

Proposal for Amendments in the "Law on Copyright and Related Rights of Republic of Armenia", adopted in 2006

1. Reproduction of Works for Private Purpose and Research

Any person may reproduce a work whether analogue or digital for personal, recreational, educational or any other non-commercial purposes. It permits reproduction of a work for the purpose of doing research, being involved in research or collaborating in research related activities.

Justification: Any person in their everyday lives need to make copies for various non-commercial purposes, like learning a new skill, new language, or hobby, researching a topic of special interest, recording a TV programme for viewing it later. It would be impractical to ask permission every time for every use, and it would hamper the free flow of information in society

2. Reproduction of Works for Educational Activities

For the purpose of educational activities copies may be made of works, recordings of works, broadcast in radio and TV, provided the copying is done by a person giving or receiving instruction and does not exceed the extent justified by the purpose;

Educational establishments may incorporate the copies in printed and electronic course packs, study packs, resource lists and in any other material to be used in the course of instruction and /or in virtual learning environment, managed learning environment, virtual research environments and library environment hosted on a secure network and accessible only by the persons giving and receiving instruction at or from educational establishment making such copies;

Persons receiving instruction may incorporate portions of works in printed or electronic form in assignments and portfolios, theses and in dissertations for personal use and library deposit;

The reproductions shall not be done for commercial purposes and shall include the reproduction of a whole textbook where the textbook is either out of print, the owner of the right cannot be found, authorized copies of the same edition of the text book are not for sale in the country or cannot be obtained at a price, reasonably related to that normally charged in the country for comparable works.

Justification: New technologies facilitated day-to-day educational activities enabled the creation of secure virtual environments and more effective ways of teaching and learning. Educational advancement would be impossible if teachers, instructors or learners had to request permission every time they needed to reproduce material for training activities, or to negotiate fees for every single transaction. This provision will allow teachers instructors and learners to use knowledge resources within a secure network, or in the classroom, via broadcast, distance/open learning or web-based facilities. The exceptions will allow libraries and archives to function effectively in digital environment as well, thus enabling the students to benefit in the same way as their counterparts in the paper age.

3. Interlibrary Loan and Document Supply

Libraries shall be permitted to reproduce and supply to each other in response to a specific request by a library or library user whether by post, fax or secure electronic transmission, provided that the electronic file is deleted immediately after printing a paper, copy of an electronic copy of a work. A paper copy may be supplied by the receiving library to a user of each library. Interlibrary service will enable libraries to replace missing or damaged parts of works.

Justification: No library within a country can hold every book, journal or published work. It is well established practice for libraries to supply each other with material on a non-commercial basis in response to requests from users. Without this provision users would be able to use only the libraries which they could personally visit or for which they have membership. For copies of articles and other digital materials this service is called "inter-library document supply".

4. Translations for Non-Commercial Educational and Informational Purposes

A person giving or receiving instruction may translate works provided this is not done for commercial purposes. Such translations may be used for private educational, teaching and research purposes only

A person or a public body may translate works from or into minority languages and communicate to the public such translations for non-commercial public information purposes

Libraries and archives may for the purpose of teaching, scholarship or research, translate works lawfully acquired or accessed when those works are not available in a language required by such library or archive's users. Such translations may not be used for other purposes.

Justification: A significant amount of the world's written output is in major languages such as Chinese, English or Spanish. This places large amount of reading out of reach of other language speakers, and acts as a practical barrier to knowledge and information. Libraries and archives are primary sources of reading materials. Internet has enabled great access to global materials. In many countries libraries and archives are being asked by patrons to facilitate access to foreign language material. New technologies and machine translations are enabling such services.

This provision would enable libraries and archives to translate works upon individual request. The translations may only be used for education and learning.

The Stockholm Conference for the revision of the Berne Convention (1967) affirmed an implied exception to the right of reproduction with respect to translation. Chile and Japan both have provisions in their national laws for translation by libraries and archives for the purpose of research or study by their users.

5. Reproduction of Works for Persons with Disabilities

It shall be permitted for libraries and archives without the authorization of the author or other owner of copyright to make an accessible format of a work for the benefit of a person with a disability, to supply that accessible format, or copies of that accessible format to persons with a disability by any means, including by non-commercial lending or by electronic communication

by wire or wireless means, and undertake any intermediate steps to achieve these objectives, when all of the following conditions are met:

1. The person or organization wishing to undertake any activity under this provision has lawful access to that work or a copy of that work;
2. The work is converted to an accessible format, which may include any means needed to navigate information in the accessible format, but does not introduce changes other than those needed to make the work accessible to a person with a disability;
3. A person with a disability to whom the work is communicated by wire or wireless means shall be permitted without the authorization of the owner of copyright to reproduce the work for personal use.
4. It shall be permitted without the authorization of the author or other owner of copyright to export to, or import from another country, copies of an accessible format of a work to or by a person with a disability or an organization that serves persons with a disability, as long as such activity is undertaken on a non-profit basis by that person or organization.

Justification: The right of people with disabilities to take part in cultural life of on an equal basis with other people is enshrined in Article 30 of the UN Convention on the Rights of Persons with Disabilities. This Convention specifically refers to the right to enjoy access to cultural material in accessible format and the duty on Member States to ensure that laws on intellectual property rights do not constitute an unreasonable or discriminatory barrier to access to cultural materials by persons with disabilities.

New technologies make it possible for people with disabilities to have access to works for study, leisure, work in the same way as other people .This provision allows libraries and archives to make accessible formats of works for the benefit of people with disabilities including blind, visually impaired, deaf, dyslexic and other reading disabled persons on a nonprofit basis.

6. Duration of Copyright

The economic rights shall be protected during the life of the author and for fifty years after his death.

Justification: Term extension will remove the information from collective ownership with grave consequences for education and innovation. Term extension will erode public domain, which provides fertile source for creators for making new works, as well as for libraries to provide public access to the world's great masterpieces through digitization projects.

7. Circumvention of TPMs for the Purpose of Having Lawful Access of the Work

It shall be permitted for libraries and archives to circumvent technological protection measures for non-infringing uses, such as preservation, access to content by disabled people and the user's right to make use of national statutory exception to copyright. This exception is limited by the requirement that the library or archive or their user has lawful access to the work or material.

It shall be permitted for libraries and archives to acquire services or tools necessary to carry out such circumvention.

Justification: This exception allows libraries and archives to circumvent TPMs for non-infringing uses (such as preservation, access to content by disabled people and the user's right to make use of national exceptions to copyright). The legal protection given to TPMs/DRMs creates a conflict with copyright exceptions. TPMs cannot distinguish between legitimate and infringing uses, it may prevent also a student or visually impaired person from making legitimate copies under legal copyright exceptions. DRMs are a great threat for public domain, since they do not cease to exist upon expiry of copyright term.

8. Orphan Works and Materials Protected by Related Rights

Libraries and archives shall be permitted to reproduce, make available to public and otherwise use any work, or material protected by related rights, for which the author or other right holder cannot be identified or located after reasonable inquiry. Should the author or other right holder subsequently identify him or herself to the library or archive that used the copyright work or material protected by related rights, he or she shall be entitled to claim equitable remuneration for future use, or require termination of the use.

Justification: Libraries and archives hold millions of works that cannot be used for any purpose that would require permission from the right holder, whether for education, research or cultural enjoyment. This provision provides an exception to the reproduction, adaptation and communication to the public rights to use orphan works after reasonable inquiry. This exception would enable libraries and archives to digitize their collection and make them available to the public online.

9. Limitation on Liability for Libraries and Archives

A librarian or archivist acting within the scope of her or his duties shall be protected from claims for damages, from criminal liability, and from copyright infringement, when the action is performed in good faith:

- a) in the belief, and where there are reasonable grounds for believing that the work, or material protected by related rights, is being used as permitted within the scope of a limitation or exception in this Treaty, or in a way that is not restricted by copyright, or
- b) in the belief and where there are reasonable grounds for believing that the work, or material protected by related rights, is in the public domain or under an open content license.

Justification: This provision protects libraries and archives from liability for the actions of their users, for copyright infringement that may result inadvertently from their good faith interpretation and application of national copyright law.

Based on

- 1. “Draft law on Copyright: Including model exceptions and limitations for libraries and archives”**
- 2. Treaty Proposal on Copyright Limitations and Exceptions for Libraries and Archives, Version 4.3**