

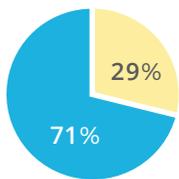
COPYRIGHT EXCEPTIONS AND LIMITATIONS IN AFRICA

WIPO Regional Seminar, Nairobi, 12–13 June 2019



The WIPO study by Prof. Kenneth Crews (2017) includes an overview of copyright exceptions and limitations for libraries and archives in 53 countries in Africa. The study examines key library activities carried out for non-commercial, public interest purposes. It provides a useful overview of the existence – or not – of the type of exceptions upon which libraries rely.

● **YES**, an exception exists ● **NO**, an exception does not exist

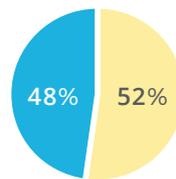


General Library Exception

Can a library make copies for general library uses?

Libraries need to copy individual works for a variety of internal purposes, such as organising their collections, insurance (in the case of more valuable works).

YES = 15 NO = 37

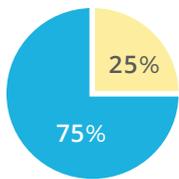


Research Exception

Can a library copy parts of works for research purposes?

Libraries provide information, such as a copy of a journal article or small portion of a work, to enable individual researchers to most effectively do their research.

YES = 27 NO = 25

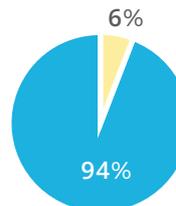


Private Study Exception

Can library users copy parts of works for personal study?

Libraries help people pursue their interests and education by allowing them to copy parts of a work, in line with fair practice.

YES = 13 NO = 39

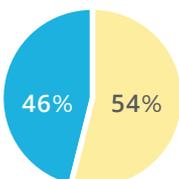


Public Lending Exception

Can a library lend books to the public under a specific exception?

Library lending is a key means of giving people access to culture and knowledge, and encouraging literacy and a love of reading. The evidence suggests that book-lending supports book-buying.

YES = 3 NO = 49

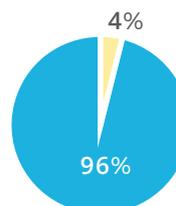


Preservation Exception

Can a library copy a work to preserve it?

Safeguarding national cultural heritage for future generations is a core library responsibility. Long-term preservation requires the making of copies.

YES = 28 NO = 24

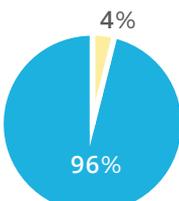


Orphan Works Exception

Can a library copy and give access to a work when the author is unknown or cannot be contacted?

Libraries contain millions of 'orphan works', which risk being locked away forever.

YES = 2 NO = 50



Inter-Library Document Supply Exception

Can a library provide a copy of a work to a researcher in another library?

No library can own every book or journal. Libraries support researchers by providing access to specific resources, not available locally, on an individual basis.

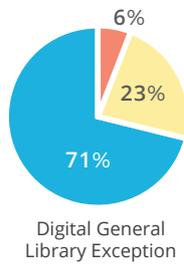
YES = 2 NO = 50

ACCESS TO INFORMATION IS A FUNDAMENTAL RIGHT. BUT WITHOUT ADEQUATE EXCEPTIONS, NOT EVERYONE BENEFITS.

¹ In other countries, library lending might be permissible under more general exceptions.

DOES IT WORK DIGITALLY?

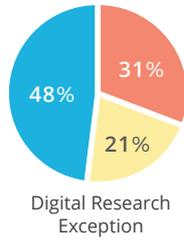
Digital technologies have transformed library services, creating the potential for people everywhere to have access to the resources they need. Digital tools enable smarter research, exciting new ways to teach and learn, more effective preservation, and more opportunities than ever before to access culture. However copyright exceptions, when not updated for digital, stand in the way. And when licence terms or digital locks prevent permitted uses, the exceptions are in effect taken away.



Can a library make digital copies for internal library work?

As libraries increasingly use digital tools to manage collections, including for insurance and other purposes set out above, they need digital-ready exceptions.

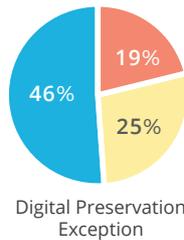
YES = 3 NO = 49



Can a library make digital copies of works for research?

Libraries are taking advantage of new techniques such as text and data mining, which involve making digital copies, to support top-class research.

YES = 16 NO = 36

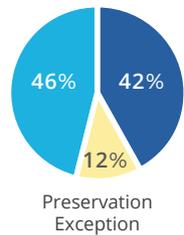


Can a library make digital copies of works for preservation?

Digitisation ensures the survival of works at risk due to physical damage, or natural disasters. For 'born digital' material, making a digital copy is the only way to format-shift as the technologies evolve.

YES = 10 NO = 42

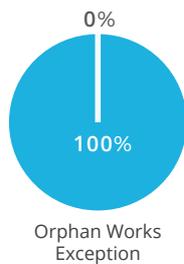
- An exception exists that is adapted to digital uses
- An exception exists, but isn't adapted to digital uses
- No exception exists



If a digital lock prevents the enjoyment of a copyright exception, can the lock be removed?

Digital locks, or technological measures, used by copyright owners to control uses or to prevent infringing uses, can prevent lawful uses of material. Many countries do not allow libraries to remove such locks thus preventing use of the exception. When this happens, the law is in effect giving with one hand, and taking away with the other.

- Digital locks can stop libraries from using exceptions (22)
- Digital locks cannot stop libraries from using exceptions (6)
- Digital locks are not protected in general (24)



Can a licence term prevent a library from using an exception?

Terms in licences, that govern access to electronic resources, often prevent lawful uses or the library may be forced to pay extra for free uses permitted by an exception. This is due to the unequal negotiating position of the two parties—the publisher holds the monopoly rights and the library needs access for its students and researchers. To ensure that such unfair contract terms cannot override exceptions, there should be a safeguarding provision in the law.

- A licence term can prevent a library from using an exception (52)
- A licence term cannot prevent a library from using an exception (0)