; research cryptography; to identify or disable a function that collects or disseminates personally identifiable information; to prevent market segmentation; security testing; gaining access to parallel imported copies of copyright works; preventing access by minors to harmful materials on the Internet; and law enforcement. The Secretary for Commerce and Economic Development may provide additional exceptions for the prohibitions if he is satisfied that the use/dealing with the devices/services would not	

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must rightsholders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
					infringe copyright and there is a risk that the public's legitimate use of works would be adversely impaired as a result of the prohibitions. (§273E, 273F, 273H).	
Japan	Yes	The criminal penalties for circumvention of technological measures are applied only to the person who commits such act as business, (including cases where it is carried out habitually without any purpose of financial gain and within non-commercial scale) in response to a request from the public	No.	Yes	No	No
Mexico	Yes	No	No	Yes	No	No
New Zealand	No	N/A	N/A	Yes. Pending legislation would allow copyright owners to take action against those supplying/	None, however, prohibition only applies when services/devices intended to be used to make infringing copies. (§226).	Yes, "copyprotection measures" are prohibited.

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must rightsholders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
				manufacturing TPM circumvention tools that could enable infringement of any exclusive rights, not just copying. (Draft Clause 89).		
Peru		None specified; however, if a commercial agreement with the U.S. is approved, Peruvian legislation would add exceptions for good faith activities such as security testing, good faith research, and to prevent access of inappropriate material to minors, and non-infringing activities provided there is substantial evidence of adverse impact on those uses.	N/A		N/A	N/A
Singapore	Yes (s261C(1)(a))	Exceptions, if act is: 1) done to enable certain institutions to have access to certain classes of copyright	None	Yes (s261C(1)(b))	S261E(1) Permitted activities include (a) the manufacture, importation, distribution,	N/A

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must right holders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		<p>material, which is not otherwise available to that institution, for the sole purpose of determining whether to acquire that copyright material.</p> <p>2) done to identify or disable a TPM that collects/disseminates personally identifying information of network usage without conspicuous notice, provided that the circumvention does not affect the ability of any person to gain access to that copyright material.</p> <p>3) done i) in good faith, ii) in relation to a copy of a computer program that is noninfringing, and iii) with respect to particular elements of the computer program that are not readily available to the person doing the act, for the sole purpose of achieving interoperability of an independently created computer program with another computer program.</p> <p>4) done when undertaking</p>			<p>offering to the public or provision of a device, product or component, or the offering to the public or provision of a service, to carry out an act to circumvent a technological measure that is done (i) in good faith; (ii) in relation to a copy of a computer program that is not an infringing copy; and (iii) with respect to particular elements of the computer program that are not readily available to the person doing the act, for the sole purpose of achieving interoperability of an independently created computer program with another computer program;</p> <p>(b) the manufacture, importation, distribution, offering to the public or provision of a device, product or component, or the offering to the public or provision of a service, to carry out an act to circumvent a technological measure for encryption research;</p> <p>(c) the manufacture, importation, distribution,</p>	

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must rightsholders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		<p>research on any encryption technology provided that the person doing the act (a) is engaged in a legitimate course of study in the field of encryption technology, (b) is employed or appropriately trained or experienced in that field or (c) is doing so on behalf of a person so engaged, employed, trained or experienced. In addition, the act is necessary to conduct such research; the act must be done in good faith and in relation to a copy of the work or subject-matter that is not an infringing copy thereof or a copy of the performance that is not an unauthorized recording thereof; and the person doing the act has made a reasonable effort to obtain the authorization of the owner of the copyright in the work or subject-matter or the performer of the performance to do the act.</p> <p>5) the act is done for the sole</p>			<p>offering to the public or provision of a component or part for filtering; (d) the manufacture, importation, distribution, offering to the public or provision of a device, product or component, or the offering to the public or provision of a service, to carry out an act to circumvent a technological measure for testing, investigating and correcting security flaws; (e) an act carried out by the Government or by any person authorised by the Government for the purpose of law enforcement, intelligence, national defence, essential security or other similar purpose.</p>	

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must right holders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		<p>purpose of preventing access by minors to any material on the Internet provided that the technology, product or device is not i) advertised to circumvent the TPM; or ii) has limited commercial significant purpose other than to circumvent the technological measure ; or (iii) is designed or made primarily for the purpose of circumventing TPM.</p> <p>6) done by or under the authority of the owner of a computer, computer system or computer network for the sole purpose of testing, investigating, or correcting a security flaw or vulnerability of that computer, computer system or computer network.</p> <p>7) done by Government or by any person authorized by the Government for law enforcement, security related purposes. (S261D(1)).</p>				
Chinese Taipei	Yes	Exceptions for circumventing TPMs are: (1) where to pre serve national	No	Yes	Permitted exceptions include: (1) where to preserve national security; (2) where done by	No

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must right holders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		security; (2) where done by central or local government; (3) where done by file archive institutions, educational institutions; or public libraries to asses whether to obtain the information; (4) to protect personal data; (5) to protect minors; (6) security testing; (7) to conduct encryption research; and (8) to conduct reverse engineering. (§80ter(3) of the Copyright Act and the “Directions Defining the Content fo the Taipei Subparagraphs of Paragraph 3 of Article 80ter of the Copyright Act”).			central or local government; (3) where done by file archive institutions, educational institutions; or public libraries to asses whether to obtain the information; (4) to protect personal data; (5) to protect minors; (6) security testing; (7) to conduct encryption research; and (8) to conduct reverse engineering.	
Thailand	No	N/A	N/A	N/A	N/A	No
United States	Yes	Permanent exemptions exist for certain activity involving: 1. nonprofit libraries, archives, and educational institutions; 2. law enforcement or government intelligence activity; 3. reverse engineering; 4. encryption research; 5. preventing access by minors to Internet	Only when a transmitting organization entitled to create a phonorecord pursuant to 17 USC 112(e) is prevented from doing so.	Yes	Permanent exemptions exist for: 1. law enforcement; 2. reverse engineering; 3. encryption research; 4. preventing access by minors to Internet material; 5. security testing (1201(c),(e),(f),(g),(h),(j)).	None

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must right holders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		<p>material; 6. protection of personally identifiable information; 7. security testing. (17 U.S.C. 1201(c),(d),(e),(f),(g),(h),(i), (j)).</p> <p>Transmitting organizations may circumvent a technological protection measure if they are entitled to make a phonorecord under section 112(e) and are prevented from doing so by a technological protection measures, and the coyright owner fails to make the means necessary for permitting the making of such phonorecord available to the transmitting organization in a timely manner in light of the transmitting organization’s reasonable business requirements. (17 U.S.C. 112(e)(7)).</p> <p>Additional non statutorily specified exemptions may be promulgated by the Librarian of Congress for non infringing uses of</p>				

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must right holders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
		particular classes of works 17 U.S.C. 1201(a)(1)(B)-(D).				
Viet Nam		<p>The IP Law provides acts of infringement of IPR including the following acts:</p> <ul style="list-style-type: none"> • Intentionally cancelling or invalidating technical measures applied by the copyright owner to protect copyrights of his or her own work; by related rights owners to protect his or her related rights. • Intentionally erasing or amending electronic information on copyright management of a work; any right management information in electronic format without permission of the copyright's owner or related right's owner. 	<p>Intellectual property rights holders shall have the right to apply technological measures to prevent infringement of intellectual property rights.</p>		<p>The IP Law provides acts of infringement of IPR including the following acts: Intentionally cancelling or invalidating technical measures applied by the copyright owner to protect copyrights of his or her own work; by related rights owners to protect his or her related rights.</p>	<p>The IP Law provides acts of infringement of IPR including the following acts:</p> <ul style="list-style-type: none"> • Intentionally cancelling or invalidating technical measures applied by the copyright owner to protect copyrights of his or her own work; by related rights owners to protect his or her related rights. • Intentionally erasing or amending electronic information on copyright management of a work; any right management information in

	5. Prohibitions on TPM circumvention	a. L&E to prohibitions on act of circumventing TPMs	b. Must right holders provide means for exercise of a L&E?	6. Prohibitions on TPM circumvention tools	a. L&E to such prohibitions?	7. Prohibitions on incorporation of TPMs in certain cases or certain classes
						electronic format without permission of the copyright's owner or related right's owner.

L&E RELATED TO EDUCATIONAL USES

PERFORMANCES AND DISPLAYS FOR EDUCATIONAL PURPOSES

	8., 8.a. L&E for performances of works for educational purposes	b. Organizations that may utilize the L&E for performances of works for educational purposes	c. Requirements that must be met in order for a performance to fall under this L&E
Australia	Performance and communication of works in the course of education instruction excepted from “public performance” (s28). Film recording of a performance is permissible if made by/on behalf of educational institution solely for educational purposes (s248). Exception for reproducing or adapting a literary, dramatic, musical or artistic work if done in course of educational instruction and not reproduced by appliance adapted for production of multiple copies (s200).	Definition includes pre school, kindergarten, primary and secondary schools, universities, colleges of advanced education, technical institutions, correspondence schools, schools of nursing, hospital training schools and teacher education centres (s10). The Attorney-General can also ‘declare’ certain bodies to be educational institutions.	For s28 exception, audience must be limited to persons who are taking part in the instruction or directly connected to the place where the instruction is taking place. Section 200AB exception requires that: (i) use is not for a commercial advantage or profit, (ii) use amounts to ‘special case’ (same meaning as TRIPS Art. 13), (iii) does not conflict with normal exploitation, (iv) does not unreasonably prejudice the legitimate interests of the copyright owner. See original exception descriptions for requirements.

	8., 8.a. L&E for performances of works for educational purposes	b. Organizations that may utilize the L&E for performances of works for educational purposes	c. Requirements that must be met in order for a performance to fall under this L&E
	<p>Exception for use of works for “special purposes,” including use by educational institution for the purpose of giving educational instruction subject to certain conditions (s200AB). Educational institutions are able to 'reticulate films and sound recordings through a central source player in a different location (ie a device in a library from which material is displayed on monitors in a classroom). This exception also allows for the retransmission of live broadcasts to the classroom. The copying of broadcasts for educational institutions is covered under a statutory licence scheme</p> <p>Educational institutions are able to 'reticulate films and sound recordings through a central source player in a different location (ie a device in a library from which material is displayed on monitors in a classroom). This exception also allows for the retransmission of live broadcasts to the classroom. The copying of broadcasts for educational institutions is covered under a statutory licence scheme.</p>		
Canada	<p>Relevant Copyright Act Sections: § 29.5 - live performance of a work, the performance of a sound recording, and performance of a work at the time of its communication to the public by telecommunication; § 29.6 - performance of a copy of a news program or a news commentary program; § 29.7 - performance of a copy of a work</p>	Educational institutions and those acting under their authority.	<p>Under §29.5, the performance must be:</p> <ul style="list-style-type: none"> • on the premises of an educational institution, • for an educational purpose and not for profit, • audience primarily students, instructors. <p>Under §29.6, the performance must be:</p> <ul style="list-style-type: none"> • within one year after the copy is made (after which educational institution must pay royalties and comply with applicable terms and conditions or destroy the copy) • on the premises of an

	8., 8.a. L&E for performances of works for educational purposes	b. Organizations that may utilize the L&E for performances of works for educational purposes	c. Requirements that must be met in order for a performance to fall under this L&E
	communicated to the public by telecommunication. However, the educational institution must pay royalties and comply with applicable terms and conditions. § 29.4(2)(a) - performance of a work as required for a test or examination.		educational institution, • for an educational or training purpose • audience primarily students, instructors. Under §29.7 the performance must be: • on the premises of the educational institution, • for educational or training purposes • audience primarily students, instructors. Under §29.4(2)(a) must be performed on the premises of the educational institution.
Chile	Works can be performed or recited freely within an educational institution (Art. 47).	Educational establishments that are not run for profit.	• Performance must take place in educational institution or nonprofit institution • Performance cannot be for profit.
China	Yes. Item 6, Paragraph 1 and Paragraph 2 of Article 22 of the Copyright Law provide as follows: Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed: 6. For use by teachers or scientific researchers for teaching or scientific research, to translate or reproduce in a small quantity a published work, however, the translation or reproduction may not be published or distributed; The provisions of the paragraph above shall be applicable to the restriction on the rights	Education organizations approved by education authorities for teaching purposes.	Please refer to Item 6, Paragraph 1 and Paragraph 2 of Article 22 of the Copyright Law. (Please, refer to the first column).

	8., 8.a. L&E for performances of works for educational purposes	b. Organizations that may utilize the L&E for performances of works for educational purposes	c. Requirements that must be met in order for a performance to fall under this L&E
	of publishers, performers, producers of sound recordings and visual recordings, radio stations and television stations.		
Hong Kong, China	Performance of a literary, dramatic or musical work before pupils, teachers, parents or guardians of pupils, and other persons directly connected with the activities of the establishment by teacher/pupil in the course of the activities of the establishment or at the establishment by any person for the purposes of instruction. (§ 43). Playing or showing of sound recordings, film, broadcast and cable programme before such audience at educational establishment for the purposes of giving/receiving instruction The Copyright (Amendment) Bill 2006 was passed.	Educational establishments, as defined by §195 Schedule 1.	Audience must consist of wholly or mainly of teachers and pupils. Parents and guardians of pupils and other persons directly connected with the activities of the educational establishment are also covered by the exception. Performance must be by (i) a teacher or pupil or (ii) at the establishment by any person.
Japan	Although Japanese law does not provide a specific limitation for performances of works for educational purposes, works can be performed for such purposes without the authorization of the copyright holder by using the limitation stipulated in Art. 38. (See answer to question 21 for details of this article)	N/A	N/A
Mexico	Publication or translation of literary or artistic works will be considered when it is necessary for the advancement of national science, culture and education. Where it is not possible to obtain the consent of the rights holder, the Federal Executive may license the work for compensatory	The Secretariat of the Public Education.	A “compensatory remuneration” must be paid to the rights holder.

	8., 8.a. L&E for performances of works for educational purposes	b. Organizations that may utilize the L&E for performances of works for educational purposes	c. Requirements that must be met in order for a performance to fall under this L&E
	remuneration. Subject to Mexico's international treaty obligations.		
New Zealand	Yes, may perform, play or show work in the course of an educational establishment's activities. (s47)	Non-profit educational establishments.	Students or staff members may perform a dramatic or musical work before an audience of students, staff members or those directly connected with the establishment.
Peru	Educational purposes, performed in the course of the activities of a teaching institution by the staff and students of that institution.	Educational institutions.	Act must have an exclusively educational purpose; performed in the course of activities of a teaching institution by teachers/staff; provided that the communication pursues no direct or indirect profit making purpose and the audience is composed solely of the staff and students of the institution or parents or teachers of students and other persons directly associated with the institution's activities.
Singapore	Yes, generally can perform a literary, dramatic, or musical work, as long as it is for educational purposes. (s23(1), (2), (3), (4)).	"Educational institutions": Non-profit schools providing full-time education, higher education, certain nursing and hospital programs.	Non-profit education institution, and (1) students or staff play musical work, or (2) students or staff perform a literary or dramatic work, if the audience is limited to those directly connected to the place where instruction is given.
Chinese Taipei	Yes. A work that has been publicly released may be publicly recited, broadcasted, presented, or performed as long as it is for non-profit use. (§55 of the Copyright Act.) Also this may be allowed under fair use. (§ 65(2) of the Copyright Act).	Not specific	Must be non-profit activity for the first exception and therefore no fee may be collected from viewers or listeners and no compensation may be given to the performers. For "fair use" exception the following factors shall be used to determine whether the performance falls under the exception: (1) the purpose and character of the exploitation; (2) the nature of the work; (3) the amount and substantiality of the portion exploited in relation to the work as a whole; and (4) the effect of the exploitation on the work's current and potential market value

	8., 8.a. L&E for performances of works for educational purposes	b. Organizations that may utilize the L&E for performances of works for educational purposes	c. Requirements that must be met in order for a performance to fall under this L&E
Thailand	Yes, instructors may exhibit or display works for purposes of instruction as long as it is not for profit (Section 32(6)).	Educational institutions.	Performance or display will not be considered infringement if it does not interfere with normal exploitation of the work, and does not unreasonably prejudice the rights of the copyright holder. Section 32 paragraph 1
United States	<p>1. Performance or display by instructors or pupils in the course of face-to-face teaching;</p> <p>2. Performance of a non-dramatic literary or musical work by transmission;</p> <p>3. Performance of a non-dramatic literary or musical work other than in a transmission to the public;</p> <p>4. Performance of a non-dramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, when such transmission is made through the facilities of a noncommercial educational broadcast station as defined in 47 U.S.C. 397, (17 U.S.C. 110(1), (2), (4), (8))</p>	<p>1. Nonprofit educational institutions and government bodies</p> <p>2. government bodies or accredited nonprofit educational institutions</p> <p>3. Organizations giving proceeds to educational, religious or charitable purposes.</p> <p>4. Government body, noncommercial educational broadcast station, radio subcarrier, or cable system. (17 U.S.C. 110(1), (2), (4), (8))</p>	<p>1. Performed or displayed in a classroom or similar place,, in course of face-to-face teaching. In the case of motion pictures or audiovisual works, copy must be lawfully made, or the person responsible for the performance had no reason to believe it was not lawfully made.2. Does not apply if work was produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks; performance or display must not be given by means of copy or phonorecord that is not lawfully made and governmental body or accredited nonprofit educational institution knew or had reason to believe it was not lawfully made or acquired; performance made by instructor, related to teaching; transmission is solely to students or employees of governmental bodies.</p> <p>3. No direct or indirect commercial purpose or admission charge; proceeds are used for educational, religious or charitable purposes; no prior notice of objection by copyright holder.</p> <p>4. No direct or indirect commercial advantage. (17 U.S.C. 110(1), (2), (4), (8))</p>
Viet Nam	Directly recording and reporting performances for public information and educational purposes; duplication by oneself of one single copy for the purpose	Persons or legal entities.	Acts shall not make any affect to normal exploitation of the works or prejudice the rights of the authors or copyright owners and must provide information about the name of the authors and

	of teaching activities, except when		origins of works. This exception does not apply to
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	8., 8.a. L&E for performances of works for educational purposes	b. Organizations that may utilize the L&E for performances of works for educational purposes	c. Requirements that must be met in order for a performance to fall under this L&E
	phonograms or broadcasting programs have been published for teaching.		architectural works, fine art works, and computer programs.

TRANSMISSION FOR DISTANCE LEARNING PURPOSES

	9., 9.a. L&E for transmissions of works for distance learning purposes	b. Organizations that may utilize L&E for distance learning purposes	c. Requirements that must be met in order for a transmission to fall under this L&E
Australia	Institutions which conduct courses of primary, secondary or tertiary education by correspondence are included within the definition of 'educational institutions' under the Act and therefore have the benefit of exceptions described under 8 (above).	Definition includes pre school, kindergarten, primary and secondary schools, universities, colleges of advanced education, technical institutions, correspondence schools, schools of nursing, hospital training schools and teacher education centres (s10). Attorney-General can also 'declare' certain bodies to be educational institutions.	See question 8 (exceptions permitting various performance and communication) (s28), special purposes exemption (s200AB)
Canada	No	Not applicable	Not applicable
Chile	No	N/A	N/A
China	Yes. Article 8 of the Regulations on the Protection of the Right of Communication through Information Network provide as follows: Where the nine-year compulsory education or state education planning is implemented through the information network, the owner's permission may be absent in using fragments of works, short written works or musical	Distance education organizations approved by education authorities for the purpose of implementing the nine-year compulsory education or national education programs through Internet.	For detailed provisions, please, see Article 8 of the Regulations on the Protection of the Right of Communication through Information Network. (Please, refer to the first column).

	9., 9.a. L&E for transmissions of works for distance learning purposes	b. Organizations that may utilize L&E for distance learning purposes	c. Requirements that must be met in order for a transmission to fall under this L&E
	works, a single work of fine art, or photographic works to produce courseware; the long-distance education institutions that have produced the courseware or acquired courseware according to law may provide such courseware to the registered students through information networks but shall pay relevant remuneration to the copyright owner.		
Hong Kong, China	No specific exception. However, the transmission of works for distance learning may be covered by the fair dealing exception: fair dealing with a work by or on behalf of a teacher or by a pupil for the purposes of giving or receiving instruction in a specified course of study provided by an educational establishment. (§ 41A). The Copyright (Amendment) Bill 2006 was passed in late June 2007. This fair dealing exception came into effect on 6 July 2007.	Educational establishments providing instruction in a specified course of study.	Please see 9a.
Japan	Public transmission and interactive transmission of a published work for those taking lessons at the same time but at a different place from the one where the lessons are being given. (Art. 35(2)).	Schools and other educational institutions, but not including schools established for profit.	The work must already be published and must be transmitted to those taking lessons at the same time but at a different place from the one where the lessons are being given. Also, transmission may not unreasonably prejudice the copyright owner's interests in light of the nature and purpose of the work and form of transmission.
Mexico	None	N/A	N/A
New Zealand	No, but pending legislation will allow educational establishments to copy and communicate communication works. (Draft Clause 28)	N/A	N/A
Peru	Transmission is considered a public communication, therefore the same exception	Same as performance. Please refer to question 8b.	Same exception for performance. Please refer to question 8c.

	9., 9.a. L&E for transmissions of works for distance learning purposes	b. Organizations that may utilize L&E for distance learning purposes	c. Requirements that must be met in order for a transmission to fall under this L&E
	that exists for performances also applies to transmission for distance learning. Refer to question 8a.		
Singapore	Can communicate from education institution premises for purposes of a course of education provided by the institution. (s51(1A), s52(1),(2), s52A).	“Educational institutions”: Non-profit schools providing full-time education, higher education, certain nursing and hospital programs. See answer to 8b.	Must be for purposes of a course of education provided by the institution. S51(2),(3),(4),(5A),s52(4),(7A)(7B)(7C)(7D).
Chinese Taipei	No		
Thailand	No	N/A	N/A
United States	1. Performance of a work by transmission and/or ephemeral recordings used in the course of such transmissions for mediated instructional activities. (17 U.S.C. 110(2), 112(b)).	1. Non-profit educational institutions and government bodies (17 U.S.C. 110(2)).	1. Does not apply if work was produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks; performance or display must not be given by means of copy or phonorecord that is not lawfully made and acquired and the governmental body or accredited nonprofit educational institution knew or had reason to believe it was not lawfully made or acquired; performance made by instructor, related to teaching; transmission is solely to students or employees of governmental bodies. (17 U.S.C. 110 (2))
Viet Nam	None.	N/A	N/A

COPYING FOR EDUCATIONAL PURPOSES

	10., 10.a. L&E for copying for educational organizations or educational use	b. Organizations that may utilize the L&E for educational use	c. Types of work that may be copied under the L&E for educational use
Australia	<p>Various specific provisions and statutory licenses</p> <ul style="list-style-type: none"> - Statutory license scheme for educational institutions to reproduce for education purposes with payment to an approved collecting society. Note that generally, there are limits on the amount of material that may be copied if the copies are available at a reasonable commercial price. (Part VB). - Statutory license scheme for copying of broadcasts by educational institutions (Part VA). - Schools are permitted to play films and sound recordings in classrooms, including films and sound recordings reticulated through a central source player in a different location (s28). - More specific provisions such as reproduction or adaptation if done in course of educational instruction and not reproduced by appliance adapted for production of multiple copies (s200). - Proxy caching by educational institution subject to various conditions (s200AAA). - “Special purposes” exception includes use by educational institution for instruction subject to specific conditions (s200AB). 	<p>Definition includes pre school, kindergarten, primary and secondary schools, universities, colleges of advanced education, technical institutions, correspondence schools, schools of nursing, hospital training schools and teacher education centres (s10).</p> <p>Attorney-General can also ‘declare’ certain bodies to be educational institutions.</p>	<p>Literary, dramatic, artistic and musical works. In addition, a statutory license scheme applies to the copying of broadcasts by educational institutions (Part VA).</p>
Canada	<p>A work or other subject matter can be reproduced as required for a test or examination. Manual reproductions on a handwritten surface; copies for an overhead</p>	<p>Educational institutions, as defined in § 2 of Copyright Act, and persons acting under the authority of those institutions.</p>	<p>Must be performed on the premises of the educational institution. Works not commercially available in a medium appropriate for testing or examination.</p>

	10., 10.a. L&E for copying for educational organizations or educational use	b. Organizations that may utilize the L&E for educational use	c. Types of work that may be copied under the L&E for educational use
	projector; copies of a news program kept for under one year. (see § 29 Copyright Act for all L/Es, §30 Copyright Act)		
Chile	No express reference except with respect to quotations (Art. 38 CL). This type of exception may be permitted under private use exception. Pending legislation permits copying by librarians that serve educational organizations. (draft Art. 71 M).	<ul style="list-style-type: none"> • Quotation exception applies to everyone. • Proposed librarian copying exception limited to librarians that serve educational organizations. 	Exceptions apply to any type of work.
China	<p>Yes. For detailed provisions, please see Item 6, Paragraph 1 of Article 22of the Copyright Law and Item 3, Article 6 of the Regulations on the Protection of the Right of Communication through Information Network. The foregoing provisions do not provide limitations on the form of copies.</p> <p>These clauses are provided as follows:</p> <p>- Copyright law: Article 22: Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>6. For use by teachers or scientific researchers for teaching or scientific research, to translate or reproduce in a small quantity a published work, however, the translation or reproduction</p>	Education organizations approved by education authorities for classroom teaching purposes.	The foregoing provisions do not provide limitations on types of works allowed to be copied.

	10., 10.a. L&E for copying for educational organizations or educational use	b. Organizations that may utilize the L&E for educational use	c. Types of work that may be copied under the L&E for educational use
	<p>may not be published or distributed; - The Regulations: Article 6 Under any of the following circumstances, works may be provided through the information network, and the provider may be exempted from obtaining the owner's permission as well as paying the relevant remunerations thereto: (3) Where, in order to support the teaching research or scientific research, a small quantity of published works are provided to some people who engage in teaching or scientific research;</p>		
<p>Hong Kong, China</p>	<ol style="list-style-type: none"> 1. No infringement for copying by a person giving or receiving instruction which is not by means of a reprographic process. (§ 41). 2. No infringement for copying for making a film or film sound-track in the course of instruction or for preparation of instruction by person giving/receiving instruction (§ 41). 3. No infringement for purposes of an examination (§ 41). 4. Copying for educational purposes if an acknowledgement of authorship is in the recording and it is not made for gain. (§44). However, this does not apply if licensing under a licensing scheme is available and the person making the copy knew or ought to have been aware of that fact. (§ 44). 5. Reprographic copies of works, to a reasonable extent, for giving/receiving instruction by educational establishment/pupil. However, this does not apply if licensing scheme is available as stated above. (§ 45). 6. Fair dealing with a work by or on behalf of 	<ol style="list-style-type: none"> 1. Person giving/receiving instruction. 2. Person giving/receiving instruction. 3. Not specified. 4. Educational establishments. 5. Educational establishments and pupils. 6. Teachers and pupils. 	<ol style="list-style-type: none"> 1. Literary, dramatic musical or artistic works (For corresponding # in left column). 2. Sound recording, film, broadcast, or cable programme.(For corresponding # in left column). 3. Any works except for a reprographic copy of a music work (For corresponding# in left column). 4. Recording of a broadcast or cable program. (For corresponding # in left column). 5. Artistic works or of passages from published literary, dramatic or musical works. 6. Literary, dramatic, musical or artistic works, sound recordings, films, broadcasts, cable programmers, or typographical arrangements of published editions.

	10., 10.a. L&E for copying for educational organizations or educational use	b. Organizations that may utilize the L&E for educational use	c. Types of work that may be copied under the L&E for educational use
	a teacher or by a pupil for the purposes of giving/receiving instruction in a specified course of study provided by educational establishment (§41A)		
Japan	Yes.	A person who is in charge of teaching and those who are taught in a school or other educational institution, except those established for profit-making.	Every type of published works may be copied.
Mexico	Literary and artistic works already disclosed may be used, whenever normal exploitation of the works is not affected, without authorization of the rights holder and without remuneration, where the source is mentioned and without altering the work, only in the following cases: Reproduction of parts of the work for purposes of scientific, literary or artistic review and research; One-time reproduction of a single copy of a literary or artistic work for the personal and private use of the person who does it, and not profit. Legal entities may not avail themselves of this exception except in the case of an educational or research institution, or a non-profit institution.	Educational or research institution or an institution not devoted to commercial activities.	Literary and artistic works already disclosed.
New Zealand	Yes, may copy for instruction or preparation for instruction. (s44)	Non-profit educational establishments.	Literary, dramatic, musical and artistic works and the typographical arrangements of published editions.
Peru	Copies may be made without the author's consent for teaching or giving exams at educational institutions. The reproduction cannot be made for any commercial purposes and the exception cannot affect honest uses of the work.	Educational institutions.	Reproduction is allowed for articles or small parts of works.

	10., 10.a. L&E for copying for educational organizations or educational use	b. Organizations that may utilize the L&E for educational use	c. Types of work that may be copied under the L&E for educational use
Singapore	Insubstantial copying (s51(1)). Statutory licenses for substantial copying (s52(1),(2)). Sound/Television program (s115).Film or soundtracks (s115A).	“Educational institutions”: Non-profit schools providing full-time education, higher education, certain nursing and hospital programs. Institutions assisting handicapped and intellectually handicapped readers.	Periodicals, literary, musical, dramatic and artistic works, sound broadcasts, television broadcasts, cable programs, sound recordings, and cinematograph films.
Chinese Taipei	Copies can be made for the following purposes: (1) for teaching purposes; (2) preparing pedagogical texts subject to review and approval by an education administrative agency; (3) the preparation of supplementary teaching aids that are ancillary to the textbooks and are provided to teachers only for the purpose of teaching; (4) Reproduction of abstracts of masters theses, doctoral dissertations, academic papers published in periodicals, research reports and collections of seminar papers; (5) reproduction for use in examinations(Article 46, 47(1)(2), 48bis, 54 of the Copyright Act).	Educational institutions, educational agencies established by law, and teachers where noted.	For (1),(2), (3),and (5) all works that have been publicly released may be reproduced. For (4) on the abstracts of masters theses, doctoral dissertations, academic papers published in periodicals, research reports and collections of seminar papers may be reproduced
Thailand	Reproduction by an instructor is permitted for non-profit instruction purposes. (Section 32(6)). Reproduction by an instructor or educational institution is permitted for the distribution or sale of materials to students as long as it is not done for profit. (Section 32(7)).	Educational institutions.	Works copyrightable under Thai Copyright Act 1994 (Section 32(1) and Section 6).
United States	Allowed if fair use. Also, governmental body or other nonprofit educational institution may make copies of portions of a work for purposes of making transmissions authorized under 110(2).	Fair use is not limited to any particular organizations. Copies for purposes of making transmissions authorized under 110(1) may be made by governmental bodies or nonprofit educational institutions. (17 U.S.C. 107,	Not specified

	10., 10.a. L&E for copying for educational organizations or educational use	b. Organizations that may utilize the L&E for educational use	c. Types of work that may be copied under the L&E for educational use
	See section 9 above. (17 U.S.C. 107, 112(f))	112(f))	
Viet Nam	One copy of a published work of an author may be made for scientific research or for individual teaching purposes; published works may be copied by a library for archival and research purposes (libraries shall not be able to reproduce and disseminate copies of the work to the public, including digital copies); directly recording and reporting performances for public information and educational purposes.	Persons and legal entities.	Literary, artistic, and scientific works; however, not applicable to architectural, fine art works, and computer programs.

COPYING AND/OR DISTRIBUTION OF WORKS FOR CLASSROOM USE

	11., 11.a. L&E for copying/distribution of works for classroom use	b. Organizations that may utilize the L&E for classroom use	c. Limit on the number of copies that may be made under the L&E for classroom use	d. Other conditions that must be met for someone to utilize the L&E for classroom use
Australia	For hard copies, may make one or more reproductions of a page, or pages of a work under statutory license (Part VB Division 2). Multiple reproduction of whole, or parts of printed or electronic form periodical articles, printed anthologies, and a reasonable portion of other hard copy literary, dramatic, musical, or artistic works is allowed where a remuneration notice to the relevant collecting society is in	Definition includes pre school, kindergarten, primary and secondary schools, universities, colleges of advanced education, technical institutions, correspondence schools, schools of nursing, hospital training schools and teacher education centres (s10). The Attorney-General can also 'declare' certain bodies to be educational institutions.	Generally, there are limits on the amount of material that may be copied if copies are available at a reasonable commercial price.	Hardcopy reproductions under statutory license: copies must be made on the premises of an educational institution for the purposes of a course of education provided by that institution. This does not extend to copying the entire work. Multiple reproductions of periodicals, etc.: reproduction is solely for an educational purpose. Digital reproductions: Provided it is reproduced on the premises of

	11., 11.a. L&E for copying/distribution of works for classroom use	b. Organizations that may utilize the L&E for classroom use	c. Limit on the number of copies that may be made under the L&E for classroom use	d. Other conditions that must be met for someone to utilize the L&E for classroom use
	force. For digital reproductions, may copy one or more reproductions, or communication of the part of a work (Part VB Division 2A).			an educational institution for the purposes of a course of education provided by that institution. The reproduction cannot amount to more than 2 pages, or 1% of the whole of the work.
Canada	1. Manual reproduction of a work onto a dry-erase board, flip chart, or similar surface intended for displaying hand-written material. 2. Project an image of that copy using an overhead projector or similar device. 3. (a) Reproduce, translate, or perform in public or (b) communicate by telecommunication to the public. 4. Single copy of a news program or news commentary, excluding documentaries. 5. Single copy of a work or subject matter that is communicated to the public by telecommunication and keep the copy for 30 days to decide whether to perform the copy (see § 29.4(1)(a) Copyright Act for full details).	Educational institutions and persons acting under the authority of those institutions.	See answer 11, 11.a and §29 and §30 Copyright Act for detailed conditions.	Must be performed on the premises of the educational institution. Work cannot be commercially available in a medium appropriate for rest or examination. (see §30 Copyright Act for related conditions).
Chile	No express reference. This type of exception may be permitted under private use exception. Pending legislation permits copying by librarians that serve	<ul style="list-style-type: none"> Proposed librarian copying exception limited to librarians that serve educational organizations. 		

	11., 11.a. L&E for copying/distribution of works for classroom use	b. Organizations that may utilize the L&E for classroom use	c. Limit on the number of copies that may be made under the L&E for classroom use	d. Other conditions that must be met for someone to utilize the L&E for classroom use
	educational organizations. (draft Art. 71 M).			
China	No.	N/A	N/A	N/A
Hong Kong, China	<p>1. No infringement for copying by a person giving or receiving instruction which is <u>not</u> by means of a reprographic process. (§ 41). 2. No infringement for copying by making a film or film soundtrack in the course of instruction or for preparation of instruction by person giving/receiving instruction (§ 41) 3. No infringement for purposes of an examination (§ 41) 4. Copying for educational purposes if an acknowledgement of authorship is in the recording and it is not made for gain. (§ 44). However, this does not apply if licensing under a licensing scheme is available and the person making the copy knew or ought to have been aware of that fact. (§ 44) 5. Reprographic copies of works, to a reasonable extent, for giving/receiving instruction by educational establishment/pupil.. However, this does not apply if licensing scheme is available as stated above. (§ 45) 6. Fair dealing with a work by or on</p>	<p>1. Person giving/receiving instruction. 2. Person giving/receiving instruction. 3. Not specified. 4. Educational establishments. 5. Educational establishments.</p>	No limit.	<p>Each exception applies only to the following corresponding works: 1. Literary, dramatic musical or artistic works (For corresponding # in left column). 2. Sound recording, film broadcast, or cable (For corresponding # in left column). 3. Anything except for a reprographic copy of a music work (For corresponding # in left column). 4. Recording of a broadcast or cable program. (For corresponding # in left column). 5. Artistic works or of passages from published literary, dramatic or musical works 6. Literary, dramatic, musical or artistic works, sound recordings, films, broadcasts, cable programmes, or typographical arrangements of published editions.</p>

	11., 11.a. L&E for copying/distribution of works for classroom use	b. Organizations that may utilize the L&E for classroom use	c. Limit on the number of copies that may be made under the L&E for classroom use	d. Other conditions that must be met for someone to utilize the L&E for classroom use
	behalf of a teacher or by a pupil for the purposes of giving/receiving instruction in a specified course of study provided by educational establishment (§41A).			
Japan	Yes. (Art.35, Art.47quater. Art. 47novies of revised Japanese Copyright Act (it is scheduled to come into effect in January, 2010).	A person who is in charge of teaching and those who are taught in a school or other educational institution, except those established for profit-making.	Up to the number of students in the case and the number of copies may not unreasonably prejudice the copyright owner's interests.	The work must already be published. If the reproduction unreasonably prejudices the interest of the right holder in the light of the nature and the purpose of the work as well as the number of copies and the form of reproduction, then it is not allowed.
Mexico	No	N/A	N/A	N/A
New Zealand	Yes, may copy for instruction or preparation for instruction. (s44)	N/A	Depending on whether the copying is "reprographic" or not, and whether the work is artistic or not, can copy anywhere from a portion of the work to multiple copies of the entire work.	Generally, must be for instructional purposes, by or on behalf of person giving a lesson
Peru	Copies may be made without the author's consent for teaching or the holding of exams at educational institutions, provided that there is no gainful intent and to the extent justified by the aim pursued, of articles or brief extracts from lawfully published works, on the condition that the use made of them is consistent with proper practice, involves no	Educational Institutions	No limit.	None specified.

	11., 11.a. L&E for copying/distribution of works for classroom use	b. Organizations that may utilize the L&E for classroom use	c. Limit on the number of copies that may be made under the L&E for classroom use	d. Other conditions that must be met for someone to utilize the L&E for classroom use
	sale or other transaction for consideration and has no direct or indirect profit making purpose.			
Singapore	Insubstantial copying (s51(1)) Statutory licenses for substantial copying (s52(1),(2)) Sound/Television program (s115) Film or soundtracks (s115A)	“Educational institutions”: Nonprofit schools providing full-time education, higher education, certain nursing and hospital programs. Institutions assisting handicapped and intellectually handicapped readers	Yes, but only applies to educational institutions and not schools for the handicapped. (s51(3),(4),s7(2) and (2A))	Record of the copying is to be made. (S52(6),(7)) Copies of the work cannot be obtained 1) within a reasonable time 2) at an ordinary commercial price. (S52(7B)).
Chinese Taipei	There is an exception for all levels of legally established school to distribute within a reasonable scope works that have been publicly released. This exception is only allowed for teaching purposes. (§46(3), 63 of the Copyright Act).	All levels of legally established schools	No limit	No
Thailand	Reproduction by instructors or educational institutions for sale or distribution to students is permitted so long as it is done on a non profit basis. (Section 32(7)).	Educational institutions	No	Reproduction must not interfere with normal exploitation of the work by the copyright holder, or unreasonably prejudice the rights of the copyright holder. (Section 32(1)).
United States	Allowed if fair use. (17 U.S.C. 107) 107, 108, 112(f)).	Fair use is not limited to any particular organization		
Viet Nam	None	N/A	N/A	N/A

COPYING FOR USE IN COLLECTIONS AND/OR TEXTBOOKS FOR EDUCATIONAL PURPOSES

	12., 12.a. L&E for copying for collections and/or text books	b. Organizations that may utilize the L&E for collections and/or text books	c. Types of works that may be copied under the L&E for collections and/or textbooks	d. Conditions that must be met for someone to utilize the L&E for collections and/or textbooks	13. Other L&E related to distance learning or educational use or organizations not yet covered
Australia	No.	N/A	N/A	N/A	Proxy caching by educational institution subject to various conditions (s200AAA).
Canada	No. § 30 of the Copyright Act benefits education users indirectly, but is not really an exception for publishers and therefore not relevant.	N/A	N/A	N/A	General “fair dealing” exception may permit certain educational uses in certain contexts. Pending legislation (bill C-61) proposes a provision on educational use of Internet material.
Chile	No, but proposed legislation permits copying small works or parts of works in course packs and textbooks(draft Arts. 71 M, 71N); Copying short paragraph from published work allowed under quotation exceptions.	Anyone	Artistic, literary and scientific works	There must be a reference to the name of the author.	No.
China	Yes. For detailed provisions, please see Article 23 of the Copyright Law. That article does not provide limitations on the form of copies, which is generally interpreted to be paper copies in practices.	Textbook compilation and publication organizations approved by education authorities and press and publication authorities.	The Copyright Law does not provide limitations on types of works allowed to be copied, which are generally interpreted to be works publishable through printing in practices.	For detailed provisions, please see Article 23 of the Copyright Law provides as follows: Article 23 In compiling and publishing textbooks for the nine-year compulsory education and the state educational	No.

	12., 12.a. L&E for copying for collections and/or text books	b. Organizations that may utilize the L&E for collections and/or text books	c. Types of works that may be copied under the L&E for collections and/or textbooks	d. Conditions that must be met for someone to utilize the L&E for collections and/or textbooks	13. Other L&E related to distance learning or educational use or organizations not yet covered
	<p>The clause is provided as follows:</p> <p>Article 23 In compiling and publishing textbooks for the nine-year compulsory education and the state educational program, passages of published works, short writings works, music works or single copies of painting works or photographic works may be compiled into the textbooks without the license of authors, except for those for which authors have declared in advance the use of which is not allowed, however, compensation shall be paid according to the regulations, the author's name and the work's title shall be indicated, and other rights enjoyed by copyright owners according to this Law may not be infringed.</p> <p>The provisions of the paragraph above shall be applicable to the restriction,</p>			<p>program, passages of published works, short writings works, music works or single copies of painting works or photographic works may be compiled into the textbooks without the license of authors, except for those for which authors have declared in advance the use of which is not allowed, however, compensation shall be paid according to the regulations, the author's name and the work's title shall be indicated, and other rights enjoyed by copyright owners according to this Law may not be infringed.</p> <p>The provisions of the paragraph above shall be applicable to the restriction on the rights of publishers, performers, producers of sound recordings and visual recordings, radio</p>	

	12., 12.a. L&E for copying for collections and/or text books	b. Organizations that may utilize the L&E for collections and/or text books	c. Types of works that may be copied under the L&E for collections and/or textbooks	d. Conditions that must be met for someone to utilize the L&E for collections and/or textbooks	13. Other L&E related to distance learning or educational use or organizations not yet covered
	on the rights of publishers performers, producers of sound recordings and visual recordings, radio stations and television stations.			stations and television stations.	
Hong Kong, China	Can copy short passages into a collection and into ads by publisher. (§ 42).	Educational establishments. Must be for the educational purposes of such establishment (and so described in its title, and in any advertisements by the publisher).	Published literary or dramatic work.	Passage must consist mainly of material in which no copyright subsists. The work from which copies are made is not intended for use in educational establishments, Inclusion must be accompanied by a sufficient acknowledgement. Can't use more than 2 excerpts from the same author in collections with same publisher over any 5 year period.	No.
Japan	1) Reproduction of published works for school education in school textbooks. (Art. 33). 2) Reproduction of letters, illustrations, etc. in published textbook to copy in large print or other formats necessary for	This provision does not specify organizations/entities permitted use of this L&E.	Every type of published work may be copied.	A person who makes such a reproduction shall inform the author thereof and pay to the right holder compensation, the amount of which is fixed each year by the Commissioner of the Agency for Cultural	

	12., 12.a. L&E for copying for collections and/or text books	b. Organizations that may utilize the L&E for collections and/or text books	c. Types of works that may be copied under the L&E for collections and/or textbooks	d. Conditions that must be met for someone to utilize the L&E for collections and/or textbooks	13. Other L&E related to distance learning or educational use or organizations not yet covered
	children or pupils, who are difficult to use copyrighted works appeared in textbooks because of visual disability, development disability or other disabilities, to support their studies.			Affairs.	
Mexico	No	N/A	N/A	N/A	Yes. The reproduction of complete works or parts of a work; phonograms, videogram interpretations, execution or edition, do not constitute a violation of copyright provided it is carried out without ends of financial gain with the exclusive object of making it accessible to blind or deaf-mute persons. This exception encompasses translations or adaptations into special languages dedicated to communicating the works to the aforementioned persons.
New Zealand	Can copy short passages for use in education-oriented anthology. (s46)	Educational establishments run not for profit	Literary, dramatic, or musical works	Collection must contain mainly uncopyrighted material or owned by the publisher of collection or the Crown; computer program not included; subject to other	No.

	12., 12.a. L&E for copying for collections and/or text books	b. Organizations that may utilize the L&E for collections and/or text books	c. Types of works that may be copied under the L&E for collections and/or textbooks	d. Conditions that must be met for someone to utilize the L&E for collections and/or textbooks	13. Other L&E related to distance learning or educational use or organizations not yet covered
				conditions.	
Peru	General limitation allowing the use of quotations	Any individual (general exception; not specific to schools).	All types of works (general exception; not specific to schools).	Personal use only. To use the quotation exception, the author's name and the source must be included. Honest uses apply and the scope of the exception is limited by the goal sought.	None specified.
Singapore	Allows for inclusion of short extracts or adaptations of published literary, dramatic, musical, and artistic works for use in a collection of works contained in a book, sound recording, or film intended for use by educational institutions. S40(1)	"Educational institutions": Non-profit schools providing fulltime education, higher education, certain nursing and hospital programs	Published literary, dramatic, musical or artistic works, and adaptation of the work contained in books, sound recordings and cinematograph films	Only a short extract allowed. Collection is described in appropriate place as being intended for educational use. Work or adaptation not published for purpose of use by educational institutions. Sufficient acknowledgment of work or adaptation made. Exception only applies if publishers uses no more than one extract per author used within a five-year period. (S40(1)(a)-(c), 2).	N/A
Chinese Taipei	No	N/A	N/A	N/A	Yes. All levels of legally established schools and educational institutions may publicly broadcast the works

	12., 12.a. L&E for copying for collections and/or text books	b. Organizations that may utilize the L&E for collections and/or text books	c. Types of works that may be copied under the L&E for collections and/or textbooks	d. Conditions that must be met for someone to utilize the L&E for collections and/or textbooks	13. Other L&E related to distance learning or educational use or organizations not yet covered
					that have been publicly released. This exception is limited to purpose of meeting educational needs and the use must be within a reasonable scope. (Art. 47(3)).
Thailand	No.	N/A	N/A	N/A	N/A
United States	No explicit exception for this type of copying. However, under certain circumstances fair use may be applicable to permit such use.	See 12a.	See 12a.	See 12a.	None.
Viet Nam	None.	N/A	N/A	N/A	

L&E RELATED TO LIBRARIES AND ARCHIVES

REPRODUCTION RELATED TO LIBRARIES AND ARCHIVES FOR PRESERVATION/REPLACEMENT

	14., 14.a. L&E for libraries/archives to copy for preservation or replacement	b. Types of works that may be reproduced for preservation or replacement purposes	c. Number of copies that may be made for preservation or replacement purposes	d. Other conditions that must be met for such reproduction to be authorized	e. Uses permitted for libraries and archives making copies under L&E for preservation or replacement purposes
Australia	<p>1. Library or archive may copy a manuscript or other original version for the purpose of preservation (s51A).</p> <p>2. “Key cultural institutions” can make three preservation copies of specified works (s51B).</p> <p>3. Library or archive can make a replacement copy of an item (including films and sound recordings) in its collection where a replacement copy is not available for purchase. Similar exceptions for films and sound recordings</p>	<p>1. and 3. Manuscript, or other original version including a painting, or a first copy of film or sound recording.</p> <p>2. Manuscripts, original artworks (photo not commercially available); published works (not commercially available); a particular edition of a work; original sound recordings, unpublished sound recordings, original films, and unpublished films; published sound recording or film (not commercially available).</p>	<p>1. and 3. One</p> <p>2. Three</p>	<p>Exceptions not available where a replacement copy is available for purchase at a reasonably commercial price.</p>	<p>Limited to preservation or the replacement of a work which has been lost, stolen, or damaged. Copyright will not be infringed if the reproduction by the library or archives is for administrative purposes.</p>

	14., 14.a. L&E for libraries/archives to copy for preservation or replacement	b. Types of works that may be reproduced for preservation or replacement purposes	c. Number of copies that may be made for preservation or replacement purposes	d. Other conditions that must be met for such reproduction to be authorized	e. Uses permitted for libraries and archives making copies under L&E for preservation or replacement purposes
Canada	Library, archive, or museum may make a copy of a work for maintenance or management of its permanent collection or the collection of another library. (§ 30.1),	A work, published or unpublished, in the institution's permanent collection (§ 30.1).	Not specified.	Any intermediate copies must be destroyed after use; no appropriate copy is commercially available; and (a) copy is made of an original that is rare, unpublished, and is or is at the risk of deteriorating, or being lost; or (b) copy is for onsite consultation and the original cannot be viewed; or (c) copy is made in an alternative format if the original format is obsolete or (d) copy is necessary for restoration. (§ 30.1).	a) preservation, (b) onsite consultation, (c) updating format, (d) restoration, (e) internal record keeping and cataloguing, or (f) insurance purposes or police investigations. (§ 30.1).
Chile	No express exception, but some copying has been permitted by custom and historical legal treatment. Yes in pending legislation	N/A	N/A	N/A	N/A
China	Yes. For detailed provisions, please see Item 8, Paragraph 1, Article 22 of the Copyright Law. The clause is provided as follows: Article 22 Under one	The Copyright Law does not provide limitations on types of works allowed to be copied	The Copyright Law does not provide for the quantity of copies, which is generally interpreted to be as necessary for display or storage in practices.	Limited to copying works collected by the library. For detailed provisions, please see Item 8, Paragraph 1, Article 22 of the Copyright Law. The clause is provided as follows: Article 22 Under one of the following circumstances, a work	The Copyright Law does not provide for the copying purposes, which is generally interpreted to be as necessary for display or storage purpose in practices.

	14., 14.a. L&E for libraries/archives to copy for preservation or replacement	b. Types of works that may be reproduced for preservation or replacement purposes	c. Number of copies that may be made for preservation or replacement purposes	d. Other conditions that must be met for such reproduction to be authorized	e. Uses permitted for libraries and archives making copies under L&E for preservation or replacement purposes
	<p>of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>8. For the purposes of displaying or preserving copies, to reproduce a work in its collections by a library, archives center, memorial hall, museum, art gallery or similar institutions</p>			<p>may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>8. For the purposes of displaying or preserving copies, to reproduce a work in its collections by a library, archives center, memorial hall, museum, art gallery or similar institutions;</p>	
<p>Hong Kong, China</p>	<p>Librarian or archivist can, under the prescribed conditions, make copies from permanent collection (or other library) to replace or preserve item. (§ 51). Librarian or archivist</p>	<p>Literary, dramatic, musical, sound recording, or film works; Typographical arrangement of published editions; Item in the permanent collection; articles of</p>	<p>No express limit, but subject to overriding consideration that act would not conflict with a normal exploitation of the work by the copyright owner and would not unreasonably</p>	<p>Copying is restricted to cases where it is not reasonably practicable to purchase a copy of the item to fulfill the purpose. (§ 51). Articles of cultural or historical importance must be likely to be lost to HKC through sale or ex-</p>	<p>Preservation or replacement. Otherwise not specified.</p>

	14., 14.a. L&E for libraries/archives to copy for preservation or replacement	b. Types of works that may be reproduced for preservation or replacement purposes	c. Number of copies that may be made for preservation or replacement purposes	d. Other conditions that must be met for such reproduction to be authorized	e. Uses permitted for libraries and archives making copies under L&E for preservation or replacement purposes
	can make a copy of an article of cultural/historical importance and deposit the copy at the specified library or archive if the article is likely to be lost to Hong Kong, China through sale or export. (§53)	cultural or historical importance.	prejudice their interests. Generally, one copy is enough for the purpose.	port. (§ 53).	
Japan	Yes, provision for limitation for reproduction in libraries. (Art. 31)	Every type of work may be reproduced.	The law has no provision on a specific number of copies.	Only libraries or other establishment designated by Cabinet Order can utilize this limitation.	Preservation of library materials. (Art. 31(2)) Provision to libraries of materials which are rarely available because they are out of print or for other similar reasons. (Art. 31(3))
Mexico	Yes. Literary and artistic works already disclosed may be used, whenever normal exploitation of the works is not affected, without authorization of the rights holder and without remuneration, where the source is mentioned and without altering the work, only in the following cases: Reproduction of a single copy, by an archive or	Literary and artistic works already disclosed.	A single copy.	Exception applies when the normal exploitation of the work is unaffected.	Security and preservation reasons.

	14., 14.a. L&E for libraries/archives to copy for preservation or replacement	b. Types of works that may be reproduced for preservation or replacement purposes	c. Number of copies that may be made for preservation or replacement purposes	d. Other conditions that must be met for such reproduction to be authorized	e. Uses permitted for libraries and archives making copies under L&E for preservation or replacement purposes
	library, for security and preservation reasons, when the work is out of print, no longer catalogued and in danger of disappearing.				
New Zealand	Yes, librarian may make a copy of an item in their collection (s55).	Any item in the collection.	One	Must be preserving or replacing the item in own library or that of another qualified library / archive, AND it can't be reasonably practicable to purchase a copy.	Preservation or replacement.
Peru	Yes, for not-for-profit public libraries or archives.	Any item in the permanent collection.	One	There must not be direct or indirect commercial interests, the original work must be in the library permanent collection, and a copy cannot be available for purchase under timely and reasonable conditions.	Preservation or replacement only.
Singapore	Reproduction of works by library/archive not infringement if: a. reproduction of original version of work necessary for purposes of preservation or research b. published work held in collection and reproduction necessary for purposes of replacement due to	Literary, dramatic, musical, or artistic work	One.	Exception shall not apply unless authorized office of library/archive has made declaration stating that work cannot be obtained within reasonable time at reasonable commercial price. (s48(3)).	Preserving against loss or deterioration of original version of a work or for research. (s41(1)(a) Replacement of published work due to damage or deterioration. (s41(1)(b) Replacement due to loss/theft. (s41(1)(c).

	14., 14.a. L&E for libraries/archives to copy for preservation or replacement	b. Types of works that may be reproduced for preservation or replacement purposes	c. Number of copies that may be made for preservation or replacement purposes	d. Other conditions that must be met for such reproduction to be authorized	e. Uses permitted for libraries and archives making copies under L&E for preservation or replacement purposes
	deterioration of work c. published work held in collection and reproduction necessary for replacement due to loss or theft (s48(1) and (2)).				
Chinese Taipei	Yes, for preservation or replacement, or where the works in question are out of print or difficult to purchase, and have been requested by another similar institution. This is limited to libraries, science museums, history museums, art museums, and other cultural institutions that are open to the public. (§48)	Works in libraries and archive collections	The amount of copies depends on the purpose of the reproduction	N/A	Preservation, replacement and where the works in question are out of print or difficult to purchase, and have been requested by another similar institution.
Thailand	Yes, permitted for use by copying library or another library (Section 34(1))	Copyrightable works under Thai Copyright Act 1994 (Section 34(1) and Section 6)	Not specified	Must be for non-profit purposes. Must not interfere with copyright holder's normal exploitation of the work, or unreasonably prejudice copyright holder's rights. (Section 34(1))	For use by copying library or another library. (Section 34(1))
Viet Nam	Copying a work for archives in libraries for the purposes of research.	Literary, artistic, and scientific works; however, not applicable to	One copy	Cannot affect the normal exploitation of works nor cause prejudice to the rights of the author or copy right holder. Must	Library archives for study purposes. The libraries shall not reproduce and

	14., 14.a. L&E for libraries/archives to copy for preservation or replacement	b. Types of works that may be reproduced for preservation or replacement purposes	c. Number of copies that may be made for preservation or replacement purposes	d. Other conditions that must be met for such reproduction to be authorized	e. Uses permitted for libraries and archives making copies under L&E for preservation or replacement purposes
		architectural, fine art works, and computer programs		provide information about the author's name and the origins of the work.	disseminate copies to the public, including digital copies.
United States	Allowed for preservation of unpublished works and replacement of published works (17 U.S.C. 108).	Preservation: all types of unpublished works (17 U.S.C. 108(b)) Replacement: all types of published works (17 U.S.C. 108(c)).	Three (17 U.S.C. 108(b), (c))	For preservation and replacement reproduction: no purpose of direct or indirect commercial advantage; collections must be open to the public or to unaffiliated researchers; and the copy must include the notice of copyright that appears on the original, or if there is no such notice, include a legend stating that the work may be protected by copyright. (17 U.S.C. 108(a)). In addition, digital copies may not be made available to the public outside the premises. (17 U.S.C 108(b), (c)). For preservation reproduction only: the work must be in the collections of the library or archives. (17 U.S.C. 108(b)). For replacement reproduction only: the copy being replaced must be damaged, deteriorating, lost, stolen, or in an obsolete format; and the library or archives must first make a reasonable effort to determine that an unused replacement cannot be obtained at a fair price	Preservation, replacement and, for unpublished works, security and deposit for research in another library or archives. (17 U.S.C. 108(b), (c)).

	14., 14.a. L&E for libraries/archives to copy for preservation or replacement	b. Types of works that may be reproduced for preservation or replacement purposes	c. Number of copies that may be made for preservation or replacement purposes	d. Other conditions that must be met for such reproduction to be authorized	e. Uses permitted for libraries and archives making copies under L&E for preservation or replacement purposes
				Terms in a contract or license contrary to the section 108 exceptions override the exceptions (17 U.S.C. 108(f)(4)).	

REPRODUCTION RELATED TO LIBRARIES AND ARCHIVES FOR PATRON USE

	15., 15.a. L&E that permit copying by libraries or archives for patron use	b. Number of copies that may be reproduced for patron use	c. Other conditions that must be met for reproduction for patron use to be authorized	d. Uses permitted for libraries and archives making copies under L&E for patron use
Australia	No	N/A	N/A	N/A
Canada	1. Library, archive, or museum may: do anything for a person that would fall under the fair dealing exception; or may make a reproduction of a copy of a work (§ 30.1(1)) 2. Archive may make and distribute the copy of an unpublished work that is deposited in the archive (§ 30.21)	1. Not specified (§30.2(1)) 2. One (§ 30.2(4))	1. The person will not use the copy for purposes other than research or private study, if an intermediate copy was made, once the copy is given to the patron the intermediate copy must be destroyed. (§ 30.2(4),(5.1)) 2. Archive gave the person depositing the work notice that it may copy; copying not prohibited by the copyright owner; person will only use for research or private study. (§ 30.21(2),(3))	Supplying the patron with the copy
Chile	No, but if copying is considered a private use, it might be permitted. Proposed legislation includes an express exception for patron use (draft Art. 71 J)	N/A	N/A	N/A

	15., 15.a. L&E that permit copying by libraries or archives for patron use	b. Number of copies that may be reproduced for patron use	c. Other conditions that must be met for reproduction for patron use to be authorized	d. Uses permitted for libraries and archives making copies under L&E for patron use
China	No.	N/A	N/A	N/A
Hong Kong, China	N/A			
Japan	No.	N/A	N/A	N/A
Mexico	No	N/A	N/A	N/A
New Zealand	May supply to a patron a copy of a literary, dramatic, or musical work (ss51, 52, 56).	One.	If patron is required to pay, must be no more than the cost of making the copy. Various other conditions.	Only for research or private study
Peru	None specified.	N/A	N/A	N/A
Singapore	(s45(1), (2)) Written signed request of a copy solely for research or study, and has not had a previous copy furnished, or that copy has been lost/destroyed/damaged.	One.	(s45(4),(5)) Can not request 2 or more articles in the same periodical unless same subject matter. Can not request whole of literary, dramatic or musical work, or copy more than a reasonable amount unless an officer of the library confirmed the work cannot be obtained at an ordinary commercial price.	Research / study of patron. (s45(b)(i))
Chinese Taipei	Libraries, science museums, history museums, art museums, and other cultural institutions that are open to the public may reproduce works in their collections when a patron requests. (§48(i))	One copy per person	The reproduction is limited to: (1) part of a work that has been publicly released; (2) a single article from a seminar paper; and (3) a single article from a periodical that has been publicly released	For personal research
Thailand	No	N/A	N/A	N/A
United States	Upon patron request libraries and archives may reproduce an article or other contribution to a copyrighted collection or periodical issue, or a small part of any other copyrighted work. (17 U.S.C. 108(d)). They may also reproduce an	One (17 U.S.C. 108(a), (d))	For all copies for users the copy must become property of the user; the library or archives must have no notice that the copy would be used for any purpose other than private study, scholarship, or research; and the library or archives must	Private study, scholarship and research. (17 U.S.C. 108(d), (e))

	15., 15.a. L&E that permit copying by libraries or archives for patron use	b. Number of copies that may be reproduced for patron use	c. Other conditions that must be met for reproduction for patron use to be authorized	d. Uses permitted for libraries and archives making copies under L&E for patron use
	entire work or a substantial part of one. (17 U.S.C. 108(e)). These provisions do not apply to musical works other than those dealing with news. They do apply to pictorial or graphic works published as illustrations, diagrams or similar adjuncts to textual works. (17 U.S.C. 108(i)).		display prominently a warning of copyright. (17 U.S.C. 108(d), (e)). For copies of entire works or substantial portions, the library or archives must first make a reasonable investigation to determine that a copy of the work cannot be obtained at a fair price (17 U.S.C. 108(e)). Terms in a contract or license contrary to the section 108 exceptions override the exceptions. (17 U.S.C. 108(f)(4)).	
Viet Nam	None.	N/A	N/A	N/A

REPRODUCTION RELATED TO LIBRARIES AND ARCHIVES IN RESPONSE TO USER REQUESTS

	16., 16.a. L&E permitting copying for libraries or archives in response to user requests	b. Number of copies that may be reproduced in response to user requests	c. Conditions that must be met for reproduction in response to user requests to be authorized	d. Uses permitted for libraries and archives making copies under L&E for user requests
Australia	A user may make a request to the library or archive to be supplied with a reproduction of an article, or part of an article, contained in a periodical publication, or the whole or part of a published work held in the collection of the library or archive. (s49)	One. The reproduction must be for research or study and must not amount to more than a "reasonable portion" of the whole of the work unless the work is unable to be obtained elsewhere within a reasonable time	- The request Must be accompanied by a declaration that reproduction is for the sole purpose of research or study, and reproduction has not previously been provided. - Reproduction may not be of two or more articles in the same periodical (unless for same research or course of study) - May not amount to more than a "reasonable portion" of the	Limited to research and study.

	16., 16.a. L&E permitting copying for libraries or archives in response to user requests	b. Number of copies that may be reproduced in response to user requests	c. Conditions that must be met for reproduction in response to user requests to be authorized	d. Uses permitted for libraries and archives making copies under L&E for user requests
		and at a reasonable commercial price.	whole of a work unless the work is unable to be obtained elsewhere within a reasonable time, and at a reasonable commercial price. -“Reasonable portion” is defined under the Act at s10(2) in respect of literary, dramatic or musical works; and at s10(2A) in respect of electronic works. - If work is in electronic form, then library or archive may make such work available online to the user within the premises of the library or archives provided it is in a format that cannot be copied.	
Canada	See 15, 15a	See 15b	See 15c	See 15d
Chile	No, but if copying is considered a private use, it might be permitted. Proposed legislation includes an express exception for patron use (draft Art. 71 J)	N/A	N/A	N/A
China	No.	N/A	N/A	N/A
Hong Kong, China	Librarian may supply (i) article in a periodical; (ii) part of a literary, dramatic, or musical work from published edition; (iii) whole or part of unpublished literary, dramatic, or musical work from a document (including electronic documents), sound recording, or film. (§§ 47, 48, 52)	Depending on nature of copied work: One of same article; not more than one article contained in same periodical issue; or not more than a reasonable proportion of a work.	Librarian must be satisfied that recipient requires copies for purposes of research or private study only. Recipient must pay not less than cost of production.	Research or private study.
Japan	Upon user request, reproduction is allowed of library materials for the purpose of his own investigation or research. (Art. 31(1))	One copy of a part of a work may be reproduced.	The work must already be published. Only libraries or other establishments designated by Cabinet Order can utilize this limitation.	Providing the copy to a user for the purpose of his own investigation or research.

	16., 16.a. L&E permitting copying for libraries or archives in response to user requests	b. Number of copies that may be reproduced in response to user requests	c. Conditions that must be met for reproduction in response to user requests to be authorized	d. Uses permitted for libraries and archives making copies under L&E for user requests
Mexico	No	N/A	N/A	N/A
New Zealand	May supply to a patron a copy of a literary, dramatic, or musical work (ss51, 52, 56).	One.	If patron is required to pay, must be no more than the cost of making the copy. Various other conditions.	Only for research or private study.
Peru	None specified.	N/A	N/A	N/A
Singapore	User may request copy of an article or part of an article contained in a periodical publication or the whole or part of a published literary, dramatic, or musical work (s45(1))	One.	(s45(5)) Copy can not contain more than a reasonable portion of the work unless 1) the work forms part of the library or archive collection and 2) an authorized officer is satisfied a first-hand copy cannot be obtained within a reasonable time at an ordinary commercial price	Research / study of patron. (s45(b)(i))
Chinese Taipei	Libraries, science museums, history museums, art museums, and other cultural institutions that are open to the public may reproduce works in their collections when a patron requests. (§48) (Article 48 subparagraph 48 of the Copyright Act)	One copy per person	The reproduction is limited to: (1) part of a work that has been publicly released; (2) a single article from a seminar paper; and (3) a single article from a periodical that has been publicly released	For personal research
Thailand	Permitted for requesting user's research or study. (Section 34(2))	Reasonable reproduction in part of a work. Section 34(2)	Must be for non-profit purposes. Must not interfere with normal exploitation of the work by the copyright holder, or unreasonably prejudice the rights of the copyright holder. (Section 34 (1))	Must be for requesting user's research or study (Section 34(2))
United States	Upon patron request libraries and archives may reproduce an article or other contribution to a copyrighted collection or periodical issue, or a small part of any other copyrighted work. (17 U.S.C. 108(d)). They may also reproduce an entire work or a substantial part of one. (17 U.S.C. 108(e)). These provisions do	One (17 U.S.C. 108(a), (d))	For all copies for users the copy must become property of the user; the library or archives must have no notice that the copy would be used for any purpose other than private study, scholarship, or research; and the library or archives must display prominently a warning of copyright. (17 U.S.C. 108(d), (e)). For	Private study, scholarship and research. (17 U.S.C. 108(d), (e))

	16., 16.a. L&E permitting copying for libraries or archives in response to user requests	b. Number of copies that may be reproduced in response to user requests	c. Conditions that must be met for reproduction in response to user requests to be authorized	d. Uses permitted for libraries and archives making copies under L&E for user requests
	not apply to musical works other than those dealing with news. They do apply to pictorial or graphic works published as illustrations, diagrams or similar adjuncts to textual works. (17 U.S.C. 108(i)).		copies of entire works or substantial portions, the library or archives must first make a reasonable investigation to determine that a copy of the work cannot be obtained at a fair price (17 U.S.C. 108(e)).	
Viet Nam	None.	N/A	N/A	N/A

REPRODUCTION RELATED TO LIBRARIES AND ARCHIVES FOR INTERLIBRARY LENDING, PRESERVATION AND OTHERS

	17. L&E permitting libraries to reproduce and/or distribute works for interlibrary lending	18. L&E permitting other organizations to reproduce and/or distribute works for archival, preservation or replacement	19. Other L&E related to use by libraries and archives not previously covered
Australia	At the request of another library or archive, a library or archive may provide a reproduction of a whole or part of an article or published work only if it is for the following purposes: to include in the library's collection; provision of library services to a member of Parliament; supplying a user request as detailed in response to question regarding user requests. Additional restrictions apply where reproduction amounts to the whole, or more than a reasonable portion, of the work. This exception is available to works in electronic form. No equivalent provisions for material such as CD-ROMs, DVDs or audio CDs. (s50)	Museums and galleries are examples of bodies that could have collections covered by the definition of archives; thus exceptions identified in responses to questions 14-17 may also be applied to certain museums and galleries. "Key cultural institutions" can also make three preservation copies of specified works (see response to question 14(b) above). An institution will be so classified if: the body administering it develops/maintains collection under law of Commonwealth, or State or Territory it is; prescribed by the Regulations; or an authorized officer of the library or archives is satisfied that work in question is of historical/cultural significance	s200AB "special purpose" exception includes use by libraries and archives for the purpose of maintaining and operating the library or archive. Requires that: (i) use is not for a commercial advantage or profit, (ii) use amounts to 'special case' (same meaning as TRIPS Art. 13), (iii) does not conflict with normal exploitation, (iv) does not unreasonably prejudice the legitimate interests of the copyright owner

	17. L&E permitting libraries to reproduce and/or distribute works for interlibrary lending	18. L&E permitting other organizations to reproduce and/or distribute works for archival, preservation or replacement	19. Other L&E related to use by libraries and archives not previously covered
		to Australia. (s51B).	
Canada	Yes. A library, archive or museum may make a copy of a work for another library's patron under the same circumstances as when one of its own patrons makes a request discussed above, but the patron of another library cannot be supplied with a digital copy. (§ 30.2(5))	Museums are treated the same as libraries and archives	An exception for libraries, archives and museums with respect to reprographic copying using photocopiers installed on the premises so long as the library, archive and museum complies with the notice requirements as well as license or tariff requirements. (§ 30.3)
Chile	No.	No.	No.
China	No	<p>Yes. For detailed provisions, please see Item 8, Paragraph 1, Article 22 of the Copyright Law, which applies to limitations and exceptions for such organizations copying works for certain purposes while does not apply to issuance of copies.</p> <p>The clause is provided as follows: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed: 8. For the purposes of displaying or preserving copies, to reproduce a work in its collections by a library, archives center, memorial hall, museum, art gallery or similar institutions;</p>	<p>For detailed provisions, please see Article 7 of the Regulations on the Protection of the Right of Communication through Information Network.</p> <p>The clause is provided as follows: Article 7 A library, archives, memorial, museum and art gallery may, in the absence of the copyright holder's permission, provide the relevant digital works as lawfully published and preserved by the aforesaid institutions as well as the works that shall, according to law, be subject to digital photocopying for display or preservation to their objects of service through the information network within their place and without paying any remuneration. Whereas the aforesaid institutions may not directly or</p>

	17. L&E permitting libraries to reproduce and/or distribute works for interlibrary lending	18. L&E permitting other organizations to reproduce and/or distribute works for archival, preservation or replacement	19. Other L&E related to use by libraries and archives not previously covered
			indirectly seek for any economic interest from such activities, unless it is otherwise stipulated by the parties concerned. The works subject to digital photocopying for the purpose of display or conservation as prescribed in the preceding paragraph shall be the works that have been damaged or destroyed or are almost damaged or destroyed, are lost or stolen, whose storage format has been out-of-date, and which cannot be purchased through the market channel or can only be purchased at a price as obviously higher than the standardized one.
Hong Kong, China	Librarian may supply to another library: (i) an article in a periodical; (ii) whole or part of a published literary, dramatic, musical work, or (iii) a sound recording or film. (ii) and (iii) do not apply when the librarian knows or could know by reasonable inquiry that the name and address of person entitled to authorize copies (§ 50)	Exceptions mentioned in answer to Q.14 may apply to libraries and archives operated by museums and educational institutions.	No.
Japan	No.	No.	No
Mexico	No	No	No
New Zealand	A librarian may provide to another librarian a copy of a literary, dramatic or musical work including any artistic work contained in a published edition of a book. (s54).	No, but definition of prescribed libraries includes libraries maintained by an educational establishment.	No.
Peru	None specified.	N/A	Exception for public loan by a library or archive of a written work if there is no direct or indirect commercial interest and if the original work is lawful.

	17. L&E permitting libraries to reproduce and/or distribute works for interlibrary lending	18. L&E permitting other organizations to reproduce and/or distribute works for archival, preservation or replacement	19. Other L&E related to use by libraries and archives not previously covered
Singapore	Officer-in-charge of a library may request the officer-in-charge of another library for a copy of an article or part of an article from a periodical or part or whole of a published literary, dramatic or musical work. (s46(1))	N/A	N/A
Chinese Taipei	Libraries open to the public may reproduce and distribute works in their collections where the works in questions are out of print or difficult to purchase, and have been requested by another similar institute. Article (§48(iii), 63(3))	Museums, history museums, science museums, art museums, and “other cultural institutions”	No
Thailand	Yes, for use in the library or another library. (Section 34(1)).	No	No
United States	The same exceptions or limitations applicable to copying for patron use apply to copies made at the request of the patron of another library or archives, per 15, 15.a., 15.b., 15.c., and 15.d. In addition, a library or archives receiving copies via interlibrary loan may not do so in such aggregate quantities as to substitute for a subscription to or purchase of such work (17 U.S.C. 108(g)(2)).	None	<ol style="list-style-type: none"> 1. Nothing in the exceptions and limitations specific to libraries and archives prevents libraries and archives from relying upon “fair use” exceptions as well. (17 U.S.C. 108(f)(4)). 2. Patron use of unsupervised reproducing equipment located in a library or archive does not subject the library or archives to copyright infringement liability, provided that the equipment displays a notice stating that the making of a copy may be subject to copyright law. (17 U.S.C. 108(f)(1)). 3. Libraries may reproduce and distribute via lending a limited number of copies and excerpts of an audiovisual news program (17 U.S.C. 108(f)(3)). 4. During the last 20 years of the copyright term of a published work, a library or archives may reproduce, distribute, display or perform such a work for purposes of

	17. L&E permitting libraries to reproduce and/or distribute works for interlibrary lending	18. L&E permitting other organizations to reproduce and/or distribute works for archival, preservation or replacement	19. Other L&E related to use by libraries and archives not previously covered
			preservation, scholarship, or research. If such a work is subject to normal commercial exploitation, a copy can be obtained at a reasonable price, or the copyright owner provides notice that either of the first two conditions applies, then the exception cannot be used. (17 U.S.C. 108(h)).
Viet Nam	None.	N/A	N/A

L&E RELATED TO USE BY PEOPLE WITH DISABILITIES

L&E FOR BLIND OF PARTIALLY SIGHTED PEOPLE

	20., 20.a. L&E permitting utilization of works for blind or partially sighted persons	b. Is accessibility defined by type of format, or by type of use?	c. Conditions that must be met for someone to utilize L&E for blind or partially sighted persons	d. L&E permitting the import and/or export of material accessible to the blind or partially sighted
Australia	1. A statutory license scheme is provided under the Act for educational institutions, as well as any organisations designated by the Attorney-General as an institution assisting people with a print disability for the purposes of the Act. Under this scheme such institutions and organisations may (under certain circumstances) reproduce and communicate literary and dramatic works in the form of sound recordings, or	1. Sound recording, Braille, large-print, photographic or electronic versions 2. Not specified. 3. None specified; s200AB “special purposes” exception is intended to be a flexible dealing exception.	1. Organization must provide a remuneration notice to the relevant approved collecting society. 2. Use must meet the specified criteria of the personal use exception. 3. Requires that: (i) use is not for a commercial advantage or profit, (ii) use amounts to ‘special case’ (same meaning as TRIPS Art. 13), (iii) does not conflict with normal exploitation, (iv) does not unreasonably prejudice the legitimate interests of the copyright owner.	No.

	20., 20.a. L&E permitting utilization of works for blind or partially sighted persons	b. Is accessibility defined by type of format, or by type of use?	c. Conditions that must be met for someone to utilize L&E for blind or partially sighted persons	d. L&E permitting the import and/or export of material accessible to the blind or partially sighted
	<p>published literary and dramatic works in certain formats for sole purpose of assistance to persons with print disability (Part VB, Division 3) 2. “Personal use” exceptions allow a person, within limits, to copy and formatshift works for private use</p> <p>3. “Special purposes” exception allows copying for use without copyright owner’s permission by a person with a disability who has difficulty reading, viewing or hearing the work or other subject matter in a particular form (s200AB)</p>			
Canada	One may (1) make a copy or sound recording of a literary, musical, artistic, or dramatic work; (2) translate, adapt or reproduce in sign language a literary or dramatic work; and (3) perform in public a literary or dramatic work in sign language live or in a specially designed format. (§32 Copyright Act)	The law does not specify the format but Section §32(2) Copyright Act excludes the making of large-print books.	This exception does not apply to cinematographic works. Nor does it apply if the work is commercially available in a format designed for those with perceptual disabilities.	Not specified
Chile	Might be considered form of private use allowable under Art. 19 CL. Proposed legislation includes express exception allowing reproduction, distribution, use of works for blind and partially sighted	N/A	N/A	International exhaustion of this right: if works legally put on market, they can be exported or imported.

	20., 20.a. L&E permitting utilization of works for blind or partially sighted persons	b. Is accessibility defined by type of format, or by type of use?	c. Conditions that must be met for someone to utilize L&E for blind or partially sighted persons	d. L&E permitting the import and/or export of material accessible to the blind or partially sighted
China	<p>Yes. For detailed provisions, please see Item 12, Paragraph 1 Article 22 of the Copyright Law and Item 6, Article 6 of the Regulations on the Protection of the Right of Communication through Information Network. These clauses are provided as follows:</p> <p>The copyright law: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>12. To transliterate from a published work into Braille for publication.</p> <p>The regulations: Article 6 Under any of the following circumstances, works may be provided through the information network, and the provider may be exempted from obtaining the owner's permission as well as paying the relevant remunerations thereto:</p> <p>(6) Where any already published work is provided to the blind in a way as particularly perceptible to the blind and not for the purpose of making profits;</p>	As for publication, limited to braille publication; as for communication through information network, limited to non-profit purposes.	Limited to published written works.	No.

	20., 20.a. L&E permitting utilization of works for blind or partially sighted persons	b. Is accessibility defined by type of format, or by type of use?	c. Conditions that must be met for someone to utilize L&E for blind or partially sighted persons	d. L&E permitting the import and/or export of material accessible to the blind or partially sighted
Hong Kong, China	<p>L/Es for persons with print disabilities, which includes various visual and physical impairments which prevent reading.</p> <p>Subject to certain restrictions, the making of one copy of literary, dramatic, musical, or artistic work is permitted for the personal use of the disabled. (§ 40B).</p> <p>Multiple copies may be made by a specified body under certain conditions. (§ 40C).</p> <p>The Copyright (Amendment) Bill 2006 was passed in late June 2007. The exceptions for persons with print disability came into force on 6 July 2007</p>	A sound recording; a Braille, large-print or electronic version of the work; or any other specialized format.	Master copy must not be infringing; for musical or dramatic work, no recording a performance of the work; Copier is satisfied that copies can't be obtained at a reasonable price. Specified bodies must also within reasonable time notify copyright owners if the identity and contact details of copyright owners can be ascertained.	N/A
Japan	<p>Provision for reproduction for preparation of textbook in large print or other formats. (Art. 33bis). Provision for reproduction of works in Braille, public transmission of works in Braille, and recordings of works and public transmission of the recordings. (Art. 37). Art. 37 <i>ter.</i> of revised Japanese Copyright Act (it is scheduled to come into effect in January, 2010) will broaden the scope of this L&E.</p>	Large print or other formats (Art. 33bis).	<p>Concerning Art.33bis,</p> <ol style="list-style-type: none"> 1) The work must already be published. 2) The person who uses the limitation has to inform the publisher in advance. 3) In cases of distributing textbooks in large print for profit-making, compensation should be paid to the right holder. Art. 37.1 and 37.2 don't set any conditions. <p>Concerning Art. 37.3,</p> <ol style="list-style-type: none"> 4) Only Braille libraries and other establishments for the promotion of the welfare of visually handicapped, designated by Cabinet Order can utilize the limitation. 5) Sound recordings should be made exclusively for the purpose of use by the 	None.

	20., 20.a. L&E permitting utilization of works for blind or partially sighted persons	b. Is accessibility defined by type of format, or by type of use?	c. Conditions that must be met for someone to utilize L&E for blind or partially sighted persons	d. L&E permitting the import and/or export of material accessible to the blind or partially sighted
			aurally handicapped.	
Mexico	Yes. The reproduction of complete works or parts of a work; phonogram, videogram, interpretations, execution or edition, does not constitute a violation of copyright provided it is carried out without ends of financial gain with the exclusive object of making it accessible to blind or deaf-mute persons	The exception encompasses translations or adaptations into special languages dedicated to communicating the works to blind or deaf-mute persons.	The Federal Copyright Law does not specify the conditions.	No
New Zealand	Yes, prescribed bodies may make copies or adaptations of published literary or dramatic works for print disabled people in Braille or otherwise modified to fit their special needs (s69)	Copies can be in Braille, or otherwise format, or by type of use?modified to suit the needs of the beneficiary.	- Prescribed bodies (must be non-profit) - Must make reasonable efforts to obtain a copy of complete work in Braille - Can only be supplied to persons with print disability - Must take reasonable steps to inform owner - Payment should be no more than cost of reproduction	No
Peru	Yes		Reproduction is only allowed for the private use of the visually impaired. The reproduction cannot be done for commercial purposes. Reproduction must be made through the Braille System or other specific procedures	
Singapore	Yes	Record of a published literary or dramatic work for the handicapped reader's re-search/study or for instructing himself on any matter. (s54(1))	If versions of such works are already available or can be obtained within a reasonable time at an ordinary commercial price, exceptions do not apply. (s54(3) – (6) and s54A(2)) Records of copies must be kept and the copyright owner must have an avenue for equitable remuneration. (s54(7	N/A

	20., 20.a. L&E permitting utilization of works for blind or partially sighted persons	b. Is accessibility defined by type of format, or by type of use?	c. Conditions that must be met for someone to utilize L&E for blind or partially sighted persons	d. L&E permitting the import and/or export of material accessible to the blind or partially sighted
		Braille, large-print, photographic version of a published literary or dramatic work for the handicapped reader's research/study or for instructing himself on any matter. (s54(2)) Copy of a public work for assisting intellectually handicapped readers. (s54A(1)).)-(11) and s54A(4) – (8))	
Chinese Taipei	Yes. Works may be reproduced for the purpose of promoting the welfare of the visually impaired. Legally accredited non-profit organizations may exploit the works for this purpose. (§53, 63(3))	Yes. Braille, sound recording, computer, and verbal imagery.	Must be for the visually impaired and for the exclusive use by the visually impaired.	No
Thailand	No	N/A	N/A	N/A
United States	1. performance of a non-dramatic literary work by transmission directed to the blind or deaf, or otherwise handicapped (17 U.S.C. 110(8)) 2. performance on a single occasion of a dramatic literary work published at least 10 years before the performance by transmission to the blind or visually handicapped (17 U.S.C. 110(9)) 3. reproduction and distribution of copies of published non-dramatic literary works in special formats (17 U.S.C. 121).	Specialized format is defined as (1) Braille, audio or digital text which is exclusively for use by blind or other persons with disabilities; and (2) with respect to print instructional materials, includes large print formats (17 U.S.C. 121(d)(4))	1. no direct or indirect commercial advantage; made by governmental body, noncommercial educational broadcast station, radio subcarrier, or cable system (17 U.S.C. 110(8)) 2. no direct or indirect commercial advantage; made by a radio subcarrier; not applicable to more than one performance of the same work by the same performers. (17 U.S.C. 110(9)) 3. copies cannot be made in non-specialized formats; must bear a notice that further	

	20., 20.a. L&E permitting utilization of works for blind or partially sighted persons	b. Is accessibility defined by type of format, or by type of use?	c. Conditions that must be met for someone to utilize L&E for blind or partially sighted persons	d. L&E permitting the import and/or export of material accessible to the blind or partially sighted
	4. retaining copies of performances directed to the blind or deaf, or otherwise handicapped, if such copies are made by a governmental body or nonprofit organizations. (17 U.S.C. 112(d)).		reproduction or distribution in other format is infringing; must include copyright notice (17 U.S.C. 121(b)(1)).	
Viet Nam	Translating a work into Braille or the like.	Fall under this exception.	Acts shall not make any affect to normal exploitation of the works or prejudice the rights of the authors or copyright owners and must provide information about the name of the authors and origins of works. This exception does not apply to architectural works, fine art works, and computer programs.	None.

UTILIZATION OF WORKS FOR DEAF PERSONS

	21., 21.a. L&E permitting utilization of works for deaf persons	b. Conditions that must be met for someone to utilize L&E for deaf persons	c. L&E permitting the import and/or export of material accessible to deaf persons
Australia	No equivalent statutory license equivalent to that for people with print disability, but s200AB “Special purposes” exception allows for use without copyright owner’s permission by a person with a disability who has difficulty reading, viewing or hearing the work or other subject matter in a particular form (s200AB)	Requires that: (i) use is not for a commercial advantage or profit, (ii) use amounts to ‘special case’ (same meaning as TRIPS Art. 13), (iii) does not conflict with normal exploitation, (iv) does not unreasonably prejudice the legitimate interests of the copyright owner. The purpose should be to obtain a copy of the work or subject matter in another form, or with a feature that reduces the difficulty.	No

	21., 21.a. L&E permitting utilization of works for deaf persons	b. Conditions that must be met for someone to utilize L&E for deaf persons	c. L&E permitting the import and/or export of material accessible to deaf persons
Canada	One may (1) make a copy or sound recording of a literary, musical, artistic, or dramatic work; (2) translate, adapt or reproduce in sign language a literary or dramatic work; and (3) perform in public a literary or dramatic work in sign language live or in a specially designed format. (§ 32.1 Copyright Act)	This exception does not apply to cinematographic works. Nor does it apply if the work is commercially available in a format designed for those with perceptual disabilities.	Not specified.
Chile	No.	N/A	N/A
China	No.	N/A	N/A
Hong Kong, China	Government can designate bodies to make copies of works that are subtitled or otherwise modified for special needs of the deaf or hard of hearing, and to make copies of TV broadcasts, cable programs and issue and make copies available to the public. (§ 83).	Exemption does not apply if licenses under licensing schemes are available authorizing the act and the person so acting knew or ought to have known.	No.
Japan	The association designated by Cabinet Order for promoting the welfare of the hearing impaired persons, may make and transmit interactively subtitles of the TV program simultaneously as it is broadcasted or cablecasted, on purpose to support the hearing impaired persons. Article 37ter of revised Japanese Copyright Act will broaden the scope of this L&E.	The interactive transmission may only be made for use by the aurally handicapped. The limitation/exception only benefits those designated by Cabinet Order who perform activities that promote the welfare of the aurally handicapped.	None.
Mexico	Yes. The reproduction of complete works or parts of a work; phonogram, videogram, interpretations, execution or edition, does not constitute a violation of copyright provided it is carried out without ends of financial gain with the exclusive object of making it accessible to blind or deaf-mute persons.	N/A	N/A
New Zealand	No	N/A	N/A

	21., 21.a. L&E permitting utilization of works for deaf persons	b. Conditions that must be met for someone to utilize L&E for deaf persons	c. L&E permitting the import and/or export of material accessible to deaf persons
Peru	No	N/A	N/A
Singapore	N/A	N/A	N/A
Chinese Taipei	Works may be reproduced with accompanying sign language translation or text for distribution to the hearing impaired. Legally accredited non-profit institutions or organizations may exploit works through computer use or sign language translation for the purpose of promoting the welfare of the hearing. (§ 53, 63(3)).	Works must be publicly released and for the exclusive use by the hearing impaired	No
Thailand	No	N/A	N/A
United States	1. Performance of non-dramatic literary work is allowed if directed to deaf or other similarly handicapped persons (17 U.S.C. 110(8)) 2. Retaining copies to such performances are allowed, if such copies are made by a governmental body or nonprofit organizations. (17 U.S.C. 112(d))	1. No direct or indirect commercial advantage; made by governmental body, non-commercial educational broadcast station, radio subcarrier, or cable system (17 U.S.C. 110(8)) 2. May not make more than ten copies embodying the performance; copies are used solely by the governmental body or nonprofit organization entitled to transmit the performance under 110(8) and no further copies are made from it; copy is used solely for transmission authorized under 110(8) or for archival preservation or security; and the governmental body or nonprofit organization makes no charge for such use (17 U.S.C. 112(d))	None
Viet Nam	None.	N/A	N/A

OTHER L&E RELATED TO USE BY PEOPLE WITH DISABILITIES

	22., 22.a. L&E permitting the utilization of works for persons with any other disabilities	b. Types of disabilities covered by this L&E	c. Conditions that must be met in order to utilize L&E	d. L&E permitting import and/or export of material accessible to persons with any other disabilities	23. L&E for use by/for individuals with disabilities not previously covered
Australia	<p>1. A Statutory license scheme is provided under the Act for educational institutions, as well as any organisations designated by the Attorney-General as an institution assisting people with an intellectual disability for the purposes of the Act. Under this scheme such institutions and organisations may (under certain circumstances) reproduce and communicate eligible items and copy and communicate broadcasts for sole purpose of assistance to persons with intellectual disability (Part VB, Division3)</p> <p>2. Section 200AA allows the use of broadcasts by institutions assisting persons with an intellectual disability, for that purpose.</p> <p>3. Personal use exceptions allow a person, within limits, to copy and format-shift works for private use. 4. “Special purposes” exception allows for use without copyright owner’s permission by a person with a disability who has difficulty reading, viewing or hearing the work or other subject matter in a particular form.</p>	Intellectual disability.	<p>1. Must provide a remuneration notice to the relevant approved collecting society.</p> <p>2. Must be for purpose of assisting a person with an intellectual disability.</p> <p>3. Use must meet the specified criteria of the personal use exception.</p> <p>4. Requires that: (i) use is not for a commercial advantage or profit, (ii) use amounts to a ‘special case’ (same meaning as TRIPS Art. 13), (iii) does not conflict with normal exploitation, (iv) does not unreasonably prejudice the legitimate interests of the copyright owner.</p>	No.	There are limited exceptions to the prohibition on circumventing TPM’s including uses by education institutions or organizations assisting people with a print disability. There is also an exception for a print disability radio licence, which allows for the sound broadcast of published material subject to record keeping obligations (s47A)

	22., 22.a. L&E permitting the utilization of works for persons with any other disabilities	b. Types of disabilities covered by this L&E	c. Conditions that must be met in order to utilize L&E	d. L&E permitting import and/or export of material accessible to persons with any other disabilities	23. L&E for use by/for individuals with disabilities not previously covered
	(s200AB)				
Canada	Other perceptual disabilities included under the same provision, which applies to those with a disability that prevents or inhibits a person from reading or hearing a work in its original format. (§ 2 Copyright Act)	See answer 22.a.	See answer 22.a.	See answer 22.a.	In certain circumstances, if the material could have been made lawfully in Canada it can be imported into Canada
Chile	No.	N/A	N/A	International exhaustion of this right: if works legally put on market, they can be exported or imported.	No.
China	No.	N/A	N/A	N/A	No.
Hong Kong, China	Government can designate bodies to make copies of works that are subtitled or otherwise modified for special needs of the physically or mentally handicapped, and to make copies of TV broadcasts, cable programs and issue and make copies available to the public. (§ 83).	Physical or mental handicaps.	Exemption does not apply if licenses under licensing schemes are available authorizing the act and the person so acting knew or ought to have known	No	No
Japan	None.	N/A	N/A	N/A	N/A
Mexico	Yes. The reproduction of complete works or parts of a work; phonogram, videogram, interpretations, execution or edition, does not constitute a violations of copyright provided it is carried out without ends of financial gain with	N/A	N/A	N/A	No

	22., 22.a. L&E permitting the utilization of works for persons with any other disabilities	b. Types of disabilities covered by this L&E	c. Conditions that must be met in order to utilize L&E	d. L&E permitting import and/or export of material accessible to persons with any other disabilities	23. L&E for use by/for individuals with disabilities not previously covered
	the exclusive object of making it accessible to blind or deaf-mute persons.				
New Zealand	No	N/A	N/A	N/A	N/A
Peru	None specified.	N/A	N/A	N/A	N/A
Singapore	Yes. Multiple copying by institutions assisting intellectually handicapped readers.	Intellectually handicapped readers	No new copy of the work can be obtained in a reasonable time at an ordinary commercial price. (Section 54A(2)) Record of copying must be kept. (Section 54A(4))	N/A	N/A
Chinese Taipei	Yes, under the general fair use provision. (§ 65(2))	Not specified	Subject to the fair use test and factors.	No	No
Thailand	No	N/A	N/A	N/A	N/A
United States	No.	N/A	N/A	N/A	N/A
Viet Nam	None.	N/A	N/A	N/A	N/A

GENERAL L&E

FAIRNESS-BASED DOCTRINES

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
Australia	<p>1. ‘Fair dealing’ provisions are provided with respect to research or study; criticism or review; parody or satire; reporting news; and professional advice by a lawyer, patent attorney or trade marks attorney. Whether a use amounts to ‘fair dealing’ will depend upon circumstances and context of dealing, based on factors including: purpose and character of the dealing, nature of the work, availability, effect on market of value, amount and substantiality in relation to the whole work and, whether use is for a commercial purpose</p> <p>2. “Special purposes” exception allows for use without copyright owner’s permission for special purposes, which includes use by libraries and archives; educational institutions; and a person with a</p>	No	“Fair dealing” with a literary work does not amount to infringement of copyright if for the purpose of an approved course of study or research by an enrolled external student of an educational institution. (s40)	“Fair dealing” with literary, dramatic or musical works for the purpose of research or study (s40). The “special purpose” exception may also apply in respect of use by an educational institution for the purpose of giving educational instruction provided that: (i) use is not for a commercial advantage or profit, (ii) use amounts to a "special case" (same meaning as TRIPS Art. 13), (iii) does not conflict with normal exploitation, (iv) does not unreasonably prejudice the legitimate interests of the copyright owner.	The special purposes exception may apply. (s200AB). The purpose of this use must be to obtain a copy of the work or subject matter in another form, or with a feature, that reduces the difficulty. Requires that: (i) use is not for a commercial advantage or profit, (ii) use amounts to ‘special case’ (same meaning as TRIPS Art. 13), (iii) does not conflict with normal exploitation, (iv) does not unreasonably prejudice the legitimate interests of the copyright owner.

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	disability that causes difficulty reading, viewing or hearing the work or other subject matter in a particular form (s200AB)				
Canada	Research and private study; Criticism and review - the following must be mentioned: (a) the source; and (b) if given in the source, the name of the author, performer, maker, or broadcaster. News reporting - the following must be mentioned: (a) the source; and (b) if given in the source, the name of the author, performer, or broadcaster (§ 29 Copyright Act)	No specific exception	No specific exception	No specific exception	No specific exception
Chile	No.	N/A	N/A	N/A	N/A
China	Yes. Must fall under special circumstances set out in the Copyright Law and other relevant laws and regulations. In general it shall not affect normal use of works nor unreasonably impair legitimate interests of right holders. For detailed provisions, please see Article 22 of the Copyright Law and Article 6 of the Regulations on the Protection of the Right of Communication through Information Network	Yes. For detailed provisions, please see Article 6 of the Regulations on the Protection of the Right of Communication through Information Network. (Please refer to the first column).	No.	Yes. For detailed provisions, please see Item 6, Paragraph 1, Article 22 of the Copyright Law and Article 6, Item 3 of the Regulations on the Protection of the Right of Communication through Information Network. These clauses are provided as follows:	Yes. For detailed provisions, please see Item 12, Paragraph 1, Article 22 of the Copyright Law and Item 6, Article 6 of the Regulations on the Protection of the Right of Communication through Information Network. These clauses are provided as follows:

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	<p>These clauses are provided as follows:</p> <p>The copyright law: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>1. For the purpose of private study, research or entertainment, to use a published work of another;</p> <p>2. For the purpose of introducing or commenting a work or demonstrating a point in one's work, appropriately to quote a published work of another;</p> <p>3. For the purpose of reporting current events, to use or quote, by newspaper, magazine, radio or television station, a published work;</p> <p>4. To reprint or rebroadcast, by newspaper, magazine or radio or television station,</p>			<p>The copyright law: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>6. For use by teachers or scientific researchers for teaching or scientific research, to translate or reproduce in a small quantity a published work, however, the translation or reproduction may not be published or distributed;</p> <p>The regulations: Article 6 Under any of the following circumstances, works may be provided through the information network, and the provider may be</p>	<p>The copyright law: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>12. To transliterate from a published work into Braille for publication.</p> <p>The regulations: Article 6 Under any of the following circumstances, works may be provided through the information network, and the provider may be exempted from obtaining the owner's permission as well as paying the relevant remunerations thereto:</p>

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	<p>current events on politics,economy and religion already published by another newspaper, magazine or radio or television station, except where the author has declared that the reprint or rebroadcast is not allowed;</p> <p>5. To publish or broadcast, by newspaper, magazine or radio or television station, a speech delivered at a public gathering, except where the author has declared that the publication or broadcast is not allowed;</p> <p>6. For use by teachers or scientific researchers for teaching or scientific research, to translate or reproduce in a small quantity a published work, however, the translation or reproduction may not be published or distributed;</p> <p>7. For the purpose of performing official duties, to use a published work by state authorities within a reasonable limits;</p> <p>8. For the purposes of displaying or preserving copies, to reproduce a work in its collections by a library,</p>			<p>exempted from obtaining the owner's permission as well as paying the relevant remunerations thereto:</p> <p>(3) Where, in order to support the teaching research or scientific research, a small quantity of published works are provided to some people who engage in teaching or scientific research;</p>	<p>(6) Where any already published work is provided to the blind in a way as particularly perceptible to the blind and not for the purpose of making profits;</p>

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	<p>archives center, memorial hall, museum, art gallery or similar institutions;</p> <p>9. To perform free of charge a published work, the said performance neither collects any fees from the members of the public nor pays compensation to the performer;</p> <p>10. To copy, draw photograph or record an artistic work that is placed or displayed in an outdoor place;</p> <p>11. To translate a published work of a citizen, legal person or other organization from the language of the Han nationality into a minority nationality language for domestic publication and distribution; or</p> <p>12. To transliterate from a published work into Braille for publication.</p> <p>The provisions of the paragraph above shall be applicable to the restriction on the rights of publishers, performers, producers of sound</p>				

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	<p>recordings and visual recordings, radio stations and television stations.</p> <p>The regulations: Article 6 Under any of the following circumstances, works may be provided through the information network, and the provider may be exempted from obtaining the owner's permission as well as paying the relevant remunerations thereto:</p> <p>(1) Where an appropriate portion of any published work is quoted in the works one provides to the general public for the purpose of introducing or commenting on any work or elaborating any issue;</p> <p>(2) Where it is inevitable to reproduce or quote any published work in the works he provides to the general public for the purpose of making any new release;</p> <p>(3) Where, in order to support the teaching research or scientific research, a small quantity of published works are</p>				

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	<p>provided to some people who engage in teaching or scientific research;</p> <p>(4) Where any state organ provides to the general public any published work within a reasonable range for the purpose of exercising its functions and duties;</p> <p>(5) Where the works as already published by any Chinese citizen, legal person or any other organization in Chinese are translated into any language of any minority ethnic group and are provided to such people within the territory of China;</p> <p>(6) Where any already published work is provided to the blind in a way as particularly perceptible to the blind and not for the purpose of making profits;</p> <p>(7) Where any Article on current affairs such as political and economic issues that has been published is provided through the information network; or</p> <p>(8) Where a speech as delivered in a public gathering.</p>				

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	is provided to the general public				
Hong Kong, China	<p>The following factors are considered in assessing whether something is fair dealing: (§ 38(3))</p> <ul style="list-style-type: none"> · Purpose and nature of dealing, including whether the dealing is for a non-profit-making purpose and whether the dealing is of a commercial nature; · Nature of the work; · Amount and substantiality of the portion used. · effect of the dealing on the potential market for or value of the work. <p>Fair dealing for purposes of review, criticism or current events is also provided. (§39). For reporting current events, it must be accompanied by sufficient acknowledgment.</p> <p>Fair dealing with a work by or on behalf of a teacher or by a pupil for the purposes of giving/receiving instruction in a specified course of study</p>	See factor analysis from part a.	The fair dealing exception for education in the 2006 Bill may cover distance learning over the internet. (Draft § 41A).	Fair dealing exception for education. See factor analysis from part a.	N/A

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	provided by an educational establishment. The factors for determining fair dealing (§41A) are enumerated in the answer to Q.1c. Fair dealing with a work by the Government, Executive Council, the Judiciary or any District Council for the purposes of efficient administration of urgent business.				
Japan	None.	N/A	N/A	N/A	N/A
Mexico	No	N/A	N/A	N/A	N/A
New Zealand	The fair dealing exceptions include criticism, review, news reporting, research, and private study. Section 43(3) of the Act sets out certain factors that have to be taken into account when determining whether or not a dealing is fair.	N/A	N/A	N/A	N/A
Peru	No fairness-based doctrine.	N/A	N/A	N/A	N/A
Singapore	5 Factors considered (s35(3) and s109(3) Purpose and character of the dealing is for non-profit educational purposes. Nature of the work, adaptation, audio-visual item. Amount and substantially of the part copied Effect of the dealing upon potential market.	See response 4b.	See response 9a.	See response 10.	See response 10.

	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	Possibility of obtaining work within a reasonable time at an ordinary price.				
Chinese Taipei	Factors to determine whether the use is fair: (1) purpose and character of the use; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used; (4) the effect of the exploitation on the work’s current and potential market value. (§65(2))	Yes. The following exceptions were identified: (1) works publicly released in the name of a central or local government agency or juristic person may be publicly transmitted; (2) commentary on current political, economic, or social events that have appeared in newspapers, magazines, or networks may be publicly transmitted on a network (§50, 61)	No	Yes. (1) all works publicly released works may be reproduced for teaching all levels of legally recognized schools; (2) preparing pedagogical texts subject to approval by education administrative agency; (3) supplementary teaching aids ancillary to textbooks for teacher use to teach. (§46, 47(1)(2))	Yes. Works publicly released may be reproduced in Braille, or accompanying sign language translation. Accredited non-profit institutions and organization may exploit works that have been publicly released for the exclusive use by the hearing impaired and visually impaired. (§53)
Thailand	Yes. Must not be for profit, interfere with the copyright holder’s normal exploitation of the work, or unreasonably prejudice the rights of the copyright holder. Section 32 paragraph 1, Section 35(1))	No	No	Yes, for non-profit research or study of a work. (Section 32(1), Section 35(1))	
United States	Fair Use – the following factors are considered: (1) purpose and character of the use; (2) the	Yes	Yes	Yes	Yes

	nature of the copyrighted work;				
	24., 24.a. Fairness-based doctrines, requirements that must be met in order to show that a use is “fair”	b.(i) L&E under fairness- based doctrine for digital technology	b.(ii) L&E under fairness- based doctrine for distance learning	b.(iii) L&E under fairness-based doctrine for education	b.(iv) L&E under fairness based doctrine for use by persons with disabilities
	(3) the amount and substantiality of the portion used; (4) the effect of the use upon the potential market for or value of the copyrighted work (17 U.S.C. 107)				
Viet Nam	No fairness-based doctrine.	N/A	N/A	N/A	N/A

NON-PROFIT AND/OR NON-COMMERCIAL USES

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
Australia	The Government has a statutory licence scheme which provides for the reproduction of copyright material for the ‘services of the Government’.	Government entities	Payment of a fair remuneration to an approved copyright collecting society or copyright owner.
Canada	No religious organization or institution, educational institution and no charitable or fraternal organization shall be held liable to pay any compensation for doing any of the following: the live performance in public of a musical work; the performance in public of a sound recording; or the performance in public of a communication signal carrying the live performance in public of a musical work, or a sound recording.	Non-profit educational institutions and non-profit libraries, archives, and museums. Non-profit organizations acting on behalf of persons with perceptual disabilities. Religious organizations or institutions and charitable or fraternal organizations. (See also §32 Copyright Act)	Act must occur for a religious, educational or charitable purpose

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
	The educational, library, museum and archive exceptions above also apply. (§29, §30, §32 Copyright Act)		
Chile	Yes.	N/A	N/A
China	<p>Yes. For detailed provisions, please see Items 7 and 8, Paragraph 1, Article 22 of the Copyright Law and Item 4, Article 6 and Article 7 of the Regulations on the Protection of the Right of Communication through Information Network.</p> <p>These clauses are provided as follows:</p> <p>The copyright law: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>7. For the purpose of performing official duties, to use a published work by state authorities within a reasonable limits;</p> <p>8. For the purposes of displaying or preserving copies, to reproduce a work in its collections by a library, archives center, memorial hall, museum, art gallery or similar institutions;</p> <p>The regulations: Article 6 Under any of the following circumstances, works may be provided through the information network, and the provider may be exempted from obtaining the owner's permission as well as paying the relevant</p>	State organs, libraries, archives, memorials, museums and art galleries.	<p>Must fall under special circumstances set out in the Copyright Law and other relevant laws and regulations. In general it shall not affect normal use of works nor unreasonably impair legitimate interests of right holders. For detailed provisions, please see Article 22 of the Copyright Law and Articles 6 and 7 of the Regulations on the Protection of the Right of Communication through Information Network.</p> <p>These clauses are provided as follows:</p> <p>The copyright law: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>1. For the purpose of private study, research or entertainment, to use a published work of another;</p> <p>2. For the purpose of introducing or commenting a work or demonstrating a point in one's work, appropriately to</p>

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
	<p>remunerations thereto:</p> <p>(4) Where any state organ provides to the general public any published work within a reasonable range for the purpose of exercising its functions and duties;</p> <p>Article 7 A library, archives, memorial, museum and art gallery may, in the absence of the copyright holder's permission, provide the relevant digital works as lawfully published and preserved by the aforesaid institutions as well as the works that shall, according to law, be subject to digital photocopying for display or preservation to their objects of service through the information network within their place and without paying any remuneration. Whereas the aforesaid institutions may not directly or indirectly seek for any economic interest from such activities, unless it is otherwise stipulated by the parties concerned.</p> <p>The works subject to digital photocopying for the purpose of display or conservation as prescribed in the preceding paragraph shall be the works that have been damaged or destroyed or are almost damaged or destroyed, are lost or stolen, whose storage format has been out-of-date, and which cannot be purchased through the market channel or can only be purchased at a price as obviously higher than the standardized one.</p>		<p>quote a published work of another;</p> <p>3. For the purpose of reporting current events, to use or quote, by newspaper, magazine, radio or television station, a published work;</p> <p>4. To reprint or rebroadcast, by newspaper, magazine or radio or television station, current events on politics, economy and religion already published by another newspaper, magazine or radio or television station, except where the author has declared that the reprint or rebroadcast is not allowed;</p> <p>5. To publish or broadcast, by newspaper, magazine or radio or television station, a speech delivered at a public gathering, except where the author has declared that the publication or broadcast is not allowed;</p> <p>6. For use by teachers or scientific researchers for teaching or scientific research, to translate or reproduce in a small quantity a published work, however, the translation or reproduction may not be published or distributed;</p> <p>7. For the purpose of performing official duties, to use a published work by state authorities within a reasonable limits;</p> <p>8. For the purposes of displaying or preserving copies, to reproduce a work in its collections by a library, archives center, memorial hall, museum, art</p>

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
			<p>gallery or similar institutions;</p> <p>9. To perform free of charge a published work, the said performance neither collects any fees from the members of the public nor pays compensation to the performer;</p> <p>10. To copy, draw, photograph or record an artistic work that is placed or displayed in an outdoor place;</p> <p>11. To translate a published work of a citizen, legal person or other organization from the language of the Han nationality into a minority nationality language for domestic publication and distribution; or</p> <p>12. To transliterate from a published work into Braille for publication.</p> <p>The provisions of the paragraph above shall be applicable to the restriction on the rights of publishers, performers, producers of sound recordings and visual recordings, radio stations and television stations.</p> <p>The regulations: Article 6 Under any of the following circumstances, works may be provided through the information</p>

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
			<p>network, and the provider may be exempted from obtaining the owner's permission as well as paying the relevant remunerations thereto:</p> <p>(1) Where an appropriate portion of any published work is quoted in the works one provides to the general public for the purpose of introducing or commenting on any work or elaborating any issue;</p> <p>(2) Where it is inevitable to reproduce or quote any published work in the works he provides to the general public for the purpose of making any new release;</p> <p>(3) Where, in order to support the teaching research or scientific research, a small quantity of published works are provided to some people who engage in teaching or scientific research;</p> <p>(4) Where any state organ provides to the general public any published work within a reasonable range for the purpose of exercising its functions and duties;</p> <p>(5) Where the works as already published by any Chinese citizen, legal person or any other organization in Chinese are translated into any language of any minority ethnic group and are provided to such people within the territory of China;</p> <p>(6) Where any already published work</p>

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
			<p>is provided to the blind in a way as particularly perceptible to the blind and not for the purpose of making profits;</p> <p>(7) Where any Article on current affairs such as political and economic issues that has been published is provided through the information network; or</p> <p>(8) Where a speech as delivered in a public gathering is provided to the general public.</p> <p>Article 7 A library, archives, memorial, museum and art gallery may, in the absence of the copyright holder's permission, provide the relevant digital works as lawfully published and preserved by the aforesaid institutions as well as the works that shall, according to law, be subject to digital photocopying for display or preservation to their objects of service through the information network within their place and without paying any remuneration. Whereas the aforesaid institutions may not directly or indirectly seek for any economic interest from such activities, unless it is otherwise stipulated by the parties concerned.</p> <p>The works subject to digital photocopying for the purpose of display or conservation as prescribed in the preceding paragraph shall be the works that have been damaged or destroyed or</p>

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
			are almost damaged or destroyed, are lost or stolen, whose storage format has been out-of-date, and which cannot be purchased through the market channel or can only be purchased at a price as obviously higher than the standardized one.
Hong Kong, China	<p>1. Non-profit: Exception for performing, showing or playing a work (other than broadcast or cable program). (§ 76).</p> <p>2. Non commercial: Various exceptions related to private and domestic uses of works.</p> <p>3. Non commercial: playing broadcast or cable program in public to non-paying audience</p>	1. Non-profit club, society or other organization charitable objects or otherwise concerned with religion, education or social welfare that is not established or conducted for profit	1. See foregoing column and proceeds from performance must be for purposes of organization.
Japan	Provision for the lending of copies of cinematographic works to the public. (Art. 38(5))	Only audiovisual education establishments and other establishments not for profit-making, designated by Cabinet Order are entitled to this limitation.	The work should already be public. The organization should not charge any fees and should pay compensation to the right holders.
Mexico	<p>Literary and artistic works already disclosed may be used, whenever normal exploitation of the works is not affected, without authorization of the rights holder and without remuneration, where the source is mentioned and without altering the work, only in the following cases:</p> <p>One-time reproduction of a single copy of a literary or artistic work for the personal and private use of the person who does it, and not profit.</p> <p>Legal entities may not avail themselves of this exception except in case of an educational or research institution, or an institution not devoted to commercial activities.</p> <p>Legal entities may not avail themselves of this</p>	Educational or research institution or an institution not devoted to commercial activities.	None specified.

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
	exception except in the case of an educational or research institution, or a non-profit institution.		
New Zealand	No specific non-profit exceptions. But several entity-specific exceptions; including copying for educational purposes (s44); provision of Braille copies (s69); playing of sound recordings for club or society (s81); copying by parliamentary library (s58); recording for archival purpose (s90).	N/A	N/A
Peru	None	N/A	N/A
Singapore	Statutory licences for non-profit educational institutions. Exceptions for non-profit libraries and archives	Educational institutions, libraries and archives.	As found in exceptions mentioned earlier.
Singapore	Statutory licences for non-profit educational institutions. Exceptions for non-profit libraries and archives	Educational institutions, libraries and archives.	As found in exceptions mentioned earlier.
Chinese Taipei	Yes. A variety of non-profit uses are permitted under a variety of circumstances, including: 1. Government agencies may reproduce work if it is necessary for internal reference or for legislation or administrating. (§44) 2. Teachers may reproduce works publicly released. (§46) 3. Education administrative agencies may prepare pedagogical texts with works publicly released (§47(1)) (For other examples see §47(3), 48, 48bis, 54 of the Copyright Act)	1. Central or local government agencies 2. All levels of legally established schools and their teachers 3. Education administrative agencies 4. All levels of legally established schools and their teachers 5. Libraries, museums, history museums, science museums, art museums, and other cultural institutions open to the public 6. Libraries, museums, history museums, science museums, art museums, and other cultural institutions open to the public 7. Central and local government agencies and all levels of schools or educational institutions established by law.	1. when necessary for internal reference, for the purpose of legislation or administration 2. For the purpose of teaching in schools 3. For the purpose of preparing pedagogical texts 4. For the purpose of meeting educational needs 5. Where patron requests or where necessary to preserve materials or where the works in question are out of print or difficult to purchase and have been requested by another similar institute 6. Only the abstracts can be reproduced 7. the works must have been publicly released
Thailand	No	N/A	N/A

	25., 25.a. L&E for non-profit and/or non-commercial entities	b. Types of organizations entitled to L&E for non-profit and/or non-commercial entities	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial entities
United States	<p>A variety of limitations and exceptions for non-profit or noncommercial entities are permitted under a variety of circumstances, including:</p> <ul style="list-style-type: none"> • Non-profit educational institutions functioning as a library or archives may reproduce work during the last 20 years of copyright. 17 U.S.C. 108(h) • Non-profit veteran’s and fraternal organizations may perform non-dramatic literary or musical works in course of social function. 17 U.S.C. 110(10) • Non-profit organizations allowed to transmit a performance or display a work may make copies or phonorecords of a particular transmission program embodying the performance or display. 17 U.S.C. 112(b) • Use of certain works in connection with noncommercial broadcasting. 17 U.S.C. 118 <p>(For other examples see 17 U.S.C. 109(b); 110(1),(2),(6),(8); 111(a)(5); 112(c),(d),(f); 114(d)(1)(B)(iv); 504(c)(2); 512(e); 1201(d); 1203(c)(5)(B); 1204(b))</p>	<p>Including: Non-profit educational institutions, libraries, archives, non-profit veterans’ organizations, non-profit fraternal organizations, non-profit agricultural or horticultural organizations (17 U.S.C. 109(b); 110(1),(2),(6),(8); 111(a)(5); 112(c),(d),(f); 114(d)(1)(B)(iv); 118; 121; 504(c)(2); 512(e); 1201(d); 1203(c)(5)(B); 1204(b))</p>	<p>A variety of conditions are imposed depending on the limitation or exception, including:</p> <ul style="list-style-type: none"> • Work not subject to normal commercial exploitation or available at a reasonable price. 17 U.S.C. 108(a),(h) • Proceeds of performance must be used for charitable purposes. 17 U.S.C. 110(10) • No more than 30 copies of copies of performed work are allowed, and all copies except one must be destroyed within 7 years of the program. 17 U.S.C. 112(b) <p>(For other examples see 17 U.S.C. 109(b)(1); 110(1),(2),(6),(8); 111(a)(5); 112(c),(d),(f); 114(d)(1)(B)(iv); 118; 504(c)(2); 512(e); 1201(d); 1203(c)(5)(B); 1204(b))</p>
Viet Nam	<p>Exceptions for the following:</p> <ul style="list-style-type: none"> • Quoting from a work for teaching in schools without alteration of the contents not for commercial purposes; • Performing dramatic works and other forms of performing arts in cultural gatherings or in promotional campaigns without any form of charges; • The self-reproduction of one shall be applied to cases of scientific study, training of an individual itself without commercial purpose. Persons and legal entities. 		<p>Acts shall not make any affect to normal exploitation of the works or prejudice the rights of the authors or copyright owners and must provide information about the name of the authors and origins of works. This exception does not apply to architectural works, fine art works, and computer programs.</p>

NON-PROFIT AND/OR NON-COMMERCIAL ENTITIES/USES

	26., 26.a. L&E for non-profit and/or non-commercial purposes	b. Types of organizations entitled to L&E for non-profit and/or non-commercial purposes	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial purposes	d. Does L&E require that a broadcasting entity provide fair compensation to the copyright holder?
Australia	No	N/A	N/A	N/A
Canada	Does not have specific sections dedicated to non-profit or non-commercial purposes, however, "fair dealing" may apply (see § 29)	None specified	None specified	Compensation is required for reproductions not destroyed after one year of making the copy.
Chile	No.	N/A	N/A	N/A
China	<p>Yes. For detailed provisions, please see Items 1, 9 and 10, Paragraph 1, Article 22 of the Copyright Law and Articles 16 and 17 of the <i>Regulations on the Protection of Computer Software</i>.</p> <p>These clauses are provided as follows:</p> <p>The copyright law: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be</p>	The Copyright Law does not provide limitations on types of organizations.	Must fall under special circumstances set out in the Copyright Law and other relevant laws and regulations. In general it shall not affect normal use of works nor unreasonably impair legitimate interests of right holder. For detailed provisions, please see Article 22 of the Copyright Law and Articles 16 and 17 of the <i>Regulations on the Protection of Computer Software</i> .	<p>The Copyright Law does not provide for uses of broadcasting organizations. Under the circumstances set out in Items 3, 4 and 5, Paragraph 1, Article 22 of the Copyright Law, the broadcasting organizations are not obligated to compensate the right holder; under Paragraph 2, Article 42 and Article 43 of the Copyright Law, the broadcasting organizations shall reasonably compensate the right holder.</p> <p>These clauses are provided as follows:</p> <p>Article 22 Under one of the following circumstances, a work may be used without the license</p>

	26., 26.a. L&E for non-profit and/or non-commercial purposes	b. Types of organizations entitled to L&E for non-profit and/or non-commercial purposes	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial purposes	d. Does L&E require that a broadcasting entity provide fair compensation to the copyright holder?
	<p>indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>1. For the purpose of private study, research or entertainment, to use a published work of another;</p> <p>9. To perform free of charge a published work, the said performance neither collects any fees from the members of the public nor pays compensation to the performer;</p> <p>10. To copy, draw, photograph or record an artistic work that is placed or displayed in an outdoor place;</p> <p>Regulation for Computer Software Protection: Article 16 Owners of lawful copies of software shall enjoy the following rights:</p> <p>1. To load the software into such devices having information processing capacity as computer according to the operational need;</p> <p>2. To make back-ups for</p>			<p>of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <p>3. For the purpose of reporting current events, to use or quote, by newspaper, magazine, radio or television station, a published work;</p> <p>4. To reprint or rebroadcast, by newspaper, magazine or radio or television station, current events on politics, economy and religion already published by another newspaper, magazine or radio or television station, except where the author has declared that the reprint or rebroadcast is not allowed;</p> <p>5. To publish or broadcast, by newspaper, magazine or radio or television station, a speech delivered at a public gathering, except where the author has declared that the publication or broadcast is not allowed;</p>

	26., 26.a. L&E for non-profit and/or non-commercial purposes	b. Types of organizations entitled to L&E for non-profit and/or non-commercial purposes	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial purposes	d. Does L&E require that a broadcasting entity provide fair compensation to the copyright holder?
	<p>avoiding damage to the copies. These back-ups may not be provided to other persons for use in any way. Once the owner loses the ownership of the lawful copies, he shall be responsible for destroying all the back-ups; and</p> <p>3. To make necessary modifications in order to use the software in the practical application environment for computers or to improve the functions of the software. The software so modified may not, however, be provided to the third party without the license of the software copyright owner, unless otherwise stipulated in the contract.</p> <p>Article 17 Without the license of and payment to the software copyright owner, a person may use software for learning and studying the design idea and principle of the software in the form of loading, display, transmission or storage.</p>			<p>Article 42</p> <p>2、 In broadcasting a published work of another, the radio or television station may be allowed to acquire no license from the copyright owner, however, it shall pay compensation thereto.</p> <p>Article 43 In broadcasting a published sound recording product, the radio or television station may be allowed to acquire no license from the copyright owner, however, it shall pay compensation thereto, unless otherwise agreed by the parties concerned. The State Council shall formulate the concrete measures therefor</p>

	26., 26.a. L&E for non-profit and/or non-commercial purposes	b. Types of organizations entitled to L&E for non-profit and/or non-commercial purposes	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial purposes	d. Does L&E require that a broadcasting entity provide fair compensation to the copyright holder?
Hong Kong, China	See 25, 25a Additional exceptions for: 1. Making for private, domestic use of a broadcast or cable program (§ 79). 2. Making for private, domestic use of a photograph of the whole or part of an image forming part of a television broadcast or cable program (§ 80) 3. Showing or playing in public of a broadcast or cable program to non-paying audience (§ 81)	See 25, 25a 1. Any person 2. Any person (§§ 79, 80, 81)	See 25, 25a 1. Only for propose of enabling it to be viewed or listened at a more convenient time. 2. Non-paying audience.	N/A
Japan	Provisions for performances, presentations, or recitations for non-profit purposes. (Art. 38 (1),(4))	None specified.	Clause 1: The work should already be public, the activity should be done for non-profit purposes and the person who utilizes the limitation should not charge any fees. Clause 2 & 3: The activity should be done for non-profit purposes and the person who utilizes the limitation should not charge any fees. Clause 4: The work should already by public, activity should be done for non-profit purposes and the person should not charge fees. The exception does not apply to cinematographic works. (Art. 38(1-4))	No

	26., 26.a. L&E for non-profit and/or non-commercial purposes	b. Types of organizations entitled to L&E for non-profit and/or non-commercial purposes	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial purposes	d. Does L&E require that a broadcasting entity provide fair compensation to the copyright holder?
Mexico	Yes. Use of the performances, phonograms, videograms or broadcasts will not constitute infringements of the rights of the performing artists or players, phonogram, or videogram producers or broadcasting organizations concerned if :1. A direct economic benefit is not pursued; 2. Only short fragments are used for information about current events; and 3. It is for purposes of education or scientific research.	Educational or research institution or an institution not devoted to commercial activities.	See 26.a.	No
New Zealand	No general exception for non-profit/commercial purposes. But several exceptions for purposes that are at least partially non-profit/commercial. For example: fair dealing for research and private study (s43); recording for timeshifting (s84).	N/A	N/A	N/A
Peru	None specified	N/A	N/A	N/A
Singapore	No general exception for non-profit/commercial purposes. But several exceptions for purposes that are at least partially non-profit/commercial. For example: recording for timeshifting for private and domestic use(s114).	N/A	N/A	N/A

	26., 26.a. L&E for non-profit and/or non-commercial purposes	b. Types of organizations entitled to L&E for non-profit and/or non-commercial purposes	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial purposes	d. Does L&E require that a broadcasting entity provide fair compensation to the copyright holder?
Chinese Taipei	<p>A variety of non-profit uses are permitted under a variety of circumstances, including:</p> <ol style="list-style-type: none"> 1. reproduction of publicly released work for government use, educational use, use in examinations, not-for-profit use, translation into Braille or text for the hearing impaired (§44, 46, 47, 51, 53, 54, 55 2. Use in judicial proceedings (§45) 3. Public broadcasting of the work (§47(3), 56bis) (For other examples see §48, 48bis, 49, 50, 56(1), 57, 58, 59, 61, 62) 	<ol style="list-style-type: none"> 1. Central or government agencies; legally recognized educational institutions and teachers; Libraries, Museums, and other cultural institutions; An individual or family for non profit use; Visually and hearing impaired; 2. not specified; 3. educational institutions; non profit organizations; any broadcast of work release dint he name of government agency; or for non profit; 4. Legally recognized educational institutions; 5. Libraries open to the public, central and local government agencies, educational institutions; 6. The owner of the original copy of the artistic work on display; 7. not specified; 8. owner of a legal copy of the computer program; 9. not specified; 10. not specified 	<ol style="list-style-type: none"> 1. must be for internal use, or for legislation or administration for governmental use; for education for the purpose of teaching; for non profit of private family use only; For Braille and hearing impaired the use may only be to benefit individuals with these disabilities; For examination purposes only 2. Only allowed when use is necessary in judicial proceedings 3. Must meet educational needs; or in non-profit situations there can be no fee charged 4. must be for the purpose of preparing pedagogical texts 5. Must be abstracts 6. Must be for the purpose of explaining the work 7. May not be reproduction of a building by construction of another building; may not be reproduction of a sculpture near other sculpture; no reproduction for long term public display in certain locales; no reproduction for the purpose of selling copies 8. allowed only where necessary for use or for back up, and is limited to the owner's personal use 	No

	26., 26.a. L&E for non-profit and/or non-commercial purposes	b. Types of organizations entitled to L&E for non-profit and/or non-commercial purposes	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial purposes	d. Does L&E require that a broadcasting entity provide fair compensation to the copyright holder?
			9. Not specified 10. not specified	
Thailand	Public performance of dramatic or musical works for non-profit purposes, without charge to spectators, and without payment of remuneration to performers is not deemed an infringement of copyright. (Section 36)	Associations, foundations, or other organizations with objectives of charity, education, religion, or social welfare. (Section 36)	Performance must not interfere with the normal exploitation of the work by the copyright holder, or unreasonably prejudice the rights of the copyright holder (Section 36)	No
United States	A variety of non-profit uses are permitted under a variety of circumstances, including: <ul style="list-style-type: none"> • Performance of a non-dramatic literary or musical work allowed. 17 U.S.C. 110(4) • Performances of non-dramatic work directed to blind or other handicapped persons allowed. 17 U.S.C. 110(8) • Performance on a single occasion of a dramatic literary work designed for or directed towards blind or other disabled persons. 17 U.S.C. 110(9) (For other examples see (17 U.S.C. 112(c),(d),118; 1008)	Including: Non-profit educational institutions, libraries, archives, non-profit veterans' organizations, non-profit fraternal organizations, non-profit agricultural or horticultural organizations (For example see 17 U.S.C. 109(b)(1); 110(4),(8),(9),(10); 111(a)(5); 111(e)(2); 112(c),(d); 118; 1008)	A variety of conditions are imposed depending on the particular exception or limitation, including: <ul style="list-style-type: none"> • No commercial advantage sought from performance, no payment to performers, promoters, or organizers, and proceeds must be used for educational, religious, or charitable purposes. 17 U.S.C. 110(4) • No commercial advantage sought from performance and transmission made through certain prescribed facilities, such as those of governmental body or noncommercial educational broadcast station. 17 U.S.C. 110(8) • Work must have been published at least 10 years 	No, except that the statutory license for public broadcasting entities requires payment for use under 17 U.S.C. 118

	26., 26.a. L&E for non-profit and/or non-commercial purposes	b. Types of organizations entitled to L&E for non-profit and/or non-commercial purposes	c. Conditions that must be met for someone to utilize L&E for non-profit and/or non-commercial purposes	d. Does L&E require that a broadcasting entity provide fair compensation to the copyright holder?
			prior to performance, and performance must be made by a radio subcarrier authorization. 17 U.S.C. 110(9) (For other examples see also 17 U.S.C. 109(b)(1); 110(10); 111(a)(5); 111(e)(2); 112(c),(d); 118; 1008)	
Viet Nam	<p>Exceptions for the following:</p> <ul style="list-style-type: none"> • Quoting from a work for teaching in schools without alteration of the contents not for commercial purposes; • Performing dramatic works and other forms of performing arts in cultural gatherings or in promotional campaigns without any form of charges; • The self-reproduction of one shall be applied to cases of scientific study, training of an individual itself without commercial purpose. • (Survey said “See the point 26” we believe this meant “see above”) 	Persons and legal entities. (Survey said “See the point 26” we believe this meant “see above”)	Acts shall not make any affect to normal exploitation of the works or prejudice the rights of the authors or copyright owners and must provide information about the name of the authors and origins of works. This exception does not apply to architectural works, fine art works, and computer programs. (Survey said “See the point 26” we believe this meant “see above”)	Broadcasting organizations that use a published work to make a broadcast program which is sponsored, contains an advertisement, or which collects fees in any form shall not be required to seek permission but must pay royalties or remuneration to the copyright holder in accordance with government regulations.

TRANSLATION

	27. L&E for translation	a. Conditions that must be met for someone to utilize L&E that deal with translation of a copyrighted work into another language	b. Organizations that may utilize L&E that deal with translations	c. Number of translations that one person or entity may make of a single copyrighted work
Australia	No	N/A	N/A	N/A
Canada		An educational institution or person acting under its authority may translate a work or other subject matter as required for a test or examination and must not be commercially available in a medium that is appropriate for test or examination purposes. (§29.4 Copyright Act)	Educational institution or person acting under its authority	No limit specified
Chile	No.	N/A	N/A	N/A
China	Yes	<p>.For detailed provisions, please see Items 6 and 11, Paragraph 1, Article 22 of the Copyright Law.</p> <p>The clause is provided as follows: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed: 6. For use by teachers or scientific researchers for teaching or scientific research, to translate or reproduce in a small quantity a published work, however, the translation or reproduction may not be published or distributed; 11. To translate a published work of a citizen, legal</p>	b. As for Item 6, Paragraph 1, Article 22 of the Copyright Law, these exceptions or limitations only apply to educational and research organizations that meet the provisions; as for Item 11, Paragraph 1, Article 22 of the Copyright Law, the Copyright Law does not provide limitations on types of groups and organization. Please see provisions described in the preceding paragraph.	<p>The Copyright Law does not provide for the quantity of translations. The circumstance described in Item 6, Paragraph 1, Article 22 of the Copyright Law is generally interpreted to be for use by educational and research staff and not allowed for publication.</p> <p>The clause is provided as follows: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the</p>

	27. L&E for translation	a. Conditions that must be met for someone to utilize L&E that deal with translation of a copyrighted work into another language	b. Organizations that may utilize L&E that deal with translations	c. Number of translations that one person or entity may make of a single copyrighted work
		person or other organization from the language of the Han nationality into a minority nationality language for domestic publication and distribution; or		other rights enjoyed by the copyright owner according to this Law may not be infringed: 6. For use by teachers or scientific researchers for teaching or scientific research, to translate or reproduce in a small quantity a published work, however, the translation or reproduction may not be published or distributed;
Hong Kong, China	No	N/A	N/A	N/A
Japan		The following permitted reproductions extend to translation: (a) personal use, (b) reproduction in libraries, (c) quotations (d) reproduction in school textbooks, (e) broadcasts in school education programs (f) reproduction in schools and other educational institutions (g) reproduction for examination questions, (h) reproduction in Braille, (i) non-profit performances, (j) reproduction of editorials on current topics (k) exploitation of political speeches, (l) reporting of current events (m) reproduction for judicial proceedings. (Art. 43(1),(2), Art. 30(1), Art. 31(1), Art. 32, Art. 33(1), Art. 34(1), Art. 35, Art. 36, Art. 37, Art. 39(1), Art. 40(2), Art. 41, Art. 42)	Organizations or individuals are specified differently in each provision.	Number of translations are specified differently in each provision.”
Mexico	No	N/A	N/A	N/A
New Zealand	No.	N/A	N/A	N/A

	27. L&E for translation	a. Conditions that must be met for someone to utilize L&E that deal with translation of a copyrighted work into another language	b. Organizations that may utilize L&E that deal with translations	c. Number of translations that one person or entity may make of a single copyrighted work
Peru		None specified.	N/A	N/A
Singapore	N/A	N/A	N/A	N/A
Chinese Taipei	Yes	The following permitted reproductions extend to translation: (a) government use, (b) judicial proceedings, (c) for patron use or user's request (d) reporting of current events (e) publications in the name of government agency or juristic person (f) reproduction in schools and other educational institutions (g) reproduction for examination questions, (h) reproduction in Braille, (i) non-profit use (j) reproduction of editorials on current topics (k) exploitation of political speeches, (l) review of current events (m) reproduction for judicial proceedings. (§44, 45, 48(i), 48bis, 49, 50, 52, 53, 54, 55, 61, 62)	<ol style="list-style-type: none"> 1. Central or local Government agencies 2. Not specified 3. Libraries, history museums, science museums, art museums, and other cultural institutions open to the public 4. Central or local government agencies, educational institution recognized by law, and libraries open to the public 5. not specified 6. not specified 7. not specified 8. Legally accredited non profit institutions or organizations may exploit for the benefit of visually and hearing impaired. 9. Central and local government agencies and level of education institutions established in accordance with the law 10. not specified 11. not specified 12. Not specified 	No limit is specified
Thailand	Yes	Thai nationals who wish to obtain a license to translate a work into Thai but have either been denied permission by the copyright holder or cannot reach an agreement may submit an application to the Director-General for such a license, together with evidence of having attempted	Thai nationals	No

	27. L&E for translation	a. Conditions that must be met for someone to utilize L&E that deal with translation of a copyrighted work into another language	b. Organizations that may utilize L&E that deal with translations	c. Number of translations that one person or entity may make of a single copyrighted work
		to obtain a licence, provided that: 1. The copyright owner has not translated or authorized any person to translate the work into the Thai language for publication within 3 years after the first publication of the work; or 2. The copyright owner has published the translation in the Thai language but, beyond 3 years after the last publication of the translation, no further publication is made and all editions of the published translation are out of print. and the translation into Thai must not be for profit. (Section 54)		
United States	No	N/A	N/A	N/A
Viet Nam		Derivative works shall only be protected if they do not infringe the copyrights in respect of the works used to make derivative works.	Persons and legal entities.	No limit.

PHOTOCOPYING

	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
Australia	There are a number of exceptions and statutory licences under Australian copyright law that include photocopying, which are largely dependent upon the purpose of the reproduction. These include:	Reproductions of books, newspapers, periodicals in a different form for private use, provided the original copy is owned by that person. This might include a digital	Generally one. However, multiple reproductions may be made by educational institutions under specified circumstances where a remuneration	Generally must be for specified purpose, for example, educational purpose, research, private use, etc.	None for 'fair dealing' or personal use provisions. Statutory license and other provisions do require compensation to be made through relevant

	“fair dealing” for research and	copy of a hard-copy	notice with a relevant		statutory collecting
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	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
	study purposes; use by educational institutions, libraries and archives and by organizations assisting people with print or intellectual disabilities.	newspaper. (s43C)	collecting society is in force.		societies. Similar provisions for organizations assisting print or intellectually disabled people
Canada	Educational institutions, libraries, archives, and museums do not infringe where a copy is made by a photocopying machine installed for the use of students, staff, or patrons, and a copyright infringement warning is affixed to the machine. Fair dealing and other exceptions described above may apply. (§29 Copyright Act)	Any use made by one using a reprographic reproduction machine installed by an educational institution library, archive, or museum with the infringement warning affixed. (§29 Copyright Act)	Some exceptions expressly limit copying to a single copy while others contain no express limit on the number of copies.	Each exception to the photocopy rules has a specific purpose.	No compensation system.
Chile	No, but photocopying or digital copying might be interpreted as a private use or nonprofit use (Art. 19 CL) and permitted accordingly.	N/A	N/A	N/A	N/A

China	Yes. Include all limitations and exceptions provided in laws and regulations governing copyrights, including copying for educational purposes and by libraries. For detailed provisions, please see Paragraph 1, Article 22 of the Copyright Law and	Yes. Personal users are permitted to copy for personal uses. The Copyright Law does not provide for any type of use.	Yes. The Copyright Law does not provide for the quantity of copies. In line with specific circumstances, the quantity of copies shall not exceed that as necessary for intended	Yes. In line with specific circumstances, the uses shall not go beyond purposes permitted by laws and regulations governing copyright. For detailed provisions, please see	No.
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	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
	<p>Article 6 of the Regulations.</p> <p>These clauses are provided as follows:</p> <p>The copyright law: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed:</p> <ol style="list-style-type: none"> 1. For the purpose of private study, research or entertainment, to use a published work of another; 2. For the purpose of introducing or commenting a work or demonstrating a point in 		uses permitted by laws and regulations governing copyright.	Paragraph 1, Article 22 of the Copyright Law and Article 6 of the Regulations.	

	<p>one's work, appropriately to quote a published work of another;</p> <p>3. For the purpose of reporting current events, to use or quote, by newspaper, magazine, radio or television station, a published work;</p> <p>4. To reprint or</p>				
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	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
	<p>rebroadcast, by newspaper, magazine or radio or television station, current events on politics, economy and religion already published by another newspaper, magazine or radio or television station, except where the author has declared that the reprint or rebroadcast is not allowed;</p> <p>5. To publish or broadcast, by newspaper, magazine or radio or television station, a speech delivered at a public gathering, except where the author has declared that the publication or broadcast is not allowed;</p> <p>6. For use by teachers or scientific researchers for teaching or scientific research, to translate or reproduce in a small quantity a published work, however, the translation or reproduction may</p>				

	not be published or distributed; 7. For the purpose of performing official duties, to use a published work by state authorities within a reasonable limits; 8. For the purposes of displaying or preserving copies, to reproduce a work in its				
	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
	collections by a library, archives center, memorial hall, museum, art gallery or similar institutions; 9. To perform free of charge a published work, the said performance neither collects any fees from the members of the public nor pays compensation to the performer; 10. To copy, draw, photograph or record an artistic work that is placed or displayed in an outdoor place; 11. To translate a published work of a citizen, legal person or other organization from the language of the Han nationality into a minority nationality language for domestic publication and distribution; or 12. To transliterate from a published work into Braille for publication.				

	The regulations: Article 6 Under any of the following circumstances, works may be provided through the information network, and the provider may be exempted from obtaining the owner's permission				
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	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
	<p>as well as paying the relevant remunerations thereto:</p> <p>(1) Where an appropriate portion of any published work is quoted in the works one provides to the general public for the purpose of introducing or commenting on any work or elaborating any issue;</p> <p>(2) Where it is inevitable to reproduce or quote any published work in the works he provides to the general public for the purpose of making any new release;</p> <p>(3) Where, in order to support the teaching research or scientific research, a small quantity of published works are provided to some people who engage in teaching or scientific research;</p> <p>(4) Where any state organ</p>				

	<p>provides to the general public any published work within a reasonable range for the purpose of exercising its functions and duties;</p> <p>(5) Where the works as already published by any Chinese citizen, legal person or</p>				
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	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
	<p>any other organization in Chinese are translated into any language of any minority ethnic group and are provided to such people within the territory of China;</p> <p>(6) Where any already published work is provided to the blind in a way as particularly perceptible to the blind and not for the purpose of making profits;</p> <p>(7) Where any Article on current affairs such as political and economic issues that has been published is provided through the information network; or</p> <p>(8) Where a speech as delivered in a public gathering is provided to the general public.</p>				
Hong Kong, China	To the extent the exceptions provided above apply (i.e., fair	See relevant exception for specific conditions.	See relevant exception for specific conditions.	See relevant exception for specific conditions.	None.

dealing, education, disabilities, by librarians or archivists, by lawful users of a computer program, transient and incidental copies, abstracts of scientific or technical articles, etc.). Other exceptions also contemplate making photocopies or digital	Generally there is no express limit, but subject to overriding consideration that act would not conflict with a normal exploitation of the work by the copyright owner and
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	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
	copies to the extent they generally exempt copyright infringement. (<i>See e.g.</i> , §§ 38, 39, 40B, 40C, 41, 41A, 45, 47-53, 60, 61, 65, 69, 72; Draft §§ 41A, 40B, 40C)		would not unreasonably prejudice their interests.)Some exceptions limit to one copy. (§§ 40B, 47, 48, 52; Draft § 40B		
Japan	“Reproduction” means the reproduction in a tangible form and includes photocopies and digital copies of works. Therefore, Japan does not establish limitations for photocopies or digital copies particularly because the person can make photocopies or digital copies without authorization of right holders by using the limitations concerning the rights of “reproduction.”	See 28., 28.a.	See 28., 28.a.	See 28., 28.a.	See 28., 28.a.
Mexico	Yes. Literary and artistic works already disclosed may be used, whenever normal exploitation of the works is not affected,	Private use and not for profit.	One-time reproduction of a single copy of artistic or literary work.	No	No

	without authorization of the rights holder and without remuneration, where the source is mentioned and without altering the work, only in the following cases: One-time reproduction of a single copy of a literary or artistic work for the				
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	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
	personal and private use of the person who does it, and not for profit.				
New Zealand	No exception for photocopying alone, but specific exceptions allow uses that include copying, e.g.: for educational purposes (s44, 45); by libraries and archives (s51-56), and for research or private study (s43).	Research and private study (s43)	No. Dealing must be fair, requires case-by-case analysis	Research, private study, educational purposes. See question 28(a).	No.
Peru	Photocopies of copyrighted works are permitted for educational uses and under the reprography exception for of small parts of works or unavailable works published in graphic manner and for exclusive personal use.	N/A	No limit.	Exclusive personal use of the latter exception and for teaching or exams in educational institutions and limited to honest uses in the reprography exception for educational uses.	N/A
Singapore	Copies are permitted for research and study. (s35(1) and s109(2)) General fair dealing provision as answered in 24a.	Research and study purposes. (s35(1) and s109(2))	Under research/study (s35(3), if an article, no more than whole or part. For all else, not more than a reasonable	See response 28a.	N/A

	Criticism and review (s36 and s110) Reporting of current events (s37 and s111) For judicial dealings/professional advice. (s38)		portion as defined by (s7(2A))		
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	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
Chinese Taipei	The following permitted reproductions extend to translation: (a) government use, (b) judicial proceedings, (c) for teaching purposes (d) for use of textbooks(e) for patron use or user's request (f) reporting of current events (g) publications in the name of government agency or juristic person (h) reproduction in schools and other educational institutions (i) reproduction for examination questions, (j) reproduction in Braille, (k) non-profit use (l) reproduction of editorials on current topics (m) exploitation of political speeches, (n) review of current events (o) reproduction for judicial proceedings. (§44, 45, 46, 47(1)(2), 48, 48bis, 49, 50, 51, 52, 53, 54, 56(1), 57, 58, 59(1), 61, 62)	The reproduction a publicly released work by an individual or a family is allowed. This must be done by a machine that is located in a library or one that is not in public use. Article 51 of the Copyright Act.	Yes, but it depends on the use	See column 28a	Yes, there is compensation set in place when the works are reproduced for use in pedagogical texts. The exploiter of the work shall notify the economic rights holder and pay compensation for the use that is set by competent authority. Article 47 of the Copyright Act.

Thailand	Must not interfere with the normal exploitation of the work by the copyright holder, and does not unreasonably prejudice the rights of the copyright holder. Section 32 paragraph 1	Non-profit research or study of the work (Section 32 (1)). Use for personal benefit or benefit of family members. (Section 32(2)).	No	No	No
	28., 28.a. L&E permitting users to make photocopies or digital copies of copyrighted works	b. Types of private uses permitted by L&E allowing users to make photocopies or digital copies	c. Limit on the number of photocopies or digital copies that can be made under L&E	d. Permitted uses to which the photocopies or digital copies will be put	e. Description of the compensation system, if any, under L&E for photocopies or digital copies
United States	In addition to exceptions relating to libraries and archives and fair use, exceptions exist that permit certain acts of reproduction using specified digital audio recording devices. (Ch.10, Title 17 on Digital Audio Recording Devices and Media)	Hometaping for non-commercial uses when achieved using specified digital audio recording devices and media, or analog devices, is allowed. However, it is better viewed as a limitation on remedies for infringement rather than an exception to the exclusive right of reproduction. (17 U.S.C. 1008)	None	The use must be non-commercial. (17 U.S.C. 1008)	A royalty of 2% of the transfer price for each defined digital audio recording device is imposed, and a 3% royalty is imposed on defined digital audio recording media. (17 U.S.C. 1004(a)(1), (3), (b)).
Viet Nam	Self-reproducing one single copy for the purposes of science research and individual teaching; copying a work for archives in libraries for the purposes of research.	Self - reproducing one single copy for the purposes of science research and individual teaching.	Only one single copy.	Only one single copy.	No system.

EXCEPTIONS FOR THE PERFORMANCE, DISPLAY OR TRANSMISSION OF COPYRIGHTED WORKS

	29. L&E for the performance, display or transmission of works for religious purposes	30. L&E for the performance, display or transmission of works for promoting the sale of a work	31. L&E for the performance, display or transmission of works for any other purposes
Australia	No	No	No
Canada	The Copyright Act contains an exemption from liability to pay compensation for certain	Display of a work for the purpose of selling the work is not restricted. However, there are	None

	29. L&E for the performance, display or transmission of works for religious purposes	30. L&E for the performance, display or transmission of works for promoting the sale of a work	31. L&E for the performance, display or transmission of works for any other purposes
	institutions for doing any of the following acts in furtherance of a religious, educational or charitable object: the live performance of a musical work; the performance of a sound recording, or the performance of a communication signal carrying (i) the live performance of a musical work or (ii) a sound recording (§32.2(3) Copyright Act)	no limitations or exceptions with respect to performance and transmission for the purpose of promoting the sale of a work.	
Chile	No.	N/A	Art. 42 CL allows for communications for exhibitions of electronic equipment.
China	No.	No.	Yes. For detailed provisions, please see Item 9, Paragraph 1, Article 22 of the Copyright Law. The clause is provided as follows: Article 22 Under one of the following circumstances, a work may be used without the license of, and compensation to, the copyright owner, however, the author's name and the work's title shall be indicated and the other rights enjoyed by the copyright owner according to this Law may not be infringed: 9. To perform free of charge a published work, the said performance neither collects any fees from the members of the public nor pays compensation to the performer;
Hong Kong, China	Exception for performing, showing or playing a work (other than broadcast or cable program) by organization concerned with	Exception for copy and distribution of artistic work to the public for purpose of advertising the sale of the work. (§ 72).	As described in answers to Q.8 and Q.26.

	29. L&E for the performance, display or transmission of works for religious purposes	30. L&E for the performance, display or transmission of works for promoting the sale of a work	31. L&E for the performance, display or transmission of works for any other purposes
	religion that is not established or conducted for profit. (§ 76).		
Japan	No	No	No
Mexico	No	<p>Yes. The following may be carried out without authorization:</p> <p>1. Use of literary and artistic works in stores or establishments that are open to the public and trade in copies of these works, provided admission is free of charge and that such use does not go beyond the place where the sale is made and has the single purpose of promoting the sale of copies of the works; and</p> <p>2. Ephemeral recordings, being held to the following conditions: a) transmission must take within the period of the purpose agreed to; b) No related or simultaneous broadcast or communication may be made by reason of the recording; c) The recording confers the right to a single emission.</p> <p>Recording and fixation of image and sound carried out in this manner will not incur the obligation of any additional payment other than that belonging to use of the works. This exception will not apply if the authors or performing artists have entered into an agreement for consideration that authorizes subsequent broadcasts.</p>	No
New Zealand	No.	No.	Performing, playing, showing a work in the course of activities in an educational establishment (s47)
Peru	An exception allowing for communication	An exception allowing for communication of	An exception is granted for acts that take

	29. L&E for the performance, display or transmission of works for religious purposes	30. L&E for the performance, display or transmission of works for promoting the sale of a work	31. L&E for the performance, display or transmission of works for any other purposes
	of copyrighted works is granted where the act takes place in the course of official events or religious ceremonies, involving small fragments of music or parts of musical works, provided that it is presented free of charge and that none of the participants are paid specific remuneration for their performance in the act.	copyrighted works is granted where the act takes place in a commercial establishment for the purpose of demonstrating to customers or with the intent of promoting the sale of the sound or audiovisual media containing the work, provided that the communication is not deliberately relayed outside	place in the home, provided that there is no direct or indirect economic interest and that the communication is not deliberately relayed outside. Another exception is granted where the acts are essential to the provision of legal or administrative evidence.
Singapore	Not infringement to perform of a literary, dramatic or musical work of a religious nature, or an adaptation of such a work, in the course of services at a place of worship or other religious assembly. (s42)	N/A	Reproduction of a literary dramatic or musical work or an adaptation of such work for purpose of broadcasting is permitted. (s43(1)) Making of a sound recording or cinematograph film for the purpose of simulcasting the work in digital form is permitted. (s43A(1))
Chinese Taipei	Yes, Public speeches on religion may be exploited by any person. (§62.)	No.	Yes. 1. Works released in the name of the government or judicial officer. (§50) 2. Performance of work for non-profit activities. (§55) 3. Display of artistic or photographic work by owner. (§ 57) 4. Republication or transmission of social, political, or economic commentary. (§61) 5. Exploitation of public speeches or public statements made in legal or government agency proceedings. (§62)
Thailand	Public performance of dramatic or musical works for non-profit purposes, without charge to spectators, and without payment of remuneration to performers is not infringement, provided that it is conducted by an association with objectives of public	No	Display for the benefit of judicial proceedings or administrative proceedings by authorized officials reporting such proceedings. (Section 32(5), Section 35(6).

	29. L&E for the performance, display or transmission of works for religious purposes	30. L&E for the performance, display or transmission of works for promoting the sale of a work	31. L&E for the performance, display or transmission of works for any other purposes
	charity, education, religion, or social welfare, and does not interfere with the copyright owner's normal exploitation of the work, nor unreasonably prejudices the rights of the copyright owner. (Section 36).		
United States	Performances of a religious nature or for use in the course of services at a place of worship or other religious assembly. (17 U.S.C. 110(3), 112(c))	Performance of a non-dramatic musical work by a vending establishment without an admissions charge, where the sole purpose is to promote the retail sale of copies of the work and the performance is not transmitted beyond the establishment or its immediate area (17 U.S.C. 110(7))	1. the making imperceptible at the direction of a member of a private household of limited portions of audio or video content of a motion picture. (17 U.S.C. 110(11)) 2. Under certain circumstances, communication of a transmission embodying a performance or display of a work by the public reception of the transmission (17 U.S.C. 110(5)) 3. A number of different types of cable and satellite transmissions are subject to compulsory licenses (17 U.S.C. 111, 119, 122)
Viet Nam	None.	N/A	N/A

MISCELLANEOUS

	32. Any other general L&E not previously covered	33. Any pending legislation or future plans to include additional L&E	34. Questions or issues regarding L&E and related rights which would be useful to address in APEC-IPEG
Australia	"Personal use" exceptions allow a person, within limits, to copy some works for private use. For example, a person can: (i) tape a television or radio broadcast and play it at a later date (ie time-shifting); (ii) copy a sound recording from a	No	The legitimate scope of personal use exceptions.

	32. Any other general L&E not previously covered	33. Any pending legislation or future plans to include additional L&E	34. Questions or issues regarding L&E and related rights which would be useful to address in APEC-IPEG
	legitimately owned CD onto another device such as an MP3 player or a personal computer (provided that this device is owned by the person) (ie format-shifting); (iii) copy a legitimately owned book, photograph, or video into another format such as a digital file. There are also a range of exceptions related to art in public places (s 65). For example, copyright in such art work is not infringed by the making of a painting, drawing, engraving or photograph, or, by the inclusion in a film or broadcast.		
Canada	<ol style="list-style-type: none"> 1. Copying for private use of a musical work or performance embodied in a sound recording is not an infringement unless undertaken for the purposes of in relation to selling or renting, distributing, communicating to the public, or publicly performing the work. (§ 80) 2. The author of a work who does not hold the copyright may use a mould, cast, sketch, etc. of that work if the author does not imitate that work. (§ 32.2) 3. Any person may reproduce in a painting, drawing, photograph, or cinematographic work: An architectural work other than a drawing or plan, A sculpture or work of craftsmanship permanently situated in a public place or building. (§ 32.2) 4. Any person may make or publish a report of a lecture given in public for news reporting purposes unless the report is forbidden by conspicuous notice. (§32.2) 5. Any person may read or recite in public a reasonable extract from a published work. (§ 32.2) 6. Any person may make or publish a report of an address of a political nature in a public place for the purpose of news reporting. (§ 32.2) 7. The performance of a musical work, sound recording, or 	There is no pending legislation as of February 2009.	None

	32. Any other general L&E not previously covered	33. Any pending legislation or future plans to include additional L&E	34. Questions or issues regarding L&E and related rights which would be useful to address in APEC-IPEG
	performance in public of a communication signal carrying the above at any agricultural or agricultural-industrial exhibition or fair that receives a grant from or is held by its directors under federal, provincial or municipal authority for a motive without gain is allowed. (§ 32.2)		
Chile	No. (Chile notes that its Copyright Act contains a number of specific exceptions that have not been covered by this survey.)	N/A	- Relationship between exceptions and contracts - Enforceability of exceptions - Exceptions for education, libraries, blind
China	<p>Yes. For detailed provisions, please see Paragraph 2, Article 32; Paragraph 3, Article 39; Paragraph 2, Article 42; Article 43 of the Copyright Law, which relate to legal license for press reproduction and recording and playing of musical works.</p> <p>These clauses are provided as follows:</p> <p>Article 32:</p> <p>2、 After a work is published, other newspapers or magazines may reprint it or print it as an abstract or as reference materials, except where the copyright owner has declared that reprinting or excerpting is not allowed, however, compensation shall be paid to the copyright owner according to the regulations.</p> <p>Article 39:</p> <p>3、 In using a music work lawfully fixed by another as the sound recording work for making a sound recording product, the sound recording producer may be allowed to acquire no</p>	No.	No.

	32. Any other general L&E not previously covered	33. Any pending legislation or future plans to include additional L&E	34. Questions or issues regarding L&E and related rights which would be useful to address in APEC-IPEG
	<p>license from the copyright owner, however, he shall pay compensation according to the regulations; if the copyright owner has declared that the use of his work is not allowed, the work may not be used.</p> <p>Article 42:</p> <p>2、 In broadcasting a published work of another, the radio or television station may be allowed to acquire no license from the copyright owner, however, it shall pay compensation thereto.</p> <p>Article 43: In broadcasting a published sound recording product, the radio or television station may be allowed to acquire no license from the copyright owner, however, it shall pay compensation thereto, unless otherwise agreed by the parties concerned. The State Council shall formulate the concrete measures therefor.</p>		
Hong Kong, China	<p>Exceptions for public administration. (§§ 54 to 59. Draft §§ 54A, 54B). These provisions became law and came into effect on 6 July 2007.</p>	<p>The Copyright (Amendment) Bill 2006 was passed and these exceptions came into force on 6 July 2007. In Consultation Exercise, one issue is whether and if so, how the existing exemption for temporary copies should be expanded.</p>	<p>Exception for temporary copying of copyright works and for media/format shifting.</p>
Japan	<p>Various Articles of Japanese copyright law discuss limitations for reproduction for private use; quotations; reproduction of articles on current topics; exploitation of political speeches; reporting of current events; reproduction for judicial proceedings; exploitation for disclosure by the Government Organization Information Disclosure Law; ephemeral recordings by broadcasting organizations; exhibition of an artistic work by the owner of the original; exploitation of an artistic work located in open places; reproduction required for</p>	<p>Japan submitted the bill to amend Copyright Act to the Parliament on March, 2009. The bill will make following acts possible without authorizations from right holders</p> <ul style="list-style-type: none"> - reproduction for digital archive of National Diet Library (Art.31.2) - releasing pictures of fine arts on internet auction sites (new Art.47bis.) 	<p>None.</p>

	32. Any other general L&E not previously covered	33. Any pending legislation or future plans to include additional L&E	34. Questions or issues regarding L&E and related rights which would be useful to address in APEC-IPEG
	an exhibition of artistic works; reproduction by the owner of a copy of a program work; making available of performances or commercial phonograms, which are being broadcasted, simultaneously. (Art. 30, 32, 39, 40, 41, 42, 42bis, 44, 45, 46, 47, 47bis, 102(3-5))	<ul style="list-style-type: none"> - intermediaries' reproduction in a network for efficient transmission (new Art.47<i>quinquies</i>.) - certain acts of exploitation of works by Search Engine service providers (new Art.47<i>sexies</i>.) - reproduction for information analysis (new Art.47<i>septies</i>.) - reproduction necessary to use electrical equipments (new Art.47<i>octies</i>.) and will broaden the scope of L&E for person with disabilities (Art 37.3, Art 37 <i>bis</i> .)	
Mexico	Yes. Literary and artistic works already disclosed may be used, whenever normal exploitation of the works is not affected, without authorization of the rights holder and without remuneration, where the source is mentioned and without altering the work, only in the following cases: 1. Quotation of texts; provided the amount quoted cannot be considered a simulated and substantial reproduction of the contents of the work 2. Reproductions of articles, photographs, illustrations and commentary related to current events, published by the press or broadcast over radio or television, if this has not been expressly prohibited by the holder of the rights; ..6. Reproduction for evidentiary purposes in a judicial or administrative proceeding; and 7. Reproduction, communication and distribution by means of drawings, paintings, photographs and individual procedures of works visible from public places.	No	

	32. Any other general L&E not previously covered	33. Any pending legislation or future plans to include additional L&E	34. Questions or issues regarding L&E and related rights which would be useful to address in APEC-IPEG
New Zealand	Public administration exceptions (ss58-66) or other exceptions	Yes, Copyright (New Technologies and Performers' Rights) Amendment Bill, introduced in June/July 2007.	N/A
Peru	Reproduction of a work for the purposes of judicial or administrative proceedings; reproduction of a work of art on permanent display in a street square of public place provided that it is done in a form different than the original and information about the original piece is provided; Quotations if done so in proper practice and only to the extent justified by the aim pursued; Dissemination of news, or images of architecture, art, photography permitted by the press and broadcasting or cable transmission; Broadcasting organizations may make temporary copies; Copies may be made for exclusively personal use; except for works of architecture, reproduction of entire work or copy of 3-D work, or databases; Parody exception also granted.	If a commercial agreement with the U.S. is approved, Peruvian legislation will include exceptions for Internet Service Providers related to transmitting, routing, providing connectivity, immediate and transient storage in the course thereof, caching, storage on a system or network controlled by an ISP, and referring or linking to an online location by using hyperlinks and directories. The legislation would also provide an exception allowing circumvention of TPMs for reverse engineering.	
Singapore	Making a copy of a sound recording for broadcasting purposes. (s107) Making a sound recording / film for purposes of simulcasting. (s107A) Making available an exempt digital audio transmission. (s107B) Making available digital audio transmission within a business establishment. (s107C)	N/A	Format-shifting. Status of digital articles, books, and libraries.
Chinese Taipei	A person who owns the original work or a lawful copy within Chinese Taipei may distribute it by means of transfer of ownership. (§59) Owners of works may rent the original works except for sound recordings and computer programs. This does not apply to copies of computer programs incorporated in products,	Amendment of the Copyright Act on the limitation of liability for OSPs is pending.	No.

	32. Any other general L&E not previously covered	33. Any pending legislation or future plans to include additional L&E	34. Questions or issues regarding L&E and related rights which would be useful to address in APEC-IPEG
	machinery, or equipment to be legally rented, where such copies do not constitute the essential object of such rental.(§60)		
Thailand	Yes, Section 33, 35-43 of Copyright Act, 1994.	Yes, Copyright Bill including exceptions for TPMs, right management information, temporary reproduction, and ISPs' limitations of liabilities is currently being considered.	Exemptions of TPMs.
United States	1. The first sale doctrine allows distribution of a lawfully acquired copy of a work by the owner of that copy (17 U.S.C. 109)2. certain digital audio transmissions of sound recordings (17 U.S.C. 114) 3. certain reproductions and distributions of nondramatic musical works (17 U.S.C. 115)	Uncertain	None
Viet Nam	None.	None.	None