

Webinar

Nigeria - the best copyright law in the world (for Libraries)?

Organized
by EIFL in cooperation with
Nigerian Copyright Commission (NCC)

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Nigeria Copyright Act, 2022

- In March 2023, the President of Nigeria signed the Copyright Act, 2022 into law
- We compared it against EIFL's Core Library Exceptions Checklist
- The Copyright Act, 2022 achieved a near perfect score

So what is so good about the Copyright Act?

Extraordinary



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<i>Act No.</i>	<i>Short Title</i>	<i>Page</i>
8	Copyright Act, 2022	A179-243

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Objectives of the Act

- Protect the rights of authors to ensure just rewards and recognition for their intellectual efforts;
- Provide appropriate limitations and exceptions to guarantee access to creative works; and
- Facilitate Nigeria's compliance with obligations arising from relevant international copyright treaties and conventions.

Section 25

Galleries, Libraries, Archives and Museums (GLAMs)

- New specific exception for galleries, libraries, archives, and museums in line with EIFL's Draft Law on Copyright
- Permits GLAMs to make and distribute copies for preservation, replacement, and ordinary GLAM activities
- Technologically neutral

Section 25

Galleries, Libraries, Archives and Museums (GLAMs)

- Make copies for “purposes of back-up and preservation,” including preemptive preservation (anticipating WIPO Preservation Toolkit)
- Make copy of missing part of a work in its collection from copy in collection of another institution
- Engage in format shifting where work cannot reasonably be acquired in desired format from publisher
- Make copies of orphan and out-of-commerce works
- All these copies can be lent to users or viewed on the premises

Section 26

Print disabilities

- Properly implements the WIPO Marrakesh Treaty, which Nigeria has joined
- Allows libraries and other authorized entities in Nigeria to make and distribute accessible format copies, including across borders
- Critical to eliminating the “book famine” (the acute shortage of accessible books)
- Libraries in Nigeria can participate in global accessible book services that operate under the Treaty

Section 20(1)

Fair Dealing

- Increases the flexibility of the existing fair dealing provision
- Enables libraries to engage in activities, such as web archiving, that might not fall within the scope of the specific exceptions
- Provides flexibility for potential uses not yet foreseen (e.g. due to developments in technology)
- Similar to fair use/fair dealing provisions in countries such as the United States, Singapore, and Korea, and fully compliant with Nigeria's international Treaty obligations

Pre-existing Provisions Retained

- Library lending (Section 9)
- Importing non-infringing copies (Section 36(b))
- Pre-existing library exceptions (Section 20)

Protecting the exceptions

Section 20(3)

Preventing Contract Override

- Digital content is often distributed under licence agreements with terms that prohibit library activities permitted by the exceptions
- Section 20(3) renders null and void licence terms that seek to override exceptions
- Similar provisions found in countries such as Singapore, Kuwait, Cook Islands, EU member states, EFTA countries, UK

Protecting the exceptions

Section 50(7)

Permitting Circumvention

- Section 50 prohibits circumvention of digital locks
- Section 50(7) permits circumvention of digital locks for the purpose of exercising exceptions

What's missing?

- The Copyright Law scores 34 out of possible 36 on EIFL's Core Library Exceptions Checklist
- The Copyright Law lost two points because it does not protect librarians from being sued when acting in the course of their duties

References

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Core library exceptions checklist

Library activities & services

COLLECTION DEVELOPMENT

- May a library buy lawfully produced books and other materials from another country for inclusion in its collection?
- May a library lend a physical book/CD/DVD to a library user, or to another library?
- May a library by law lend an e-book to a library user?

SUPPORT FOR EDUCATION AND RESEARCH

- May a library supply a copy of a work, such as a journal article or book chapter, either in hard copy or electronically, to a person for research or private use, or to another library?
- May a library send and receive such copies across borders?
- May a library create databases of collection materials, including e-resources managed by the library, to facilitate text and data mining by researchers?
- May a library provide copies of collection materials for use in virtual learning environments to facilitate distance learning?
- May a library digitize orphan works in its collection, and make them available online?

PRESERVATION AND REPLACEMENT

- May a library make copies of works in its collection in any format for preservation purposes or back-up, and provide access to these copies?
- May a library procure from another library the missing parts of any works in its collection?
- May a library web archive, i.e. preserve publicly accessible websites?

PERSONS WITH DISABILITIES

- May a library make an accessible format copy of a work and provide it to a person with a disability?
- May a library send and receive accessible format copies to and from other countries?

Cross-cutting issues

FORMAT NEUTRAL

- May a library make copies in any format, including digital copies?

SAFEGUARDING EXCEPTIONS IN THE DIGITAL ENVIRONMENT

- Are the exceptions granted to libraries in copyright law safeguarded from override by licence terms?
- Where legal protection is granted to technological protection measures (TPMs), may a library circumvent the TPM to avail itself of an exception to copyright?

LIMITATION ON LIABILITY

- Does the law protect librarians from being sued in the course of their duties?

A FLEXIBLE EXCEPTION

- In addition to any specific library exceptions, are library activities also supported by a flexible exception such as fair use or fair dealing?

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What Can Libraries in Nigeria Do Under the 2022 Copyright Act?

OCTOBER 2023

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draft law on copyright

INCLUDING MODEL
EXCEPTIONS & LIMITATIONS
FOR LIBRARIES AND THEIR USERS

Based on WIPO Draft Law on Copyright
and Related Rights (VERSION 2005)

Recommendations by EIFL (2016)
WORK IN PROGRESS

Available at www.eifl.net

Thank you!

Contact

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