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**A General “Fair Use” Clause - A Workable  
Concept in Copyright Law**

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# Introduction

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- New Israeli copyright law adopts the American model of an open “fair use” clause.
- Flexibility vs. certainty

# Proposed Solutions

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- **Special tribunal—declarative decisions approving uses**
- **Safe harbors—regulation**

Israeli Copyright Act, 2007, article 19 (c):

“The Minister may make regulations prescribing conditions under which a use shall be deemed a fair use.”

# The Accessible Education Initiative

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- **Intensive need for use of works in academic activity: teaching and research**
- **Uncertainty creates a chilling effect.**
- **Solution: cooperation between all academic institutions.**

# Dynamics increasing the chilling effect

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- **Domino effect**



- **Vicious cycle**



- **“Floor” agreements turn out to be the “ceiling”**



# The Accessible Education Project

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- **Consensus building / dispute resolution mechanism**
  
- **Possible goals:**
  1. **Developing a consensus on an appropriate interpretation of the fair use clause**
  2. **Creating a forum for exchange of information**
  3. **Agreeing upon a draft regulation**
  4. **Negotiating collectively with publishers**

# Insights

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- **Developing a harmonized terminology**
- **Creating a mechanism for countering the chilling effect through exchange of information**
- **Creating social infrastructure to foster understanding within relevant communities**

# Similar Projects in the U.S.

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- Conference on Fair Use (CONFU), 1994 - 1998
- Code of Best Practices in Fair Use for Media Literacy Education, 2008





**Comments?**

**Ideas?**