

Developing Copyright Strategies and Policies to Meet New Needs and Challenges of Creative Industries and Creative Economy: Practice and Experience of Japan

June 26, 2023

Office for International Copyrights, Copyright Division, Agency for Cultural Affairs, Government of Japan



Bun-chan

The mascot for web-based public relations magazine published by the ACA "Bunkaru"



1. Revision of Copyright Act

2018 revision: Compensation for public transmission for educational purposes

Authorization/compensation not required

Copyright Act, Article 35,
Paragraph 1

Copying

Printing, distributing materials
for face-to-face lessons



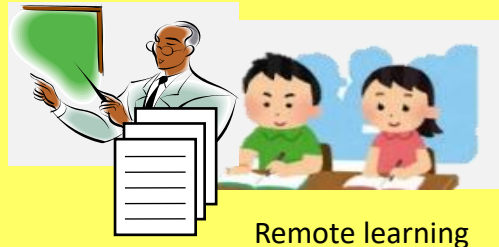
Copying, handing
out



Copyright Act, Article 35,
Paragraph 3

Public transmission for joint remote lessons, etc.

Transmitting materials, lecture footage
to other location for joint remote
lesson, etc. (simultaneous
transmission)



Remote learning
location

Simultaneous
transmission



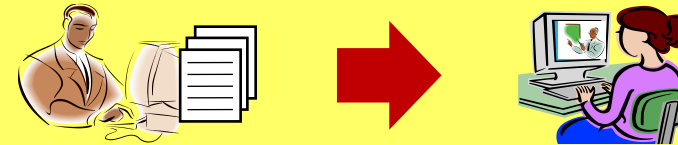
Authorization not required/ Compensation required (Compensation amount approved by ACA)

Copyright Act, Article 35, Paragraph 1 and 2

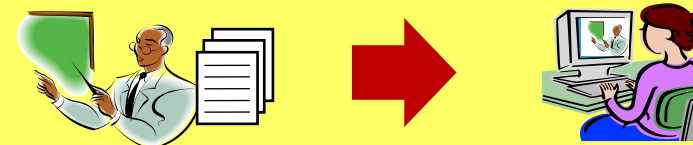
Scope of 2018 revision

All other public transmissions

Sending by e-mail materials for preparation, review for face-to-face lesson
Sending materials for face-to-face lesson via outside server



Sending lecture footage, materials for on-demand lecture



Studio-type real-time remote lessons



2018 revision: Compensation for public transmission for educational purposes

<Before revision>

Article 35(1) A person in charge of teaching or a person taking classes at a school or other educational institution (except one founded for commercial purposes) **may reproduce** a work that has been made public if and to the extent that it is found to be necessary for the purpose of use **in the course of classes**; **provided, however that this does not apply if the reproduction would unreasonably prejudice the interests of the copyright owner in light of the nature and purpose of the work, as well as the number of copies and the circumstances of its reproduction.**

(2) If, **in the course of classes** at an educational institution referred to in the preceding paragraph, **the original or copies of a work that has been made public are offered or presented to persons who directly attend a class and thus exploited, or if such a work is exploited through a stage performance, musical performance, on-screen presentation, or recitation for such persons pursuant to the provisions of Article 38, paragraph (1), it is permissible to transmit** these to the public (and also to make them available for transmission, if they are to be transmitted to the public via automatic public transmission) for any persons who are taking that class simultaneously at a place other than that where the class is being held; **provided, however, that this does not apply if transmitting these to the public would unreasonably prejudice the interests of the copyright owner in light of the nature and purpose of the work, as well as the circumstances of the transmission.**

2018 revision: Compensation for public transmission for educational purposes

<After revision>

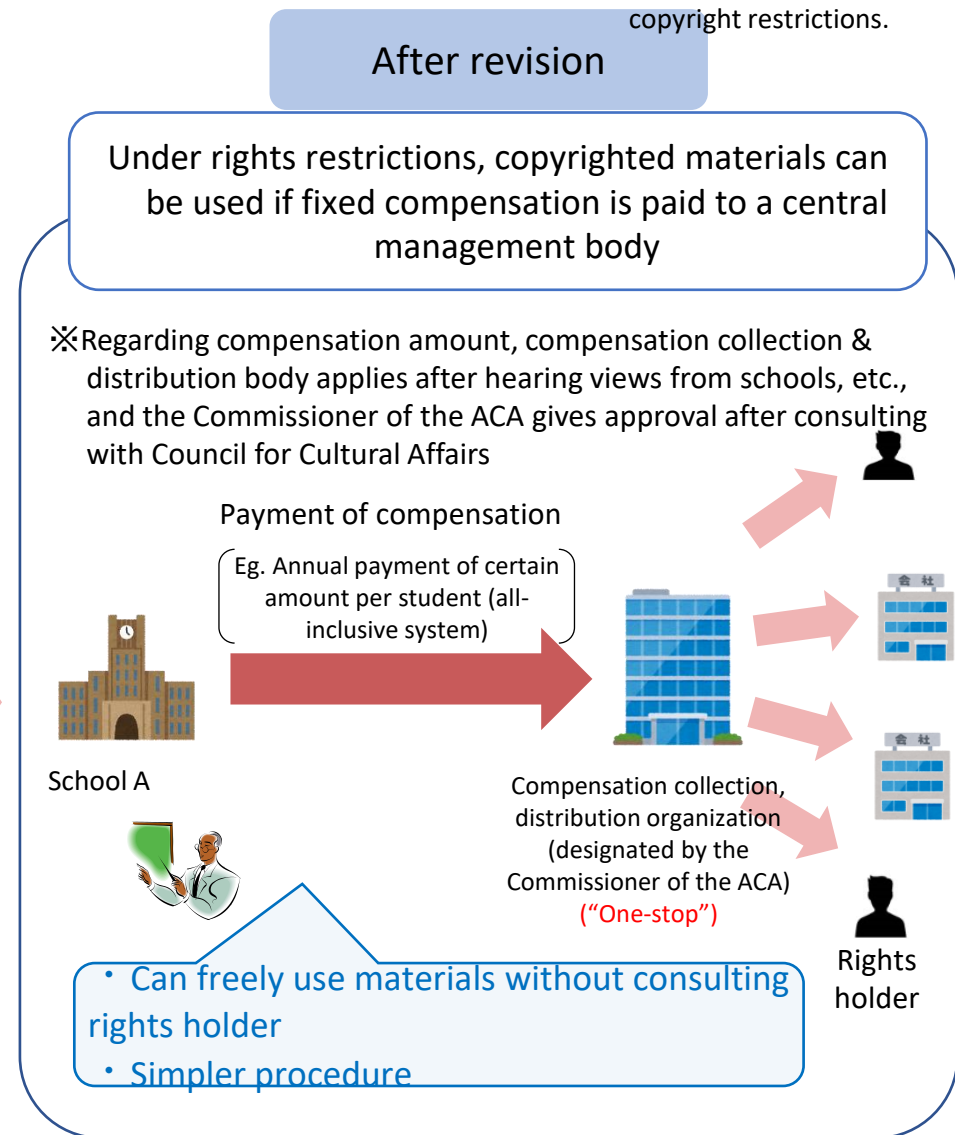
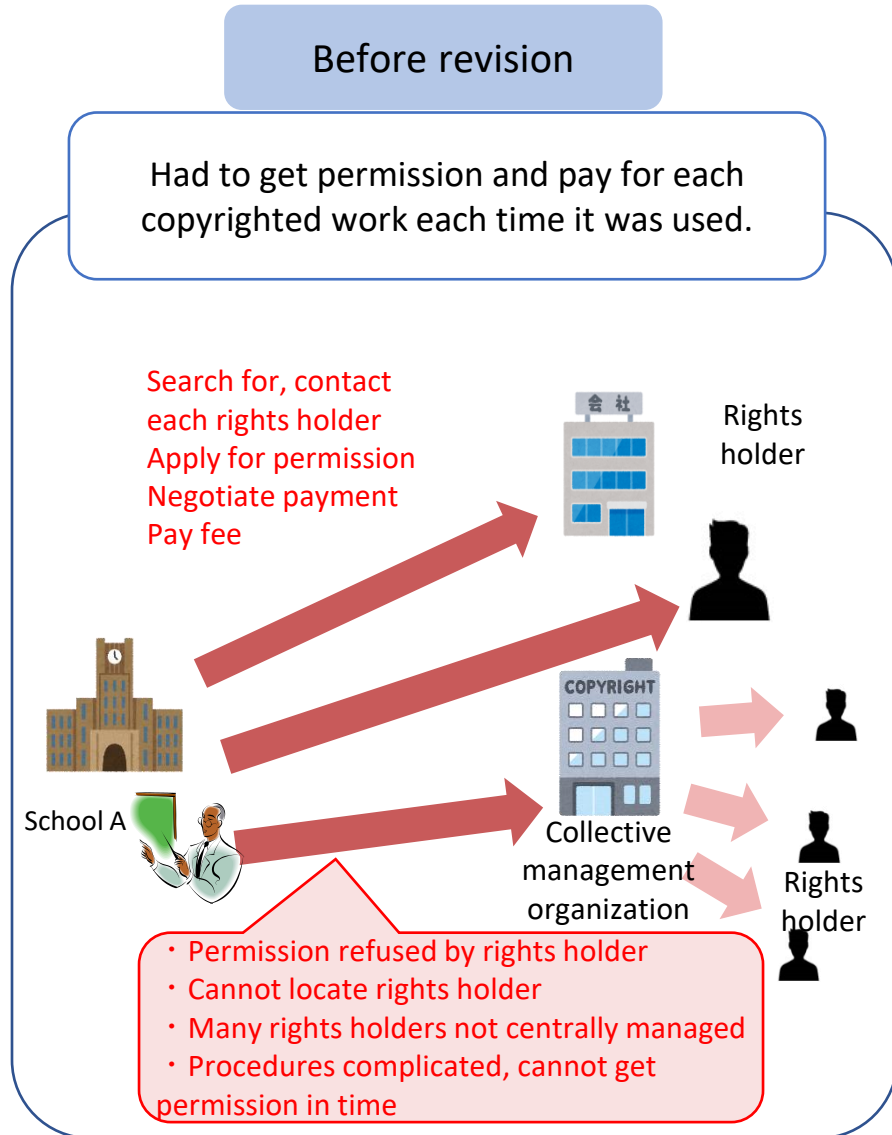
Article 35(1) A person in charge of teaching or a person taking classes at a school or other educational institution (except one founded for commercial purposes) **may reproduce** a work that has been made public **or transmit** that work to the public (including making that work available for transmission, if it is to be transmitted to the public via automatic public transmission; hereinafter the same applies in this Article), **or publicly communicate** a work that has been made public and is transmitted to the public through a receiver to the extent that is found to be necessary if the purpose of doing so is exploitation in the course of those classes; **provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature and purpose of the work, the number of copies that would be made, and the circumstances of its reproduction, public transmission, or transmission.**

(2) If a work is transmitted to the public pursuant to the provision of the preceding paragraph, **a person that establishes an educational institution** referred to in that paragraph **must pay the copyright owner a reasonable amount of compensation.**

(3) The provisions of the preceding paragraph do not apply if, in the course of the classes at an educational institution referred to in paragraph (1), **the original or copies of a work that has been made public are made available or presented to persons who directly attend a class and thus exploited, or if that work is exploited through a stage performance, musical performance, on-screen presentation, or recitation for those persons pursuant to the provisions of Article 38, paragraph (1),** and that work is transmitted to the public for any persons taking that class simultaneously at a place other than that where the class is being held.

Handling of copyrights for public transmission of materials used in lessons at schools, etc. (※)

※Excluding materials subject to copyright restrictions.



Accelerated implementation of system for payment of compensation for public transmission of materials for education

The revision of the Act was to be enforced within 3 years of its promulgation (=by May 2021), and discussion on the amount, collection, and distribution of compensation was accelerated with the aim of enforcement from April 2021.

*In 2019, the Society for the Administration of Remuneration for Public Transmission for School Lessons (SARTRAS) was designated as the official designated association.



Because of the COVID pandemic from 2020, the needs for online instruction at schools rapidly increased.



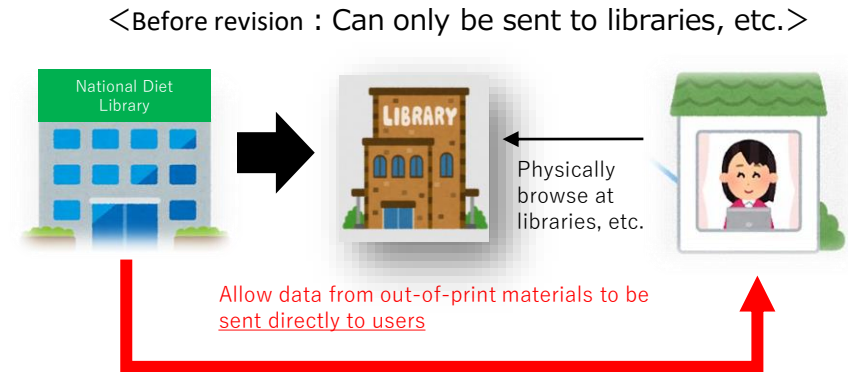
As an exception, only from 28 April 2020 during the 2020 fiscal year (April 2020–March 2021), no compensation was required. Since fiscal 2021, compensation has been required.

2021 revision : Public transmission by libraries

① Online transmission of out-of-print materials by the National Diet Library

- **Allow** the National Diet Library **to send** data from **out-of-print materials** (※) not only to libraries, etc., **but also directly to users**.

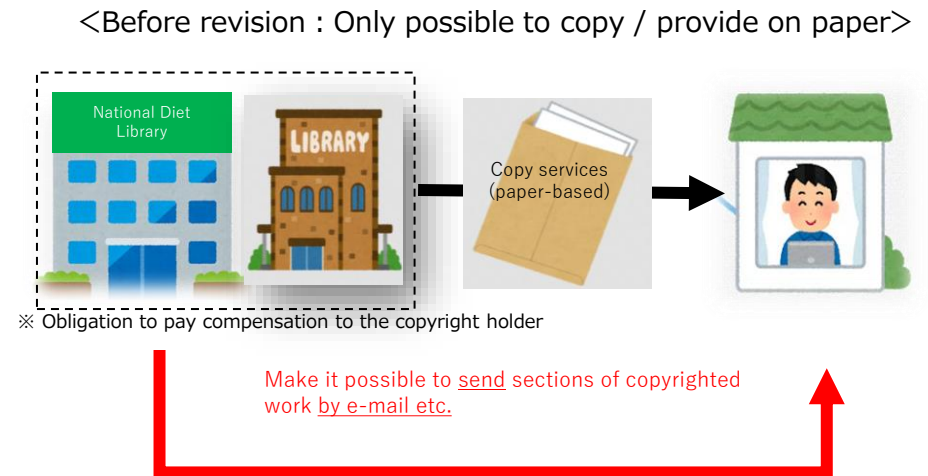
(※) Materials that are difficult to obtain due to being out-of-print or for other similar reasons



② Each library, etc. sending library materials by e-mail, etc.

- **Allow** libraries, etc. **to send sections of copyrighted works by e-mail, etc.** for research purposes under certain conditions (※) in addition to the current copying services they provide. In such an event, the library, etc. is **required to pay** the copyright holder **compensation**.

(※) Do not interfere with the market for official electronic publishing, etc. (do not unduly harm the interests of copyright holders), take measures to prevent leaking data, etc.



(Reference) National Diet Library digital collection

<https://dl.ndl.go.jp/>

Search page

The screenshot shows the search interface of the National Diet Library digital collection. At the top, there is a banner for the '国書' (National Library) collection, which includes books from 1987 to 1962. Below this is a search bar with a '検索' (Search) button. The search filters section includes options for '閲覧方法' (Viewing method) such as 'ログインなしで閲覧可能' (Viewable without login) and '送信サービスで閲覧可能' (Viewable with delivery service). There are also fields for '出版年月日' (Publication date), 'タイトル' (Title), and '著者・編者' (Author/Editor). The search results section shows a list of books, including '3年の学習まんが 社会科編 (小学3年生学習絵文庫; 10)', '常総の漢詩人', '青春と人生 (青春の手帖)', '女房・税金・社長殿目白三平抗議します', '孤立無援の理想: 全エッセイ集', '18-19世紀英米文学ハンドブック', and '小公子 (たのしい世界の童話; 6)'. A sidebar on the left provides a breakdown of the digital collection by category, such as '図書' (1,616,185 items), '古典籍資料 (貴重書等)' (4,582 items), and 'NDC分類' (NDC Classification).

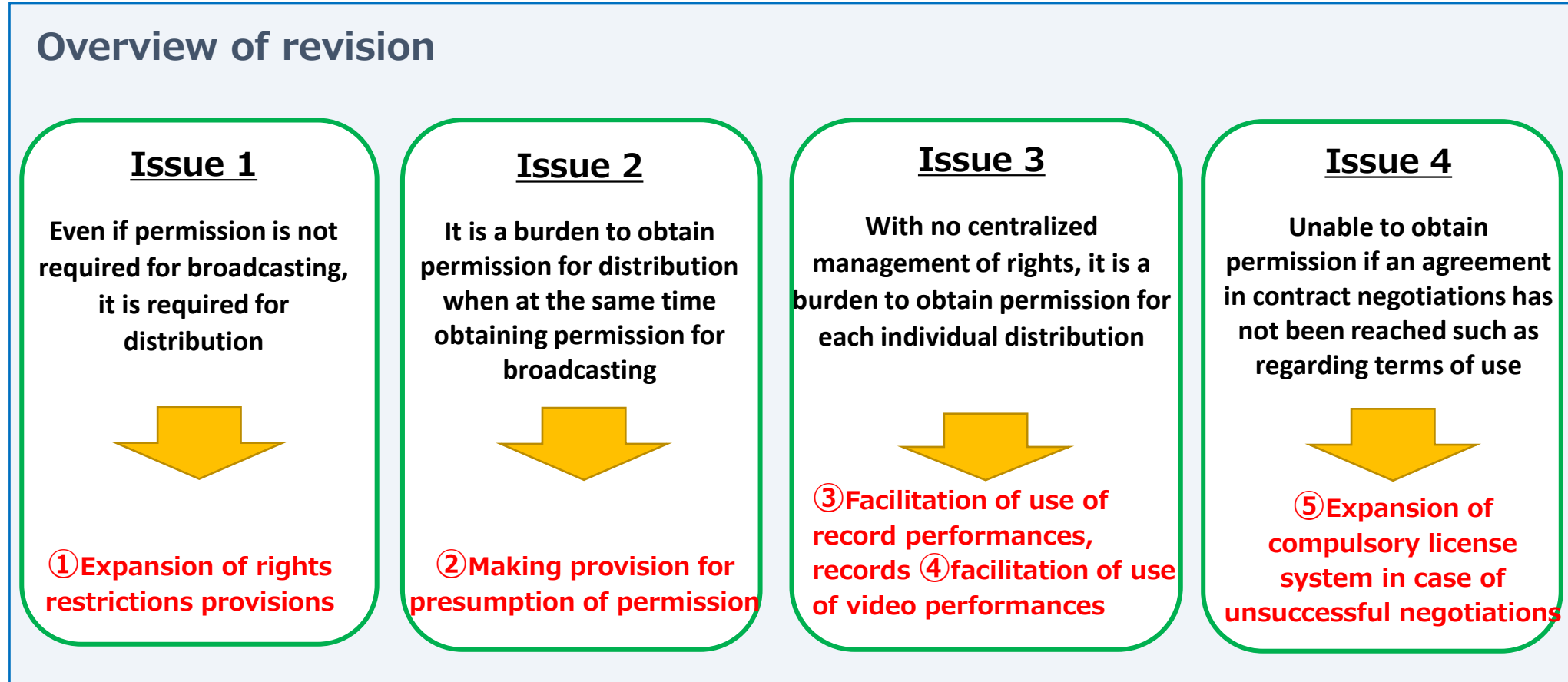
Content page

The screenshot shows the content page of a digital book. The main area displays two pages of a scanned document with Japanese text. A red box highlights a button labeled 'PDFファイルを開く' (Open PDF file), which is used to view the document as a PDF. The right sidebar contains a 'コンテンツ' (Content) section with a '目次' (Table of Contents) and a '全文検索' (Full-text search) option. Below this, there are options for '印刷' (Print) and '分割して出力' (Print and output). The bottom of the page shows a '色調' (Color) adjustment section.

(NDL website

https://www.ndl.go.jp/jp/use/digital_transmission/individuals_index.html)

2021 revision : Facilitation of processing rights for live broadcast material simultaneously distributed online



Overview of 2023 revision

Revision item	Enforcement date
Establish a New System of the Compulsory License Regarding the Exploitation of Copyrighted Works	Date specified by Cabinet order within 3 years from date of promulgation
Measures to Enable the Transmission to the Public of Copyrighted Works in Legislative and Administrative Organ	1 January 2024
Reconsideration of the Calculation Method of Compensation in Order To Achieve Effective Relief from Damage Caused by Pirated Editions	1 January 2024

(i) Establish a New System of the Compulsory License Regarding the Exploitation of Copyrighted Works

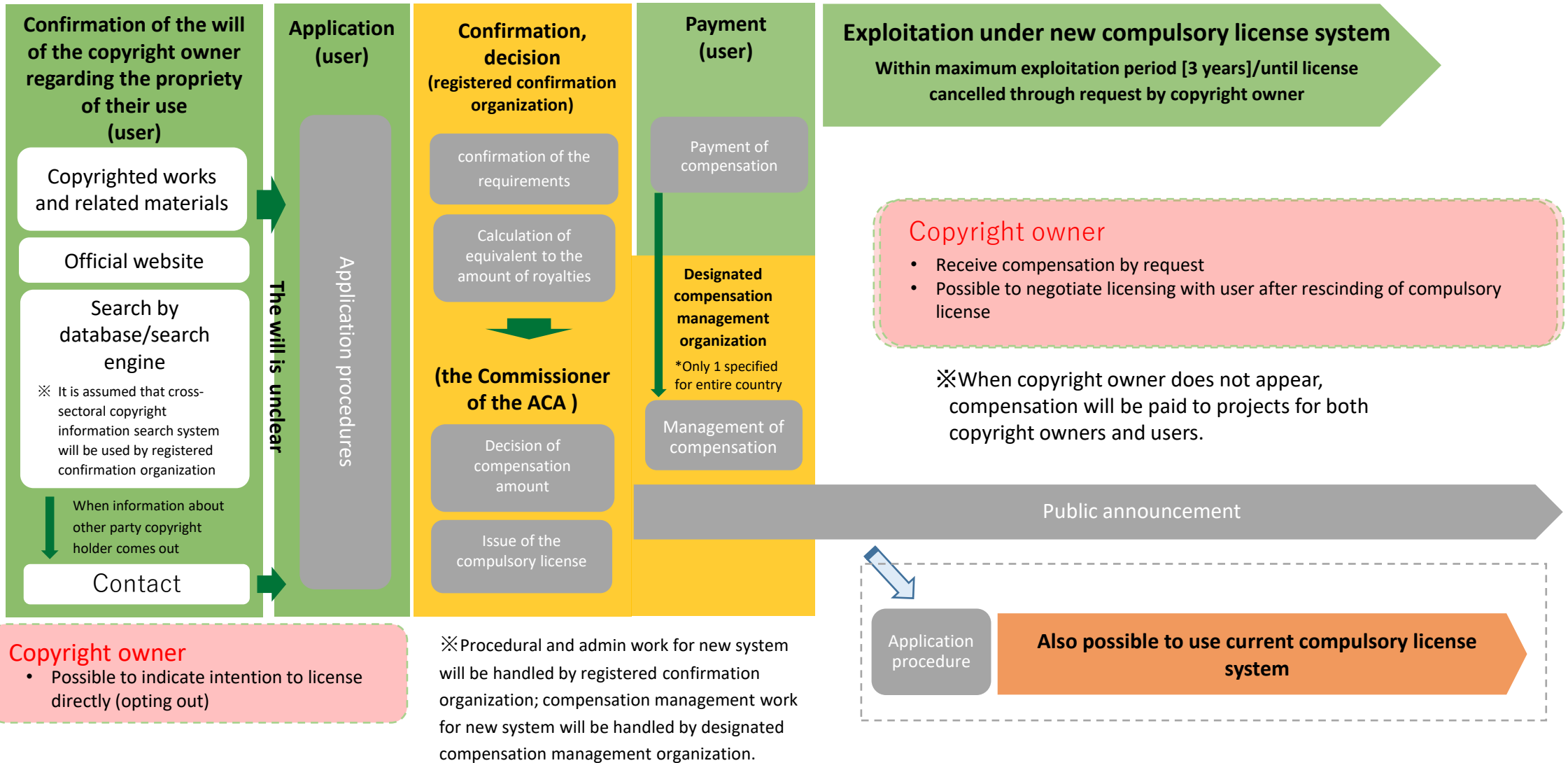
① Facilitate more efficient exploitation of copyrighted works for which it is not possible to confirm the will of the copyright owner regarding the propriety of their use

- Copyrighted works of which there is no centralized management and for which the will of the copyright owner regarding the propriety of their use is unclear may be temporarily exploited with a compulsory license issued by the Commissioner of the ACA and the payment of compensation.
- The copyright owner may request a rescinding the compulsory license issued by the Commissioner of the ACA, and after the rescinding of the license, the temporary exploitation of the copyrighted works will be stopped. The copyright owner may receive the compensation amount for the period of the use of the copyrighted works.

② Procedures will be simplified through the conduct of the affairs of new systems by contact organizations (private sector organizations)

- In order to enable the prompt exploitation of copyrighted works, contact organizations (private sector organization) registered by the Commissioner of the ACA shall be able to carry out part of the administrative work regarding the acceptance of applications for the new system of compulsory license, confirmation of the requirements, and determination of the compensation amount.
- Payment of the compensation for the new system and the current system may be made to the management institution designated by the Commissioner of the ACA, making depository procedures unnecessary.

(i) Establish a New System of the Compulsory License Regarding the Exploitation of Copyrighted Works



(ii) Measures to Enable the Transmission to the Public of Copyrighted Works in Legislative and Administrative Organ

① Transmission to the public of copyrighted works for internal use by legislative and administrative organs by utilizing the cloud and other transmission devices

- Public transmission of copyrighted works is permitted only among the users of the internal materials to the extent deemed necessary when such materials are considered necessary as internal documentation for legislative or administrative purposes.

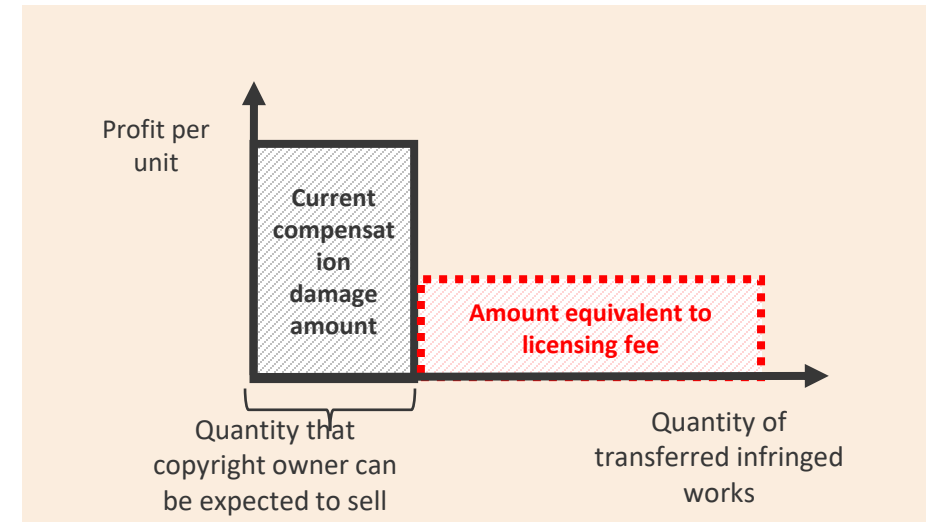
② Transmission to the public in administrative procedures such as patent examination

- Public transmission of copyrighted works is permitted to the extent deemed necessary when it is deemed necessary for responding to digital procedures regarding administrative procedures or administrative hearings such as for patent examinations.

(iii) Reconsideration of the Calculation Method of Compensation

① Approval of a reasonable amount for the license fees that are related to calculations based on the transferred quantities of infringing items

- It will become possible to approve an amount of damages that represents the potential profits lost due to the loss of licensing opportunities even in the case when the amount of the infringing party's sales volume exceeds the sales capacity of the copyright owner.



② Clarify the consideration factors used to determine reasonable licensing fees

- In calculating the approved reasonable amounts of licensing fees that will represent the amount of damages, it will be clearly stated that they will be the amount that would likely be determined through negotiations based on the assumption of copyright infringement.



2. Measures for spreading public awareness of copyrights in Japan

Support to creators

Copyright management support to SMEs and creators who do not have enough knowledge about copyrights

✓ Portal site for information about countermeasures against copyright infringement by online piracy



<https://www.bunka.go.jp/seisaku/chosakuken/kaizoku/index.html>

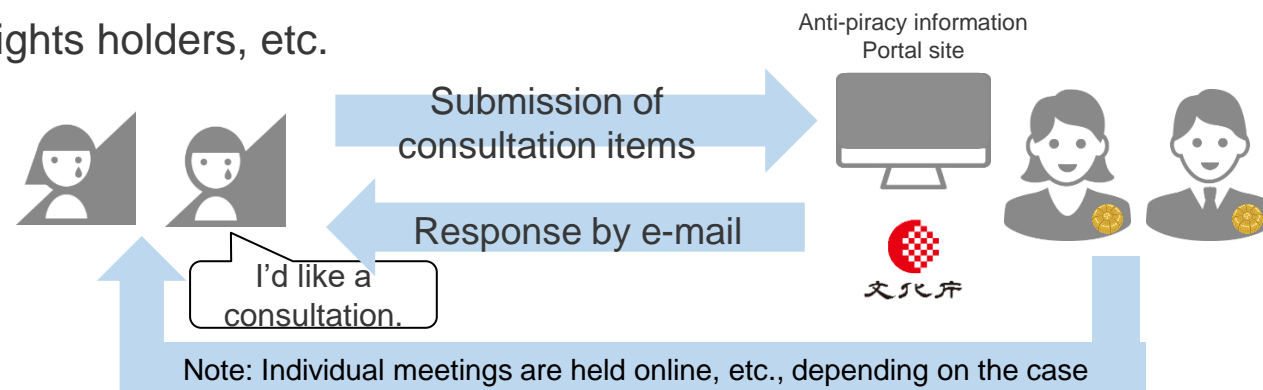
✓ Support system for preparation of copyright contracts



<https://pf.bunka.go.jp/chosaku/chosakuken/c-template/>

✓ Consultation services provided by lawyers

Rights holders, etc.



Copyright education in schools

- Importance of public awareness particularly for young people

→ Importance of taking up copyrights in school education

- National Curriculum Standards

Below are subjects related to copyright education in elementary and junior and senior high schools

Elementary schools: Music, Arts and Crafts

Junior high schools: Music, Art, Technical Arts and Home Economics

High schools: Art, Informatics

In addition, copyright law as one of the laws and norms handled by citizens

(Reference) Examples from National Curriculum Standards

○ National Curriculum Standards for elementary schools (2017 notification)

Section 6. Music *for each grade

III Preparation of teaching plans and teaching contents

2 Consideration shall be given to the following in the teaching of the contents in Section 2.

(1) The following shall be taken up in instruction of “A performing” and “B appreciation” of music in each school grade.

- e. Students shall be aware that copyright holders created many of the musical works they are playing and appreciating and develop an attitude that values the works they learn and make, as well as develop a sense of respect for the creativity of the creators of those works. Consideration shall also be given to developing the foundation for understanding that this attitude and respect support the passing down, development, and creation of musical culture.

○ National Curriculum Standards for junior high schools (2017 notification)

Section 5. Music *for each grade

III Preparation of teaching plans and teaching contents

2 Consideration shall be given to the following in the teaching of the contents in Section 2.

(1) The following shall be taken up in the instruction of “A performing” and “B appreciation” of music in each school grade.

- f. Students should develop an attitude of respect for their own and others’ works and for the creativity of composers, and if necessary, lessons should touch upon intellectual property rights related to music. Consideration shall also be given to the fact that the development of such an attitude will lead to the understanding of and support for the passing down, development, and creation of musical culture.

(Reference) Examples from National Curriculum Standards

○ National Curriculum Standards for high schools (2018 notification)

Section 7. Art

Article 2 Subjects

I Music I

3 Teaching of contents

(11) Students should develop an attitude respecting their own and others' works and the creativity of composers, and if necessary, lessons should touch upon intellectual property rights related to music. In addition, consideration shall also be given to the fact that the development of such an attitude will lead to the understanding of and support for the passing down, development, and creation of musical culture.

Section 10. Informatics

Article 3 Preparation of teaching plans and teaching of contents for all subjects

2 Consideration shall be given to the following when teaching the contents.

(1) Students should develop the ability to ascertain and ensure the reliability and credibility of information through instruction in each subject, and develop information morals based on scientific understanding, including the protection and utilization of intellectual property and personal information.

Section 3. Civics

Article 2 Subjects

I Public

2 Contents

B Participating in creation of a better society as an independent entity


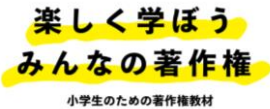


a. Acquiring the following knowledge and skills

(a) Students should understand how rights and freedoms are ensured and realized and how social order is formed and maintained through the mediation and resolution of individual and social disputes and the fair and equitable adjustment of the views and interests of each person based on the law and norms by the proper following of procedures under the Constitution, based on real-world matters and issues related to the significance and role of law and norms, the rights and responsibilities of various contracts and consumers, the importance of judicial participation, and so on.

Copyright education in schools

- Teaching materials developed by ACA


Teaching materials and guidelines for teachers for learning about copyrights from the elementary school to high school level can be accessed through the ACA website.

Teaching materials		URL	Overview
“First Study of Copyrights”		https://pf.bunka.go.jp/cho-saku/chosakuken/hakase/hajimete_1/index.html	Teaching materials on copyrights for lower grades of elementary school. Teacher’s guide also included.
“Let’s have fun learning about copyrights for everyone”		https://pf.bunka.go.jp/cho-saku/tanoshiku/	Video materials on copyrights targeting elementary school students.
“Sakutaro’s chronicle: Understanding using copyrights through manga”		https://pf.bunka.go.jp/cho-saku/chosakuken/h22_manga/index.html	Materials for learning practical knowledge about copyrights. Instructional guide for junior and senior high schools teachers and sample questions also included.
“Using 5 minutes for education about copyrights” —Situational cases at schools		https://pf.bunka.go.jp/cho-saku/1tyosaku/kyouiku/sidoujireishu/index.html	Situations for teaching about copyrights, targeting from elementary school to high school. Introduces instructional cases in various situations at schools.

Copyright education in schools

- Teaching materials developed by ACA

Teaching materials and guidelines for teachers for learning about copyrights from the elementary school to high school level can be accessed through the ACA website.

Teaching materials		URL	Overview
“Let’s think together! Copyrights and pirated versions”	 <p>The image shows a teaching material cover with a pink and white color scheme. At the top, it says '高等学校「公共」「情報I」対応教材 定額用'. Below that, the main title is 'みんなで考えよう! 著作権と海賊版'. There is a cartoon character of a girl with pink hair. Below the title, it says '人間的な文化を守るために、わたしたちができること'. Underneath is a box that says 'ワークシート・資料'. At the bottom, there is a 'CONTENTS' table with the following items: 1. 著作権の基礎知識 (2), 2. 著作権を侵害する行為とは? (3), 3. 著作権の権利 (4), 4. 著作権の権利の行使 (5), 5. 著作権の権利の行使 (6), 6. 著作権の権利の行使 (7), 7. 著作権の権利の行使 (8), 8. 著作権の権利の行使 (9), 9. 著作権の権利の行使 (10), 10. 著作権の権利の行使 (11), 11. 著作権の権利の行使 (12), 12. 著作権の権利の行使 (13), 13. 著作権の権利の行使 (14), 14. 著作権の権利の行使 (15).</p>	https://www.bunka.go.jp/s/eisaku/chosakuken/kaizoku/teachingMaterials.html	In line with National Curriculum Standards for high school students, materials for learning easily about pirated works (video, worksheets). Available at “Portal site for information about countermeasures against copyright infringement by online piracy.”

Thank you for your attention.

