

FINAL QUESTIONNAIRE ON LIMITATIONS AND EXCEPTIONS

prepared by the World Intellectual Property Organization (WIPO) Secretariat

INTRODUCTION

The WIPO Standing Committee on Copyright and Related Rights (SCCR) has agreed to address the issue of exceptions and limitations to copyright and related rights for the purposes of education, libraries and persons with disabilities, by exploring existing and proposed national laws on the subject, with a view to strengthening international understanding on exceptions and limitations.

During the 17th session of the SCCR held in November 2008, the WIPO Secretariat was requested to prepare a draft questionnaire regarding exceptions and limitations, with particular emphasis on the issues regarding education, libraries and persons with disabilities, for the consideration of Member States of the SCCR in the 18th session.

At the 18th session of the SCCR held in May 2009, it was agreed that delegations would send comments on the draft questionnaire (document SCCR/18/3) to the Secretariat. Based on those comments, the Secretariat would present a revised questionnaire.

In the conclusions of the 19th session of the SCCR held in December 2009, delegations were invited to send comments on the revised version of the questionnaire, or second draft questionnaire (document SCCR/19/2), to the Secretariat by January 8, 2010. On the basis of the comments and the discussions of the Committee, the Secretariat would finalize the questionnaire without any substantial changes in the content of the questions, and while retaining its seven chapters, and submit it to the Member States and the European Union by February 10, 2010 for replies.

Instructions

The Secretariat presents this final questionnaire on limitations and exceptions and Member States are now invited to respond accordingly, via on-line or in paper form:

– On-line (preferred option): Replies may be provided by completion of the electronic form available on the WIPO website at <http://www.wipo.int/copyright/en/>. In order to access and complete the electronic form online, a general password has been created for all respondents: “LE2010”.

– Paper form: This copy is available in printable form from the aforementioned website and may be completed and sent to the International Bureau, c/o Copyright Law Division, WIPO, by post: 34, chemin des Colombettes, 1211 Geneva 20, Switzerland; by facsimile: +41 22 338 907010; or by e-mail: copyright.mail@wipo.int.

Member States are invited to submit their replies by May 10, 2010. After that date, the questionnaire will no longer be available on the WIPO website.

The Secretariat shall prepare a consolidated paper for the Twentieth Session of the SCCR based on the information gathered from the replies to this questionnaire.

This final questionnaire comprises 103 questions distributed in seven parts:

- Part I on general questions on limitations and exceptions;
- Part II on limitations and exceptions for educational activities;
- Part III on limitations and exceptions for libraries and archives;
- Part IV on limitations and exceptions for persons with disabilities;
- Part V on questions relating to religious, social and cultural exceptions;
- Part VI on other questions regarding digital technology; and
- Part VII on general questions to cover areas left out in Parts I to VI.

This questionnaire is only intended as a tool for data collection to facilitate an analysis of the status of copyright limitations and exceptions in WIPO Member States. It is acceptable for respondents not to answer all questions, particularly when the available data does not allow giving an unequivocal answer to the questions.

When questions include the phrase “please describe,” respondents are encouraged to provide a citation for the statutory provision and/or governing court decision (if applicable) and any other additional description that supports their answer.

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

Country: [The Netherlands](#)

By: [the Ministry of Justice \(in collaboration with the ministry of Economic Affairs and the Ministry of Education, Culture and Science\)](#)

Name and contact information (including telephone and e-mail):

[Ministry of Justice, Department of Legislation, Copyright Section, PO Box 20301, 2500 EH The Hague, The Netherlands, email: \[info@minjus.nl\]\(mailto:info@minjus.nl\), tel: +31 \(0\)70 370 9111](#)

Part I: General

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

Specific (However, the Dior/Evora judgment of the Dutch High Court of 20 October 1995, NJ 1996, 682, which indicated that some sort of fair use exception is possible outside the statutory exceptions, is generally still considered to be applicable even with the closed system of statutory limitations).

Open

Mixed

Others, please describe: _____

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

Yes

No

Partially, please describe:

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

Yes

No

If yes, please describe: [There is no obligation to pay a fee for the following exceptions:](#)

- [reproduction of news reports etc by the press \(article 15 Copyright Act, hereafter CA, and article 10 sub a Neighbouring Rights Act, hereafter NRA\);](#)
- [right of quotations \(article 15a CA and article 10 sub b NRA\)](#)
- [use of works made available to the public by the public authorities or on behalf of the public authorities \(article 15b CA\)](#)
- [closed network of a library, museum or archive \(article 15h CA, article 10 sub c NRA\);](#)
- [news reporting of topical events \(article 16a CA and article 10 sub d NRA\);](#)
- [private copying \(article 16b CA\)](#)
- [preservation copies by libraries \(article 16n CA and article 10 sub f NRA\);](#)
- [congregational singing \(article 17c CA\)](#)
- [reproduction of certain permanently and publicly displayed artworks \(article 18 CA\)](#)

- incidental processing of minor importance of a work as part of another work (article 18a CA, article 10 sub h NRA);
- parodies (article 18b CA, article 10sub j NRA);
- use for public safety, police investigation, administrative, legal or parliamentary proceedings (article 22 CA and article 10 sub k NRA).

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

- Yes
 No

If yes, please describe:

- lending right (article 15c CA, articles 2, 6, 7a and 8 jo. articles 15a – 15d NRA);
- handicapped persons (article 15i CA, article 10 sub I NRA);
- education purposes (article 16 CA, article 11 NRA)
- specific private copying involving the reproduction on objects intended to show images of play the sounds recorded on it (article 16c CA and article 10 sub e NRA)
- reprographic reproduction of certain works (article 16h);

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

- Yes
 No

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

- Yes
 No

Please describe: Article 16b CA (reproduction for private practice, study or use), article 16c CA and article 10 sub e NRA (said reproduction on a object which is intended to show the images or play the sounds recorded upon it).

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

- Yes
 No

If yes, please describe: Articles 16c to 16g CA provide for a remuneration to be paid by the manufacturer or importer of the objects referred to in article 16c CA. The remuneration is to be paid to a legal person designated by the Minister of Justice. This legal person, Stichting de ThuisKopie, shall represent the authors and collect and distribute the remunerations. The level

of remuneration is decided upon in a foundation in which both authors and aforementioned manufacturers and importers are represented. The remuneration level has been frozen since 2007 due to problems regarding the distribution of the remuneration. The system of private copying levies is currently being reviewed. (See also article 10 under e NRA.)

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

- Yes
 No

If yes, please describe: The Copyright Act does not specifically prohibit the exclusion of statutory exceptions. It has been argued in the academic field that a contract clause excluding certain statutory exceptions would be unlawful. This issue has yet to be decided by jurisprudence.

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

- Yes
 No
 Both

If yes, please describe: It depends on the limitation concerned. E.g. the Copyright Act does not require a lawful source for a legitimate private copy (article 16c CA). During the parliamentary debate of this article, the Minister of Justice pointed out that the source of the copy is not relevant because of the difficulties for a consumer to ascertain whether or not a source is legitimate. This point of view has been criticised in a court decision regarding the level of private copy remuneration. On the other hand, article 15a paragraph 1 sub 1 CA regarding quotations clearly stipulates that the work from which the quotation has been taken should have been lawfully communicated to the public.

10. Does your national statute protect technological measures?

- Yes Article 29a CA and article 19 NRA
 No

11. Does your national statute protect rights management information?

- Yes Article 29b CA and article 19b NRA
 No

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

- Yes

No

If yes, please describe: Article 29a, paragraph 4, CA indicates that, if necessary, an implementing regulation can be put in place to secure the rightful access of users to copyrighted material under the exception of article 15i (handicapped persons), article 16 (education purposes) article 16b/16c (private copy), article 16h (reprographic reproduction) article 16n (conservation reproductions), article 17b (ephemeral reproductions by broadcasting organizations) and article 22 (public safety, investigation re criminal offences and legal, parliamentary administrative proceedings). The provisions of article 29a paragraph 4 CA do not apply to works made available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them. A regulation has not yet been issued.

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

Please describe: N/A

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

Yes

No

If yes, please describe:

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

Please describe: N/A

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

Yes

No

Please describe: Please see articles 45j, 45k, 45l and 45m CA. Please note that article 45n specifically excludes the private copying exception for computer programs.

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

Yes Article 13a CA

No

18. Does your national statute include limitations and exceptions, or statutory safe harbors (statutory safe harbor refers to any statutory enactment which provides that a person will not be liable upon taking certain measures), for the activities of the service providers of digital transmission of works?

- Yes
 No

Please describe: [The Dutch Civil Code contains a safe harbour clause for ISP's \(article 6:196c\). This article implements the E-commerce directive 2000/31/EC. See also our response to question 98.](#)

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

- Yes
 No

If yes, please describe:

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

Please describe: [N/A](#)

Part II: Limitations and Exceptions related to Educational Activities

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

¹ For Latin American and the Caribbean countries, document SCCR/19/4. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130303

For African countries, document SCCR/19/5. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130241

For Arab countries, document SCCR/19/6. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130302

For Asian and the Pacific countries, document SCCR/19/7. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130249

For countries in North America, Europe, Caucasus, Central Asia and Israel, document SCCR/19/8. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130393

- Yes
- No
- The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why:

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

- Yes
- No

Please list them: [article 12 paragraph 5 and article 16 CA, article 2, paragraph 8 and article 11 NRA.](#)

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

- Face-to-face activities
- Distance education
- Both

Please list them: _____

On performances²

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

- Yes
- No

If yes, please describe: [Please see article 12 paragraph 5 CA.](#)

² Performance is used here *lato sensu*. It is a broadly applied practice in national legislation to use terms other than those appearing in the international norms on copyright and related rights; that is, to characterize the acts and rights concerned in a way different from the way they are characterized legally in the said international norms. As in the current case, for example, several countries may grant a “right of public performance” in a way that it covers more or less all non-copy-related rights (not only the performance *stricto sensu*, but also and in particular, the right of broadcasting and the right of communication to the public by cable (wire), which, in the Berne Convention are construed as separate rights), or it is also frequent in national laws that a broader right of broadcasting is provided which also covers the right of communication to the public by cable (wire), a separate right under the Berne Convention.

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

- Yes
 No

If yes, please describe:

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

- Yes
 No

If yes, please describe: According to article 12 paragraph 5 CA a recitation, performance of presentation exclusively for the purposes of education and provided on behalf of public authorities or a non-profitmaking legal entity, shall not be deemed a public recitation, performance or presentation, only if and when it forms part of the school work plan or curriculum, or if it exclusively serves a scientific purpose.

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

Please see the response to question nr 26.

- Teachers
 Students
 Educational institutions
 Others. Please describe: _____

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

- For-profit
 Not-for-profit (article 12 CA)
 Public (article 12 CA mentions 'education provided on behalf of public authorities')
 Private
 Others. Please describe:

Please see the response to question nr. 26.

On reproduction

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

- Yes
 No

If yes, please describe: [Article 16 CA and article 11 NRA.](#)

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

- Reprography
 Digital copying
 Others. Please describe: [No specification is given. .](#)

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

- Yes
 No

If yes, please describe: [Article 16 paragraph 3 specifically refers to compilations.](#)

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

- Yes
 No

If yes, please describe: [Article 16 paragraph 1 sub 5 CA stipulates that an equitable remuneration is due to the rightholder.](#)

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

- Yes
 No

If yes, please describe: [Article 16 CA only applies to the publication or reproduction of parts of a work. According to article 16 paragraph 2 CA short works, drawings, photos, models etc. can be used in their entirety. Article 16 paragraph 3 provides specific conditions for \(parts of\) works used in a compilation. Article 11 NRA does not contain a similar provision.](#)

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

[Article 16 CA does not specify a particular group of eligible persons but only stipulates that the limitation is applicable only if the reproduction of publication of part of the work is used](#)

solely as illustrations for educational purposes and on condition that the use is justified by the non commercial purpose of the education.

- Teachers
- Students
- Educational institutions
- Others. Please describe: _____

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

- For-profit
- Not-for-profit
- Public
- Private
- Others. Please describe:

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

- Yes
- No

If yes, please describe:

On translations

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

- Yes (article 16 paragraph 4 CA)
- No

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

- Yes
- No

If yes, please describe: [Please see the response to question nr 32.](#)

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

Yes

No (Same conditions apply as for non-translated works, Please see the response to question nr 33).

If yes, please describe: _____

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

Please see the response to question nr 34.

Teachers

Students

Educational institutions

Others. Please describe: _____

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

Same conditions apply as for not-translated works, Please see the response to question nr. 35.

For-profit

Not-for-profit

Public

Private

Others. Please describe: _____

On making available in digital networks

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

Yes

No

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

N/A

Yes

No

If yes, please describe: _____

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

N/A

- Yes
- No

If yes, please describe: _____

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

N/A

- Yes
- No

If yes, please describe: _____

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

N/A

- Teachers
- Students
- Educational institutions
- Others. Please describe: _____

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

N/A

- For-profit
- Not-for-profit
- Public
- Private
- Others. Please describe: _____

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

N/A

- Yes
- No

If yes, please describe: _____

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

- Yes
 No

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

Please describe:

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

- Yes
 No

If yes, please describe:

Part III: Limitations and Exceptions related to Libraries and Archives

52. If your national statute is included in the analysis of specific exceptions contained in the Annex of the WIPO Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2)³, do you consider that the analysis is correct?

- Yes
 No
 The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why:

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

- Yes (article 16n CA and article 10 sub f NRA)
 No

Please describe: _____

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

³ Document SCCR/17/2, page 72. Available at:
http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=109192

Please describe: [Article 16n CA paragraph 3: copies of works that form part of a collection of a non commercial library, museum or archive accessible to the public.](#)

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

- Yes
 No

Please describe: [Please see the conditions contained in article 16n paragraph 1 CA: the sole purpose of the reproduction should be either:](#)

- [restoration of the copy of a work;](#)
- [in case of decay of the copy of a work in order to safeguard a copy for the library;](#)
- [to keep the work accessible in case of a technology which is used to access it, becomes obsolete.](#)

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

Please describe: [Article 16n paragraph 3 CA and article 10 sub f NRA: the moral rights of the author or performing artist should be respected.](#)

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

- Yes
 No

Please describe:

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

Please describe: _____

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

- Yes
 No

If yes, please describe: _____

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

- Yes
 No

If yes, please describe:

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

Please describe: [Discussions are ongoing regarding orphan works but as of yet there is no national \(draft\) bill or EU regulation. The Netherlands supports a solution at a international level.](#)

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

Yes
 No

If yes, please describe:

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

Yes
 No

Please describe:

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

Please describe:

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

Yes
 No

Please describe: [Article 15h CA: unless otherwise agreed the making available through a closed circuit of a work that forms part of the collection of non commercial libraries, museums and archives by means of a computer terminal is allowed. See also article 10 sub c NRA.](#)

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

Yes
 No

Please describe: [Please see articles 16n CA and 10 sub c NRA which are applicable to reproductions made by non commercial libraries, archives and museums.](#)

Part IV: Limitations and Exceptions for Persons with Disabilities

67. If your national statute is included in the analysis of specific exceptions contained in Annexes 2 and 3 of the Study on Limitations and Exceptions for the Visually Impaired (document SCCR/15/7)⁴, do you consider that the analysis is correct?

- Yes
 No
 The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why:

68. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with print disabilities⁵ or visually impaired persons, including the reading impaired?

- Yes
 No

Please describe: [Article 15i CA contains a general limitation for the reproduction or publication of works for handicapped persons provided that the reproduction or publication is directly connected to the handicap, that it is of a non commercial nature and necessary due to the handicap. See also article 10 sub I NRA.](#)

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

- Yes
 No

Please describe: _____

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

⁴ Document SCCR/15/7, page 138. Available at:
http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=75696

⁵ A person with print disability is a person who cannot effectively read print because of a visual, physical, perceptual, developmental, cognitive, or learning disability.

Please describe: [Article 15i paragraph 2 CA: an equitable remuneration is due to the author or his successors.](#)

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

- Yes
 No

Please describe: _____

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

- Yes
 No

Please describe: [There is no specific limitation or exception for the deaf. The Dutch Copyright Act contains a general limitation for handicapped persons. Please see the response to question nr 68.](#)

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

- Yes
 No

Please describe: _____

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

Please describe: [Please see the response to question nr 70.](#)

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

- Yes
 No

Please describe:

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

- Yes
 No

Please describe: [Please see the response to question nr 68.](#)

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

- Yes
 No

Please describe: _____

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

Please describe: [Please see the response to question nr 70.](#)

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

- Yes
 No

Please describe: _____

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

- Yes
 No

If yes, please describe: [There is no draft bill regarding this issue.](#)

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

Please describe:

82. Are there impediments to the use of the limitations and exceptions for persons with disabilities (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

- Yes
 No

Please describe: _____

Part V: Religious, social and cultural exceptions

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

- Yes
 No

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

- Religious activities ([Article 17c CA](#))
 Cultural Activities
 Social Activities

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

- Yes
 No

If yes, please describe: [The limitation of article 17c CA refers only to congregational singing and the instrumental accompaniment thereof during a religious service.](#)

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

- Yes
 No

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

- Yes
 No

If yes, please describe: [Please see the response to question nr. 85.](#)

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

N/A

- Yes
 No

If yes, please describe: _____

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

N/A

- Yes
 No

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

N/A

- Yes
 No

If yes, please describe: _____

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

N/A

- Yes
 No

If yes, please describe: _____

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

N/A

- Yes
 No

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

N/A

- Yes
 No

If yes, please describe: _____

Part VI: Other questions on digital technology

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

- Yes
 No

If yes, please describe: Article 45m CA stipulates that the making of a copy of a computer program and the translation of the form of its code shall not be deemed an infringement if these acts are indispensable for obtaining information necessary to achieve the interoperability of an independently created computer program with other programs, provided that:

- a. these acts are carried out by a person who has lawfully obtained a copy of the computer program or by a third party authorised by him to carry them out;
- b. the information necessary to achieve interoperability is not already readily available to the persons referred to sub a, and
- c. these acts are limited to the parts of the original program which are necessary to achieve interoperability.

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

- Yes
 No

If yes, please describe: See also question 96. Please be aware that tort law may be applicable. Article 26d CA stipulates that at the request of the author a judge can order intermediaries whose services are being used by third parties to violate a copyright, to suspend these services.

96. With respect to liability that arises from the infringing activities of third parties, does your national statute, for purposes such as to encourage online service providers to cooperate with rightsholders in deterring infringement, provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers in any way?

- Yes
 No

If yes, please describe: Please see article 6:196c paragraph 1 (mere conduit), paragraph 3 (caching) and paragraph 4 (hosting) of the Dutch Civil Code. The conditions mentioned under

paragraph 3 sub a to e form the safe harbour clause: if the ISP meets these conditions, it cannot be held liable. This derives from the directive E-commerce 2000/31/EC OJ2000,178.

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

- Acting as a conduit for infringing material (e.g., transmitting, routing, or supplying connections for material)
- Caching infringing material
- Storing infringing material at the direction of a user
- Providing access by means of information search tools such as indices, references, hyperlinks and directories to infringing materials that users post (Not mentioned as such in the national statute. However, jurisprudence does include this activity under the safe harbor clause.)
- Others. Please specify: [Hosting](#)

98. What conditions, if any, must be met in order for an online service provider to qualify for the limitation of liability, exception to liability, or statutory safe harbor?

Please specify:

Regarding mere conduit an ISP cannot be held liable if and when the following conditions are met:

- it does not take the initiative to transfer the information;
- it is not the one who specifies who receives the information;
- it does not select or alters the transferred information.

Regarding caching an ISP cannot be held liable if and when the following conditions are met:

- the information is not modified by the ISP;
- it respects the access conditions to the information;
- it conforms to the current or commonly applied rules regarding the updating of information;
- it does not change the current or commonly applied technology regarding the obtaining of data regarding the use of information;
- it takes prompt action to remove information or inhibit the access to information as soon as it knows that the information has been removed from its original location in the communication network or access to that location has been prohibited, or that a competent authority has ordered the removal of the information of its original location or the prohibition of access to that location.

Regarding hosting an ISP cannot be held liable if and when the following conditions are met:

- it is not aware of the illegal character of the activity or information, and in case of a claim for compensation, reasonably does not have to be aware of the activity or information with a illegal character, or;
- takes prompt action to remove the information or inhibits access to the information as soon as it is aware or should reasonably be aware of the illegal character of the information.

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

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

- right of quotation (article 15a CA and article 10 sub b NRA)
- news reporting (article 15 CA, article 16a CA and article 10 sub a and d NRA)
- ephemeral copies (article 13a CA)
- incidental uses (article 18a CA and article 10 sub h NRA))
- government uses
- non-voluntary license for broadcasting (article 26a CA and articles 14a - 14d NRA)
- non-voluntary license for mechanical reproduction of musical works

Please describe: _____

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

- Yes
- No

If yes, please describe: Parody uses (article 18b CA and article 10 sub j NRA), use of works made available to the public by or on behalf of the public authorities (article 15b CA). Public safety, police investigation, administrative, legal and parliamentary proceedings (article 22 CA and article 10 sub k NRA)

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

- Yes
- No

Please describe: The EU negotiates on behalf of the EU Member States. To that end please contact the European Commission for a consolidated response to this question.

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

Please describe: The Netherlands refers to the Commission for a consolidated response to this question.

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

[End of questionnaire]