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Teachers and Copyright: A View from the Front of the Classroom

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About Education International

- Founded in 1993 as a global federation of teacher unions and associations
- Represents over 30 million teachers and education workers from early childhood to university in 171 countries and territories
- 3 principal functions: Advocacy; Development Cooperation; and Research



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Post-2015 Development Agenda

- Education Goal: Access to universal, fee-free, quality education
- Key building blocks of quality
 - Quality teachers
 - Quality teaching and learning environments
 - Quality teaching and learning tools

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EI Policy on Copyright

- Promotion of a balanced approach to international copyright rules, ensuring fair access for users and fair protections for creators
- A pro-development focus
- Support international minimum copyright exceptions and limitations for education

Navigating copyright

- Teaching materials are arguably more readily and freely available than ever before due to advances in ICT
- But, the legality of teachers and students using such material is often unclear
- Teachers and students confronted with a difficult legal and regulatory terrain -- variations across national copyright laws, evolving understanding of fair dealing/fair use, and questions about the territorial limits of copyright regimes in cross-border access

International framework

- International recognition of the importance of exceptions and limitations in ensuring access to education, but no universal, all-encompassing exception for education
- Available provisions relating to education exist only in Article 10(2) of the Berne Convention, providing for specific teaching exceptions, and Article 9(2) which provides guidelines for national exceptions and limitations in general (i.e. not mandatory)

Inconsistent national approaches

- Despite the recognition of the use of copyright materials for educational purposes as a right to be balanced against authors' exclusive rights, domestic exceptions provided for educational purposes vary
- This is particularly true for digital works and on-line teaching
- Flexibility vs. consistency



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Major disruptions

- Teaching and learning have evolved (on-line, distance ed)
- Open access journals, digital repositories
- Court decisions and legislative changes in some countries have expanded the concept of fair use/fair dealing for education, private study, and research
- In reaction to digital reproduction in education, some collective licensing agencies “over-reached” and inflated tariff charges
- Some educational institutions and authorities opting out of collective licensing agreements and relying upon fair dealing and individual licensing

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Teaching in the digital age

- Teaching today occurs in multiple contexts:
 - Face-to-face in-class instruction
 - Distance learning (print and broadcast)
 - On-line and technologically mediated

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The digital classroom

- In-class instruction is self-contained in a relatively small and distinct physical space – reproduction *generally* easier to quantify and control
- Not so for on-line and blended education



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Promises and perils of digital education

- Digital education holds the promise of increasing access to works for instructional purposes
- Particularly important for areas of the world where there is a lack of educational resources and libraries
- However, teachers and students are confronted with pay walls, encryption, digital locks
- In some cases, this prevents use of education exemptions and limitations provided by copyright law
- Educators facing obstacles in format-shifting

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Cross-border issues

- Differences in national laws may impede development of online education within a lawful framework
- Students enrolled in on-line higher education, for instance, may be located in different countries

Fair Use/Fair Dealing

- Variations in what can be considered as fair use/fair dealing
- No well-defined international standard in existing multilateral treaties = lack of uniformity amongst different countries



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Concluding thoughts & questions

- Clarity at the international level for educational exceptions and fair dealing/fair use?
- New technologies can facilitate or impede access to educational materials – how best to prevent works used for instructional purposes from being locked-down?
- The future of collective licensing – adapt or go extinct?

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