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## i2010 Digital Libraries

Kopinor represents approx. 30 000 Norwegian authors (and their publishers) and has since 1980 been involved in collective management of their reprographic rights. Kopinor is a member of IFRRO, and fully supports IFRRO's submission to you on this issue.

IFRRO's submission mentions briefly the legislation which is in operation in the Nordic countries, and since Norway's new legislation in regard of digital uses came into force on 1 July 2005, we wish to draw the Commission's attention to these developments.

## Library Privileges

Public libraries in Norway, as in most countries, enjoy certain library privileges in the Copyright Act. Norwegian rightsholders and Kopinor have always supported such privileges. Libraries play a fundamental role in society by conserving and securing access to our cultural heritage and our knowledge base. Authors of all categories are major users of library services. Libraries thus play a major role in the process of creation of new works.

Section 16<sup>1</sup> of the Act states, after the latest amendments, that the King may issue regulations allowing archives, libraries, museums, and educational and research institutions to make copies of works for conservation and safety purposes and other special purposes. The institutions may also give access to individuals through terminals on their premises to works in their collections, which they may digitize, for research and private study. The regulations cannot, however, allow copying for commercial uses.

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<sup>1</sup> **Making copies in archives, libraries and museums, etc.**

**§ 16.** The King may issue rules regarding the right of archives, libraries and museums *and educational and research institutions* to make copies of works for conservation and safety purposes and other special purposes. *The provision does not apply to commercial use.*

*The King may issue regulations on that archives, libraries, museums and educational institutions, using terminals on their own premises, can make works in the collections available to individual persons when this is done for the purpose of research or private study.*

### Members

The Norwegian Specialized Press Association - The Norwegian Authors' Union - The Norwegian Publishers' Association - The Norwegian Association of Fine Arts Photographers  
GRAFILL - Norwegian Graphic Designers and Illustrators - Norwegian Media Businesses' Association - The Norwegian Association of Professional Photographers  
The Norwegian Non-Fiction Writers' and Translators' Association - The Norwegian Union of Journalists - The Norwegian Society of Composers - Norwegian Critics' Association  
The Norwegian Music Publishers' Association - The Norwegian Association of Literary Translators - The Association of Norwegian Editors - The Norwegian Magazine Publishers'  
Association - Norwegian Writers for Children - The Association of Norwegian Visual Artists - Norwegian Playwrights' Association - Association of Norwegian Artisans  
NOPA - Norwegian Society of Composers and Lyricists - "Ny Musikk" Composers' Group

Copies that may be made under this provision are to be chosen by the libraries according to the needs of libraries, not the needs of end-user, and do not entail any remuneration to rights holders. New regulations for library uses are expected soon.

### **New Legislation for Libraries**

On 1 July 2005, a completely new Section of our Copyright Law took effect. Section 16a reads as follows:

***Extended collective licence for the use of works in archives, libraries and museums***

**§ 16a.** *Archives, libraries and museums as described in section 16 first paragraph can make copies of published works in the collections and make such works available to the public if the conditions of the extended collective licence pursuant to section 36 first paragraph are fulfilled.*

(A complete translation of the Act is appended.)

Finland has recently enacted similar legislation, but it has not come into force yet.

### **The Extended Collective License**

The reproduction of copies for educational purposes and in institutions, commercial enterprises, etc. (Sections 13b and 14) has for many years been permissible if the user has an agreement with an approved collective management organisations representing a substantial number of Norwegian rights holders. If the conditions laid down in law for such an agreement have been fulfilled, then the user may also make copies of works created and published by rights holders *not* represented by the organisation. The law extends the scope of the agreement to cover works created by "outsiders", thus the term "Extended Collective License". This legislation also fully solves the "orphan works" issue.

Taking into account that rights holders in many countries have not mandated organisations to manage their rights, this system gives legal access to published works from across the globe to Norwegian users on terms negotiated in Norway.

As mentioned, Sec. 16 of the Copyright Act gives libraries certain privileges through the library exemptions. However, international copyright conventions as well as certain EU directives lay down limits as to how far national laws may permit libraries to make copies without permission or payment of remuneration to rights holders. Thus libraries may digitize their own collections for conservation purposes etc., and may on their premises give users access to digitized material when the users so request. However, they cannot operate general documentation services, or supply end-users with articles or chapters of texts or sheet music of protected works by way of attachment to e-mail or on the web.

The new Section 16a, however, opens up a new door of opportunity for Norwegian libraries. Through agreements negotiated with Collective Management Organisations such as Kopinor, libraries will have the possibility to make full use of digital technology in serving their users. Of course, such agreements cannot supersede license agreements which libraries already have entered into with individual rights holders, or be applied to works which can already be procured on-line.

As we are waiting for new regulations, libraries so far have not requested negotiations in regard of new analogue or digital uses. Kopinor, however, is prepared to enter into such negotiations, and looks forward to working with libraries in the digital environment.

**Some vital issues**

We are today faced with many different efforts by rights holders at finding new ways of making works available digitally. In the discussions regarding a possible agreement based on the new legislation, the following important points have been clarified:

An agreement between libraries and Kopinor which allows mass availability of works to all e.g. Internet users, must be flexible, and continually ensure that efforts by rights holders themselves at disseminating works is not hampered or undermined.

This means that an opt-out option must continually be in operation. In addition to economic aspects, certain important moral rights concerns must be safeguarded. An opt-out option can only be operated by the rights holders themselves or those authorised by them.

Rights holders must be assured reasonable remuneration for the use of their works, unless they either actively refrain from this or desire that the remuneration be used for collective purposes (grants for all authors, etc.).

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All of Kopinor's member associations which represent authors and other creators, have mandated Kopinor to enter into agreements with libraries regarding new analogue as well as digital uses of their works. On the publisher side, newspaper publishers have expressed a reservation.

The future will surely show that libraries and rights holders in Norway will join forces and cooperate closely in securing access to knowledge and culture in new and imaginative (or maybe even unimagined) ways. The legislation and the structures, which can make this happen, are in place.

For an in-depth presentation of the Extended Collective License, we wish to make reference to a paper by Dr. Henry Olsson, Swedish Ministry of Justice, which can be found on Kopinor's web site if you go to the following link:

[http://www.kopinor.org/hva\\_er\\_kopinor/kopinor\\_25\\_ar/kopinor\\_25th\\_anniversary\\_international\\_symposium](http://www.kopinor.org/hva_er_kopinor/kopinor_25_ar/kopinor_25th_anniversary_international_symposium)

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