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Australia

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

Copyright Act 1968 (Commonwealth)

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Yes

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

Education licence APRA/AMCOS/ARIA

4. Has any library body within your country produced guidelines which cover copyright of music?

National Library of Australia - <https://www.nla.gov.au/copyright-and-the-music-collection>

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

Life of the creator + 70 years; for films and recordings it's 70 years after the publication.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

Below are general library provisions.

"A library may copy published written, artistic and musical works in its collection for people who have requested the material for their research or study. The requests must be in writing and must be accompanied by a signed declaration from the client. There are some further administrative requirements for copying published material for clients.

There is no specific equivalent provision which allows copying of audiovisual material such as CDs and DVDs."

Also parliamentary and government libraries can make copies for the purpose of service to the different federal and state government departments.

From the Australian Copyright Council's "Libraries: Introduction to Copyright"

Education institutions are covered by certain licences, which allows them to copy:

Music and Books

"a literary work of no more than 15 pages published in an anthology

in the case of a literary, dramatic or musical work in hard copy, 10% of the pages of the work or if the work is divided into chapters, up to one chapter

in the case of a published literary or dramatic work in electronic form (eg website page) up to 10 per cent of the words or if the work is divided into chapters, up to one chapter”

[Reference source](#)

Journals:

“an article in an issue of a periodical

more than one article in a periodical if the article is on the same subject”

[Reference source](#)

Sound recordings:

Under APRA/ARIA/AMCOS licence the school/library can make copies of sound recordings for educational purposes - to be played at a school event, to play in classroom, to use as a soundtrack for school videos.

[Reference source](#)

Film

Copies can be made for educational purposes. Films can be screened in class.

A Statutory Broadcast Licence allows recording programs from tv.

[Reference source](#)

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Lending is not restricted under copyright law in Australia.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

For the purpose of Research and Study libraries can make copies for the users (under Section 49) and send them either as a physical photocopy or as an electronic copy (.pdf attached to an email). If the work is commercially available, then the library can copy 10% or a chapter from a physical item; 10% of an electronic item or one article from a journal (or more if they are on the same topic). If the work isn't commercially available then the whole work can be copied.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

No, not at this point. Libraries, however, often take a 'risk management' approach and attempt searching for the author of the work, if after the search there are no results, libraries might decide to use the work.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

There are no such provisions for mass digitisation projects as yet.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

- APRA
- AMCOS
- ARI

13. Are there any associations which represent users in your country?

Not that I'm aware of.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

Not that I'm aware of.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

At the moment there is an unclear status of orphan works.

16. When you have a copyright problem, from whom do you obtain expert advice?

The guides created by the Australian Copyright Council. ACC also has a [legal advice service](#).

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Austria

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

[Urheberrechtsgesetz 1936](#), latest revision: BGBl. I Nr. 99/2015, published August 13, 2015

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

No, not in the strict sense, as there is no case law system in Austria. However, the application and interpretation of the Copyright Act can be searched e.g. via the [Case Law section](#) of the official Legal Information System of the Republic of Austria.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

There are only individual agreements with right holders and CMOs (Collective Management Organisations) with individual libraries, but no copyright licensing schemes.

4. Has any library body within your country produced guidelines which cover copyright of music?

Yes, the VÖB Kommission für Musik

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

Yes, the VÖB Kommission für Musik

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

70 years pma, 70 years after creation/publication for anonymous/pseudonymous works; related rights (sound recordings, performing artists): up to 70 years after first distribution (in some special cases 50 years)

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

Exceptions:

Printed music (scores):

a copy for personal or private use is only allowed if the work is not commercially available (out of print)

Books, journals:

only in parts - the whole work only, if the work is not commercially available / out of print, or if it is a copy for archival purposes from publicly accessible institutions

on paper

for personal or own use (including e.g. archival copies for libraries) or institutional tutorial use

in digital format

for own use for scientific purposes or personal use or institutional tutorial use

sound recordings:

for personal or own use (including e.g. archival copies for libraries)

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Lending is allowed if it is done by publicly accessible institutions in pursuit of non-profit purposes. This lending right is remunerated, the remuneration can only be collected (and distributed) by CMOs. Remuneration is based on a general agreement between CMOs on the one hand and the Federal States and the federal countries of Austria on the other.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Yes, for own (library) use, including archival purposes as well as for making these copies publicly available instead of the original (lending, showing on premises, exhibiting).

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Yes. It's basis is § 56e Urheberrechtsgesetz, which has been adopted in transposing the Orphan Works Directive.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

AKM-AuMe (formerly separate, now merged into one Collective Management Organisation), represent the rights and interests of music text authors, composers, music editors in Austria.

13. Are there any associations which represent users in your country?

No.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

No.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

- Disproportionate complex right clearance for harmless non-profit uses;
- Non-existence of legal mechanisms to enable mass digitisation of library collections and their use (e.g. Extended Collective Licensing);
- Missing clarifications regarding uses of works in digital format (e.g. digital lending, either on-site consultation via dedicated terminals or WiFi, or remote access).

16. When you have a copyright problem, from whom do you obtain expert advice?

From colleagues, from the internal legal service and from external Copyright Law experts.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Although it is not strictly a Copyright matter, it should be mentioned that there is no legal deposit for audio-visual works in Austria. Works of Music are therefore not collected on a systematic basis.

Belgium

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

Copyright law dd. 30 June 1994, adapted 3 April 1995 (also adapted dd.22 May 2005 following the European directive; and integrated into the Code of Economical Law (Book XI « Intellectual Property », title 5).

Royal Decree dd. 12 April 1999, adapted 3 September 2000 and 8 November 2001, with regulations for restaurants and dancing's, for shops and galleries, for hairdressers and stylists; completely modified on 1 December 2016 by the following applicable legislation:

Royal Decree dd. 1 December 2016 making mandatory the decision dd. 27 October 2016 related to « fair remuneration due by hairdressers and beauticians » taken by Commission referred to in art. 42 of the Belgian Copyright Law dd. 30 June 1994;

Royal Decree dd. 1 December 2016 making mandatory the decision dd. 27 October 2016 related to « fair remuneration due by farms offering accommodation and/or preparing and/or offering dinners and/or beverages, and by nightclubs/dancing's", taken by Commission referred to in Art. 42 of the Belgian Copyright Law dd. 30 June 1994;

Royal Decree dd. 1 December 2016 making mandatory the decision dd. 27 October 2016 related to « fair remuneration due by public communication of phonograms, youth centers and cultural centers, and within temporary activities indoor and outdoor" taken by Commission referred to in Art. 42 of the Belgian Copyright Law dd. 30 June 1994;

Royal Decree dd. 1 December 2016 making mandatory the decision dd. 27 October 2016 related to « fair remuneration due by operators of audiovisual projection sites and by temporary event organizers of audiovisual projections" taken by Commission referred to in Art. 42 of the Belgian Copyright Law dd. 30 June 1994;

Royal Decree dd. 13 December 1999, adapted 13 November 2000 and 8 November 2001, with regulations for cinemas and festivals, for other commercial activities

Royal Decree dd. 8 November 2001, with regulations for youth and cultural centres.

Royal Decree dd. 9 March 2003 with regulations for radio broadcasting; modified by Royal Decree making mandatory the decision dd. 12 December 2005 modifying the decision dd. 10 February 2003 related to "fair remuneration due by radiobroadcasters", taken by Commission referred to in Art. 42 of the Belgian Copyright Law dd. 30 June 1994.

Law dd. 19 April 2014 integrating the book XI "Intellectual Property" into the Code of Economic law.

Law dd. 20 July 2015 translating the Orphan Works Directive 2012

Royal Decree dd. 17 October 2016 designating the appropriated sources to make a diligent search of right holders.

Royal Decree dd. 17 October 2016 designating the Royal Library of Belgium as National Competent Authority for Orphan Works.

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Lawsuits play a part in giving some concrete interpretation to the copyright law.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

SEMU (link is external), Société des Editeurs de Musique / Muziekuitgevers, for music editors is very active in making contracts with music education institutions, but in the landscape of libraries is this a minority.

4. Has any library body within your country produced guidelines which cover copyright of music?

Not at all. The general copyright guidelines are often used for music too.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No.

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

EU standard: 70 years from the author's death; 70 years for neighbouring rights after publication date.

Belgium : Code of Economical Law: Art. XI. 166 (authors); art. XI.208, art. XI.209, art. XI.216 (Neighboring rights)

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

For all material : Not allowed to copy. Exception for smaller parts only for personal use, education or research and in case of permission by the copyright holder(s). But beneath the "official" rule supported by the several copyright organisations, there is also an unclear area, as it often is shown in the lawsuits on copyright.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

There are no restrictions for lending material, except for the online delivery of an electronic document as this is considered as a form of reproduction.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Yes, copies of in-copyrighted material are allowed within the context of digitization projects. According to the legal exceptions from the EU copyright directive and its transposition into the Belgian legislation, libraries, museums, archives and heritage institutions have the right to reproduce by digitization the full range of their collections for preservation purposes without any authorization of the right holders.

These institutions also have the right to communicate these reproductions to a large public with restricted access inside the reading rooms of the concerned institutions if the content is only available on "special terminals".

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

According to the Orphan Works Directive 2012 and its translation into the Belgian law (law of 20.VII.2015 and its Royal Decrees of 17.X.2016 giving designation of the Royal Library of Belgium as national authority for the orphan works and the RD of 17.X.2016 establishing the appropriated sources to make a diligent search of right holders in order to determine if a work or a sound recording is orphan or not, libraries, museums and archival institutions are allowed to reproduce and to make available established orphan works.

When a work has been recognized as orphan work, libraries and relative institutions are allowed to copy them and to publish them online.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

SABAM (link is external) - Society of Authors and Composers. SEMU (link is external) - Société des Editeurs de Musique / Muziekuitgevers AUVIBEL (link is external) - Collective rights management company for the private copying of sound and audiovisual works.

[Playright](#)

[Simim](#)

[SACD – Scam](#)

13. Are there any associations which represent users in your country?

VVBAD (link is external) - Flemish Association of Libraries and Archives.

[APBD](#) (Association professionnelle des Bibliothécaires et documentalistes)

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

Not with the rightholders directly, only with the organisation representing the rightholders. More and more conflicts between individual end users and patrimonial institutes that are not allowed to provide online without any access restriction reproductions of in-copyrighted material.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

To obtain a more clear and surveyable situation. If possible, to leave the actual schizophrenic situation with strong laws on one side and an incredible illegal reproduction practice on the other. The right to reproduce a musical work for pedagogical or research purposes. An easier and public friendly way to get the permission to reproduce any document that is no longer available in commerce.

16. When you have a copyright problem, from whom do you obtain expert advice?

Copyright experts are very scarce, and if they exist, they are very expensive. Several institutions have a legal department, but copyright issues are not their priority. First aid is mostly given by colleagues, the library association VVBAD and the Internet.

[OPRI](#) : Office belge de la propriété intellectuelle

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Canada

*Note: any questions regarding legislation have been answered using the text from the Canadian Copyright Act C-42.

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

The Canadian Copyright Act, C-42 and the 2012 Copyright Modernization Act (SC 2012 c. 20).

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Yes, by six (6) pieces of jurisprudence:

- CCH Canadian Ltd v Law Society of Upper Canada, [2004] 1 SCR 339, 2004 SCC 13
- Entertainment Software Association v. Society of Composers, Authors and Music Publishers of Canada, 2012 SCC 34
- Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada, 2012 SCC 35
- Society of Composers, Authors and Music Publishers of Canada v. Bell Canada, 2012 SCC 36
- Alberta (Education) v. Canadian Copyright Licensing Agency (Access Copyright), 2012 SCC 37
- Re:Sound v. Motion Picture Theatre Associations of Canada, 2012 SCC 38

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

Some libraries, both public and academic (but mainly public) still pay licencing agreements to the copyright collective Access Copyright. However, many Canadian academic libraries have dropped Access Copyright in favour of institutional copyright librarians/officers who have some knowledge of the Canadian Copyright Act (but are apprehensive about dealing with music related copyright issues).

4. Has any library body within your country produced guidelines which cover copyright of music?

No, not currently. However, the Copyright group from CAML/ACBM is hoping to address in 2017-2018.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

Yes, Access Copyright, ReSound and SOCAN have all produced guidelines cover music materials. However, they largely favour owner's over user's rights with many of the guidelines contravening Canadian Copyright legislation.

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

As of 2015, there are different terms of protections. (The information below is taken from the Canadian Copyright Act, C-42).

Printed Materials (all printed materials including, but not limited to: sheet music, journals, books)

Ownership known - The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author, the remainder of the calendar year in which the author dies, and a period of fifty years following the end of that calendar year.

Anonymous and pseudonymous works - copyright in the work shall subsist for whichever of the following terms ends earlier: a term consisting of the remainder of the calendar year of the first publication of the work and a period of fifty years following the end of that calendar year, and a term consisting of the remainder of the calendar year of the making of the work and a period of seventy-five years following the end of that calendar year. If the author becomes known, then the term reverts to the life of the author and a period of fifty years following the end of the calendar year.

Anonymous and pseudonymous works of joint authorship - Where the identity of all the authors of a work of joint authorship is unknown, copyright in the work shall subsist for whichever of the following terms ends earlier: a term consisting of the remainder of the calendar year of the first publication of the work and a period of fifty years following the end of that calendar year, and a term consisting of the remainder of the calendar year of the making of the work and a period of seventy-five years following the end of that calendar year, but where, during that term, the identity of one or more of the authors becomes commonly known, copyright shall subsist for the life of whichever of those authors dies last, the remainder of the calendar year in which that author dies, and a period of fifty years following the end of that calendar year.

Performers Performance Rights - if the performance is fixed in a sound recording before the copyright expires, the copyright continues until the end of 50 years after the end of the calendar year in which the first fixation of the performance in a sound recording occurs; and if a sound recording in which the performance is fixed is published before the copyright expires, the copyright continues until the earlier of the end of 70 years after the end of the calendar year in which the first such publication occurs and the end of 100 years after the end of the calendar year in which the first fixation of the performance in a sound recording occurs.

Sound Recordings - copyright in a sound recording subsists until the end of 50 years after the end of the calendar year in which the first fixation of the sound recording occurs. However, if the sound recording is published before the copyright expires, the copyright continues until the earlier of the end of 70 years after the end of the calendar year in which the first publication of the sound recording occurs and the end of 100 years after the end of the calendar year in which that first fixation occurs.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

All materials may be copied by library users if they all under the following fair dealing exceptions, which must be considered together, as outlined by s. 29 and 29.1 of the Canadian Copyright Act and the Supreme Court of Canada in CCH v. Law Society of Upper Canada [2004] 1 SCR 339:

- **purpose of the dealing:** must be an allowable purpose, one mentioned in the act (Education, Research, Private Study, Parody & Satire, Review & News Reporting, Criticism)
- **character of the dealing:** how was the infringing work dealt with?
- **amount of the dealing:** what was the amount and substantiality of portion used in relation to the whole work?
- **alternatives to the dealing:** defense more likely allowed where no alternative available
- **nature of the work:** i.e., strong public interest in access to these resources
- **economic impact on owner:** how is market for work impacted by fair-dealing in question?

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

There is no copyright legislation or jurisprudence that covers the lending of library materials. However, institutions subscribing to the copyright collective Access Copyright and some agreements with licencing vendors do have restrictions imposed that contradict the Canadian Copyright Act regarding the sharing and lending of some library materials, primarily digital resources.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Yes, libraries, archives and museums do have an exception for this purpose, it is in s. 30.1 of the Copyright Act.

Management and maintenance of collection

30.1 It is not an infringement of copyright for a library, archive or museum or a person acting under the authority of a library, archive or museum to make, for the maintenance or management of its permanent collection or the permanent collection of another library, archive or museum, a copy of a work or other subject-matter, whether published or unpublished, in its permanent collection

(a) if the original is rare or unpublished and is(i) deteriorating, damaged or lost, or at risk of deterioration or becoming damaged or lost;

(b) for the purposes of on-site consultation if the original cannot be viewed, handled or listened to because of its condition or because of the atmospheric conditions in which it must be kept;

(c) in an alternative format if the library, archive or museum or a person acting under the authority of the library, archive or museum considers that the original is currently in a format that is obsolete or is becoming obsolete, or that the technology required to use the original is unavailable or is becoming unavailable;

(d) for the purposes of internal record-keeping and cataloguing;

(e) for insurance purposes or police investigations; or(f) if necessary for restoration

Research or private study

30.2 (1) It is not an infringement of copyright for a library, archive or museum or a person acting under its authority to do anything on behalf of any person that the person may do personally under section 29 or 29.1.

Copies of articles for research, etc.

(2) It is not an infringement of copyright for a library, archive or museum or a person acting under the authority of a library, archive or museum to make, by reprographic reproduction, for any person requesting to use the copy for research or private study, a copy of a work that is, or that is contained in, an article published in

- (a) a scholarly, scientific or technical periodical; or
- (b) a newspaper or periodical, other than a scholarly, scientific or technical periodical, if the newspaper or periodical was published more than one year before the copy is made.

Restriction

(3) Paragraph (2)(b) does not apply in respect of a work of fiction or poetry or a dramatic or musical work.

Conditions

(4) A library, archive or museum may provide the person for whom the copy is made under subsection (2) with the copy only on the condition that

- (a) the person is provided with a single copy of the work; and
- (b) the library, archive or museum informs the person that the copy is to be used solely for research or private study and that any use of the copy for a purpose other than research or private study may require the authorization of the copyright owner of the work in question.

Patrons of other libraries, etc.

(5) Subject to subsection (5.02), a library, archive or museum, or a person acting under the authority of one, may do, on behalf of a patron of another library, archive or museum, anything under subsection (1) or (2) that it is authorized by this section to do on behalf of one of its own patrons.

Deeming

(5.01) For the purpose of subsection (5), the making of a copy of a work other than by reprographic reproduction is deemed to be a making of a copy of the work that may be done under subsection (2).

Limitation regarding copies in digital form

(5.02) A library, archive or museum, or a person acting under the authority of one, may, under subsection (5), provide a copy in digital form to a person who has requested it through another library, archive or museum if the providing library, archive or museum or person takes measures to prevent the person who has requested it from

- (a) making any reproduction of the digital copy, including any paper copies, other than printing one copy of it;
- (b) communicating the digital copy to any other person; and
- (c) using the digital copy for more than five business days from the day on which the person first uses it.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Yes, the legislation does discuss orphaned works (in s. 6.1 and 6.2 of the Copyright Act). Anonymous and pseudonymous works – copyright in the work shall subsist for whichever of the following terms ends earlier: a term consisting of the remainder of the calendar year of the first publication of the work and a period of fifty years following the end of that calendar year, and a term consisting of the remainder of the calendar year of the making of the work and a period of seventy-five years following the end of that calendar year. If the author becomes known, then the term reverts to the life of the author and a period of fifty years following the end of the calendar year.

Anonymous and pseudonymous works of joint authorship - Where the identity of all the authors of a work of joint authorship is unknown, copyright in the work shall subsist for whichever of the following terms ends earlier: a term consisting of the remainder of the calendar year of the first publication of the work and a period of fifty years following the end of that calendar year, and a term consisting of the remainder of the calendar year of the making of the work and a period of seventy-five years following the end of that calendar year, but where, during that term, the identity of one or more of the authors becomes commonly known, copyright shall subsist for the life of whichever of those authors dies last, the remainder of the calendar year in which that author dies, and a period of fifty years following the end of that calendar year.

Also, if someone wants to use an orphan work that is still under copyright, they must apply to the Canadian Copyright Board to obtain a licence.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

Yes, there is legislation that covers digitization of a library's collection in the Canadian Copyright Act, under s. 30.

Exception – digital reproduction of works

30.02 (1) Subject to subsections (3) to (5), it is not an infringement of copyright for an educational institution that has a reprographic reproduction licence under which the institution is authorized to make reprographic reproductions of works in a collective society's repertoire for an educational or training purpose

- (a) to make a digital reproduction — of the same general nature and extent as the reprographic reproduction authorized under the licence — of a paper form of any of those works;
- (b) to communicate the digital reproduction by telecommunication for an educational or training purpose to persons acting under the authority of the institution; or
- (c) to do any other act that is necessary for the purpose of the acts referred to in paragraphs (a) and (b).

Exception

(2) Subject to subsections (3) to (5), it is not an infringement of copyright for a person acting under the authority of the educational institution to whom the work has been communicated under paragraph (1)(b) to print one copy of the work.

Conditions

- (3) An educational institution that makes a digital reproduction of a work under paragraph (1) (a) shall
 - (a) pay to the collective society, with respect to all the persons to whom the digital reproduction is communicated by the institution under paragraph (1)(b), the royalties that would be payable if one reprographic reproduction were distributed by the institution to each of those persons, and comply with the licence terms and conditions applicable to a reprographic reproduction to the extent that they are reasonably applicable to a digital reproduction;
 - (b) take measures to prevent the digital reproduction from being communicated by telecommunication to any persons who are not acting under the authority of the institution;
 - (c) take measures to prevent a person to whom the work has been communicated under paragraph (1)(b) from printing more than one copy, and to prevent any other reproduction or communication of the digital reproduction; and
 - (d) take any measure prescribed by regulation.

Restriction

(4) An educational institution may not make a digital reproduction of a work under paragraph (1 (a) if

(a) the institution has entered into a digital reproduction agreement respecting the work with a collective society under which the institution may make a digital reproduction of the work, may communicate the digital reproduction by telecommunication to persons acting under the authority of the institution and may permit those persons to print at least one copy of the work;

(b) there is a tariff certified under section 70.15 that is applicable to the digital reproduction of the work, to the communication of the digital reproduction by telecommunication to persons acting under the authority of the institution and to the printing by those persons of at least one copy of the work; or

(c) the institution has been informed by the collective society that is authorized to enter into reprographic agreements with respect to the work that the owner of the copyright in the work has informed it, under subsection (5), that the owner refuses to authorize the collective society to enter into a digital reproduction agreement with respect to the work.

Restriction

(5) If the owner of the copyright in a work informs the collective society that is authorized to enter into reprographic agreements with respect to the work that the owner refuses to authorize it to enter into digital reproduction agreements with respect to the work, the collective society shall inform the educational institutions with which it has entered into reprographic reproduction agreements with respect to the work that they are not permitted to make digital reproductions under subsection (1).

Deeming provision

(6) The owner of the copyright in a work who, in respect of the work, has authorized a collective society to enter into a reprographic reproduction agreement with an educational institution is deemed to have authorized the society to enter into a digital reproduction agreement with the institution — subject to the same restrictions as a reprographic reproduction agreement — unless the owner has refused to give this authorization under subsection (5) or has authorized another collective society to enter into a digital reproduction agreement with respect to the work.

Maximum amount that may be recovered

(7) In proceedings against an educational institution for making a digital reproduction of a paper form of a work, or for communicating such a reproduction by telecommunication for an educational or training purpose to persons acting under the authority of the institution, the owner of the copyright in the work may not recover an amount more than

(a) in the case where there is a digital reproduction licence that meets the conditions described in paragraph (4)(a) in respect of the work — or, if none exists in respect of the work, in respect of a work of the same category — the amount of royalties that would be payable under that licence in respect of those acts or, if there is more than one applicable licence, the greatest amount of royalties payable under any of those licences; and

(b) in the case where there is no licence described in paragraph (a) but there is a reprographic reproduction licence in respect of the work — or, if none exists in respect of the work, in respect of a work of the same category — the amount of royalties that would be payable under that licence in respect of those acts or, if there is more than one applicable licence, the greatest amount of royalties payable under any of those licences.

No damages

(8) The owner of the copyright in a work may not recover any damages against a person acting under the authority of the educational institution who, in respect of a digital reproduction of the work that is communicated to the person by telecommunication, prints one copy of the work if, at the time of the printing, it was reasonable for the person to believe that the communication was made in accordance with paragraph (1)(b).

Royalties — digital reproduction agreement

30.03 (1) If an educational institution has paid royalties to a collective society for the digital reproduction of a work under paragraph 30.02(3)(a) and afterwards the institution enters into a digital reproduction agreement described in paragraph 30.02(4)(a) with any collective society,

(a) in the case where the institution would — under that digital reproduction agreement — pay a greater amount of royalties for the digital reproduction of that work than what was payable under paragraph 30.02(3)(a), the institution shall pay to the collective society to which it paid royalties under that paragraph the difference between

(i) the amount of royalties that the institution would have had to pay for the digital reproduction of that work if the agreement had been entered into on the day on which the institution first made a digital reproduction under paragraph 30.02(1)(a), and

(ii) the amount of royalties that the institution paid to the society under paragraph 30.02(3)(a) for the digital reproduction of that work from the day on which that

paragraph comes into force until the day on which they enter into the digital reproduction agreement; and

(b) in the case where the institution would — under that digital reproduction agreement — pay a lesser amount of royalties for the digital reproduction of that work than what was payable under paragraph 30.02(3)(a), the collective society to which the institution paid royalties under that paragraph shall pay to the institution the difference between

(i) the amount of royalties that the institution paid to the society under paragraph 30.02(3)(a) for the digital reproduction of that work from the day on which that paragraph comes into force until the day on which they enter into the digital reproduction agreement, and

(ii) the amount of royalties that the institution would have had to pay for the digital reproduction of that work if the agreement had been entered into on the day on which the institution first made a digital reproduction under paragraph 30.02(1)(a).

Royalties — tariff

(2) If an educational institution has paid royalties to a collective society for the digital reproduction of a work under paragraph 30.02(3)(a) and afterwards a tariff applies to the digital reproduction of that work under paragraph 30.02(4)(b),

(a) in the case where the institution would — under the tariff — pay a greater amount of royalties for the digital reproduction of that work than what was payable under paragraph 30.02(3)(a), the institution shall pay to the collective society to which it paid royalties under that paragraph the difference between

(i) the amount of royalties that the institution would have had to pay for the digital reproduction of that work if the tariff had been certified on the day on which the institution first made a digital reproduction under paragraph 30.02(1)(a), and

(ii) the amount of royalties that the institution paid to the society under paragraph 30.02(3)(a) for the digital reproduction of that work from the day on which that paragraph comes into force until the day on which the tariff is certified; and

(b) in the case where the institution would — under the tariff — pay a lesser amount of royalties for the digital reproduction of that work than what was payable under paragraph 30.02(3)(a), the collective society to which the institution paid royalties under that paragraph shall pay to the institution the difference between

(i) the amount of royalties that the institution paid to the society under paragraph 30.02(3)(a) for the digital reproduction of that work from the day on which that paragraph comes into force until the day on which the tariff is certified, and

(ii) the amount of royalties that the institution would have had to pay for the digital reproduction of that work if the tariff had been certified on the day on which the institution first made a digital reproduction under paragraph 30.02(1)(a).

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

- Canadian Federation of Musicians (CFM, the Canadian branch of the American Federation of Musicians or AFM) – Dubbed the “musicians union”, are responsible for negotiating payment of royalty fees to member musicians who are engaged as performers in recorded and live music performance.
- ReSound – collect royalties for the public performance of recorded music
SOCAN (Society of Composers, Authors and Music Publishers of Canada) – collects royalties for the public performance of live music.

13. Are there any associations which represent users in your country?

There are unfortunately no associations who represent user’s rights in Canada.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

Yes, both ReSound and SOCAN try to collect royalties from academic libraries for performance of works, both in the public domain and whose term limits have not yet expired, despite academic libraries being in an education institution and therefore falling under both the education fair dealing exception (s. 29 and 29.1 of the Copyright Act) and the Libraries, Archives and Museums exception (s. 30.1, 30.3, 30.4).

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

The need for musicians and music librarians to become more copyright literate will help to dispel many of the misconceptions, false and out-dated information they have been provided with. Additionally, the need for Canadian musicians, music libraries, and music librarians to resist the continuous lobbying of Canadian legislators by the Canadian Federation of Musicians, ReSound, SOCAN and the International Intellectual Property Alliance (a group financially supported by and whose objective is to lobby globally for the US entertainment industry copyright interests and IP protections) for more stringent copyright legislation that further entrenches owner's rights to the detriment of user's rights.

16. When you have a copyright problem, from whom do you obtain expert advice?

There are a number of copyright experts in Canada: in the field of music copyright there is Dr. Louis D'Alton at the University of Western Ontario who specializes in Public Performance Rights; and Scott A. MacDonald, MMus, currently a Concurrent MLIS & PhD LIS student at the University of Western Ontario whose area of research includes Performers' Performance Rights, issues of intellectual property rights affecting musicians, and copyright education for musicians. In the area of general copyright there is: Dr. Samuel E. Trosow a jointly appointed professor in the Faculties of Law and Information and Media Studies (FIMS); Michael Geist at the University of Ottawa; Ariel Katz at the University of Toronto; Howard Knopf a copyright lawyer with Moffat & Co. and Macera & Jarzyna; Dr. Lisa di Valentino, a librarian at the University of Massachusetts at Amherst; and Lesley Ellen Harris, a copyright lawyer, author and educator. Additionally, many academic institutions now have Copyright librarians/officers from whom academic librarians can obtain information regarding copyright issues.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

This year in Canada will see the mandatory 5-year review of the 2012 Copyright Modernization Act. This will be an opportunity for all Canadian music librarians, who can be supported by international organizations such as IAML, to lobby for the musical communities they serve against the further entrenchment of owner's rights in the Act and to create better legislation protecting user's rights towards creating a more balanced approach between User's and Owner's. As such, this copyright survey is occurring a critical time and will provide CAML/ACBM with information in their lobbying efforts.

Czech Republic

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

The Copyright Act (amendment 2017), and the part of the Civil Code pertaining to contractual law (to which the legal regulation of licencing was transferred in 2012, effective as of 2014)

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Yes.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

Yes

4. Has any library body within your country produced guidelines which cover copyright of music?

[what exactly does it involve? - "music" = 1. music; 2. "sheet music" <this is strictly taken to mean "sheet music", unless the context enables both interpretations>]

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

In the case of works, 70 years from the death of the author. In the case of performances, 50 years from the performance or, if a recording of the performance has been published/ released, then 70 years from the first publication/release of an audio recording or 50 years from the publication/release of a different recording.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film. (See 6.)

Sheet music material is not allowed to be copied in paper form and so on (however, the realisation of a digital copy using your own equipment is not prohibited), copies (including digital copies) of books and periodicals can be realised using your own equipment, print copies can be made using equipment provided by the library, the library is obliged to prevent the possibility of making copies of audio recordings and films when lending them.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

It is possible to lend printed works on the basis of a legal licence; literary (textual) works and static depictions in the form of a digital recording on a data media (for example, a CD-ROM) can be loaned, provided they are not subject to licence or sales conditions (i.e. only non-commercial works); other subjects of protection can only be loaned on the basis of a contractual licence (a mass contract on the lending of audio recordings has been concluded with the collective administrators; a number of libraries have individual contracts with one of the distributors for lending older films of national production; a number of libraries have contracts with distributors governing the lending of e-books).

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Copying for protective and preservation purposes, copying for the purpose of replacing damaged sections or complete units, copying for the purpose of providing access to the work on a terminal within the library premises, copying for individuals with health disabilities at an extent corresponding to the given disability (including the sharing of such a copy), the realisation of copies to order (including the provision of the equipment to make such copies)

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Yes, but it has not yet been utilised.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the right holder is not a member of the society? If so, please supply details.

The provisions on the list of works which are not available in the market and the granting of access to them in libraries is contained in the amendment to the Copyright Act adopted by parliament in 2017; negotiations are currently ongoing between the National Library of the Czech Republic (by law it represents the system of libraries in relation to the collective administrators in all matters of remuneration for the use of the subject of the protection) and the collective administrators with regard to its realisation

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

- Dilia
- OSA
- Integram

13. Are there any associations which represent users in your country?

Yes, IAML, SKIP.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

No.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

16. When you have a copyright problem, from whom do you obtain expert advice?

Ministry of Culture, legal department

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Estonia

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

[Estonian Copyright Act](#) (entry into force 12.12.1992, the last version in force from 01.02.2017)

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

There is no case law concerning libraries.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

The lending and reproduction of works is subject to regulation under the Copyright Act. For public performance of music and audio-visual works concerning music used in films, each library has to make a contract with the Estonian Authors' Society whenever there is a library event. Public performance of audio-visual works also requires the producer's permission.

4. Has any library body within your country produced guidelines which cover copyright of music

No.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No.

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

The term of protection of copyright shall be the life of the author and 70 years after his or her death, irrespective of the date when the work is lawfully made available to the public. In the case of anonymous or pseudonymous works, the term of protection of copyright shall run for 70 years after the work is lawfully made available to the public.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

A lawfully published work may be reproduced by a natural person for the purposes of personal use without the authorisation of its author and without payment of remuneration on the condition that such activities are not carried out for commercial purposes. Except for printed music in reprographic form.

Such reproduction may be done if it does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Lending is covered by copyright legislation. A library has the right to lend out a **work** and a sound **recording** of a work without the consent of the author, performer or producer of phonograms, but they are entitled to receive remuneration for such lending out. (Libraries do not pay for it. Covered by special Authors' Remuneration Fund.)

Lending out an **audiovisual work** is permitted only in case the producer of the first fixation of a film has granted a respective permission. Libraries have to pay a license fee when it is required by the rightholder (mostly producer or distributor).

The lending out of sound recordings is permitted in case **4 months** have passed since the start of the distribution of such sound recording in Estonia. The said time-limit can be shortened with the consent of the holder of related rights.

The above-mentioned restrictions do not apply to a library providing services to an educational institution operating in a field of study of audiovisual arts or music.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

The Library has the right to reproduce a work included in the collection thereof without the authorisation of its author and without payment of remuneration, in order to:

- 1) replace a work which has been lost, destroyed or rendered unusable;
- 2) make a copy to ensure the preservation of the work;
- 3) replace a work which belonged to the permanent collection of another library, archives or museum if the work is lost, destroyed or rendered unusable (1-3: in case when acquisition of another copy of the work is impossible);
- 4) digitise a collection for the purposes of preservation;
- 5) make a copy for a natural person for purposes of personal use;
- 6) make a copy on the order of a court or a state agency for the certain purposes.

These activities shall not be carried out for commercial purposes.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Yes, [Chapter 4, part 4 of Estonian Copyright Act](#) provides an exception permitting copying and making available orphan works..

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[Estonian Authors' Society](#)

[Estonian Association of the Phonogram Producers](#)

[Estonian Performers Association](#)

13. Are there any associations which represent users in your country?

There are no special organisations in Estonia but the Estonian Music Library Association as well as the Estonian Librarians' Association has tried to represent the interests of libraries and their users in the field of copyright.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

Not lately. There have been some minor misunderstandings and conflicts in the early 2000s, when libraries were trying to start lending audio and video recordings. After the amendment of the Copyright Act in 2008, when libraries achieved the right to lend out sound recordings, the attitude towards libraries has been more respectful. There is still no solution regarding lending rights obtained from film producers but currently a direct conflict does not exist.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

- 1) Printed music should be allowed to be copied for personal use. (Currently this is not allowed even in music teaching institutions)
- 2) The lending of video recordings should be free in the same way as all other documents in the library without permission, although copyright holders are nevertheless entitled to receive equitable compensation. Whenever there is a library event, the public performance of audio-visual works should also be possible without permission if a fee is paid.
- 3) The state allocates too little money to the Authors' Remuneration Fund as compensation for library loans to copyright holders. This is a political matter. If there was more money it would also be easier to update lending services in libraries.
- 4) Digitisation is very resource-intensive work but the results do not always reach the wider public. According to the current Copyright Act, the greater part of digitised musical documents remains inaccessible within the public network. These documents are only for preservation on the digital archive DIGAR and for use on authorised workstations of the National Library of Estonia. Copyright-protected works may not be downloaded or printed. What's the point of sheet music that can only be viewed on computer screens?

16. When you have a copyright problem, from whom do you obtain expert advice?

The Estonian Authors' Society, copyright specialists from the National Library, the Ministry of Culture or the Ministry of Justice, and from sites on the Internet.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

France

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

- Loi 57-298 - 1957/03/11 Loi sur la propriété littéraire et artistique.
- Loi 85-660 - 1985/07/03 Loi relative aux droits d'auteur et aux droits des artistes interprètes.
- Code de la propriété intellectuelle (CPI), institué par la loi du 1er juillet 1992.
- Le code du patrimoine (articles L131-1 à L133-1) est entré en vigueur le 20 février 2004. Il remplace la loi n 92-546 du 20 juin 1992 relative au dépôt légal.
- Loi n° 2006-961 du 1 août 2006 relative au droit d'auteur et aux droits voisins dans la société de l'information

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

No

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

La SEAM, Société des éditeurs et auteurs de musique, a été agréée par le Ministère de la Culture, gère le droit de copie des partitions musicales. Elle représente l'ensemble des éditeurs de musique imprimée, y compris ceux qui ne sont pas membres de cette société

4. Has any library body within your country produced guidelines which cover copyright of music?

No

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

- 70 ans pour le droit d'auteur.
- 70 ans pour les droits voisins, depuis 2013.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

Printed music

Concernant le droit de reproduction par reprographie, il existe actuellement deux tarifications:

1. Convention signée le 17 mars 2004 entre le Ministère de la jeunesse, de l'éducation nationale et de la recherche (MJENR), le Centre français d'exploitation du droit de copie (CFC) et la Société des éditeurs et auteurs de musique (SEAM) qui régit les conditions d'utilisation des photocopies dans les établissements d'enseignement secondaires publics et privés sous contrat. 2 tranche. Tranche basse de 1 à 100 copies pour 1,50 € H.T. par élève et par an. Tranche haute de 101 à 180 copies pour 2,07 € H.T. par élève et par an.

2. Convention signée en 1988 entre la SEAM et les écoles de musique et conservatoires: 5 tranches. Tranche 1.: de 1 à 10 pages par élève et par an pour 3,43 € par élève et par an - Tranche 5.: de 26 à 30 pages par élève et par an pour 5,72 € H.T. par élève et par an.

Exceptions.

Books: Convention entre le CFC et le MJENR.

Sound recordings and Videos: not allowed.

Digital: Limited to works preserved in libraries collections free from licences or other legal limits to access.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

See question 7

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Une [directive européenne datant de 2012](#) prévoit des possibilités de réutilisation des œuvres orphelines par "les bibliothèques, les établissements d'enseignement, les musées accessibles au public, les archives, les institutions dépositaires du patrimoine cinématographique ou sonore et les organismes de radiodiffusion de service public" s'ils ont fait des recherches avérées et sérieuses de ces ayants droit, en recourant à un ensemble de sources "déterminées par l'État membre dans lequel la recherche diligente doit être effectuée".

En France, cette directive n'a pas été transposée, mais la loi n° 2012-287 du 1er mars 2012 relative à l'exploitation numérique des livres indisponibles du XXe siècle aborde la question des œuvres orphelines. Celle-ci a créé des articles à son sujet dans le Code de la propriété intellectuelle. Notamment [l'article L135-2](#) prévoit la possibilité de :

"1° Mise à la disposition du public d'une œuvre orpheline de manière que chacun puisse y avoir accès de sa propre initiative ;

2° Reproduction d'une œuvre orpheline à des fins de numérisation, de mise à disposition, d'indexation, de catalogage, de préservation ou de restauration."

Le Registre des Livres Indisponibles en Réédition Électronique (ReLIRE) permettant de mettre en œuvre la loi sur les ouvrages indisponibles a été déclaré illégale par la Cour de Justice de l'Union Européenne en novembre 2016.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[ADAMI](#) - Société gérant les droits voisins des artistes interprètes.

[APP](#) - Agence pour la Protection des Programmes. Association Protection des ayant-droit 41 rue des Archives, 75004, Paris.

[INPI](#) - Institut National de la Propriété Industrielle.

[SACEM](#) - Société des auteurs et compositeurs de musique.

[SCAM](#) - Société Civile des Auteurs Multimédia.

[SDRM](#). - Société pour l'administration du Droit de Reproduction Mécanique. [SEAM](#) - Société des Editeurs et Auteurs de Musique, 175 rue St Honoré, 75001 Paris.

[SESAM](#) - Société du droit d'auteur dans l'univers multimédia.

[SIPLACDA](#) - Syndicat International pour la Protection Littéraire et Artistique, le Copyright et la Défense des Droits des Artistes, 4, rue des Boulets, 75011 Paris. Tel: 06 12 83 28 67.

[SPEDIDAM](#) - Société de Perception et de Distribution des Droits des Artistes interprètes de la Musique et de la Danse.

[SPPF](#) - Société civile de perception et répartition des droits des producteurs de phonogrammes et/ou vidéogrammes.

[SPRE](#) - Société civile pour la Perception de la Rémunération Equitable de la communication au public des phonogrammes du commerce. Syndicat International pour la Protection Littéraire et Artistique. Dépôt et protection oeuvres tous domaines, conseils, assistance juridique, dépôt marques et noms d'artistes, 5 rue Saint Honoré, 75001 Paris.

[UNAC](#) - Union Nationale des Auteurs et Compositeurs. Pour la protection et la défense des droits des auteurs et compositeur.

13. Are there any associations which represent users in your country?

L'Interassociation Archives-Bibliothèques-Documentation (IABD) a été créée à l'occasion du projet de loi relatif aux droits d'auteurs et droits voisins dans la société de l'information (loi DADVSI du 1er août 2006).

Elle se donne pour objectifs :

- de favoriser l'accès du plus grand nombre à l'information et à la culture ;
- de promouvoir et faire connaître les missions, activités et services des organismes oeuvrant pour la collecte, la conservation, la mise en valeur et la diffusion des œuvres de l'esprit et de l'information, quels qu'en soient les supports ;
- d'être force de proposition lors de la définition des politiques publiques dans le cadre des traités internationaux, des législations européenne et française ;
- dans le respect des compétences et missions des associations membres, et dans celui du principe de subsidiarité ;
- d'exercer une veille sur toute question les concernant,
- de représenter les associations qui la constituent auprès de tous partenaires et interlocuteurs,
- de communiquer par tous moyens auprès du grand public et de publics et interlocuteurs ciblés.

L'IABD... réunit actuellement les 19 associations professionnelles suivantes :

[AAF](#) (Association des archivistes français)

[ABF](#) (Association des bibliothécaires de France)

[ACIM](#) (Association de coopération des professionnels de l'information musicale)

[ADBDP](#) (Association des directeurs de bibliothèques départementales de prêt)

[ADBGV](#) (Association des directeurs des bibliothèques municipales et intercommunales des grandes villes de France)

[ADBS](#) (Association des professionnels de l'information et de la documentation)

[ADBU](#) (Association des directeurs et des personnels de direction des bibliothèques universitaires et de la documentation)

[ADCRFCB](#) (Association des directrices et directeurs de centre régional de formation aux carrières des bibliothèques)

[ADPEN](#) (Association des professeurs documentalistes de l'Éducation nationale)

[ADRA](#) (Association de développement et de recherche sur les artothèques)
[AIBM-France](#) (Association internationale des bibliothèques, archives et centres de documentation musicaux. Groupe français)
[CFI-bd](#) (Comité français international – bibliothèques et documentation)
[FULBI](#) (Fédération des utilisateurs de logiciels pour bibliothèques, documentation et information)
[Images en bibliothèques](#), association pour le cinéma en médiathèque
[Interdoc](#) (Association des documentalistes de collectivités territoriales)
[Réseau Carel](#) (Coopération pour l'accès aux ressources électroniques en bibliothèque)
[RN2A](#) (Réseau national d'actions des archivistes)
[RNDH](#) (Réseau national des documentalistes hospitaliers)

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

La loi sur le droit de prêt a résolu bon nombre de problèmes. En ce qui concerne la convention SEAM Ecoles de musique, bon nombre d'institutions, écoles de musique ou conservatoires, contestent le bien fondé de cette convention spécifique. Elle a évolué en 2016.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

Il faudrait que l'accord avec le Ministère de l'éducation nationale, la SEAM et le CFC soit étendu aux établissements d'enseignement dépendants d'autres ministères.

16. When you have a copyright problem, from whom do you obtain expert advice?

Service juridique de l'établissement lorsqu'il existe

[Interassociation Archives-Bibliothèques-Documentation.](#)

Service juridique du Ministère de la culture et de la communication.

L'ouvrage Le droit d'auteur et les bibliothèques / sous la direction d'Yves Alix avec la collaboration d'Emmanuel Pierrat. - Editions du Cercle de la librairie, 2000.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Germany

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

- a) Copyright Law / [Urheberrechtsgesetz: Gesetz über Urheberrecht und verwandte Schutzrechte](#) (UrhG).
- b) Law on Collecting Societies / [Verwertungsgesellschaftengesetz: Gesetz über die Wahrnehmung von Urheberrechten und verwandten Schutzrechten durch Verwertungsgesellschaften](#) (VGG).

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Case Law exists but plays a lesser role than in Anglo-American Common Law. Only decisions of the highest Civil Court (Bundesgerichtshof) are authoritative for other courts. Decisions of the Constitutional Court (Bundesverfassungsgericht) may enforce law amendments.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

The use of copyright protected works in or by libraries is subject to statutory licenses such as [Right of Distribution and Lending, Private, Scientific and Archival Copyright, Making Available Right in Library or University Networks and for Orphan Works](#) (§§ 17, 27, 51a, 51b, 53, 61 UrhG). Financial recompense for statutory licenses is subject to agreements between library organizations and collecting societies.

4. Has any library body within your country produced guidelines which cover copyright of music?

No.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No (not applicable to German Copyright Law).

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

70 years post mortem auctoris. See § 64 UrhG.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

For private or scientific use, all media may be copied except music sheets, complete books and data carriers with copy protections. Counter-exception: Copying of music sheets is allowed for out-of- print works or if done by handwriting. See §§ 53(1), 53 (2)1., 53(4), 95a UrhG.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

The right of proliferation (selling, lending, endowing – except hiring) of all kind of legally acquired media is entitled to everybody or every entity. See § 17 UrhG. Public libraries have to pay a royalty for lending. See above, No. 3, and § 27 UrhG.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

For archival use, all kind of copying is allowed if made from a legally acquired item, for analog use and carried out on paper or by photomechanical or similar procedures. See above, No. 3, and § 53(2)2. UrhG.

For use in Library or University Networks, digital copying is allowed under certain (extremely complicated) restrictions and requires recompense. See above, No. 3, and §§ 52a, 52b UrhG.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Yes. See above, No. 3, and § 61 UrhG.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

Yes, §§ 52a and 52b UrhG imply statutory licenses. Payment of royalties must be carried out by collecting societies, and the collective societies are obliged to give licenses to all libraries and universities (obligation to contract).

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[GEMA](#) - Gesellschaft zur Wahrnehmung musikalischer Aufführungsrechte: Collecting society for music authors. See www.gema.de.

[GVL](#) - Gesellschaft zur Verwertung von Leistungsschutzrechten: Collecting society for the ancillary rights of performing musicians and phono industry. See www.gvl.de.

[VG Musikedition](#): Collecting society for the ancillary rights of editors and publishers of scientific editions and posthumous first editions of musical works.

13. Are there any associations which represent users in your country?

No. Partly, consumer interest associations take care of copyright issues.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

Actually, there are strong conflicts between Libraries and Collecting Societies about adequate recompense for and documentation of Making Available in University Networks.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

The music exception of § 53(4) UrhG (prohibition of copying music sheets, see above, No. 9) is an obstacle to music practice and research, leads to permanent statutory violations by musicians (library users or not) and deprives music authors of a fair recompense for copying. The exception should be cancelled.

16. When you have a copyright problem, from whom do you obtain expert advice?

From the Rechtskommission of Deutscher Bibliotheksverband e.V. See
www.bibliotheksverband.de/fachgruppen/kommissionen/recht.html.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions

Hong Kong

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

Copyright Ordinance (Cap. 528)

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Yes

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

Yes

HKRRLS license agreement covers: Printed music including the words (except that this Agreement only covers printed music including the words published in Hong Kong SAR, Australia, Belgium, Denmark, Finland, Germany, Hungary, Iceland, Luxembourg, Mainland China, Malta, Nigeria, Norway, Philippines, Slovakia, South Korea, Switzerland, Taiwan, USA, Vietnam and Zimbabwe).

4. Has any library body within your country produced guidelines which cover copyright of music?

No

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

Copyright Ordinance

s.17 Duration of copyright in literary, dramatic, musical or artistic works

(2) Copyright expires at the end of the period of 50 years from the end of the calendar year in which the author dies

s.18 Duration of copyright in sound recordings

(2) Copyright expires—

(a) at the end of the period of 50 years from the end of the calendar year in which it is made; or

(b) if during that period it is released, 50 years from the end of the calendar year in which it is released

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

(Note: The question asks about terms for library users, so I didn't include permitted rights by "specified body" such as libraries or educational institutions)

Copyright Ordinance

s.40B(1) Making a single accessible copy for a person with a print disability:

- (a) The person with a print disability possess a copy of the whole or part of a literary, dramatic, musical or artistic work...; and
- (b) the master copy is not accessible to him because of the disability

s.41A(2) Fair dealing for purposes of giving or receiving instruction:

- (a) non-profit-making purpose;
- (b) nature of the work;
- (c) amount and substantiality of the portion dealt;
- (d) effect of the dealing on the potential market for / value of the work, inclusion of sufficient acknowledgement

s.41 Things done for purposes of instruction or examination:

- (2) not infringed if in the course of / preparation for instruction,
- (3) for the purposes of an examination by way of setting questions

s.42 Anthologies for educational use:

- (1) inclusion of sufficient acknowledgement,
- (2) not authorize inclusion of more than 2 excerpts from copyright works by the same author in collections published by the same publisher over any period of 5 years

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

No

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Copyright Ordinance

s.47(2) Copying by librarians: articles in periodicals

- (a) for purposes of research or private study;
- (b) no more than one copy of the same article or with copies of more than one article contained in the same issue of a periodical; and
- (c) persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attribution to their production.

s.48(2) Copying by librarians: parts of published works

- (a) for purposes of research or private study;
- (b) no more than one copy of the same material or with a copy of more than one reasonable proportion of any work; and
- (c) persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attribution to their production.

s.50(1) Copying by librarians: supply of copies to other libraries

may make and supply to another specified library a copy of –

- (a) an article in a periodical;
- (b) the whole or part of a published edition of a literary, dramatic or musical work; or
- (c) a sound recording or film

s.51 Copying by librarians or archivists: replacement copies of works

- (1) may make a copy from any item in the permanent collection of the library / archive -
 - (a) in order to preserve or replace that item by placing the copy in its permanent collection in addition to or in place of it; or
 - (b) in order to replace in the permanent collection of another specified library or archive an item which has been lost, destroyed or damaged
- (2) where it is not reasonably practicable to purchase a copy of the item in question to fulfil that purpose

s.52 Copying by librarians or archivists: certain unpublished works

- (1) may make or supply a copy of the whole or part of –
 - (a) a literary, dramatic or musical work from a document (including a document in electronic form); or
 - (b) a sound recording or film
- (3)(a) for purposes of research or private study;
- (3)(b) no more than one copy of the same material; and
- (3)(c) persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to their production

s.53 Copying by librarians or archivists: articles of cultural or historical importance

may make a copy of an article of cultural or historical importance or interest and deposit the copy at the specified library or archive ... if the article is likely to be lost to Hong Kong through sale or export.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Copyright Ordinance

s.17(3) Duration of copyright in literary, dramatic, musical or artistic works

If the work is of unknown authorship, copyright expires—

(a) at the end of the period of 50 years from the end of the calendar year in which the work was first made; or

(b) if during that period the work is made available to the public, at the end of the period of 50 years from the end of the calendar year in which it is first so made available

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No specific provision is found in the current Hong Kong legislation.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

- (1) Composers and Authors Society of Hong Kong Limited
- (2) Hong Kong Recording Industry Alliance Limited
- (3) Phonographic Performance (South East Asia) Limited
- (4) The Hong Kong Copyright Licensing Association Limited
- (5) The Hong Kong Reprographic Rights Licensing Society Limited

13. Are there any associations which represent users in your country?

No

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

There was a debate about the Public Lending Rights back in 2014, but nothing was done or concluded.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

It would be beneficial to all libraries and archives if the Hong Kong legislation would allow for media shifting

(1) for both sound recordings and films, and

(2) for both private/domestic use and for replacement of copies NOT necessarily from the permanent collection of libraries/archives

16. When you have a copyright problem, from whom do you obtain expert advice?

Lawyers

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

N/A

Hungary

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

Act no. LXXVI of 1999 on Copyright modified by Act no. XLVIII of 2001; Act no. LXVII of 2001; Act no. CII of 2003, effective from May 1, 2004; Act no. CXXV of 2003; Act no. LXIX of 2004, effective from July 10, 2004, and Act no. XCIII of 2016 on Copyright (in Hungarian http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1600093.TV&txtreferer=00000003.TXT)

See also [Szellemi Tulajdon Nemzeti Hivatala](#) (Hungarian Intellectual Property Office. Copyright)

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

No, it is not.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

[ARTISJUS](#), the Hungarian Bureau for the Protection of Authors Rights, produced a scale of fees and defined the permissions for photocopying.

4. Has any library body within your country produced guidelines which cover copyright of music?

No.

5. Have any rights-holders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

In Hungary no organization has issued a guide or a Code about "fair procedure" that would also affect musical content. But: the [Szellemi Tulajdon Nemzeti Hivatala](#) (Hungarian Intellectual Property Office) as a governmental organization shares on its website professional summaries, articles and studies. In case of concrete queries related to individual cases it also fosters proper legal practice by issuing professional statements, and [ARTISJUS](#), the Hungarian Bureau for the Protection of Authors Rights, produced a scale of fees and defined the permissions for photocopying.

B. On the content of copyright rules applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

70 years [Copyright law, § 31]. For sound recordings only: 50 years [Copyright law, § 84].

7. Please describe the terms under which copyright protected materials may be copied in libraries, covering printed music, books, journals, sound recordings, videos, digital environment.

Printed music: Not allowed. **Exception:** Aim of teaching and scientific research [Copyright law § 34 -35].

Books, journals: For private use [Copyright law § 21]. **Exceptions:** Complete copy allowed for private use if by handwriting or typing. Specific parts of a work allowed for purpose of school education in a number corresponding to the number of pupils in a class or for purposes of exams in public. See also question 11.

Sound recordings: Copy allowed only with copyright holder permission.

Videos: Not allowed

Digital: Not allowed.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions

Printed music, books, journals: always allowed and free. **Sound recordings:** Lending allowed under permission of the author, the phonogram producer and the performer [Copyright law § 78]. **Videos:** Loan allowed only with copyright-holder permission.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes?

Publicly accessible libraries, educational establishments, museum and archives as well as audio and audiovisual archives shall be allowed to make a copy of a work for internal purposes if it is not designed for earning or increasing income even in an indirect way if the copy is a) required for scientific research; b) made for archiving from an own copy for scientific purpose or public library supply; c) made of a limited part of a published work or of an article in a newspaper or periodical [Copyright law § 35.4].

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

The Act No. LXXVI of 1999 on Copyright (Copyright Act) and the Government Decree No. 138/2014. (IV.30.) on the detailed provisions of the use of orphan works ([Orphan Work Decree](#)) determines the provisions for licensing the usage of such copyright protected works and subject matters.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so please supply details.

See [Act no. LXXVI of 1999 on Copyright modified by Act no. XLVIII of 2001; Act no. LXVII of 2001; Act no. CII of 2003 \[effective from May 1, 2004\]; Act no. CXXV of 2003; Act no. LXIX of 2004, effective from July 10, 2004, and Act no. XCIII of 2016 on Copyright](#) (in Hungarian)

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rights-holders in the field of music.

[ARTISJUS](#) for printed music ; [MAHASZ](#) the Association of Hungarian Record Companies, for sound recordings.

The [Magyar Irodalmi Szerzői Jogvédő és Jogkezelő Egyesület](#) (Hungarian Literature Copyright Protection Association and Rights Management) primarily administers the royalties related to library loans. See their website:

13. Are there any associations which represent users in your country?

No, there are not.

14. Do you have any experience, or know of any conflict between libraries and music rights-holders in your country?

No.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

The most important problem is the lending of music videos because publishers often do not give permissions to lend their materials. It could be solved by offering videos for lending, at a higher price.

The regulations regarding copying music should be more permissive.

16. When you have a copyright problem, from whom do you obtain expert advice?

From Library Division of Cultural Ministry and [Artisjus](#).

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Ireland

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

[Copyright and Related Rights Act 2000 \[CRRRA\]](#), as amended by subsequent statutory instruments and the [Copyright and Related Rights \(amendment\) Act 2007](#)

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Yes

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

Section 57 of the Copyrights Act allows for limited copying for educational purposes. The ICLA licences limited copying of books within educational establishments and businesses, though this does not yet extend to sheet music and recordings - they are planning to introduce this from September 2017.

4. Has any library body within your country produced guidelines which cover copyright of music?

IAML (UK & Irl) has produced a set of [frequently asked questions](#) specific to music copyright

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

Limited copying of sound recordings is permitted in a classroom setting - this is detailed in sections 53 and 54 of the Copyright Act. This isn't covered by any particular licensing scheme but an allowance is made by IMRO under the legislation. However this is rather informal, and not officially documented anywhere.

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

Literature and printed music: 70 years from the death of the last creator

Sound recordings: 70 years from publication

Broadcasts: 50 years from when the broadcast is made

Unpublished works: Perpetual copyright still exists in Ireland - proposals to change this have been made in recent years but have not converted into legislation yet.

Typographical copyright: 50 years after publication

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

There are exceptions in the law that allow “fair dealing” copying across all formats for purposes including research and private study, quotation, illustration for instruction and limited copying for educational establishments where no licensing scheme exists. There is also legislation that permits the making of accessible copies for people with disabilities.

The [ICLA](#) issue licences for the re-use of print and digital works to educational establishments, businesses and other organisations, permitting copying within certain rules from a wide repertoire of Irish and overseas publications.

Where there is no exception in the law or a relevant licensing scheme, permission from the rightsholder is required.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Irish legislation states that the copyright in a work is not infringed by the lending of a copy of the work by an educational establishment or by an establishment to which members of the public have access.

In the case of public libraries, the Public Lending Remuneration Scheme remunerates authors for loans. Lending of materials (books, recordings etc) is section 42 'Rental and lending right' of the Copyright Act.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Libraries may make copy of part of a work, make and supply a copy of an article or the contents page in a periodical without infringing any copyright in the article, for personal use or for study purposes. Libraries cannot supply substantially the same work to more than 3 persons at approximately the same time.

Libraries can supply part of or a whole work to another library where the work has been lawfully been made available to the public.

Copies of items held in the permanent collection of a library can be made for the purposes of preservation, replacement, where is it not reasonably practicable to purchase a copy of the work. A copy can also be made for the purposes of security, for exhibition in the library and for the purposes of informing the public about an exhibition, where it is reasonably justified by the non-commercial purpose to be achieved.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

The EU directive was transposed into Irish law in 2014 and allows beneficiary organisations to make use of orphan works following a diligent search and registration with the [EUIPO](#).

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[Irish Music Rights Organisation](#); [Music Publishers Association of Ireland](#), [Phonographic Performance Ireland MCPS](#) (now administered by IMRO)

13. Are there any associations which represent users in your country?

LAI (Library Association of Ireland); [IAML \(UK & Irl\)](#)

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

As to our knowledge, no, relations are generally good.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

Problems with scores sold with download cards which only allow audio to be downloaded a single time and therefore is not compatible with library lending.

Difficulties in exploiting unpublished works subject to perpetual copyright.

16. When you have a copyright problem, from whom do you obtain expert advice?

Branch members will often contact the [IAML \(UK & Irl\) Trade and Copyright Committee](#). The Chair is a member of LACA and can call upon the experts within that forum for further advice.

IMRO (Irish Music Rights Organisation) also provide information where they can (usually pertaining to sound recordings & broadcast)

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

N/A

Italy

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

'Legge sul diritto d'autore', n. 633 /1941 is a general law covering economic and moral rights, neighbouring rights for all materials. Updated several times, last updating .D.L 15/01/2016 (Depenalization of offenses against copyright law).

Complementary to this law is the 'Codice dei Beni Culturali' , DL 22 gennaio 2004, n.42: (<http://www.gazzettaufficiale.it/anteprema/codici/beniCulturali>), which is intended to protect the State Cultural Heritage or public or private heritages that are of historical or artistic interest.

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

No, Italian jurisprudence is not mandatory precedent.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

In 2002 AVI (Associazione italiana videoteche) and SIAE signed an agreement on loan of VHS.

4. Has any library body within your country produced guidelines which cover copyright of music?

No, the existing guidelines cover at most copyright of audiovisual and digital sources (for Example [Centro di Ateneo per le biblioteche dell'Università di Padova](#)).

IAML Italia has formed a Study Group on copyright with the purpose to produce Guidelines for music librarians.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

In general 70 years after author's death [L. 633/1941, art. 25, 85 quinquies; details about works in cooperation art. 26; art. 32; work published posthumous, art. 31, 85ter]. Critical and scientific edition are protected 20 year after the publication date (art. 85 quarter, §1). Recording, video producers, performers : 50 years after the publication [Art. 75].

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

Printed music: It is forbidden to copy sheet music (spartiti) and music scores (L. 633/1941, art. 68, c. 3).

Books, journals: It is allowed to copy single works or part of them for personal use of the readers, if manually done or realized through devices which do not allow public distribution or sell (L. 633/1941 updated 2003, art. 68 c.1).

It is allowed to copy with photo/xerocopying machines or similar devices for personal use up to 15% of each volume, or issue of periodical (advertising pages excluded) with compensation for authors/publishers. Agreements on about the amount of compensation

are signed at national level with SIAE. Libraries pay an annual fee based on the number of copies and users (public libraries) or students (university libraries).

Exceptions: No limits if the work in the library is rare or not available in publisher's catalogues (art. 68, c.5).

Sound recordings: Libraries: It is allowed to copy in one unique copy, without any direct or indirect commercial or economic advantage, phonograms and videos with movies, audio or images on movement, with or without sound preserved in state or public institutions libraries for library services. (art. 69, c. 2).

Private use: it is allowed to reproduce phonograms and videos on any support for private use with no economic direct or indirect advantage, in respect of technological protection measures allowed by art. 102-quater. A compensation for producers and performers is included in the final price of the technical equipment (art. 71 sexies - septies).

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Loan [L. 633/1941, art. 69] operated by state libraries and public institutions, for private study or cultural promotion scope only, has not to be authorized by the right-holder; it concerns only printed material and sound recordings and videos. Until 2006 loan was free of charge, therefore Italy was condemned on 26 October 2006 by EU. In December 2007 a national fund was established to remunerate author's for loans done by public libraries; no remuneration for loans done by school and university libraries.

Printed music: Printed music is excluded from lending. **Sound recordings, videos:** Lending allowed after the 18th month since its distribution or the 24th month after the realization of the work, for non distributed works.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Sound recordings and videos may be copied for library service purpose. See question 9

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

The D.L. 10/1¹/₂014 n.163 in application of the Directive 2012/28/UE permits the reproduction of orphan works to the purpose of digitization, indexing, cataloging, conservation or restoration

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

SIAE Società italiana autori ed editori, acts as a general government agency for the management of rights

IMAIE Istituto per la tutela dei diritti degli artisti interpreti esecutori, for performer's rights.

Also foreign Company like Soundreef are offering alternative services to the rightholders

13. Are there any associations which represent users in your country?

No, there aren't

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

No

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

Printed music is excluded from lending.

No exception provided for copying printed music. The sentence "it is prohibited to copy sheet music and scores", often is understood as if the limit is extended also to music in public domain. Restrictions defined by law do not encourage agreements

16. When you have a copyright problem, from whom do you obtain expert advice?

AIB Associazione Italiana Biblioteche or private legal office.

IAML Italia is studying the possibility to have his own legal consultant.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions

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Japan

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

[Copyright Law of Japan](#) (English translation by Yukifusa OYAMA et al.)

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

No.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

No. There is no specific schemes for libraries.

For the general public, there are some schemes made by JASRAC, RIAJ, and Geidankyo.

[JASRAC](#) (the Japanese Society for Rights of Authors, Composers and Publishers)

[RIAJ](#) (the Recording Industry Association of Japan)

[Geidankyo](#) (Japan Council of Performers Rights & Performing Arts Organizations) <http://www.geidankyo.or.jp/english/index.html>

4. Has any library body within your country produced guidelines which cover copyright of music?

No.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No, there is no "guideline" in the strict sense. However, some Q&A list for the photocopying of music materials are made public by CARS.

[CARS](#) (the Consultative Assembly on Reprographic problems of Sheet music)

Q&A by [CARS](#)

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

The Copyright Law stipulates as follows

(in the articles 51-58, 101):

In general, 50 years following the death of the author (or following the death of the last surviving co-author in the case of a joint work).

In the cases of anonymous or pseudonymous works and works bearing the name of a corporate body,

50 years following the making public of the work.

Copyright in a cinematographic work shall continue to subsist until the end of a period of 70 years following the making public of the work.

In the cases of performances, phonograms, broadcasts and wire diffusions, 50 years after the starting point given below.

(i) when the performance took place, for performances;

- (ii) when the first fixation of sounds was made, for phonograms;
- (iii) when the broadcast took place, for broadcasts;
- (iv) when the wire diffusion took place, for wire diffusions.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

In the case of **music, books, and journals**, the Copyright Law (article 31 (1)) stipulates as follows:

It shall be permissible to reproduce a work included in library materials within the scope of the non-profit-making activities of libraries, etc.

In the case of **sound recordings**, according to the article 102(1), the stipulations given above are also applied to them. However, in practice, there are few libraries which provide copies of them.

In the case of **film**, library users cannot get copies.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

The Copyright Law stipulates on the lending. The exclusive right to offer author's (and other rightsholder's) work to the public by lending copies of the work are stipulated in the articles 26ter, 95ter, and 97ter.

Limitations are made to this exclusive rights. They are stipulated in the articles 38(4) and 102(1).

According to them, it is permitted to lend copies with "non-profit-making purposes and without charging any fees to borrowers of such copies," with the exception of cinematographic works.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

The Copyright Law article 31(1)(i), as given in the answer to the Q. 9.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

The Copyright Law article 67 stipulates on the "exploitation of works under compulsory license" based on the the Commissioner of the Agency for Cultural Affairs.

After the due diligence, this can be applied when the copyright owner cannot be found for the reason that he is unknown or for other reasons.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material

even where the rights holder is not a member of the society? If so, please supply details.

There is no provision for ECL.

However, under some conditions, the National Diet Library can make mass digitisation without permission from copyright holders, according to the [article 31\(2\) of the Copyright Law](#). Some interpreter of the Law consider that other libraries can also be permitted to make mass digitisation, on the basis of article 31(1)(ii) of the Law.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

There are JASRAC, RIAJ, and CPRA.

[JASRAC](#)

[RIAJ](#)

[CPRA](#) (Center for Performers' Rights Administration)

13. Are there any associations which represent users in your country?

There is no association which represent library users. Apart from "users" of LIBRARY, there is an association of the companies which use CDs, DVDs, and Video tapes or discs as lending materials for their commercial business. [CDV-JAPAN](#) (Compact Disc & Video Rental Commerce Trade Association of Japan.)

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

Some decades ago, RIAJ tried to stop circulation services of sound recordings in the libraries.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

In the moment, there is few explicit problem between the libraries and copyright holders.

Apart from libraries, in this year, JASRAC decided the policy to collect fees from music schools (such as lesson rooms of playing piano). Companies which which hold such lesson rooms are now taking counter-action to this decision.

16. When you have a copyright problem, from whom do you obtain expert advice?

[CRIC](#) (Copyright Research and Information Centre)

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Nothing special.

Netherlands

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

Auteurswet 1912 (copyright law), last revision 30 June 2015

Wet op de naburige rechten 1993 (neighbouring rights / ancillary rights), rev. 2015

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Yes, by case law (jurisprudence)

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

No, not specific for libraries.

4. Has any library body within your country produced guidelines which cover copyright of music?

No specific guidelines for copyright of music produced by a library body.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

BUMA/STEMRA (Buma/Stemra represents the interests of music authors)

FEMU (Federatie Muziek Auteurs en Uitgevers) (Federation Music Authors and Publishers)

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

70 years

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

For private use it is allowed to make a copy of small portions of scores and parts, books, journals.

Sound recording, film: a home copy is allowed but a fee has to be paid by the manufacturer or importer of the carrier (?) of the reproduction.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Lending rights (public libraries) are part of copyright legislation. Libraries pay a fee which is distributed to rightsholders.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

For restoration of materials

When there is a threat that materials will decline

When technology which is needed to have access falls into disuse

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Relevant here is Richtlijn nr. 2012/28/EU

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No, we're not aware of such a provision, for [Delpher](http://www.delpher.nl) www.delpher.nl specific arrangements were made with rightholders.

C. On rightholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightholders in the field of music in your country.

BUMA/STEMRA ; STEMRA ; FEMU

13. Are there any associations which represent users in your country?

Eblida. FOBID

14. Do you have any experience, or know of any conflict between libraries and music rightholders in your country?

No recent conflicts related to music and (public) libraries.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

It would be helpful to receive more guidance in how to solve issues and answer questions.

16. When you have a copyright problem, from whom do you obtain expert advice?

FOBID Netherlands Library Forum: Legal aspects

The main issues focus on the implementation of the EU Directives on Copyright and Dutch law. The Legal Committee co-operates with a lobbyist, hired by FOBID, to achieve the best possible results for libraries. The Committee also advises on licenses, database protection legislation, digital rights management and other related issues. The Committee co-operates with EBLIDA and IFLA's CLM Committee in the field of intellectual property (WIPO) and World Trade (WTO) issues.

Contacts directly with rightholders (associations) or publishers can be very useful.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

New Zealand/Aotearoa

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

[Copyright \(Infringing File Sharing\) Amendment Act 2011](#)

[Copyright Act 1994](#)

[Copyright \(New Technologies\) Amendment Act 2008](#)

[Trans-Pacific Partnership Agreement Amendment Act 2016](#) - [latest version but not yet in force]

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Privy Council definition of "dramatic works": "a dramatic work must have sufficient unity to be capable of performance"

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

[Universities Music Licence - APRA/AMCOS/PPNZ Licence](#)

Licence to copy, perform and make recordings of musical works: [The Australasian Performing Rights Association](#)

• Licence to play sound recordings: [Phonographic Performances New Zealand Limited](#)

4. Has any library body within your country produced guidelines which cover copyright of music?

[LIANZA Copyright Guidelines, October 2013](#)

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

[A practical copyright guide to the use of print music in New Zealand.](#)

Date: 2000 From: Auckland, N.Z.: Australasian Mechanical Copyright Owners Society, [2000]

INFORMATION SHEET: Copyright for owners of sound recordings: Copyright Council of New Zealand, 2014.

Information Sheet: Songwriters & composers, Copyright Council of New Zealand, 2009.

[Using music in other created content.](#)

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

Copyright in a musical work expires 50 years from the end of the calendar year in which the author died, or if the author is unknown, 50 years from the end of the calendar year in which the work was first made available to the public.

Copyright in a sound recording, film and multi-media recordings and radio and TV broadcasts expires 50 years from the end of the calendar year in which the work was made, or 50 years from the end of the calendar year in which the work was made available by publication, broadcast or communication to the public.

Copyright in a typographical arrangement of a published edition (including a new edition of an older work) expires 25 years from the end of the calendar year in which the edition was first published.

Copyright in an unpublished work expires 50 years from the end of the calendar year in which the author died.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

For all materials

"Fair dealing" with a work for the purposes of research or private study does not infringe copyright in the work. In determining what is fair, users must take into account:

- the purpose of the copying – it must be for research or for private study;
- the nature and significance of what is copied, in relation to the work as a whole;
- whether the work can be obtained within a reasonable time at an ordinary commercial price;
- the effect of the copying on the potential market for, or value of, the work;
- the amount and substantiality or importance of the part copied, taken in relation to the whole work.

Specifically,

Music (sheet music) – single copy permitted where copying is 'fair dealing'; 3 pages or 3% for educational purposes; single copy for instruction and examination

Books - single copy permitted where copying is 'fair dealing'; 3 pages or 3% for educational purposes; single copy for instruction and examination

Journals - single copy of journal article or journal permitted where copying is 'fair dealing'

Sound recordings- single copy permitted where copying is 'fair dealing'; single copy for examination purposes

Film, Radio/TV broadcasts - single copy permitted where copying is 'fair dealing'; single copy for examination.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Computer programs, sound recordings, films -- Must not be rented for the purposes of making a profit. · The work must have been put into circulation with copyright owner's permission. (Sec. 79, Copyright Act, 1994)

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Permitted for 'prescribed libraries' only – those listed on the Copyright Act.

Books, scores – Copying for library user's research or private study purposes; Copying for collections of other prescribed libraries, where work unavailable for purchase; Copying for preservation or replacement in own library; Copying for replacement of an item that has been lost, destroyed or damaged in another prescribed library.

Journals -- Copying for library user's research or private study purposes – single copy, on request, one article in a periodical, or more than one article may be copied from the same issue if they relate to the same subject matter.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

No mention of orphan works. However, Sec 54, Copyright Act – allows copying for collections of other prescribed libraries, where work unavailable for purchase (· Librarian of other library must have been unable to obtain the work at an ordinary commercial price within preceding 6 months. · Copyright owner may inspect record and may request payment of equitable remuneration.)

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

APRA, the Australasian Performing Right Association Limited (APRA);
[AMCOS](#), the Australasian Mechanical Copyright Owners Society Limited
[Recorded Music NZ](#) (previously known as PPNZ Music Licensing)
[Church Copyright Licence](#) – CCLI (New Zealand)
Independent Music New Zealand (IMNZ)

13. Are there any associations which represent users in your country?

Universities New Zealand, Copyright Expert Group
[LIANZA Copyright Committee](#)
InternetNZ

14. Do you have any experience, or know of any conflict between libraries and music rights holders in your country?

Some low level acrimony but no court cases or public disputes in the last 20 years.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

No parody exceptions

We have specific fair dealing exceptions, rather than broader fair use exceptions common in other countries – so very few exemptions for teaching and research purposes

Difficulties in sourcing o/p but still in-copyright materials

16. When you have a copyright problem, from whom do you obtain expert advice?

Other music librarians

University Copyright Officers

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

If Trans-Pacific Partnership Agreement Amendment Act 2016) is enacted duration of copyright will be extended from 50 to 70 years.

Poland

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

Copyright Law 4 February 1994 [Ustawa o prawie autorskim i prawach pokrewnych z dnia 4 lutego 1994 r.](#); last amendments in 2016.

[Other related legislation.](#)

Ordinances of The Minister of Culture and National Heritage concerning orphan works:

[Rozporządzenie Ministra Kultury i Dziedzictwa Narodowego z dnia 23 października 2015 r. w sprawie wykazu źródeł, których sprawdzenie jest wymagane w ramach starannych poszukiwań uprawnionych do utworów i przedmiotów praw pokrewnych, które mogą być uznane za osierocone, oraz sposobu dokumentowania informacji o wynikach starannych poszukiwań](#) [Ordinance of the Minister of Culture and National Heritage on the list of sources for which verification is required as part of a careful search for entitled works and related rights that may be considered orphaned, and how to document the results of careful searches]

[Rozporządzenie Ministra Kultury i Dziedzictwa Narodowego z dnia 22 października 2015 r. w sprawie wzoru wniosku o wpis do wykazu utworów niedostępnych w obrocie handlowym](#) [Ordinance of the Minister of Culture and National Heritage on the pattern of application for entry to the list of works not available in trade]

Ordinances of the Minister of Culture and National Heritage concerning Collective management of copyright:

[Rozporządzenie Ministra Kultury i Dziedzictwa Narodowego z dnia 2 listopada 2015 r. w sprawie procedury podziału i wypłaty wynagrodzenia za użyczenie oraz wyznaczenia w drodze konkursu organizacji zbiorowego zarządzania uprawnionej do podziału i wypłaty tego wynagrodzenia](#)

[Rozporządzenie Ministra Kultury i Dziedzictwa Narodowego z dnia 23 października 2015 r. w sprawie konkursu na organizację zbiorowego zarządzania prawami autorskimi uprawnioną do zawierania umów na korzystanie z utworów niedostępnych w obrocie handlowym](#)

[Rozporządzenie Ministra Kultury i Dziedzictwa Narodowego z dnia 11 września 2015 r. w sprawie pobierania i wypłaty dodatkowego wynagrodzenia należnego artystom wykonawcom od producenta fonogramu oraz wyznaczenia w drodze konkursu organizacji zbiorowego zarządzania uprawnionej do pobierania i wypłaty tego wynagrodzenia](#)

Related acts:

[Ustawa z dnia 29 grudnia 1992 r. o radiofonii i telewizji](#) [The Act on Radio and Television]

[Ustawa z dnia 3 lutego 2001 r. o ochronie dziedzictwa Fryderyka Chopina.](#) [LAW of February 3, 2001 on the protection of the heritage of Fryderyk Chopin] (

New implementation:

The work on the implementation of the EU Collective Management Directive into the Polish legal system is underway. [DIRECTIVE 2014/26/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (Text with EEA relevance)]

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

There is no case law system in Poland. However, it is a good practice to take into account judicial decisions of the Supreme Court: [Version in English](#).

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

No

4. Has any library body within your country produced guidelines which cover copyright of music?

No. The general copyright guidelines are often used also for music.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

See: [Fundacja „Legalna Kultura”](#) (Foundation Legal Culture):

B. On the content of copyright legislation applied to libraries**6. How long is the term of protection for copyrights related to music in your country?**

In Poland we have a dualistic copyright system. Author's personal rights are subject to unlimited protection over time.

Property copyright is protected for 70 years:

Since the artist's death; In the case of co-authors - since the death of the last contributor, From the date of the first dissemination of the work, the author of which is unknown (unless the pseudonym leaves no doubt as to the identity of the author or the author discloses his or her identity consciously).

From the date of circulation of the work, and when the work has not been disseminated - from the date of its establishment - in respect of a work for which the copyright is legally payable (eg heir) to another person than the author

Since the death of the late most dead of the following persons: the principal director, scriptwriter, dialogue author, composer of music composed for an audiovisual work - for an audiovisual work;

Since the death of the dead person at the latest: the author of a piece of work or the composer of a musical piece - in relation to a song and music piece, if a piece of music and a piece of music were created specifically for a given song and music piece.

Related Rights:

50 years - for artistic performance (after the year in which it took place), phonogram, videogram (after the year in which it was made); From the publication / distribution of the videogram,

70 years - from the publication / distribution of a well-established artistic performance, phonogram.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

From the Article 23: "It shall be permitted to use free of charge the work having been already disseminated for purposes of personal use without the permission of the author."

"No author's permission shall be required for transitory or incidental reproduction of works, such reproduction having no independent economic significance but constituting an integral and

fundamental part of a manufacturing process the sole purpose of which is to enable the use of work in compliance with law." (Article 23(1))

General copying rules also apply to recordings and music. There are not separate regulations, which causes much ambiguities and complications of interpretation.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

In 2015 the [Directive on rental right and lending right has been implemented](#) [DIRECTIVE 2006/115/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property].

Authors and co-authors (e.g. illustrators), translators into Polish, publishers of the work expressed in words and published in Polish, obtain a remuneration for lending in libraries copies of copyrighted works.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Yes. The Polish legislator permits libraries (permitted library use) to reproduce copyrighted works to supplement, preserve or protect, provided that the works are in collections of a given library. Duplication cannot lead to an increase in the number of works and an increase in collections. In addition, since 2015, the Legislature authorizes libraries to digitize copyrighted works for research or cognitive purposes, provided that the electronic copy may be made available through the terminals of the computer system (terminals) located within the unit. Libraries from these activities cannot derive indirectly from direct financial gain.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Yes. In 2015, Directive 2012/28/EU on certain permitted uses of orphan works has been implemented into Polish legislation.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

Polish legislation introduced in 2015 regulates some ways of using works not available in the trade, Use of out-of-trade items is permitted. Beneficiaries of the regulations are: archives, educational institutions, universities and scientific units as well as cultural institutions. They may, after concluding the contract with the appropriate collective management organization,

multiply the works in their (authorized institutions) collection. Only works that were published for the first time on the territory of the Republic of Poland prior to 24 May 1994 may be used. They may be made available to the public in such a way that everyone can access it at their own place and time. In open access), however, sharing is only possible for statutory tasks of authorized institutions - use must be for the public interest. According to the regulations, registration of tracks in the so-called. "List of works", maintained by the Ministry of Culture and National Heritage - announced in the [Public Information Bulletin on the Ministry's website](#). The creator / co-inventor has the option of submitting a written objection to the collecting society after disclosure, and he or she may also waive, for certain works, the intermediary of a collecting society. Collective management organizations, "disposing of" rights to works not available in the trade, are selected once every 5 years. From the point of view of institutions that can benefit from the fair use of works that are not commercially available, the problem is the registration procedure. It requires the recording of every song published in books, journals, magazines; All journals (articles, photos, illustrations) appearing in journals appearing for example 2x a week for a period of 25

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[ZAIKS](#) Copyright Agency [Stowarzyszenie Autorów ZAiSK]: for authors

[SAWP](#) Polish Musical Performing Artists' Society [Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych]: for performers

[ZPAV](#) Polish Society of Phonographic Industry [Związek Producentów Audio-Video ZPAV]: for producers

[STOART](#) artistic performances of music and words-and-music pieces [Związek Artystów Wykonawców]

13. Are there any associations which represent users in your country?

There are two organizations:

„[Centrum Cyfrowe Projekt: Polska](#)”, which is a member of [Communia Association](#). The organization is active in a field of „open goverment”, „open NGOs”, „open culture” moreover in the field of copyrights.

[Fundacja Nowoczesna Polska](#) is active in the area of free culture, free resources and culture users' rights.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

No, we haven't had any conflict between rights holders and library. However there are known several cases between photographic right holder and a library.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

It would be desirable to distinguish the regulations concerning the library activities. Currently, there is just one paragraph in the Copyright Law. It is also problematic to apply general copyright law both for books and musical documents. We would expect to have a consistent interpretation, or a separate regulation for musical documents, as is the case for audio-visual broadcasting programs.

16. When you have a copyright problem, from whom do you obtain expert advice?

“First aid in copyrights” is a questions service via e-platform „[Prawo Kultury](#)” – [about us](#).. It is focused on users' rights; additionally once a week there is an open helpline.

Another service is provided by the Foundation „[Legalna Kultura](#)“ [[The Legal Culture](#)]

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

“Research and educational institutions shall be allowed, for teaching purposes or in order to conduct their own research, to use disseminated works in original and in translation, and to make copies of fragments of the disseminated work.” (Article 27)

It is permitted to use any disseminated work within e-learning platform. It must be limited only to the circle of students, teachers or researchers. The permissible educational use is allowed for educational institutions, academic school (with academic libraries), research institutions, but not for public libraries.

It is permitted to gratuitously perform (or reproduce from the recording) in public any disseminated work during school and academic events, provided that it is not, directly or indirectly, connected with any material benefits and the artists do not receive any remuneration.

Russia

Section A. On copyright law and guiding principles

Copyright issues in the Russian Federation are subject to the Part IV of the Civil code of the Russian Federation (Moscow, 2009) – Chapter 69 "General provisions"; Chapter 70 "Copyright".

Objects of the copyright are works of science, literature and art created as a result of creative work of their authors and expressed in any objective form. Legal protection for works of science, literature and art shall arise from the moment of creation of works and does not require actions, connected with the state registration of copyright.

Legal relations in the area of copyright shall be governed by the norms of the civil legislation of the Russian Federation.

For obtaining a license for works of literature, science and art, including musical works, one may get the permission of the copyright holders of the works by entering into a written license contract on granting the right to use such works under the terms of sole or simple (non-exclusive) license.

Section B. The Procedure for regulation of the legal relations in the copyright law by the Legislation of the Russian Federation for libraries

Civil code of the Russian Federation establishes the cases of free use of the works of science, literature and art. In accordance with the current legislation of the Russian Federation the libraries, specifying the name of the author, whose work is used, and the source of borrowing, have the right to create single copies, including in electronic form, of the works owned by the libraries and legally put into civil circulation, and on a free basis to provide them for temporary use to readers only in the premises of libraries, for example, in the reading rooms.

The libraries can provide electronic copies of works to the users only in the library premises without providing the possibility of creating electronic copies of such works.

At the requests of readers for educational and scientific purposes the libraries in the absence of making profit motive can create copies, including in electronic form, of the works owned by the libraries and legally put into civil circulation, as well as of the works published in printed periodicals.

The duration of copyright lasts through the lifetime of the author and 70 years after his death, starting from January 1 of the year following the year of death of the author.

The current legislation of the Russian Federation allows free use of the copyrighted works exclusively for personal purposes (herewith, the copying by technical means of the printed music not for the purpose of publication is prohibited), and free use for informational, scientific, educational or cultural purposes, with the obligatory indication of the name of the author whose work is used, and of the source of borrowing.

The current legislation of the Russian Federation does not enshrine the notion of "orphan works" as well as the mechanism of legal regulation of such works.

Section C. About the copyright holders, associations and licensing agencies

The authors, performers and other owners of copyright and related rights, in cases when execution of their rights individually is difficult or when the law permits the use of copyright and related rights without the consent of the holders of the relevant rights, but with payment to them of the remuneration, can create membership-based non-profit organization, which in accordance with the powers granted to them by copyright holders,

responsible for the management of the relevant rights on a collective basis (organizations for collective management of rights to the results of intellectual activity).

In accordance with the current legislation of the Russian Federation at the present time on the territory of the Russian Federation the government accredited the following organizations for collective management of copyright and related rights:

Russian Authors' Society (RAO):

Manages on the collective basis of the copyright in the released musical and music-dramatic works with respect to their public performance, or broadcasting or cable; in musical works used in audiovisual work with respect of public performance or broadcasting or cable of such audiovisual work.

RAO is part of the International Confederation of Societies of Authors and Composers (CISAC).

The All-Russian Intellectual Property Organization:

Carries out collective management of the related rights of performers to receive remuneration for public performance and for broadcast or cable of phonograms, published for commercial purposes; of phonogram producers to receive remuneration for public performance, as well as for broadcast or cable of phonograms published for commercial purposes.

As of May, 2013, The All-Russian Intellectual Property Organization is the Member of the Societies' Council for the Collective Management of Performers' Rights (SCAPR).

Creation of these organizations does not prevent the representation of the owners of copyright and related rights by the other legal entities and citizens.

Slovakia

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

The main legislation act related copyright is Copyright Act No. 185/2015 Coll.

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

The legislation related copyright is supplemented by the court decision according to the conditions of Slovak legal system. The court decisions in Slovakia are not binding but through them the courts explain, supplement and support the legislation.

3. or written agreements involving libraries that cover music in your country?

We have no knowledge about copyright licensing schemes or written agreements involving libraries that cover music.

4. Has any library body within your country produced guidelines which cover copyright of music?

We have no knowledge about any library produced guidelines which cover copyright of music.

5. Have any rights holders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

We have no knowledge about abovementioned documents or guidelines.

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

The term of protection for copyright related to music depends on subject of the protection.

Economic rights of author of music run from the moment of creation of the work for the life of the author and 70 years after his death.

Economic rights of performing artist (i. e. a singer) run for 50 years after creation of artistic performance.

Economic rights of producer of sound recording run for 50 years after making of sound recording.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

The Copyright Act sets out exceptions and limitations of economic rights, among others making a copy of work for private purpose and reprography. Under this provisions copyright is not infringed

by a natural person who without authorization of its author uses the work by making a copy for his own private purpose which is neither directly nor indirectly commercial,

by a legal person acting for its own need or by a natural person who without authorization of its author, personally or through a third person, uses the work by making a copy by means of transmitting the work to a paper or other similar base using reprographic device or other technical device with similar effect; such copy may be publicly distributed by means of free-of-charge transfer of title.

In case of using of work pursuant to abovementioned sections, its author has right to compensation for remuneration from manufacturer, recipient from a member state, importer from other than a member state of technical device or person providing reprographic services for remuneration.

The abovementioned exceptions and limitations of economic right apply only on documents (books and journals) and do not apply on musical work recorded in writing, music, sound recordings and films.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Copyright Act defines lending of original or copy of work as temporary letting of original or copy of work or temporary making original or copy of work available for use through establishments which are accessible to the public without direct or indirect economic or commercial benefit. Lending does not mean temporary letting of original or copy of work or temporary making original or copy of work available for use without direct or indirect economic benefit between two or more establishments or solely within premises of such establishments. According to the Copyright Act, lending is one kind of using of work within the public distribution of original or copy of work, on which the user needs a license from the author.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

One of the exception of economic rights mentioned in answer on question 9 is Using of Work through Terminal Equipment. According to this provision of the Copyright Act copyright is not infringed by a library, an archive, a museum or a school which without authorization of its author uses the work deposited in the library, archive, museum or a school by making a copy or its communication to the public for private purpose of a natural person through terminal equipment located in premises of library, archive, museum or a school, justified by using for education, scientific study or research, provided that such use does not violate rules of acquiring and using of such work by a library, archive, museum or school.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

According to the Copyright Act, orphan work may be used without authorization of the author by a library, an archive, a school or a legal depositary pursuant to the special law solely for educational or cultural purposes and for fulfilment of services in public interest by

- making a copy of orphan work for the purposes of its digitalization, indexing, cataloguing, preservation, restoration or for the purposes of enabling access of the public to the work,
- making the orphan work available to the public.

A person using orphan work may not use orphan work for the purpose of gaining direct or indirect economic benefit; such person may claim compensation for reasonably incurred costs.

11. Does your country's legislation have provision for mass digitization of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

According to Slovak legislation, digitalization without authorization of the author is enabled only in case of orphan work.

Mass digitalization of work via a system of extended collective licensing (where the rights holder is not a member of the society) is enabled in case of commercially unavailable work.

C. On rights holders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rights holders in the field of music in your country.

SOZA (SLOVAK PERFORMING AND MECHANICAL RIGHTS SOCIETY), with its registered office at Rastislavova 3, 821 08 Bratislava 2, Slovakia

- a non-profit civic association representing more than 2,600 rights holders in Slovakia and over 1 million abroad (musical works composers, lyrics and publishers)

SLOVGRAM, with its registered office at Jakubovo námestie 14, 813 48 Bratislava, Slovakia

- joint collecting society for performing and audio and video producers

OZIS (Association of Slovak artists) with its registered office at Tomášikova 5/A, 821 01 Bratislava, Slovakia

- a civic association that represents and manages the economic rights of performers

13. Are there any associations which represent users in your country?

We have no knowledge about any association which represent users in Slovakia.

14. Do you have any experience, or know of any conflict between libraries and music rights holders in your country?

We have no knowledge about any conflict between libraries and music rights holders.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

16. When you have a copyright problem, from whom do you obtain expert advice?

From our lawyers (= lawyers cooperating with Music Centre Slovakia, generally from lawyers of the institution, which has a copyright problem.)

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Spain

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

[LAW 23/2006](#), of July 7, which modifies the consolidated text of the [Intellectual Property Law](#), [TRLPI] approved by Royal Legislative Decree 1/1996, of April 12.

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

No, Spain has a civil law system: practical cases are only a reference, but not a mandatory precedent

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

Some universities have agreements with Naxos to provide access to music to their students and others provide access to historical sound recordings but the download is not allowed.

4. Has any library body within your country produced guidelines which cover copyright of music?

No, not limited to music.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

No. In 2011 Ibercrea, which is an organization that represents several rightsholders, produced a document. It is available [here](#).

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

70 years after author death [details in TRLPI, art. 26 -30]. Nevertheless, in practical terms, is actually 80 years (authors died before December 8, 1987); 50 years after performing [TRLPI, art. 122], or recording [TRLPI, art. 119].

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

Allowed only for private use with equitable compensation for the right-holder. [TRLPI, art. 25]

"Right owners cannot oppose the reproduction of their works when they are made, with no lucrative scope by libraries, museums, phono-libraries, film-libraries, archives, if the reproduction is realized for investigation or conservation purposes." [TRLPI, art. 37].

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

Real Decreto 624/2014, de 18 de julio. It legislates the remuneration to the authors by the loans of their works in public cultural institutions.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

See question n. 6.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Ley 2¹014, de 4 de noviembre and Real Decreto 224/2016. They are a legislative framework that guarantees the juridical safety in the utilization of orphan works in cultural institutions.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

The mass digitisation projects only contains works without copyright.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[SGAE](#) - Sociedad general de Autores y Editores, for composer and authors

[AIE](#), for performers

[CEDRO](#), for some music publisher (others joined SGAE)

Some editorials have their own particular agreements

13. Are there any associations which represent users in your country?

[FESABID](#) - Federación Española de Sociedades de Archivística, Biblioteconomía, Documentación y Museística.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

Yes.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

Piracy is a serious issue.

16. When you have a copyright problem, from whom do you obtain expert advice?

[FESABID](#) - Grupo BPI: Bibliotecas y Propiedad Intelectual

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Switzerland

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

[Copyright Act:](#)

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

4. Has any library body within your country produced guidelines which cover copyright of music?

Yes, see [Documentation Workshop Copyright and Music Library 2016](#).

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

[Suisa FAQs Urheberrecht](#).

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

Work: 70 years after the death of the composer

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

For private use, research and teaching

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

No regulation

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Yes, for research and teaching, and for the archival safeguard (art copy) Art. 24.1 bis

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[SUISA](#),

[IFPI](#),

[SIG](#)

Swissperform

13. Are there any associations which represent users in your country?

DUN

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

A dispute between Suissemusic (association of the marchands suisses de musique) and a school of music for copying of choral sheet music

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

Access to digitized material in heritage institutions. Possibility to provide digital grades and digital educational materials with campus licenses.

16. When you have a copyright problem, from whom do you obtain expert advice?

SUISA;

DUN,

Verband Bibliothek Information Schweiz (insbesondere AG Urheberrecht)

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

Current Revision Copyright in Switzerland:

UK

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

[Copyright Designs and Patents Act 1988](#) [CDPA], as amended by subsequent statutory instruments

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Yes

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

An agreement (commencing 1994) between the British Phonographic Industry and CILIP which permits the loaning of sound recordings in public libraries under certain conditions (including a 3 month holdback).

A licence with Printed Music Licensing Limited (a subsidiary of the Music Publishers Association) which permits limited copying and arrangement of sheet music in schools.

The Educational Recording Agency licenses the recording of broadcasts (including the music played within them) for use within educational establishments.

The Performing Rights Society licences the public performance of live music, and the Mechanical Copyright Protection Society licenses the copying of sound recordings. Both of these come under the umbrella organisation PRS for Music.

Phonographic Performance Limited licences the playing of sound recordings in public.

Christian Copyright Licensing International licenses the copying of music and words to hymns and worship songs in church and collective worship contexts.

4. Has any library body within your country produced guidelines which cover copyright of music?

IAML (UK & Irl) has produced a set of [frequently asked questions](#) specific to music copyright.

General copyright guidance is provided by the Chartered Institute of Library and Information Professionals (CILIP).

Whilst not a library body, the Intellectual Property Office has produced guidance for users on [copying printed music](#) and the [performance of live music](#).

The Music Publishers Association has published a [Code of Fair Practice](#)

The [Copyright Hub](#) is an industry-led body seeking to facilitate licensing, and also includes guidelines on copyright.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

- Literary, dramatic, musical and artistic works: 70 years from the death of the last creator
- Sound recordings: 70 years from publication

- Broadcasts: 50 years from when the broadcast is made
- Film: 70 years from the death of the last of the following to die: principal director, author of the screenplay, author of the dialogue and composer of the music specially created for and used in the film.
- Unpublished works where the author died before 1969: remain in copyright until 2039
- Typographical copyright: 25 years after publication

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

There are exceptions in the law that allow "fair dealing" copying across all formats for purposes including research and private study, text and data mining, criticism, review, parody and quotation, illustration for instruction and limited copying for educational establishments where no licensing scheme exists. There is also legislation that permits the making of accessible copies for people with disabilities.

Licensing schemes exist for copying limited excerpts from books and journals (licensed by the Copyright Licensing Agency), educational recording of broadcasts (licensed by the Educational Recording Agency) and printed music in schools, though not currently higher education (licensed by Printed Music Licensing Limited).

The Music Publisher's Association's Code of Fair Practice also includes voluntary provisions which publisher signatories to the Code have also agreed to permit in relation to printed music.

Where there is no exception in the law, relevant licensing scheme or provision within the Code of Fair Practice, permission from the rightsholder is required.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

The legislation permits educational establishments and libraries which are not conducted for profit to lend all types of material. In the case of public libraries, book (including ebook) lending is covered by the Public Lending Right, which remunerates authors for loans. Lending of sound recordings is covered by the BPI agreement mentioned in q.3. Lending of all other types of material in public libraries occurs either through individual agreements, on a risk-managed basis (e.g. buying rental versions of films) or a licence is implied through the fact suppliers knowingly sell items to libraries.

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Libraries may make a copy of a journal article or part of a published work (or the whole of an unpublished work) to give to a library user for the purpose of non-commercial research or private study, but cannot supply substantially the same material to another person at or around the same time for a substantially similar purpose.

They can supply a copy of a work to another library not conducted for profit where it is not possible to ascertain contact details for the rightsholder who could authorise that copy.

Libraries may copy works and make them available via a dedicated terminal on the premises.

Libraries may make preservation copies of items held in their permanent collection for reference purposes as long as the work is not commercially available in the desired format.

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

Yes, the legislation incorporates the EU exception for copying orphan works which allows cultural heritage organisations to make orphan works available to the public through

selected channels, following a diligent search and registration on the [EU Orphan Works Database](#).

The UK has also implemented a licensing scheme to cover materials and organizations that wouldn't fall under the exception. The Intellectual Property Office manages the scheme, which recompenses rightsholders in the event of them coming forward.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

Since 2014, legislation has included an extended collective licensing framework which allows qualifying licensing bodies to be granted authorisation to license on behalf of non-member rights holders. As at May 2017, to our knowledge no collective management organisations have yet applied for authorisation to run an extended collective licensing scheme.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[Music Publishers Association](#);
[Printed Music Licensing Limited](#);
[PRS for Music](#);
[British Phonographic Industry](#);
[Phonographic Performance Limited](#);
[Copyright Licensing Agency](#) (books and journals)
[Educational Recording Agency](#) (broadcasts)

13. Are there any associations which represent users in your country?

[CILIP](#)
[Libraries and Archives Copyright Alliance](#) (LACA)
[IAML \(UK & Irl\)](#)

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

Not at the current time. There has in the past been dispute as to what constitutes "public performance" of recordings, but currently relations are generally good.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

Problems with scores sold with download cards which only allow audio to be downloaded a single time and therefore are not compatible with library lending.

Having to seek permissions on a case-by-case basis for activities that go beyond the provisions made in the MPA Code of Fair Practice. IAML (UK & Irl) is making recommendations to the MPA regarding additional provisions which users would find helpful.

Difficulties in exploiting unpublished works subject to the "2039" rule

16. When you have a copyright problem, from whom do you obtain expert advice?

Branch members will often contact the IAML (UK & Irl) Trade and Copyright Committee. The Chair is a member of LACA and can call upon the experts within that forum for further advice.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

The effects of Brexit on copyright in the UK remain to be seen, and changes, particularly in terms of activities that apply cross-border, will have to be carefully monitored.

USA

A. On copyright legislation and guidelines

1. What are the most important pieces of copyright legislation in your country?

The Copyright Law of the United States and related laws contained in the [Title 17](#) of the United States Code, with its amendments.

2. Is this legislation supplemented by case law (i.e. law interpreted and defined by the courts)?

Yes. Citations of much of this case law is available at such sites as [Cornell University's Legal Information Institute](#). Also, State Law, where it exists, may apply in situations where federal law is not applicable, as with pre-1972 sound recordings.

3. Are there any copyright licensing schemes or written agreements involving libraries that cover music in your country?

Many but not in the law. They are private agreements between vendors, or publishers and libraries, so not generally available to the public.

4. Has any library body within your country produced guidelines which cover copyright of music?

In January, 2012, the Association of Research Libraries (ARL) published the [Code of Best Practices in Fair Use for Academic and Research Libraries](#). The American Library Association issued guidelines [Fair Use and Electronic Reserves](#) (member access only). Both cover music and are endorsed by the Music Library Association.

5. Have any rightsholders in your country produced a Code of Fair Practice or guidelines covering music materials setting out their interpretation of the copyright law and what acts they will permit?

[The Music Publishers Association](#).

B. On the content of copyright legislation applied to libraries

6. How long is the term of protection for copyrights related to music in your country?

In general terms 70 years after the death of the author, but the situation is highly complex; see Peter Hirtle "[Copyright Term and the Public Domain in the United States](#)" Sound recordings issued before 1972 may be covered by state or common law until 2067.

7. Please describe the terms under which copyright protected materials may be copied by library users, covering the following types of material: music, books, journals, sound recordings, film.

In general libraries may copy all of the material types listed, either under section [108](#) (exceptions for libraries), or in the case of restrictions there, under section [107](#) (fair use) of the Copyright Law. Copying of sound recordings issued before 1972 may be covered by state or common law.

Exceptions: In general libraries may copy all of the material types listed, either under section [108](#) (exceptions for libraries), or in the case of restrictions there, under section [107](#) (fair use) of the Copyright Law.

8. In some countries, copyright legislation also covers lending. If this is true of your country, please explain the terms of any restrictions.

So far the "right of first sale prevails". Libraries may lend or sell lawfully acquired copies under [section 109](#).

9. Does the law in your country permit libraries to make copies of copyright protected materials for prescribed purposes? If so, please supply details.

Yes, but the purposes are not prescribed ([Section 108](#)).

10. Does your country's legislation include either an exception or a licensing scheme to permit copying orphan works?

No.

11. Does your country's legislation have provision for mass digitisation of library collections via a system of extended collective licensing whereby a collecting society can license material even where the rights holder is not a member of the society? If so, please supply details.

No.

C. On rightsholders, associations and licensing agencies

12. Please identify any relevant professional associations or licensing agencies which represent rightsholders in the field of music in your country.

[ASCAP](#) - American Society of Composers, Authors and Publishers

[BMI](#) - Broadcast Music, Inc.

[SESAC](#) (which stood originally for Society of European Stage Authors & Composers)

The [Harry Fox Agency](#) licenses derivative rights

[SoundExchange](#) collects and distribute statutory royalties to sound recording copyright owners and artists.

13. Are there any associations which represent users in your country?

The [Library Copyright Alliance](#) comprises three major library organizations who work together as a coalition to address copyright issues that affect libraries and their patrons. The Music Library Association participates in these efforts when possible.

14. Do you have any experience, or know of any conflict between libraries and music rightsholders in your country?

No.

D. Open questions

15. What are the most important problems that you would like to resolve regarding music copyright in your country?

The extension of copyright terms effectively means that no copyrighted material created since 1923 has entered the public domain. Pre-1972 recordings fall under a hodgepodge of state laws rather than U.S. copyright law. Both of these situations impede digitization for preservation and access.

As more music is made available exclusively in digital rather than physical form, it is licensed under end user license agreements rather than sold, so that the doctrine of first sale which covers library borrowing does not apply. This impedes library activities in collecting and lending.

16. When you have a copyright problem, from whom do you obtain expert advice?

Music librarians should seek answers from their institutions' legal counsel. Although the MLA list does field a number of questions, none of us have legal authority.

17. Please add any other information about music copyright which you consider important and relevant and is not covered by the above questions.

