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Q246

Exceptions and limitations to copyright protection for libraries, archives and education and research institutions

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I. Current law and practice

1)	Does your law provide for exceptions or limitations to copyright protection for libraries and archives?
	yes
	If so, please provide details of such exceptions or limitations, including in relation to the following activities::

a)	reproduction and/or distribution for the purpose of preservation or replacement;
	yes
	Please comment:
	Yes. Sec. 16 of the Swedish Act on Copyright in Literary and Artistic Works (SFS 1960:729) (hereinafter the "Copyright Act") provides for limitations to copyright protection for libraries as well as archives. Further regulations, which relate to aforesaid limitations, are provided in Copyright Regulation (SFS 1993:1212) (hereinafter the "Copyright Regulation") as well as the Swedish Archives Act (SFS 1990:782) (hereinafter the "Archives Act").
	a. <u>for the purpose of preservation,</u>
	The term "preservation" refers to reproduction of works in order to preserve and protect the archive's and library's own collection, i.e. works that are fragile and valuable (such as newspapers printed on wood-containing paper) and thus need to be protected from deterioration. Hence, a genuine need for protection must be at hand in order to reproduce works pursuant to this limitation.

In turn, the requirement for “genuine need for protection”, determines the scope of any reproduction activities.

a. for the purpose of completion,

Pursuant to Sec. 2 of the Copyright Regulation, reproduction for the purpose of completion, i.e. in order to keep the library’s or archive’s own collection intact by, for example, adding foreign works that are not easily accessible or works that are not commercially available. Reproduction is, however, only permitted in two cases, namely if a copy of a work is either 1) incomplete (however, if the missing part of the work is commercially available, the work is not deemed incomplete), or 2) commercially unavailable and copying takes place at a library that is entitled to receive a specimen copy (inter alia the National Library of Sweden as well as the libraries of certain Swedish universities). Reproduction for the purpose of completion is permitted only in exceptional circumstances. Moreover, photocopying of entire books is generally not permitted under this limitation.

a. for the purpose of research,

There are no regulations specifying the type of research in question. However, the inference is that the research need be reasonably qualified; it is most likely that ordinary student essays/papers do not fall within the scope of this limitation.

a. in order to satisfy the desires of library user for single articles, short extracts or for material which, for security reasons, should not be given away in original form,

“Short extracts” refers, for example, to a single chapter of a book. However, the chapter must be short; copying of dozens of pages is not permitted.

“[...] material which, for security reasons, should not be given away in original form [...]”, refers to, inter alia, reproduction for the purpose of interlibrary lending. In general, distribution from one library to another (for example by way of e-mail) is not considered as an act of making available to the public and is therefore not hindered by the exclusive rights of the author. Thus, a library may request copies (reprographic or digital) – subject to the conditions in Sec. 16 of the Copyright Act – from another library to satisfy the wishes of library users.

Under Sec. 16 of the Copyright Act, only copies in hard form pursuant to this point (d) may be furthered to library users (i.e. furthering in other forms and outside this limited group is not permitted). Thus, libraries and archives have very limited possibilities in respect of furthering copies under said section. However, it should be stressed that libraries and archives are entitled to make copies on behalf of a library user pursuant to Sec. 12 of the Copyright Act, which deals with the making of copies for private use. However, in such cases – and in contrast to reproduction in order to satisfy the desires of library user pursuant to Sec. 16 of the Copyright Act – the library user (instead of the library) is responsible for the reproduction.

As to libraries’ and archives’ ability to further and transfer copies to the public (save for furthering copies in hard form to library users as described above), such measures are permitted under Sec. 42 d of the Copyright Act, provided that an extended collective license is applicable pursuant to section 42 a of said act.

a. for use in reading devices.

In order to use reading devices, the work must first be transferred to an appropriate format (for example transferring a work to microfilm).

As to activities other than those mentioned above, in terms of public performances (including cinematographic works and work made for the stage that have been made public), Sec. 21 of the

Copyright Act enables libraries and archives to provide works from their respective collections to occasional visitors (i.e. not the public). The works must, however, be provided by means of technical devices in the premises of the library/archive. Sec. 21 of the Copyright Act does not permit remote transfers.

b) reproduction and/or distribution for the purpose of interlibrary lending;

yes

Please comment:

See above

c) reproduction and/or distribution for the purpose of providing copies (either in a physical or a digital form) to users of libraries or archives; or

yes

Please comment:

See above

d) any other activities, and if so, what activities?

yes

Please comment:

See above

2) Do any of these exceptions or limitations apply to libraries, archives or other organizations (e.g. museums) generally, or only to certain organizations (e.g. public and/or commercial libraries and archives)? If so, which organizations?

Pursuant to Sec. 16 of the Copyright Act, the following entities are entitled to make copies as defined in the answer to question 1:

1. governmental and municipal archival authorities,

The definitions of "governmental and municipal archival authorities" are specified in Sec. 7-8 of the Archives Act.

1. scientific and research libraries that are operated by public authorities,

Hence, private scientific and research libraries, such as the libraries of companies and/or organizations, are not entitled to make copies under this provision.

1. public libraries.

Moreover, the Swedish government may in specific cases decide that certain archives and libraries, other than those mentioned above, shall be entitled to make copies pursuant to Sec. 16 of the Copyright Act. So far, a fairly large number of such permits have been issued. However, in the government's official report (SOU 2013:4) it is suggested that the requirement for a decision to be made by the government in this respect is to be removed. The proposal is currently under discussion.

3) Are there any conditions as to the type or scope of any permitted activities (e.g. number of copies that

may be created, whether only a portion of a work may be used, whether certain forms of reproduction (e.g. digital reproduction) are excluded)? If so, please explain the conditions.

Sec. 16 of the Copyright Act imposes no restrictions in terms of the forms of reproduction. Thus, libraries and archives are allowed to make copies of literary and artistic works, in analogue as well as digital form, for the purposes mentioned above.

As regards the scope of any permitted copies, please refer to the answer to question 1.

4) Are there any conditions as to the type of copyrighted work that may be used (e.g. lawfully created copies, copies existing in the library's or archive's collection, published works)? If so, please explain the conditions.

According to Sec. 16 of the Copyright Act, all types of artistic and literary works – other than computer programs – may (regardless of their form) be reproduced. Thus, the only type of work excluded from the scope of Sec. 16 of the Copyright Act is a computer program. Moreover, the work must exist in the library's or archive's own collection. However, there is no requirement for the work to have been made available to the public or published. However, under Sec. 12 of the Copyright Act, the making of copies for private purposes does not confer a right to make copies of a work when the copy that constitutes the real master copy has unlawfully been prepared or made available to the public.

Further, Sec. 45-46, 48-49 a of the Copyright Act refer to Sec. 16 of said act, why the latter section also applies in relation to the rights of performing artists, producers of recordings of sounds or of moving images, radio and tv organizations, producers of catalogues as well as photographers.

5) Does your law provide for exceptions or limitations to copyright protection for education and research institutions?

yes

If so, please provide details of such exceptions or limitations, including in relation to the following activities::

a) performance and/or display for educational purposes;

yes

Please comment:

Yes, the Copyright Act provides for exceptions or limitations to copyright protection for education and research institutions in accordance with the following:

a. Recordings of own performances as well as public performances

Under Sec. 14 of the Copyright Act, students and teachers are entitled to record their own performances of copyright protected works for educational purposes. The exception only covers students and teachers i.e. not e.g. administrative personnel at education institutions. The recordings shall be for educational purposes meaning that other purposes do not fall under the exception under Sec. 14 of the Copyright Act. By "educational purposes" is meant all regular teaching activities, distance education, governmental adult education, folk high-school, study circle activities and similar activities.

Furthermore, under Sec. 21 of the Copyright Act follows that anyone can publicly perform works in the course of educational activities with the exception of cinematographic works and works made

for the stage. However, this right does not include a right to publicly perform compilations in the course of educational activities for commercial purposes. Due to the fact that the educational activities are usually performed for a small number of people and not to the general public the scope of this exception is rather narrow.

a. Reproduction of works for compilations (composite works)

Under Sec. 18 of the Copyright Act follows an exception in regards to compilations of works to be used for educational purposes. The compilation as such must be original and have sufficient level of originality and must have been made to be used for educational purposes. Furthermore, the compilation must contain works of a greater number of authors. How many copyrights holders that is meant by a "greater number" is not further explained in the preparatory works but it is clear that it is not enough with works from only 3-5 authors. In addition, five years must have elapsed since the works making a part of the compilation were published. Only smaller parts of literary or musical works or works of smaller size can be reproduced in a compilation. In relation to works of fine art these shall be reproduced in relation to a text i.e. serve as illustrations to the text.

In relation to the works included in the compilation, five years must have elapsed since the works were published in relation to literary or musical works or since the works were made public in relation to works of fine art. Other types of works such as e.g. cinematographic works do not fall under the scope of the exception in Sec. 18 of the Copyright Act.

Further, Sec. 49-49 a of the Copyright Act refer to Sec. 18 of said act, why the exception also applies in relation to the rights of producers of catalogues as well as photographers. The exception thus also applies to catalogues and photographs. The exception does not apply for works that have been created to be used in educational activities and does not provide a right to create compilation of works for the purpose of making money.

a. Use of documents prepared by Swedish public authorities

Form Sec. 26 a, second paragraph in the Copyright Act it follows that anyone is entitled to use documents prepared by Swedish public authorities other than laws and other regulations, decisions by public authorities, reports by Swedish public authorities and official translations of these text. However, this exception does not apply to works created for educational purposes which are an exception from the exception.

a. Making of copies within educational activities (collective license)

From Sec. 42 c with reference to Sec. 42 a in the Copyright Act, follows that copies of works which have been made public can be made for educational purposes as long as a collective license agreement has been concluded between an organization representing a substantial number of Swedish authors in the field concerned and someone who carries out educational activities in organised forms. With 'in organised forms' is meant that the educational activities should not be an improvised activity but rather a structured activity.

All forms of making of copies are covered i.e. any direct or indirect, temporary or permanent preparation of copies of the work, regardless of the form or through which method this is carried out and regardless of whether it concerns the work in whole or in part (see Sec. 2, paragraph 2, of the Copyright Act).

The collective agreement enables the educational institution to make use of the copies in relation to such educational activities that are covered by the agreement.

The rights provided by the collective agreement do not apply in instances where the individual authors/copyright holders have filed a prohibition against the making of copies.

b) reproduction and/or distribution for educational purposes (e.g. preparation of course packs, compilations or anthologies, exams);

yes
Please comment:

See above

c) making translations;

yes
Please comment:

See above

d) making available in digital networks for educational purposes (e.g. uploading course packs onto on-line platforms, compilations or anthologies, providing distance education);

yes
Please comment:

See above

e) reproduction and/or distribution for research purposes; or

yes
Please comment:

See above

f) any other activities, and if so, what activities?

yes
if so, what activities?:

See above

6) Do any of these exceptions or limitations apply to educational and research institutions generally (e.g. non-profit institutions), or only to certain institutions? If so, which institutions?

The term 'educational activities' which is used in relation to the exceptions that cover educational institutions is broad and covers regular teaching activities, distance education to governmental adult education, folk high-school, study circle activities and similar activities. No difference is made between profitable or non-profit educational institutions, as long as they are fulfilling the formal requirements of being an educational institution.

7) Are there any conditions as to the type or scope of the activities and the persons who may engage in such activities (e.g. number of copies that may be created, whether only a portion of a work may be used, whether both a teacher's and student's performance is covered, or only one or the other)? If so,

please explain the conditions.

Yes, there are conditions as to the type of activities and the persons who may engage in such activities. In relation to 5 (a) above (Recordings of own performances as well as public performances) the activities are limited to recordings of own performances of copyright protected works for educational purposes. Furthermore, in relation to the persons who may be engaged in the described activities, only students and teachers are covered. No other personnel at the educational institution are covered.

Concerning reproduction of works for compilations we refer to 5 (b) above.

In regards to 5 (c) above (Making of copies within educational activities (collective license)) all forms of making of copies are covered i.e. any direct or indirect, temporary or permanent preparation of copies of the work, regardless of the form or through which method this is carried out and regardless of whether it concerns the work in whole or in part. The collective license agreement as such sets the terms for which educational activities in which the works may be used.

8) Are there any conditions as to the type of copyrighted work that may be used (e.g. only lawfully created copies, only certain kinds of copyrighted works)? If so, please explain the conditions.

Please refer to the answer to question 5 above.

For the questions below, please provide an answer for each exception or limitation mentioned above.

9) Is there any statutory provision that specifically provides for such exception or limitation? Is it alternatively or additionally recognized in case law? If neither, does your jurisdiction have a more general or broad exception or limitation that is interpreted as covering such specific exception or limitation?

In terms of statutory provisions that provide for limitations, please refer to answer to question 1. The relevant provisions are yet to be dealt with in case law.

10) Does your law adopt the Three-Step Test (or equivalent wording) in relation to such exception or limitation?

No. Swedish law does not include the Three-Step Test as a general provision on copyright limitations and exceptions. The position in Sweden is rather that the Three-Step Test is to be viewed as a rule of interpretation and thus it needn't be explicitly implemented in national law. The government justified its view in this respect by referring to the fundamental requirement for restriction when establishing exceptions and limitations to copyright protection; implementing the Three-Step Test as such in national law would risk leading to an uncertain/broad interpretation of the expectations and limitations. The Three-Step Test has, however, been taken into consideration when establishing the various rules in relation to exceptions and limitations to copyright protection and related rights.

11) Is use under the exception or limitation permitted automatically (without any further action), or must certain criteria be fulfilled/procedure(s) followed (e.g. seeking a compulsory licence)? If it is the latter, please explain the criteria/procedure(s).

In respect of use under the limitations specified in the answer to question 1, such use is permitted automatically (given that the entity falls within the scope of such libraries/archives that are entitled to

make copies according to Sec. 16 of the Copyright Act, please refer to answer to question 2). Thus, consent from the author is not required. However, according to Sec. 11 of the Copyright Act, the limitations specified in the answer to question 1 do not limit the moral rights of the author. When a work is used publicly on the basis of such provisions, the source shall be stated to the extent and in the manner required by proper usage, and the work may not be altered more than necessary for the use in question.

As to libraries' and archive's ability to further and transfer copies to the public (other than furthering copies in hard form to library users as described in the answer to question 1), such measures are permitted under Sec. 42 d of the Copyright Act, provided that an extended collective license is applicable pursuant to Sec. 42 a of said act.

According to Sec. 42 a an extended collective license applies to the exploitation of works in a specific manner, when an agreement has been concluded concerning the exploitation of works in this manner with an organization that represents a significant number of authors of works in the field concerned that are being exploited in Sweden. The extended collective license confers to the user the right to exploit works of the kind referred to in the agreement despite the fact that the authors of those works are not represented by the organization.

Sec. 42 d of the Copyright Act deals with the extended collective license for certain archives and libraries. According to said section, archives and libraries referred to in Sec. 16 of the Copyright Act (please refer to the answer to question 2), are entitled to make copies of works that form part of their own collections and make available to the public such works that have been made public, if an extended collective license applies pursuant to Article 42 a. However, the provision does not apply if the author has filed a prohibition against the making of copies or the making available with any of the contracting parties or if there are otherwise, in view of specific circumstances, special reasons to assume that the author would object to the exploitation. Such "special reasons" may consist in the author changing his/her opinion from a cultural, artistic or political point of view and no longer wishes that the former opinion be furthered or a work has been criticised and the author no longer wishes that the work be available. Moreover, the author may have made it clear that further use of a work is not permitted or perhaps only permitted in a certain manner. Consequently, according to Sec. 42 of the Copyright Act, the library/archive must be observant in respect of an author's opinion in terms of the ways the authors work may be exploited within the framework of an extended collective license agreement.

Consequently, Sec. 42 d enables for archives and libraries to 1) enter into extended collective license agreements in respect of any form of reproduction of works that form part of their own collections, and 2) to make works available to the public, regardless of the technique used when doing so. As mentioned above, the works must have been made public (i.e. when the works have lawfully been made available to the public). Thus, insofar as a computer program is part of the library's/archive's own collection, such a program may be subject to an extended collective license agreement. Further, the provision enables the archive/library to transmit its collections on the internet by way of sending the material via e-mail or otherwise providing the material in the digital network environment. Moreover, only the library's/archive's own collections fall within the scope of the provision. There is not requirement that the collections be stored in the premises of the archive/library. The provisions does not, however, allow for libraries/archives to reproduce or make available to the public works that the archive/library itself has borrowed.

12) Is remuneration payable for use under such exception or limitation? If so, how is the amount of remuneration determined or calculated? Who is liable for making such payment, and to whom must such payment be made?

In respect of use under the limitations specified in the answer to question 1, remuneration is not payable to the author.

Sec. 42 a of the Copyright Acts states that the conditions, which concern the exploitation of the work, that follow from the agreement apply. In respect of the remuneration deriving from the agreement and in respect of other benefits from the organization that are essentially paid for out of the remuneration, an author (who is not represented by an organization) shall be treated in the same way as those authors who are represented by the organization. Without prejudice to the aforementioned, an author always has a right to remuneration for the exploitation of his/her work, provided that the author forwards claims of remuneration within three years from the year in which the work was exploited. Claims for remuneration may be directed only towards the organization.

Consequently, contractual freedom applies; the underlying agreement between the archive/library and the organizations determines 1) the scope of the extended license in respect of the specific manners in which the works may be exploited, as well as 2) remuneration payable by the libraries/archives to the organizations (and in turn by organizations to authors).

13) Is there any special treatment for orphan works for use within such exception or limitation? If so please explain.

According to Sec. 16 a-d of the Copyright Act, certain institutions including libraries may use orphan works under certain circumstances. This regime is wholly separate from the exceptions and limitations discussed in this report.

14) Does the law of your jurisdiction allow the exception or limitation to be overridden by contract?

In respect of use under the limitations specified in the answer to question 1, such limitations are non compulsory and the parties are therefore free to agree otherwise.

As to extended collective licenses for certain archives and libraries, the author has the option to "opt-out" from the exploitation of works that falls within the scope of such licenses (please refer to the answer to question 11).

15) Other than what is provided in the law of your jurisdiction, are there any efforts by private organizations (such as a private licensing organizations) to address use by libraries, archives and educational and research institutions?

no

If not please comment. :

To our knowledge, there are currently no efforts by private organizations to address use by libraries and archives.

II. Policy considerations and proposals for improvements of the current law

16) Should there be any exceptions or limitations to copyright protection for libraries and archives?

yes

If yes, in relation to what activities?:

Yes, there should be limitations to copyright protection for libraries and archives for the purpose of preservation, completion, research as well as in order to satisfy the desires of library user for single articles, short extracts or for material which, for security reasons, should not be given away in original form.

17)	Should there be any exceptions or limitations to copyright protection for education and research institutions?
	yes If yes, in relation to what activities? :
	Yes, there should be limitations to copyright protection for education and research institutions in relation to recordings of own performances and public performances, reproduction of works for compilations (composite works), use of documents prepared by Swedish public authorities and making of copies within educational activities (collective license).

18)	Is the Three-Step Test a useful test for determining any exceptions or limitations to copyright protection?
	yes Why?:
	Yes, the Three-Step Test is a useful legal tool in restricting the ability of states to introduce and maintain exceptions to the exclusive rights of authors and other right-holders. Under the Three-Step Test, exceptions are only permitted (1) in certain special cases; (2) which do not result in a conflict with the normal exploitation of a work and (3) which do not unreasonably prejudice the legitimate interests of the author (or other right-holder). However, Swedish law does not include the Three-Step Test as a general provision on copyright limitations and exceptions. Instead the test is merely viewed as a rule of interpretation (please refer to the answer to question 10).

19)	Should the exception or limitation be capable of being overridden by contract? Why? Why not?
	Yes, as a starting point the exceptions should be capable of being overridden by contract. However, given that the exceptions relate to a number of important considerations such as market failure, freedom of speech, education and equality of access, the exceptions shall only be capable of being overridden by contract if both parties, i.e. users and right holders, agree to this.

20)	Should remuneration be payable for any of the activities described in 16) and 17) above? Why? Why not?
	In general remuneration is not to be payable for any of the activities described in 16) and 17). The limitations that allow for such activities (which are fairly restricted) to take place are deemed necessary for a number of valid reasons, such as market failure, freedom of speech, education, equality of access and other important cultural and social reasons. However, remuneration is to be payable where an extended collective license applies (please refer to the answer to question 11). Such licenses, which allow for works to be used to a great extent, are based on negotiations between right holder and user organizations.

21)	How can your current law as it applies to exceptions and limitations to copyright protection for libraries, archives and educational and research institutions be improved?
	There is need for improvement in relation to the making of copies of literary and artistic works in digital form. However, the opinion of the Swedish group is that works should also be available to library visitors at the institution. However, we are also of the opinion that works in a digital form should also be possible distributed to library borrowers.

III. Proposals for harmonisation

22)	Is harmonisation in this area desirable?
	yes
	Please comment:
	Harmonisation is desirable and important, both regionally and globally, in order to further the envisioned underlying purposes of such legislation, including the free exchange of information and access to education while respecting rights-holders' interests. As a first regional step, Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (InfoSoc) should be revised and Article 5 (2) c made mandatory.

If yes, please respond to the following questions without regard to your national or regional laws. Even if no, please address the following questions to the extent you consider your national or regional laws could be improved.

23)	If your answer to question 16) or 17) is no, should this be explicitly set out in any international treaty/convention?
	no
	Please comment:

24)	If yes to question 16):
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a)	to what libraries, archives and other organizations should these exceptions or limitations apply;
	The exceptions or limitations under such harmonised rules should apply to libraries, archives and other organizations which, by their public nature, directly benefit society. However, formally private institutions may also act in the public sphere and indirectly benefit society in a variety of ways. Care should be afforded the drafting of such harmonised rules in order to fully serve the legislation's underlying purposes.

b)	to what activities should these exceptions or limitations apply;
	The exceptions or limitations under such harmonised rules should apply to the making of copies or works for the purposes outlined in question 1.

c)	under what conditions should the activities be undertaken or the copyrighted work used?
	Such harmonised rules should apply under the conditions outlined in questions 3-4.

25)	If yes to question 17):
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a)	to what educational and research institutions should these exceptions or limitations apply;
	The exceptions or limitations under such harmonised rules should primarily apply to educational and research institutions which, by their public nature, directly benefit society. However, formally private institutions may also act in the public sphere and indirectly benefit society in a variety of ways. Care should thus be afforded the drafting of such harmonised rules in order to fully serve the legislation's

underlying purposes.

b) to what activities should these exceptions or limitations apply;

The exceptions or limitations under such harmonised rules should apply to the making of copies or works for the purposes outlined in question 5 (not including exceptions granted through collective licenses).

c) under what conditions should the activities be undertaken or the copyrighted work be used?

Such harmonised rules should apply under the conditions outlined in questions 7-8.

For the questions below, please provide an answer for each exception or limitation mentioned above (as applicable).

26) Should use under the exception or limitation be permitted automatically (without any further action), or should certain criteria or procedure(s) be required? If so, what criteria/procedure(s)?

Such harmonised rules should apply automatically without additional action being taken or additional criteria being fulfilled.

27) How should any remuneration for use that falls under such exception or limitation be determined or calculated? Who should be liable for making such payment, and to whom should such payment be made?

Remuneration shall generally not be paid for public institutions' copying of works under the exceptions or limitations according to such harmonised rules. To the extent remuneration shall be paid, for example under a collective license enabling copying of works outside the narrow scope of these harmonised rules, the remuneration shall be paid by the institution directly to a collecting society. The broader benefit to society resulting from such copying shall be taken into account when determining and calculating the remuneration to be paid.

28) What special treatment, if any, should there be for use of orphan works within such exception or limitation?

No.

29) In what circumstances should the exception or limitation be capable of being overridden by contract?

The exceptions or limitations under such harmonised rules shall be capable of being overridden by contract. However, given that the exceptions relate to a number of important considerations and societal interests, the exceptions or limitations shall only be capable of being overridden by contract if both parties agree.

30) How should any efforts by private organisations to address use by libraries, archives and educational and research institutions, be reconciled with any exception or limitation provided by law?

In order to enable private libraries, archives as well as educational and research institutions to copy works in a manner similar to the exceptions or limitations applicable to public institutions under such harmonised rules, collective licensing regimes should be implemented.

Summary

The Swedish Act on Copyright in Literary and Artistic Works (SFS 1960:729) provides for exceptions to copyright protection for libraries and archives as well as education and research institutions. In general (i) the exceptions/limitations should be capable of being overridden by contract if both users and right holders agree to this, and (ii) remuneration is not to be payable for use under the exceptions/limitations. As to libraries and archives, the exceptions only cover governmental and municipal archival authorities, scientific and research libraries that are operated by public authorities and public libraries. In terms of educational and research institutions, the term "educational activities" which is used in relation to the exceptions that cover educational institutions is broad and covers regular teaching activities, distance education to governmental adult education, folk high-school, study circle activities and similar activities. Moreover, the Swedish law does not include the Three-Step Test as a general provision on copyright limitations; the test is rather to be viewed as a rule of interpretation and has been taken into consideration when establishing the various rules provided for in Swedish law in relation to exceptions and limitations to copyright protection and related rights. As to improvements of current Swedish law, there is need for one especially in relation to the making of copies of literary and artistic works in digital form. In terms of harmonization, such is desirable and important - regionally as well as globally - in order to further the free exchange of information and access to education while respecting right holder's interests

Please comment on any additional issues concerning exceptions and limitations to copyright protection for libraries, archives and educational and research institutions you consider relevant to this Working Question.