

## Appendix D

### **Educational use exceptions to copyright: A comparison among selected jurisdictions<sup>1</sup>**

#### **Argentina<sup>\*</sup>**

##### **Specific statutory educational use exception**

Allows the publication for teaching or scientific purposes up to 1000 words (Emery 2008, sec. 8(2)(b), p. ARG-50).

#### **Brazil<sup>\*</sup>**

##### **Specific statutory educational use exception**

Exceptions limited to theatrical and musical performances in educational contexts and reproduction of class notes (Pereira dos Santos 2008, sec. 8(2), p. BRA-62).

#### **China<sup>\*</sup>**

##### **Specific statutory educational use exception**

Permits the ‘translation or the limited reproduction of a published work for use by teachers or scientific researchers in classroom teaching or scientific research, provided that the translation or reproduction is not released to the public at large’. Further, ‘uses may neither interfere with the normal exploitation of the works used, nor unreasonably prejudice the legitimate interests of right-holders’ (Hong 2008, sec. 8(2)(b), pp. CHI-65–66).

##### **Non-voluntary licence**

China permits ‘non-voluntary licence allowing for the compilation and publication of textbooks’ (Hong 2008, sec. 8(2)(e)(v), p. CHI-70).

#### **Czech Republic<sup>\*</sup>**

##### **Specific statutory educational use exception**

Permits incorporation of small works in their entirety into works for teaching purposes, use of published works in a lecture for educational purposes, and use of quotes to a ‘justified degree’.<sup>2</sup>

## France

### Specific statutory educational use exception

Permits ‘the reproduction or communication of excerpts from works when such reproduction or communication is intended exclusively for purposes of illustration in research or teaching, provided that such use does not give rise to a commercial exploitation and that an equitable remuneration is paid, to be negotiated on a lump-sum basis’ (Lucas & Kamina 2008, sec. 8(2)(a)(iii), p. FRA-120).

## India \*

### Specific statutory educational use exception \*\*

Includes the reproduction of a literary work ‘by a teacher or pupil in the course of instruction or as part of the questions to be answered in an examination or in answers to such questions’ (Ramaiah 2008, sec. 8(2)(b), p. IND-45). Further, the Act allows for making not more than three copies of a book for the use in a library if such book is not available for sale in India (ibid., p. IND-46).

### Non-voluntary licence

Compulsory licence may be issued for literary, scientific, or artistic works ‘in connection with systematic instructional activities at a price reasonably related to that normally charged in India for comparable works by the owner of the right...’ (ibid., p. IND-51).

## Jamaica \*

### Specific statutory educational use exception \*\*

Permits the reprographic copying of passages from published literary, dramatic or musical works by an educational establishment for purposes of instruction. However, may not use more than 5% of the work. Further, inclusion of a ‘short passage’ of a literary work in a collection intended for use in educational establishments permitted, but only if collection consists mainly of material in which no copyright subsists.<sup>3</sup>

## Japan

### Specific statutory educational use exception

Allows teachers and students to reproduce works, already made public, to the extent necessary for use in the course of education, but only if the use does not unreasonably injure the interests of the copyright owner (Doi 2008, sec. 8(2)(b)(i), p. JAP-56).

### Non-voluntary licence

Works already made public ‘may be reproduced to manufacture textbooks for use at elementary, secondary, or high schools’ so long as author of work is notified and paid

compensation in an amount fixed annually by the Commissioner of the Agency for Cultural Affairs (ibid., p. JAP-62).

## **Jordan**<sup>\*</sup>

### **Specific statutory educational use exception**

Published works may, for educational purposes, be presented, used by way of illustration in publications, broadcasts or sound and audiovisual recordings for educational purposes, or quoted.<sup>4</sup>

### **Non-voluntary licence**

Allows any Jordanian citizen, for school education purposes, to obtain a non-exclusive and non-transferable licence to translate into the Arabic language (ibid.).

## **Nigeria**<sup>\*</sup>

### **Specific statutory educational use exception**<sup>\*\*</sup>

Permits educational broadcasting and ‘any use made of a work in an approved educational institution for the educational purposes of that institution...’. However, reproduction must be destroyed before the end of the prescribed period or, if there is no prescribed period, within twelve months of making the reproduction.<sup>5</sup>

### **Non-voluntary licence**

Permits compulsory licence for translations for ‘purposes of teaching, scholarship or research’ (ibid.).

## **United Kingdom**

### **Specific statutory educational use exception**<sup>\*\*</sup>

‘The Act sets out strictly limited exceptions relating to uses of works in “educational establishments”’ (Bently 2008, sec. 8(2)(b)(iii), p. UK-117). Such uses include non-reprographic copying for instruction, copying for filmmaking courses, copying short passages in collections, preparing or giving examinations, playing or showing works and lending copies (ibid., pp. UK-117–118).

## **United States of America**

### **General exception**

Permits the ‘fair use’ of a copyrighted work for purposes such as teaching, scholarship, or research, including reproduction of multiple copies for classroom use, based on a case-by-case balancing of four factors set forth in the statute: purpose of the use, nature of the work, amount of the work, and effect of the use (1976 Copyright Act, 17 U.S.C. § 107).

### Specific statutory educational use exception

Also permits certain displays and performances critical to teaching; however, distinguishes between displays and performances in face-to-face teaching and those in distance learning; face-to-face teaching exception allows performances and displays of all types of works in a live classroom setting or similar place at most governmental or accredited nonprofit educational institutions, while displays and performances in distance education are constrained under conditions set forth in the *Technology, Education and Copyright Harmonization (TEACH) Act of 2002*, codified at 17 U.S.C. § 110(2) (Crews 2005).

Includes many other statutory exceptions, such as the library copying exemption that can further academic development (17 U.S.C. § 108).

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### Notes

<sup>1</sup> See reference section for Chapter 6 for full references to this Appendix.

<sup>2</sup> Czech Republic – Copyright Act art. 31, 4 July 2000, no. 121, available at:  
[http://www.wipo.int/clea/docs\\_new/pdf/en/cz/cz029en.pdf](http://www.wipo.int/clea/docs_new/pdf/en/cz/cz029en.pdf) (accessed 30 July 2009).

<sup>3</sup> Jamaica – The Copyright Act, 9 January 1993, no. 4, available at:  
[http://www.wipo.int/clea/docs\\_new/pdf/en/jm/jm001en.pdf](http://www.wipo.int/clea/docs_new/pdf/en/jm/jm001en.pdf) (accessed 30 July 2009).

<sup>4</sup> Jordan – The Law Amending the Copyright Protection Law art. 4(A), 1999, no. 29, available at:  
[http://www.wipo.int/clea/docs\\_new/pdf/en/jo/jo003en.pdf](http://www.wipo.int/clea/docs_new/pdf/en/jo/jo003en.pdf) (accessed 30 July 2009).

<sup>5</sup> Nigeria – Copyright Act Second Schedule, (Consolidation Ch. 68), 1988 (1999), no. 47 (no. 42), available at:  
[http://www.wipo.int/clea/docs\\_new/pdf/en/ng/ng001en.pdf](http://www.wipo.int/clea/docs_new/pdf/en/ng/ng001en.pdf) (accessed 30 July 2009).

\* indicates a developing country. For purposes of this table, we adopt the World Bank definition of ‘developing country.’ Thus, as used herein, the term developing country refers to a country having low-income or middle-income economy (based on 2005 gross national income [GNI] per capita, calculated using the World Bank Atlas method) available at: <http://web.worldbank.org>.

\*\* In addition to a specific statutory exemption, general or limited fair use/fair dealing exemption also available.