

Exceptions and Limitations in the field of Copyright and Access to Culture

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Culture in Perspective

- According to the Merriam-Webster Online Dictionary, culture is defined as:

The customary beliefs, social forms and material traits of a racial, religious or social group;

or the characteristics of everyday existence (as diversions or a way of life) shared by people in a place or time.


Culture forms an intrinsic part of our everyday existence. For some of us, it may be the food we eat, the clothes we wear, the music we listen to.





Exceptions and Limitations to Copyright and Access to Culture


- Article 10 of the WIPO Copyright Treaty provides:
- Contracting Parties may, in their national legislation, provide for limitations of or exceptions to the rights granted to authors or literary and artistic works under this Treaty in certain special cases that **do not conflict with a normal exploitation of the work** and do not **unreasonably prejudice the legitimate interests of the author.**



International Conventions

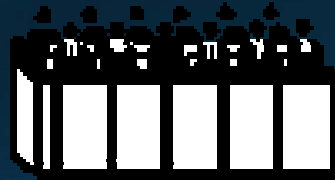
- Trinidad and Tobago became a party to the Berne Convention for the Protection of Literary and Artistic Works on August 16, 1988;
- and today, November 28, 2008 Trinidad and Tobago has become a party to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.





Copyright Legislation


- Trinidad and Tobago possesses a robust framework for the protection of literary and artistic works as contained in the Copyright Act, 1997 as amended by Acts Nos. 18 of 2000 and 5 of 2008.
- The most recent amendment became effective on May 1, 2008 and sought to increase the maximum penalty for copyright infringement to Two Hundred and Fifty Thousand Trinidad and Tobago Dollars or Ten Years Imprisonment.



Copyright Legislation

- Additionally, the recent copyright amendment sought to create infringements in respect of rights management information in order to facilitate Trinidad and Tobago's accession to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty
- and simplified the provisions under which offenders may be prosecuted for copyright offences.






Exceptions and Limitations to Copyright in Trinidad and Tobago

In Trinidad and Tobago, the Copyright Act provides that the following acts may be conducted without the permission of the copyright owner: -


- Private reproduction of a single copy for personal purposes;
- Reproduction of a short part of a published work in the form of a quotation;
- Reproduction of a short part of a published work for teaching purposes;



Exceptions and Limitations to Copyright in Trinidad and Tobago


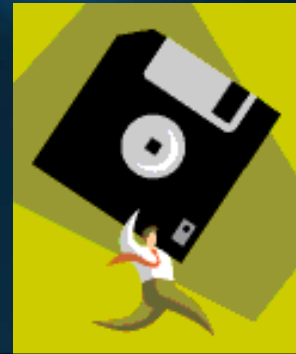
- Reproduction of an article or short excerpts of a work for the purpose of broadcasting, reporting current events or other informatory purposes; provided that the source of the work and the name of the author is identified in all the aforementioned cases.
- Reprographic reproduction for face to face teaching in educational institutions;





Exceptions and Limitations to Copyright in Trinidad and Tobago

- Reprographic reproduction for the creation of a single copy for use by libraries and archives;
- Reproduction of a single copy of a computer program for back-up or archival purposes.

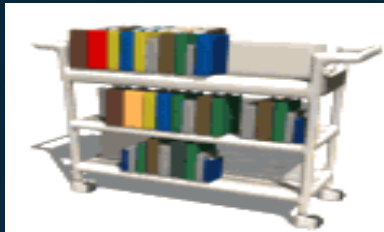


Exceptions and Limitations to Copyright and Access to Culture

- Against this background, it is clear that the Trinidad and Tobago Copyright Act does not provide exceptions and limitations to copyright strictly speaking on the basis of access to culture.
- As we are all aware, the economic returns through the licensing and sale of works provides incentives to creators whilst in return, the public is granted access to the use of a particular work.
- Copyright and intellectual property rights as a whole seek to balance the grant of incentives to rights holders with the provision of access by the public to the use of a particular work.

Exceptions and Limitations to Copyright and Access to Culture

- Trinidad and Tobago possesses a rich cultural heritage based primarily on the cultural practices of the peoples who have settled in Trinidad and Tobago over the years.
- The responsibility for preserving information and culture falls largely to the national libraries, National Museum, National Archives and the Ministry of Community Development, Culture and Gender Affairs.



Exceptions and Limitations to Copyright and Access to Culture


- As stated previously, Trinidad and Tobago's copyright law provides for reprographic reproduction of a single copy for use by libraries and archives under certain specified conditions.
- One may consider whether exceptions and limitations to copyright may extend to the creation of copies by libraries and archives where books are out of print or by various national institutions where a particular work is deemed to be part of a country's intangible cultural heritage.





Exceptions and Limitations to Copyright and Access to Culture

- In this regard, I am of the view that since culture is such a wide term, any further exceptions and limitations to copyright should take into consideration the following: -
- The fact that cultural industries are significant revenue earners in developing countries;
- The balance has to be maintained between the right of creators to economic rewards for the use of their works and access to the public for the use of works;
- An exception to copyright on the basis of access to culture may be created where there would not be commercial exploitation of the work.



Exceptions and Limitations to Copyright and Access to Culture

- The proposed exceptions and limitations must not conflict with a normal exploitation of the work and unreasonably prejudice the legitimate interests of the author.
- Therefore, in closing, I would like to say that any exceptions and limitations to copyright on the basis of culture must not commercially prejudice copyright owners, since cultural industries are the backbone of many of our economies and one must preserve the rights of the creators of cultural works to economic rewards for the use of their works.

Thank you for your attention!

