

National Copyright Guidelines

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Copyright - a general overview

What is it? Some basic principles

In Australia, copyright law is contained in the Commonwealth *Copyright Act 1968* (**Copyright Act**).

Copyright is a separate right to the property right in an object. For example, this means that the person who may own a book or painting will not also own the copyright in the book or painting unless it has been specifically assigned to them.

A simple definition of 'copyright' is that it is a bundle of exclusive rights in certain creative works such as text, artistic works, music, computer programs, sound recordings and films. The rights are granted to the copyright owner to reproduce the material and, for some material, the right to perform or show the work to the public. Copyright owners can prevent others from reproducing or communicating their work without the owner's permission.

Copyright - a general overview

Some common misconceptions

Schools are one of the largest users of copyright material. When copying a page from a textbook, showing a video, putting on a school play or even listening to music, schools need to be aware that there are limitations on their use of copyright works. There are a number of misconceptions about copyright:

a. You must register copyright in Australia otherwise the work is copyright free

No formal registration of copyright is required in Australia.

b. If there is no copyright symbol or notice, then the work is copyright free

The absence of a copyright symbol or notice on a work does not mean that the copyright owner has abandoned their copyright or has granted an implied licence for anyone to use or reproduce or communicate their work.

c. Once a work is published or in the public domain, anyone can use it

The fact that a work has been published or is made freely available does not mean that:

- the copyright owner has abandoned their copyright
- the work has entered the public domain and is no longer protected by copyright

If you wish to copy and/or communicate to the public the whole or a substantial part of the work, it must be done either:

- with the permission of the copyright owner
- under the free use or other statutory exception
- under relevant statutory licence scheme

d. I am not infringing copyright if I am not making any money from my use of the material

The fact that the user is not making any money or profit from the unauthorised use is not a defence for infringement.

Copyright - a general overview

What is protected? (types of works)

The Copyright Act divides the materials protected into two categories: 'works' and 'other subject matter'. This categorisation is important as differences exist as to the length and scope of copyright protection. Some examples are set out below.

a. Works

Artistic Works	Literary Works	Musical Works	Dramatic Works
paintings sculptures graphics cartoons etchings lithographs photography drawings plans maps diagrams charts buildings models of buildings moulds and casts for sculptures	novels textbooks newspaper articles magazine articles journals poems song lyrics timetables technical manuals instruction manuals computer software anthologies directories databases	melodies song music pop songs advertising jingles film score	plays screenplays mime choreography

b. Other Subject Matter

Films	Sound Recordings	Broadcasts	Published editions
cinematographic films video recordings DVDs television programs advertisements music videos	vinyl music or voice recorded on vinyl CD DVD audio cassette tapes Mp3 files	radio television	typesetting (the layout and look of a publication)

Copyright - a general overview

What does it not protect?

Copyright does not protect ideas, concepts, styles or techniques.

For example, copyright will not protect an idea for a film or book, but it will protect a script for the film or even a storyboard for the film.

Copyright - a general overview

Requirements for copyright protection

The following three (3) requirements must be met in order for copyright to subsist in a work:

- the work must be reduced to material form
- the work must be made by a qualified person
- the work must be original and the result of the author's skill and effort

a. **Material Form**

An idea itself will not receive copyright protection. The idea must be reduced to material form (whether it is written, recorded, including in musical or dance notation, filmed, painted, etc.) before it is capable of copyright protection. The idea will only receive protection in the form in which it is expressed.

b. **Qualified Person**

To be a qualified person, an author of a work must be a citizen or resident of either Australia or a country to which Australia has promised copyright protection under international treaties and conventions. Most foreign copyright owners are also protected under international treaties such as the Berne Convention.

c. **Originality**

The work must be original. This does not mean the work must be novel or unique but the work must not be a mere or slavish copy of another work. It must be the product of the author's independent skill and effort. It does not have to be aesthetic in order to gain copyright protection. For example, accounting forms, football coupons and racing programs have been regarded by the courts as literary works capable of copyright protection.

In Australia, copyright protection is automatic. There is no need for copyright registration in Australia, nor is there a legal requirement to publish the work or to put a copyright notice on it.

A work will be protected as soon as it is put into material form, such as being written down or recorded in some way (filmed or recorded on an audio tape). Sometimes works are updated and changed by the owner or authorised persons. Generally, the new version is protected as a new work.

Copyright - a general overview

Who owns copyright?

a. Works - the general rule of copyright ownership

Subject to certain important exceptions, the owner of copyright in works is the author, or the person who put the work in a material form (for example, the writer, artist, composer, etc.).

b. Other subject matter - the general rule of copyright ownership

The maker is the owner of copyright in sound recordings, films and broadcasts.

This means that:

- the owner of copyright in a sound recording is the person who owns the material on which the first recording is produced (such as a record company)
- the owner of copyright in films is the person who made the arrangements for the making of the film (the producer)
- the owner of copyright in a broadcast will be the person who made the broadcast (the broadcaster)

Copyright - a general overview

Some exceptions to the general rule of copyright ownership

- *Contract* - the rights given under the Copyright Act may be varied by agreement (eg, the copyright owner may assign the copyright to someone else).
- *Employment* - copyright in works made by an employee in the course of employment under a contract of service is usually owned by the employer (eg, course materials produced by a teacher for use in the classroom will generally be owned by their employer - whether it be the State Government or a private educational institution.)
- *Commissions* - copyright in photographs, portraits and engravings commissioned for a private or domestic purpose will be owned by the commissioning party, provided the agreement is in exchange for some valuable consideration.

[NB: prior to July 1998, where a photograph was commissioned, the client was the copyright owner of the photograph]

All other commissions do not affect the general rule - that is, that the author is the copyright owner.

- *Co-authorship* - copyright may be owned by several authors jointly. Joint owners cannot deal with their copyright without the consent of the other authors. In order to qualify as a joint author, a person must have done more than merely supplied ideas or suggestions.
- *Crown copyright* - where a work, sound recording, film, broadcast, etc. is created under the 'direction' or 'control' of the Crown, or where it is first published by the Crown, the copyright will be owned by the Crown.
- *Performer's Rights in Sound Recordings* - unless otherwise agreed, a sound recording made of a performer's performance will be owned equally between the performer and the record company.

The Crown includes a wide range of government bodies, including government libraries and departments, but does not usually include independent statutory bodies like the Australian Broadcasting Corporation.

Copyright - a general overview

How long does it last?

From 1 January 2005, the period of copyright protection for most works increased. This period of protection will apply to all works that were still in copyright on 1 January 2005. To work out if a work was in copyright on 1 January 2005, you will need to apply the pre-1 January 2005 copyright periods.

After 1 January 2005

Types of Copyright Material	Extended Term
Literary, musical, dramatic and artistic work excluding photographs	Lifetime of author plus 70 years
Photographs	Lifetime of author plus 70 years
Unpublished literary (other than computer programs) dramatic works	70 years after calendar year end of first publication
Unpublished engravings	70 years after calendar year end of first publication
Pseudonyms and anonymous names	70 years after calendar year end of first publication
Sound recording and films	70 years after calendar year end of first broadcast, exhibition or publication

Prior to 1 January 2005

a. Works

Types of Copyright Material	Current Term
Literary works	Lifetime of author plus 50 years
Artistic works (except photographs)	Lifetime of author plus 50 years
Dramatic works	Lifetime of author plus 50 years
Musical works	Lifetime of author plus 50 years

b. Works - Exceptions

Types of Copyright Material	Current Term
photographs	50 years from end of year photograph taken
unpublished works photographs	50 years from end of year work first published
anonymous works	50 years from end of year work first published

c. Subject matter other than works

Types of Copyright Material	Current Term
Films	50 years from end of year film first released
Sound recordings	50 years from end of year recording first released

Published editions	25 years from first publication
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Copyright - a general overview

How do I work out if something is still in copyright?

For literary, dramatic, musical and artistic works (other than photographs), you must first determine if the author is dead or alive:

- if the author is still alive, the material is still in copyright
- if the author is dead, the material will be out of copyright if the author died over 70 years ago and may be out of copyright if the author died less than 70 years ago.

For all other works (sound recordings, film and broadcasts), the author's death does not matter and you must determine when the material was first published:

- if it was published more than 70 years ago, it is out of copyright
- if it was published less than 70 years ago it is most likely still in copyright

Just because a work is still in copyright, it does not mean you cannot copy it. Often a statutory licence will apply.

Example 1: Janet wants to make a copy of the lyrics to the pop song "Hey June". The song (a musical work) was written in 1972 and the author died in 1981. Before 1 January 2005, the song would be protected by copyright until 2031 (lifetime of author plus 50 years: 1981 + 50). However, since it is still in copyright on 1 January 2005, the period of protection will be extended to 2051 (lifetime of author + 70 years: 1981 + 70).

Example 2: Bill wants to make a copy of the play "The Ghost of the Opera" so that he can produce and direct it in Hollywood. The play was written in 1931 but the author died in 1958. Before 1 January 2005, the play (dramatic work) would be in copyright until 2008 (lifetime of author plus 50 years: 1958 + 50). However, since it is still in copyright on 1 January 2005, the period of protection will be extended to 2028 (lifetime of author + 70 years: 1958 + 70).

Example 3: Dennis wishes to show the film "The Wizard of Aus" on Pay TV. The film was first released in April 1955. Before 1 January 2005, the film would be in copyright until December 2005 (50 years from end of year film first released: December 1955 + 50). However, since it is still in copyright on 1 January 2005, the period of protection will be extended to 2025 (70 years after calendar year end of first broadcast, exhibition or publication: December 1955 + 70).

Example 4: A map was published in the National Geographic in 1998 and the author is still alive. Mr Harvey wants to copy the map to use in his geography class. Before 1 January 2005, the map is protected by copyright for the lifetime of the author plus 50 years. Since copyright in the map (artistic work) is still in force on 1 January 2005, the period of protection will be extended to the lifetime of the author plus 70 years.

Copyright - a general overview

What rights are granted to the copyright owner?

As stated above, the copyright owner has certain exclusive legal rights under the Copyright Act which enables the copyright owner to control the use and reproduction of his/her material. The rights differ according to the type of work protected.

a. Literary, dramatic and musical works

The copyright owner has the right to:

- reproduce the work in material form (eg photocopy or scan the work)
- publish the work (supply copies to the public)
- communicate the work to the public (by email, post work on intranet or Internet, make available online or to include the work on free-to-air or Pay TV)
- perform the work in public
- make an adaptation of the work (eg writing a screenplay based on a novel, or a new arrangement of a song)

b. Artistic works

The copyright owner has the right to:

- reproduce the work in material form (that is, to make a copy of the artwork such as reproductions on postcards)
- publish the work (that is, supply copies to the public; eg offer postcards for sale)
- communicate the work to the public (by email, posting it on intranet or Internet or including the work on free-to-air or Pay TV)

c. Films

The copyright owner has the right to:

- make a copy of the film (eg to make a video or DVD copies)
- show the film to the public (eg to show the film at a cinema)
- communicate the film to the public (eg to show the film on free-to-air or Pay TV or to make the film available online)

d. Sound Recordings

The copyright owner has the right to:

- make a copy of the sound recording (eg to make cassettes or CDs from the master)
- cause the recording to be heard in public (eg to play the recording in a shop as background music)
- communicate the recording to the public (eg to make the recording available online)
- enter into a commercial rental arrangement (eg allowing students to borrow the sound recording on commercial terms)

e. Broadcasts

The copyright owner has the right to:

- make a film or sound recording of the broadcast
- re-broadcast the broadcast
- communicate it to the public otherwise than by broadcasting it

Copyright - a general overview

Dealing with copyright (assignments and licences)

a. Assignments and Transmission

Copyright ownership can be assigned to another or left to beneficiaries in a will.

Assignment clauses are common in independent contractor agreements, especially where the contractor is creating copyright material to be used by the commissioner.

b. Licences

Copyright can also be licensed. A licence is a form of permission. This means the copyright owner can authorise another to use or reproduce the copyright work. The Copyright Act also creates some statutory licences under which people can reproduce the whole or part of the copyright material on the terms set out in the Act. The right of schools to copy material is often contained within the Act.

Copyright - a general overview

Collecting Societies

In many cases, copyright is administered by collecting societies on behalf of copyright owners.

There are two types of collecting societies:

- **Declared Society** declared by the Attorney General to collect and distribute fees under educational statutory licences schemes set out in the Copyright Act
- **Voluntary Collecting Society** which administers blanket licences voluntarily on behalf of members for specific uses

The main collecting societies are set out below.

a. Declared Societies

The following collecting societies administer the educational statutory licences created under the Copyright Act.

i. Copyright Agency Limited (CAL)

CAL is the declared collecting society for:

- the reproduction and communication of print and artistic works by educational institutions

See Appendix B: Statutory Print Licence

- the reproduction of print and artistic works by governments

CAL represents copyright owners of print and artistic works including publishers, authors and artists. CAL's main function is to administer the statutory licence for the educational copying of print and artistic works.

CAL also offers licences for reproductions of print and artistic works outside the statutory licence schemes on behalf of its members including copying by government departments, press clipping services, churches, associations and corporations.

Website: <http://www.copyright.com.au>

ii. Screenrights

Screenrights (formerly the Audio-Visual copyright society Limited) is the declared collecting society for:

- the copying and communication material from radio and television broadcasts by educational institutions

[See Appendix A: Statutory Broadcast Licence](#)

- the copying and communication material from radio and television broadcasts by government
- the re-transmission of radio and television broadcasts

Screenrights represents the copyright owners in film, television, sound recordings and other copyright works included in audio-visual products.

Website: <http://www.screen.org>

b. Voluntary Collecting Societies

The following collecting societies administer the following licences:

i. Australasian Performing Rights Association (APRA)

APRA is the collecting society which collects and distributes licence fees for the public performance and communication to the public of musical works and their lyrics on behalf of its members, namely composers, song writers, music publishers and other copyright owners.

APRA offers blanket and per usage licences for the use of those rights.

Most schools have a licence with APRA which allows them to play live and recorded music at school functions.

[See: Musical Works](#)
and [Appendix C: APRA Licence](#)

The licence covers:

- playing of music as part of a class
- performances by school bands or orchestras
- performances by school choirs or singing groups
- school rock band performances
- playing music on CDs
- playing music by way of radio or television broadcasts

Where the music is to be performed (live or pre-recorded) other than above further permission should be sought from APRA.

Website: <http://www.apra.com.au>

ii. Australasian Mechanical Copyright Owners Society (AMCOS)

AMCOS administers and distributes royalties collected for 'mechanical' and 'reproduction' rights in musical works on behalf of its members, namely composers, writers and music publishers. Mechanical rights refer to when the musical work is reproduced in mechanical form, eg a sound recording.

A licence is required to make a recording of a musical work even if there is no intention to sell the recording.

Most education institutions have a voluntary licence with AMCOS in relation to copying of sheet music.

[See: Musical Works](#)
and [Appendix D: AMCOS Licence](#)

Website: <http://www.amcos.com.au>

iii. Phonographic Performance Company of Australia Limited (PPCA)

The PPCA (Phonographic Performance Company of Australia Limited) grants licences on behalf of its members (namely record labels, recording artists and other copyright owners of sound recordings) for the playing of sound recordings in public and to show music videos in public.

In general, educational institutions do not need to have a PPCA licence. The PPCA administers a licence for the public performance of sound recordings. Its members are recording companies.

Website: <http://www.pcca.com.au>

iv. VISCOPY

VISCOPY is the visual artists collecting society which collects and administers royalties collected on behalf of its members under the Part VA and VB schemes of the Copyright Act. VISCOPY collects monies from the declared collecting societies, Screenrights and CAL to distribute to their members.

Website: <http://www.viscopy.com.au>

v. Christian Copyright Licensing International (CCLI)

CCLI licences rights over Christian music published by its members. CCLI is not a member of APRA.

Website: <http://www.ccli.com.au>

Copyright - a general overview

How is copyright infringed?

a. Direct infringement

Direct infringement of copyright is the use of the whole or a substantial part of the work without the permission of the copyright owner.

Copyright will be infringed where:

- one of the exclusive rights of the copyright owner is exercised without the permission of the owner

[See: What rights are granted to the copyright owner?](#)

- if the unauthorised act is done to the whole or substantial part of the work or other subject matter

The term 'substantial' is not defined and will depend on the quality not the quantity of what has been copied or communicated.

A reproduction does not need to be exact or identical to be an infringement. A copy in another dimension will constitute infringement. For example, making a three dimensional copy of a two dimensional artistic work or vice versa will be a copyright infringement.

Copyright may also be infringed by a person who authorises someone else to exercise any of the copyright owner's rights without permission. This means that the copyright owner may sue the person who sanctions the activity as well as the person who performed the infringing activity.

b. Indirect infringement

Copyright infringement may be indirect. For example:

- importing certain articles into Australia for commercial purposes such as a sale, hire, offering for sale or hire, or distribution
- dealing with certain articles commercially by sale, hire, offering for sale or hire or public exhibition for trade purposes
- allowing a place to be used for an infringing public performance of a literary, dramatic or musical work

Educational institutions should also be aware of the provisions which relate to circumvention devices.

[See: Liability of schools and individuals for copyright infringement and remedies](#)

Copyright - a general overview

Defences and exceptions to infringement

The Copyright Act provides a series of exemptions which permit the use of copyright material without permission. These include:

- fair dealing and other statutory exceptions
- under compulsory licences
- statutory licence schemes

a. Fair Dealing

The Copyright Act permits the limited and fair copying and communication of works. No permission is required or payment made to the copyright owner if the use is one of fair dealing for the purpose of:

- research or study
- criticism or review
- reporting the news

Fair dealing does not apply to works which have technological protection measures (TPMs) applied to them.

[See: Liability of schools and individuals for copyright infringement and remedies](#)

i. Research or study

A person may copy parts, and in some cases the whole, of a:

- literary, dramatic, musical or artistic work
- sound or television broadcast
- film, video/DVD
- multimedia product
- computer program
- database

for free for the purposes of research or study. In general students and teachers can rely on this defence where using extracts from copyright material as part of their research or study for a class or particular course of instruction. The person undertaking the study and research must be the person doing the copying.

a. Factors to be taken into account

There are special factors to be taken into account for literary, musical and dramatic works. In general, copying the following will be considered to be fair dealing:

- whole or part of an article in a periodical
- more than one article in a periodical where they relate to the same subject matter
- a 'reasonable portion' of a published edition of a literary, dramatic or musical work, being 10 percent of the number of pages in the edition where the edition is more than 10 pages long or up to one chapter where the work is divided into chapters

b. Copying more than a reasonable portion

In considering copying in other circumstances, the following factors must be taken into consideration

- the purpose and character of the dealing
- the nature of the work

- the possibility of obtaining the work within a reasonable time at an ordinary commercial price
- the effect of the dealing upon the potential market for, or value of, the work
- in the case where only part of the work is copied - the amount and substantiality of the part copied in relation to the whole work
- audiovisual material

The same fair dealing exceptions and factors apply for audio-visual material (sound recordings, films and broadcasts).

c. Multiple copying for class use

Multiple copying of copyrighted works by an educational institution will not be a fair dealing even where the students are studying newsworthy items or engaging in criticism and review. This will be covered by the statutory licence schemes.

[See: Statutory Licence Schemes](#)

d. External students

The defence of fair dealing for research or study extends to external students that are enrolled in an educational institution provided that the copying by them is for the purpose of or associated with an approved course of study or research.

ii. Criticism or review

A student may copy or produce parts of a literary, dramatic, musical and artistic work for the purpose of criticism and review, such as where a student is reviewing a book, CD or film for a student newspaper or similar publication.

The source work, the copyright owner and the author (if different from the copyright owner) must be sufficiently acknowledged in the publication.

Sufficient acknowledgment must be made of the source material copyright owner, the author (if different) and the title of the work being copied (if different from the copyright owner).

The same exception applies for audio-visual material (sound recordings, films and broadcasts).

iii. Reporting the news

A fair dealing may be for reporting the news in the print, radio or television media. The same exception applies for audio-visual material (sound recordings, films and broadcasts).

The term newspaper, magazines or similar periodical includes e-zines and other online publications and also includes school newspapers and magazines.

Sufficient acknowledgment must be made of the copyright owner and the author of the work.

iv. Fair dealing and unpublished works

Using unpublished works may not be fair under the fair dealing provisions of the Copyright Act.

v. Notices near copying equipment

Educational institutions and libraries must display certain notices near copying equipment (eg photocopiers, scanners, CD and DVD burners) to avoid liability for

authorising infringements by people using their equipment where the fair dealing exceptions do not apply.

[See Appendix F: Sample Form of Notice](#)

b. Special statutory exceptions

i. Free educational uses

There are a number of educational use exceptions where no payment is required:

a. Performance of material in class

Copyright is not infringed by a teacher or student reading or performing a literary, dramatic or musical work in class, where it is done:

- in the course of education and is not for profit; and
- the people in the audience or class are giving or receiving instruction or are directly connected with the place where instruction is given.

b. Playing sound recordings in class

Copyright is not infringed by a teacher or student playing a sound recording in class, where it is done:

- in the course of education and is not for profit; and
- the people in the audience or class are giving or receiving instruction or are directly connected with the place where instruction is given.

c. Screening films, videos/DVDs in class

Copyright is not infringed by a teacher or students screening a film, video/DVD in class, where it is done:

- in the course of education and is not for profit
- the people in the audience or class are giving or receiving instruction or are directly connected with the place where instruction is given.

d. Making a compilation of mainly non-copyright material

Inclusion of short extract or adaptation of a published work in a collection of works made up of mainly non-copyright material.

e. Copying by hand

A teacher or student may copy an artistic, dramatic, musical and literary work for instructional purposes or use in the classroom. This exception applies to copying a work onto a:

- piece of paper
- white pad
- blackboard
- overhead transparency

There are no limits on how much may be copied, adapted, translated or arranged by hand.

Examples of works copied by hand include:

- diagrams or plans
- poems
- musical notation and lyrics

It does not allow subsequent copying by any other process unless the educational institution owns copyright in the material.

If the educational institution does not own the copyright in the material, then the making of mechanical copies must be done:

- with the permission of the copyright owner
- if a print or artistic work, under the Statutory Print Licence

[See Appendix B: Statutory Print Licence](#)

- if a musical work, under the AMCOS licence

[See Appendix D: AMCOS Licence](#)

f. Copying for exams

Educational institutions may reproduce artistic, dramatic, musical or literary works in exam papers for free and do not need to seek the copyright owner's permission.

This exception does not allow exams to be made available online or to be emailed to students unless the educational institution owns the copyright in the works reproduced in the exam.

ii. Library and archives

Libraries and archives are allowed to reproduce material in their collection in certain circumstances.

iii. Temporary reproductions in the course of communications

Copyright in works or audio-visual material will not be infringed where they are temporarily reproduced as part of the technical process of making and receiving a communication. Temporary reproductions occur where a work or audio-visual work is reproduced automatically and for technical reasons when a person is looking or listening to the work on a remote website.

This is meant to cover browsing or online viewing of copyright material (and sounds) and certain types of caching.

[See: Internet and Websites](#)

iv. Artistic works

There are special exceptions in relation to artistic works.

[See: Artistic Works and Photographs](#)

v. Computer Programs

There are special exceptions in relation to computer programs.

[See: Computer Software](#)

Copyright - a general overview

Statutory Licence Schemes

The Copyright Act also provides specific statutory licence schemes for educational use of copyright material. These uses are paid for by the educational institutions.

The two relevant statutory licence schemes in the education sector are:

- **Statutory Broadcast Licence:** copying and communication of free-to-air broadcasts by educational institutions or institutions assisting persons with an intellectual disability

[See Appendix A: Statutory Broadcast Licence](#)

- **Statutory Print Licence:** copying and communication of literary and artistic works by educational institutions or institutions assisting persons with an intellectual disability.

[See Appendix B: Statutory Print Licence](#)

[See: Assisting children with disabilities](#)

Copyright - a general overview

Liability of schools and individuals for copyright infringement and remedies

a. Who is liable?

The following persons may be liable for copyright infringement:

- the person doing the actual copying or communication of the copyright work without the copyright owners' permission
- a person who authorises or sanctions the infringement. For example, the University of New South Wales was found liable for authorising breach of copyright by providing photocopies in its libraries and failing to control or supervise what and how much was photocopied by students

[See: Peer to Peer Networks](#)

- the employers of a person who infringes copyright in the performance of their duties

b. Civil Remedies

The remedies available to a copyright owner for copyright infringement include:

- damages (monetary compensation for loss)
- additional damages (where the infringement has been flagrant)
- an account of profits (compensation based on profit)
- an injunction (a court order which prevents the infringer from further infringing)
- delivery up (delivery up of any infringing articles or plates used to make the infringing articles)

c. Criminal offences and penalties

Copyright infringements which involve commercial dealings may also be criminal offences. For example, it is an offence to:

- make an infringing article for sale or hire or otherwise deal with an article
- distribute an infringing article for 'trade purposes' or for any other purpose that prejudicially affects the copyright owner

Persons found guilty of a criminal offence may be fined up to \$93,500 and/or imprisonment for up to five years. Corporations may be fined up to five times the amount of maximum fines.

Criminal sanctions also apply in relation to copying which falls outside the library exceptions and compulsory licence schemes.

d. Anti-Circumvention Measures

From March 2001, the Copyright Act provides civil and criminal actions and remedies against:

- making, selling and the importation of devices that are used to circumvent technological protection measures used by copyright owners to protect and identify their material
- removal and alteration of Rights Management Information (**RMI**)

i. TPM

- a. What are TPMs?

TPM is a technological protection measure placed on copyright material to prevent unauthorised copying. Examples include software locks or password protection measures.

b. Civil action

The Copyright Act prohibits:

- the sale or importation of a circumvention device by a person,
- that person knows or ought to know that the device would be used to circumvent the TPMs,
- provided the material is protected by an effective TPM

c. Non-infringing acts

The actual use of a circumvention device is not an infringement. Further, the making, selling or importation of a circumvention device used for a permitted purpose is not an infringement.

d. What is a permitted purpose?

The supply of a device for a **permitted purpose** is where the device will be used to exercise one of the acts of copyright and the doing of the act does not infringe the copyright as it is done for one or more of the following copyright exceptions, reproducing:

- a computer program to make an interoperable product
- a computer program to correct errors
- a computer program for security testing
- and communicating works by libraries and archives for users
- and communicating works by libraries or archives for other libraries and archives
- and communicating the work for preservation purposes
- and communicating under the Statutory Print Licence

e. Fair dealing

A permitted purpose does not include acts of fair dealing.

ii. **RMI**

a. What is RMI?

RMI is information (or numbers or codes that represent information) attached to or embodied in copyright material, such as a digital watermark which:

- identifies the copyright work
- identifies the copyright owner
- contains any terms or conditions of use in respect of the copyright material

b. Civil action

The Copyright Act prohibits:

- the unauthorised removal or alteration of the RMI
- importation, distribution or communication of material where the RMI has been tampered with

iii. **Liability**

a. Civil

Under the civil provisions, the onus is on the alleged infringer to show that they did not know or suspect that their actions infringed or were likely to infringe copyright in the above ways.

b. Criminal sanctions

Under the criminal provisions, a person must:

- have knowledge
- be reckless in relation to the fact that the circumvention device would be used to infringe copyright in the material protected by the TPM

Copyright - a general overview

Moral Rights

a. What are moral rights?

Moral rights are personal rights granted to authors of:

- literary, dramatic, musical and artistic works
- films

Moral rights are:

- **the right of attribution of authorship.** The author has the right to be identified as the author of the work or film when it is presented to the public. The attribution must be reasonably clear and prominent
- **the rights against false attribution of authorship.** The author has the right not to have their work attributed falsely to someone else and not to have an altered work being attributed as unaltered
- **the right of integrity of authorship.** The author has the right to have the integrity of their work respected and not subjected to derogatory treatment. A treatment is derogatory if it in some way prejudicially affects the honour or reputation of the author

b. Who has moral rights?

Moral rights are granted to authors of:

- literary, dramatic, musical and artistic works
- films

An author of works and films for moral rights purposes are different from authors of works and film for copyright purposes. An author of a film for moral rights purposes includes the screenwriter, director and the individual producer.

Moral rights are granted to individuals only and cannot be held by corporate entities, trusts or associations.

c. Can moral rights be waived or sold?

Moral rights are separate from copyright and, unlike copyright, cannot be waived, sold, assigned or licensed or transferred. They remain with the author even where the copyright has been sold or passed to a third party.

d. Defences

The Copyright Act sets out the following defences:

i. Defence of reasonableness

It will not be an infringement of the author's:

- right of attribution of authorship
- right of integrity of authorship

if a person can establish that the act or omission was reasonable in the circumstances

i. Reasonableness factors

The Copyright Act sets out a number of factors that the court takes into consideration when determining reasonableness, including:

- the nature of the work
- purpose for which the work is used
- the manner in which the work is used
- any industry practice relevant to the work or the use of the work
- any practice in any voluntary code of practice in the industry in which the work is used
- whether the work was made in the course of the author's employment or under a contract for services (independent contractor or freelancer)

ii. Consent

It will not be an infringement of the right of attribution or the right of integrity if the author consented in writing to the act or omission. Consent may be obtained for past and future acts or omissions.

e. Dealing with moral rights

In order to avoid moral rights infringements, education institutions should:

- attribute the author of the work or film where reasonable. For example crediting the name of the author and title of the work on material that is reproduced or communicated to the public
- attribute authors of musical and dramatic works where the works are performed at concerts and other performances either in the program or by announcement
- not alter, add to, crop, edit, change, distort or mutilate the work or film of the author unless it is reasonable in the circumstances
- obtain a written consent to such acts or omissions that would otherwise infringe the author's moral rights. Consents should be addressed in all contracts that deal with copyright material such as commission or freelance agreements, employment agreements and licence agreements

Copyright - a general overview

Performer's Rights

a. What are performer's rights?

Performer's rights are limited rights given to performers to stop unauthorised recordings, filming or broadcasts of their live performance.

This includes the right to control the use of a recording of a live performance. Performer's rights relate to the unauthorised recording, filming and broadcasts of live performances of:

- dance
- dramatic, literary and musical works
- circus acts
- improvisations

For example, when students perform in a school play, or a school band performs at assembly, the performers will have certain rights in their performances.

b. What performances are covered?

Performers' rights relate to the unauthorised recording, filming and broadcasts of live performances of:

- dance
- dramatic, literary and musical works
- circus or other variety acts
- improvisations - such as improvised speeches and dances

c. What performances are not covered?

Live performances do not include:

- the performance of a literary, dramatic or musical work in front of a class by a teacher or student
- news or documentary presentations
- interviews
- sporting activities
- participation in a performance as an audience member

d. Performer's rights do not cover photographing performances

The taking of a photograph of a performer during a performance will not infringe a performer's rights.

e. Exceptions

There are exceptions that apply to recording performances without first obtaining the performer's consent.

Indirect recordings (that is, recording from the television or radio) are permitted for:

- private and domestic use
- scientific research
- educational use
- use by handicapped persons

Indirect or direct recordings (that is, live) are permitted for:

- criticism or review
- reporting the news

f. How long do performers' rights last?

Performers' rights in:

- sound recordings of performances last for 50 years
- audio-visual recordings of performances last for 20 years

g. Performer's consent

A performer's consent is required before a recording is made. Once consent is obtained, the performer generally is unable to control how the recording or film is used, unless this is negotiated specifically in the relevant contract.

The consent does not have to be in writing if it is obvious from the filming that the performer has consented. Consent will also be taken for the '*use*' of a recording where the performer has given consent for recording for that purpose.

h. New performer's copyright in sound recordings

From 1 January 2005, and as a result of the Free Trade agreement entered into between Australia and the United States of America, performers have been granted some copyright in **sound recordings** of their performances. Previously, the record company (or other commissioning party) would be the sole owner of copyright. Now the performer and the owner become co-owners for equal shares in the copyright.

The rights came into force as at 1 January 2005 and apply to all recordings still in copyright.

Ordinarily, schools will be covered by the various voluntary licences for the use of sound recordings. However, where the school intends to use a sound recording of a performance outside the voluntary licences, it must make sure they have the consent and clearance of all performers.

[See: Musical works](#)

[See: Sound recordings](#)

Where performers cannot be contacted, it will usually be enough for the school to get permission from the record company.

Exceptions are:

1. Where the recording of a performance is made for a fee (such as a recording studio and production company); or
2. A performance done in the course of the performer's employment.

i. Performers' moral rights

New moral rights for performers are scheduled to be introduced sometime in 2005. These rights are in addition to copyright and are non-economic. They will include rights to:

- attribution of performership
- not to have performership falsely attributed
- integrity of performership

In the meantime, any recordings made should credit the performers.

Note that moral rights granted to performers in relation to sound recordings only, moral rights do not extend to audio-visual recordings of performances.

Defence(s) to any moral rights claim include

- consent
- defence of reasonableness

[See: Moral Rights](#)

Copyright - a general overview

Indigenous Cultural and Intellectual Property Rights (ICIPR)

a. Indigenous Peoples' rights to their heritage

ICIPR is a reference to Indigenous peoples' rights to their heritage. Indigenous peoples' heritage is a living heritage and it includes objects, knowledge, performing works, and literary works - all of those things created in the past, now and in the future.

The nature and use of Indigenous peoples' heritage is passed down from generation to generation. Usually, the particular objects, sites and knowledge pertain to a particular Indigenous group or territory.

Heritage includes:

- literary, performing and artistic works - songs, music, dance, stories, ceremonies, symbols, language and designs
- all items of moveable cultural property
- immoveable cultural property - sacred sites, burial grounds
- documentation of Indigenous peoples' heritage in archives, films, photographs, video and audio tapes and all form of media

b. What is ICIPR?

Essentially ICIPR are a bundle of rights of Indigenous peoples which protect the right to:

- own and control ICIPR
- commercialise ICIPR in accordance with traditional laws and customary obligations
- benefit commercially from the authorised use of ICIPR
- enjoy full and proper attribution
- protect significant and sacred materials

c. How is ICIPR protected in Australia?

There is no specific legislation in Australia that recognises ICIPR. ICIPR may be protected by copyright, trade marks, confidential information, passing off and trade practices law. However, this piecemeal protection is fragmented and limited.

For example, copyright can only provide limited protection of ICIPR, in particular:

- the material form requirement is not always met where the stories and songs have been passed orally from generation to generation
- the period of copyright protection is finite and is unable to protect traditional art which has been passed through generations
- copyright is generally granted to the author and does not recognise communal or customary ownership of cultural heritage of indigenous tribes and clans

Increasingly, Indigenous communities are using non-legislative means such as contract and protocols to protect their ICIPR.

[See: Dealing with ICIPR](#)

What can I copy/communicate?

Print works

Overview

In this section, print works refers to literary, dramatic, artistic and musical works in print form.

Due to the special nature of artistic works, artistic works are treated differently in some circumstances.

[See: Artistic Works and Photographs](#)
and [Appendix B: Statutory Print Licence Artistic Works](#)

Copying and communicating print works

Copyright in a print work will not be infringed where the copy or communication is done:

- with the express permission of the copyright owner

[See: Dealing With Copyright](#)

- under the free use and statutory exceptions
- under the Statutory Print Licence

a. Free use exceptions

The Copyright Act contains a number of free use exceptions and other matters which allow copyright material to be used without the permission of the copyright owner. The free use exceptions that are relevant for educational institutions are set out below.

Fair dealing

The copying of print works for fair dealing purposes is free and does not require the permission of the copyright owner. The relevant fair dealing exceptions are:

- research or study
- criticism or review
- reporting the news

[See: Defences and exceptions to infringement](#)

i. Scanning and photocopying

In limited circumstances, photocopying or scanning by students of part or, the whole of print works may be a fair dealing for the purpose of 'research or study'.

Scanning or photocopying a print work by a teacher to assist his or her research and preparation of an educational course will be a fair dealing for the purposes of research and study.

ii. Making multiple copies for class

The fair dealing exception does not apply to the making of multiple copies of print materials by an educational institution (or its teachers) for its students required in a course of study. This may only be done with:

- the permission of the copyright owner; or
- under the Statutory Print Licence

[See Appendix B: Statutory Print Licence](#)

b. Other statutory exceptions

- i. Reading, performing and reciting a literary work during class

Copyright is not infringed by a teacher or student performing, reading or reciting a literary work while giving or receiving educational instruction in a class.

- ii. Copying by hand
iii. Copying for exams

[See: Defences and exceptions to infringement](#)

c. Statutory Print Licence

Part VB of the Copyright Act provides a special statutory licence which allows educational institutions to reproduce and communicate the print work to its students for educational purposes. Most copying under the scheme is paid for by educational institutions.

A brief outline of the statutory licences is set out below. Further details of the compliance procedures for these schemes including sample remuneration notices are contained in Appendix B: Statutory Print Licence and Appendix F: Notices.

The Statutory Print Licence allows for copying of:

- an insubstantial part of print works - this is a free use
- a reasonable portion or more of print works - this is remunerable and involves two schemes:
 - Hard Copying Scheme
 - Electronic Use Scheme (EUS)

Free copying under Statutory Print Licence

Educational institutions can copy an insubstantial portion of a print work for free and without a remuneration notice, provided that an insubstantial portion of the print work has not been copied in the previous 14 days.

- Hard Copy Materials

An insubstantial portion is up to two pages or not more than 1 percent of a print work.

- Electronic Materials

An insubstantial portion is not more than 1 percent of the words in the electronic work.

[See Appendix B: Statutory Print Licence](#)

Remunerable copying under Statutory Print Licence

The Hard Copying Scheme

The Hard Copy Scheme covers the reproduction and communication of hardcopy works. The scheme permits the copying and communication of a reasonable portion of the work. As a general rule, reasonable portion of a literary, dramatic, artistic or musical work is 10 percent of the number of pages of that work or if the work is divided into chapters such as a textbook, one chapter of that work.

There are special rules in relation to Anthologies.

[See Appendix B: Statutory Print Licence: Anthologies](#)

The EUS

The EUS applies where the print work is in electronic form and is either reproduced or communicated for educational purposes, as set out below:

- copying text from electronic form (such as from a CD-Rom or a website)
- making electronic or digital copies of hardcopy print (for example, saving to disk, scanning parts of a textbook)
- communicating text by electronic means (via email, intranet or a secure website).

The scheme permits the copying and communication of a reasonable portion of the work. A 'reasonable portion' is 10 percent of the number of words of an electronic work.

[See Appendix B: Statutory Print Licence](#)

d. Other issues

i. Artistic and Musical Works

Artistic and musical works are treated differently under the Statutory Print Licence.

[See Appendix B: Statutory Print Licence](#)

ii. Special Rules for Anthologies

Anthologies are treated differently under the Statutory Print Licence.

[See Appendix B: Statutory Print Licence: Special Issues Anthologies](#)

iii. Disability Copying Provisions

The Statutory Print licence has specific provisions in relation to copying by educational institutions for children with print or intellectual disabilities.

[See: Assisting children with disabilities](#)

[SEE FAQs \(Print Works\)](#)

What can I copy/communicate?

Artistic Works and Photographs

Overview

In this section, artistic works refer to drawings, paintings, sculptures, photographs, engravings, prints, mixed media works, cartoons, plans, maps, and logos.

[See: What is protected?](#)

Copying and communicating artistic works

In general, copyright in an artistic work will not be infringed where the copy or communication is done:

- with the express permission of the copyright owner

[See: Dealing with copyright](#)

- under the free use and other statutory exceptions

[See: Defences and exceptions to infringement](#)

- under the Statutory Print Licence

[See Appendix B: Statutory Print Licence](#)

a. Free Use Exceptions

The Copyright Act has a number of free use exceptions. The main exceptions are those of fair dealing.

Fair Dealing

The copying of artistic works for fair dealing purposes is free and does not require the permission of the copyright owner. The relevant fair dealing exceptions are:

- research or study, for example, students making their own versions of Andy Warhol Pop Art or using an existing artistic work in new artistic work
- criticism or review, for example, reviews of exhibitions, an article of an artist's work and career
- reporting the news, for example, reporting the winner of a student art competition and reproducing the winning artwork in a school publication

[See: Defences and exceptions to infringement](#)

b. Other statutory exceptions

- i. Works in public places

Copyright in a sculpture, craftwork or building (and models of buildings) displayed permanently outdoors or in a place or building open to the public is not infringed by students or staff making a painting or photograph of it.

- ii. Incidental use on television

The use of an artwork in the background of a film or television program filmed by students and staff will not infringe copyright in the artwork, provided the use is incidental and does not form part of the main action being presented.

- iii. Copying by hand
- iv. Copying for exams

c. Other relevant issues

1. Artistic Works under the Statutory Print Licence

Artistic works are treated differently under Statutory Print Licence.

[See Appendix B: Statutory Print Licence - Artistic Works](#)

2. Copying artistic works to include in the library collection

A school library is able to reproduce an artistic work for inclusion in the school library's collection for the purpose of making it available to students for the purpose of research and study.

3. Copyright in school photographs

In most cases, the photographer will own the copyright in the school photographs, unless there is an agreement otherwise.

[See: Dealing with copyright](#) and
[Copyright in school photographs](#)

[SEE FAQs \(Artistic Works and Photographs\)](#)

What can I copy/communicate?

Musical Works

Overview

In this section, musical works refers to:

- original musical works (tunes, melodies, opera, pop songs, orchestral scores, advertising jingles)
- new arrangements of musical works (cover versions, translations)

More than one copyright work

Music usually involves more than one copyright work such as:

- the musical work
- words or lyrics to a song (literary work)
- arrangement or adaptation to the work (musical and/ or literary work)
- the typesetting and layout (published edition)

There are separate copyrights in:

- the sound recording of a musical work
- the public performance and communication right of the musical work (at a concert, in a class, over the radio or Internet)

Different periods of copyright protection

It is important to remember the different periods of copyright protection for works or other subject matter for:

Types of works	Period of Protection
Literary and musical works	Lifetime of author plus 50 years
Sound recordings	50 years from year end work first published
Published edition	25 years from year end work first published

Also note that the period of protection has been extended from 1 January 2005.

[See also: How long does it last?](#)

Copying and communicating musical works

In general, copyright in a musical work will not be infringed where the copy or communication of the musical work is done:

- with the express permission of the copyright owner

[See: Dealing with copyright](#)

- under the fair use or other statutory exceptions

[See: Defences and exceptions to infringement](#)

- under a voluntary licence

a. Free use exceptions

The Copyright Act has a number of free use exceptions.

Fair Dealing

The copying of musical works for fair dealing purposes is free and does not require the permission of the copyright owner. The relevant fair dealing exceptions are:

- research or study
- criticism or review
- reporting the news

Making multiple copies for class

Fair dealing for research or study does not cover multiple copying by teachers of sheet music for its students for use in a course of study. Copying sheet music may only be done:

- with the permission of the copyright owner;
- under the Statutory Print Licence; or
- under a voluntary licence administered by the relevant collecting society

[See Appendix C: APRA Licence](#)

[See Appendix D: AMCOS Licence](#)

[See Appendix E: AMCOS/APRA/ARIA Licence](#)

b. Other statutory exceptions

- i. Reading and performing a musical work during class

Copyright is not infringed by a teacher or student performing, reading or reciting a musical work while giving or receiving educational instruction in a class

- ii. Copying by hand
- iii. Copying for exams

[See: Defences and exceptions to infringement](#)

c. Voluntary licences for the copying of musical works

A number of voluntary licences are in place for certain copying of musical works. The relevant licences are set out in Appendixes C, D and E.

As a general guide, the following table sets out the relevant collection society in relation to a particular use of a musical work.

APRA School Licence

The performance of a musical work in class or as part of a course of educational instruction does not infringe the copyright owner's right to perform the work in public.

For any **public performance of a musical work outside the classroom**, the educational institution will need to rely on the APRA schools licence.

The APRA schools licence also permits the public performance of musical works contained in sound recordings such as playing CDs. However, a PCCA licence may also be required depending on the nature of the performance (see below).

[See Appendix C: APRA Licence](#)

AMCOS Licence

Most educational institutions in all states and territories are covered by the AMCOS licence which allows educational institutions to photocopy or transcribe an entire copy of print music (known as sheet music).

The licence is subject to the following conditions:

- the original print work must have been purchased by or bequeathed to the educational institution
- copying must be done within the permitted limits
- the original print must be marked in accordance with the AMCOS Licence
- the copies must be marked in accordance with the AMCOS licence

The AMCOS licence allows copies of print music to be made only for the educational institution's educational purposes, which include:

- use in a specific course of education provided by the educational institution
- performances organised by the educational institution
- use by the orchestra, choir, band, instrumental or vocal ensemble of the educational institution

[See Appendix D: AMCOS Licence](#)

AMCOS/APRA/ARIA Licence

There is an agreement between AMCOS, APRA and ARIA with all government schools and many non-government schools which permit:

- the **recording of music and sound recordings** for use in concerts and other school events for educational purposes
- the recording and videotaping of music and sound recordings for archival purposes
- the distribution and lending recordings of school events to students and parents for free or on a cost-recovery basis

[See Appendix E: AMCOS/APRA/ARIA Licence](#)

PPCA Licence

The Phonographic Performance Company of Australia Limited (PPCA) grants licences on behalf of its members (namely record labels, recording artists, and other copyright owners of sound recordings) for the playing of sound recordings in public and to show music videos in public.

The PPCA does not require schools to have a licence for the performance of sound recordings (such as playing CDs) if the performance is part of the school's ordinary activities, such as part of a music or drama lesson.

A licence is likely to be required, however, where the performance of a recording is done in a venue which is open to the public and an admission fee is charged.

[See: Sound Recordings](#)

AMCOS Special Event Video Licence

The AMCOS special event licence covers videotaping of music and lyrics. It does not cover Grand Rights works or Rock eisteddfods.

d. Other issues of music copyright

Rock Eisteddfods

The rock eisteddfod organisers, not the participating schools, are responsible for obtaining the relevant licences from APRA. Usually, the conditions of the competition require the school to provide the details of the works they wish to perform to the competition organisers. To avoid disappointment schools should be organised well in advance, so that if for any reason permission to perform the work is denied, the school still has time to prepare a new piece.

Making a video of a musical work or incorporating music as a soundtrack in a student film

Students may rely on the defence of fair dealing for research or study if incorporating music into a video or film provided that:

- the film or video is made as part of a course of study
- the use is fair

However if the film or video is shown outside the classroom, the institution and/or student will need to get permission (a licence) from the copyright owner of the musical work and sound recording.

Using pre-recorded music in school performances and concerts

Where an educational institution is:

- using pre-recorded music as a backing tape to a performance or concert
- using pre-recorded music as an accompaniment to a performance or concert

the educational institution is covered by the AMCOS/APRA/ARIA Licence.

Making a video recording of a school concert or performance for distribution or sale

Where an educational institution wishes to make a video recording of a school concert or performance and to sell the recording to its students and parents for a profit, it must obtain a licence from AMCOS.

The AMCOS licence will set out the royalty rate payable and the number of units that can be made and sold by the educational institution.

Performance rights and grand right works

The performance of any musical work in a theatrical context is a Grand Right works.

Grand Right Works include vocal or other scores from musicals, operas, operettas, music theatre works, ballets, pantomimes and stage shows and large choral works (longer than 20 minutes duration).

Neither AMCOS nor APRA administer the rights on behalf of the copyright owners of Grand Right works. Permission must be obtained from the music publisher.

AMCOS may be able to assist in locating the publisher. In Australia Hal Leonard Australia Pty Limited and Dominie Pty Limited are the main publishers of Grand Right works.

Arranging or adapting a musical work

In general, the making of an arrangement or adaptation of a musical work requires permission from the copyright owner of the musical work.

It is arguable that an educational institution may make slight alterations to a musical work under the AMCOS licence in the following situations:

- simplifying the work where the students' musical abilities are limited
- altering the work where a particular instrument is not available and another is being used as a replacement

If the treatment is a major arrangement of the work, permission should be sought from the copyright owner or publisher. Some judgment will need to be exercised.

Using music in a video or film production or other multimedia work

Where an educational institution wishes to include published music on the soundtrack of a film or video or other multimedia work, it will need to get permission (a licence) from the copyright owner of:

- the musical work (the composer or their music publisher)
- the lyrics (if any) (music publisher)
- the sound recording (the record company)

Copying musical works from television and radio

Under the Statutory Broadcast Licence administered by Screenrights, educational institutions may make copies of television and radio broadcasts for educational purposes, including their inclusion in the institution's library collection provided certain requirements are met.

[See Appendix A: Statutory Broadcast Licence](#)

Cover versions of released music

The Copyright Act allows cover versions of musical works to be recorded for musical works for retail sale. This licence does not extend to cover versions of musical works in film.

The effect of the compulsory licence is that these rights may be exercised without the copyright owners' permission, provided:

- once the musical work has been made or imported into Australia for sale
- the prescribed notice of intention has been given to the copyright owner
- the prescribed royalty is paid to the copyright owner

This may be relied on by educational institutions wishing to make and sell CDs of school bands performing cover versions.

[**SEE FAQs \(Musical Works\)**](#)

What can I copy/communicate?

Sound Recordings

Overview

In this section a sound recording is the recording of:

- a particular performance of a song (music and lyrics)
- the recitation of a literary and dramatic work
- sounds, noises

Sound recordings includes vinyl, audio cassettes, plastic disks, reel to reel tapes, CDs, digital audio tape (**DAT**) and MP3 files and any other method for storing sounds.

It is important to note that there was no protection for sound recordings prior to 1 May 1969. Prior to 1 May 1969, protection was given to musical and literary works only.

Copying and communicating artistic works

In general, copyright in a sound recording will not be infringed if done:

- with the express permission of the copyright owner

[See: Dealing with copying](#)

- under the fair dealing exceptions

[See: Defences and exceptions to infringement: Fair Dealing](#)

- consistent with special provisions allowing schools to copy and communicate the sound recording for educational purposes
- consistent with special provisions for copying by libraries

[See: Library copying](#)

a. Free Use Exceptions

The Copyright Act contains a number of free use exceptions and other matters which allow copyright material to be used without the permission of the copyright owner. The relevant free use exceptions are:

Fair dealing

The copying of sound recordings for fair dealing purposes is free and does not require the permission of the copyright owner. The relevant fair dealing exceptions are:

- Research or study - for example, students copying and playing extracts of sound recordings to the class as part of a music or social studies assignment.
- Criticism or review - for example, students reviewing and criticising a CD in a school or student radio program or website.

[See: Defences and exceptions to infringement: Fair Dealing](#)

b. Other statutory exceptions

- i. Public performance of a sound recording in class

Copyright is not infringed by a teacher or student playing a sound recording while giving or receiving educational instruction in a class.

[See: Defences and exceptions to infringement: Fair Dealing - Performance of material in class](#)

ii. Public performance of sound recordings by non-profit institutions

The Copyright Act provides an exception which allows the public performance and communication to the public of sound recordings by non-profit educational institutions whose principal objects are charitable or in some way concerned with the advancement of religion, education or social welfare.

iii. Copying sound recordings for preservation or archiving

Libraries are permitted to make a copy of a sound recording in their collection for the purpose of retaining it in their archives or for preservation/back-up if a copy cannot be acquired within a reasonable time at an ordinary commercial price.

c. Voluntary Licences

AMCOS/APRA/ARIA Licence

This licence covers the reproduction of AMCOS musical works and Australian Record Industry Association (**ARIA**) sound recordings by schools for non-commercial educational purposes.

All government schools and many non-government schools are covered by this licence.

The licence allows schools to:

- make audio and video recordings of live performance
- dub an existing sound recording of a musical work

for the following purposes:

- a performance at a school event
- of a school event
- for analysis by students as part of a course of instruction

Copies of the recording may be distributed to the students or kept in the school archives as a record of the event. There is no limit on the number of copies that may be archived or distributed to students. However, the school is not permitted to charge students or parents more than the direct cost of making a reproduction of the audio or video recording.

[See Appendix E: AMCOS/APRA/ARIA Licence](#)

[SEE FAQs \(Sound Recordings\)](#)

What can I copy/communicate?

Film, Video/DVD

Overview

In this section, the term 'film' refers to all audio-visual material such as film, video/DVDs that show moving images with or without sound.

Film is an aggregate of visual images embodied in an article or thing which:

- is capable of being shown as moving images (film, video/DVD)
- is capable of being embodied in another article or thing which can be used to show the moving picture (electronic file which can show the moving images when used with particular software, for example, Windows Media Player)
- includes the soundtrack accompanying the moving images

Examples of films include:

- feature, short and documentary films
- animations or cartoons
- television programs
- film trailers
- television advertisements
- corporate or education videos
- video and computer games

Who owns copyright in the film?

In general, the film production company will be the copyright owner. If the film is commissioned by the educational institution (for example a school pays a production company to make a training or an educational video), the educational institution, not the film production company, will be the copyright owner of the video.

It is very important to be aware that the copyright in underlying works incorporated in film (screenplays, music, art works) may be retained by the author, not the film production company.

[See: Who owns copyright?](#)

Copying and communicating film

In general, copyright in a film will not be infringed where the copy or communication is done:

- with the express permission of the copyright owner

[See: Dealing with Copyright](#)

- under the free use and/or other statutory exceptions

a. Free use exceptions

Fair dealing

The copying of a film for fair dealing purposes is free and does not require the permission of the copyright owner. The fair dealing exceptions most relevant for educational institutions and students are:

- research or study - for example, a student is copying and using the film as part of their studies, provided the film is not used outside the classroom; taped by a student for the

- purposes of comparing lighting techniques, angles or themes; or to make a pastiche of extracts of a film/video as part of their studies
- criticism or review - for example, reviewing a film or DVD

[See: Defences and exceptions to infringement](#)

b. Other statutory exceptions

- Filming sculptures and other artworks in public places
- Filming buildings or models of buildings
- Incidental filming of artworks

[See: Artistic Works and Photographs](#)

- Screening films, videos/DVDs in class

Copyright is not infringed where a film, video/DVD is screened in class:

- if it is in the course of education and is not for profit
- the people in the audience or class are giving or receiving instruction or are directly connected with the place where the instruction is given

c. Statutory licence

The Statutory Broadcast Licence will apply to all film and video which is recorded from broadcasts (for example, TV). These may be shown in class for educational purposes subject to the marking and notice requirements. However, the statutory licence will not apply to a film, video/DVD which is commercially hired or bought by the school, its teachers or students.

[See Appendix A: Statutory Broadcast Licence](#)

d. Other relevant issues for films

Copyright in underlying works

It is important to remember that the screenplay, musical and artistic material incorporated into a film are protected as separate works and will require permission from the relevant copyright owner, for example:

- if you are using an artistic work in the film and the use is more than incidental to the main action, you should obtain permission from the copyright owner
- if you are adapting a book into a screenplay, you will need to obtain permission from the copyright owner of the work

Entering films in competitions

If a student shows their finished film outside the classroom, for example entering into a short film or video competition, they should ensure that they have obtained permission from the relevant copyright owners of the underlying works incorporated into the film.

Students often rely on fair dealing for research and study when reproducing musical works and sound recordings on the soundtrack for their film. This exception will not apply where the work is taken out of the classroom or study context and presented to the general public.

Filming school events

Copyright is not infringed by filming a school event, such as a sports day or fair day.

Filming houses or buildings and public artworks

The Copyright Act provides a specific exemption for filming houses, buildings and public artworks.

Film titles

Film titles are generally not protected by copyright, but will generally be protected:

- as a **trade mark** by registering the film title as trade mark in the relevant classes with IP Australia
- at common law under the common law tort of **passing off**
- by the **misleading and deceptive conduct** provisions of Australian Trade Practices legislation
- by registration as a **domain name** and/or a **business name**

People's images

There is no copyright in a person's image and in Australia, there is no general law of privacy which prevents people being filmed without their permission. However, there are other legal avenues that may be used to protect a person's image, such as trade practices law or defamation.

<http://www.artslaw.com.au/> Protecting your image

Playing film, video/DVD in class

Schools should note that videos/DVDs which are commercially purchased are not the same as those purchased under an educational licence. Commercially purchased videos/DVDs may contain restrictive notices or shrink-wrap licences which prohibit showing the film in public. These licence terms will override the statutory licence and exceptions discussed above.

[SEE FAQs \(Film and DVD\)](#)

What can I copy/communicate?

CD-ROMs

Overview

A CD-Rom is a disc that stores vast amounts of information such as course work, textbooks or other reference materials.

In this section, a CD Rom may be protected as a:

- literary work (compilation)
- cinematographic film

Where the CD-Rom includes sound recording or moving images (video clips or animation), it will be categorised as a film.

It is important to note that CD-Roms may contain many copyright works:

- text (literary work)
- photographs, drawings and other images (artistic work)
- video (film)
- audio recordings (sound recordings)
- music (musical works and sound recordings)
- computer program (literary work)

Copying and Communicating CD-ROMs

In general, copyright in CD-Rom will not be infringed where the copy or communication is done:

- with the express permission of the copyright owner

[See: Dealing with Copyright](#)

- under free use and/or other statutory exceptions

a. Free use exceptions

Fair Dealing

The copying of material from the CD-Rom for fair dealing purposes is free and does not require the permission of the copyright owner. The fair dealing exceptions most relevant for educational institutions and students are:

- research or study - for example, a student copying works (text, images, audio or video) from the CD-Rom for use as part of their studies
- criticism or review - for example, student reviewing a particular CD for a student publication or website)
- reporting the news

[See: Defences and exceptions to infringement](#)

b. Other statutory exceptions

Computer Programs

The exceptions for computer programs under the Copyright Act will generally not apply to CD-Roms as most CD-Roms contain and embody a number of different copyright works such as artworks, print works, films and sound recordings in addition to a computer program.

c. Statutory Licences

Statutory Print Licence

Theoretically Statutory Print Licence allows educational institutions to print, communicate and make electronic copies of text and graphic files on a CD-ROM under the EUS.

However, most CD-Roms are purchased with a licence which may override the Statutory Print Licence and permitted uses provided under the Copyright Act (see below).

It is important to note that the EUS licence does not cover the copying of software, sound recordings, film or video or Net radio or web tv.

[See: Print Works - EUS](#)
and [Appendix B: Statutory Print Licence](#)

d. Voluntary Licences

Shrink-wrap or educational licences

Most CD-Roms are purchased with a 'shrink-wrap licence' or a 'special educational licence'. The licence sets out the terms and conditions for the use of the CD-Rom.

The terms and conditions of a shrink-wrap licence often will override the fair dealing exceptions and other permitted uses and statutory licences under the Copyright Act.

Generally, the licensee's (the educational institution or students) contractual obligations are more onerous than their obligations under copyright law.

Whether you can do the following acts will depend on the licence:

- copying text, images, audio or video onto the computer clipboard
- printing hardcopies of the text, images, audio or video from the CD-Rom
- permitted amount that can be copied from the CD-Rom
- making the CD-Rom or the material embodied in it available over an intranet
- installing the run program on a number of machines
- lending the CD-Rom to students or staff
- using the CD-Rom outside the school premises

[**SEE FAQs \(CD Rom\)**](#)

What can I copy/communicate?

Television and Radio Broadcasts

Overview

In this section:

- 'television broadcast' means visual images broadcast by free to air television
- 'radio broadcast' means sounds broadcast by free to air radio

It includes:

- pay or subscription television
- pay or subscription radio

Broadcasts are the only type of copyright protection that does not require a fixed or material form. In other words, a broadcast does not have to be based on a copyright work in order to be protected.

The broadcast right is separate to the copyright in the filming of a live event or of an interview. For example, the live televising of a football match or a broadcast of an interview with the Prime Minister will be protected as a broadcast under the Copyright Act.

Copying and Communicating Broadcasts

In general, copyright in a broadcast will not be infringed where the copy or communication is done:

- with the express permission of the copyright owner

[See: Dealing with Copyright](#)

- under the free use and/or other statutory exceptions
- under the Statutory Broadcast Licence

a. Free use exceptions

Fair Dealing

The copying of a broadcast for fair dealing purposes is free and does not require the permission of the copyright owner. The fair dealing exceptions most relevant for educational institutions and students are:

- research or study - for example, student taping a news items as part of research for a school assignment or student making a pastiche of extracts of a broadcast as part of their studies
- criticism or review - for example, a student taping a range of news items on the same issue to compare different news reporting for a critical essay or presentation
- reporting the news

b. Other statutory exceptions

Statutory Broadcast Licence

Part VA of the Copyright Act provides a special statutory licence which allows educational institutions to reproduce and communicate off-air copies of television and radio broadcasts to students for educational purposes.

A brief outline of the Statutory Broadcast Licence is set out below. Further details of this scheme, its compliance procedures including sample remuneration notices are set out in

[See Appendix A: Statutory Broadcast Licence](#) and [Appendix F: Notices](#)

Who does the Statutory Broadcast Licence cover?

The scheme covers educational institutions who:

- copy from radio and television
- communicate the material to their staff and students (via email, intranet or secure website)

Material covered by the Statutory Broadcast Licence

Any program broadcast on television or radio is covered under the statutory licence including:

- feature films
- documentaries
- television series' episodes
- game shows
- news and current events
- cartoons
- advertisements
- music clips

Amount that can be copied

There is no limit to how much may be copied. The educational institution may copy an entire film or television series. However, the copy must be made or communicated for education purposes.

For example:

- a teacher may make a compilation of material copied from broadcasts for class
- the broadcast can be copied outside the school premises (such as a teacher's home) provided it is done on behalf of the educational institution for educational purposes.

Notice or making requirements on copy broadcasts

There are certain compliance procedures that must be followed when:

- making copies from television or radio
- communication of copies made from television or radio.

[See Appendix A: Statutory Broadcast Licence](#)

Preview copies

A school is permitted to make and communicate a 'preview copy' of a broadcast for the purpose of deciding whether to retain the broadcast for educational purposes. The preview copy must be destroyed within 14 days of making. Otherwise, it must be marked as noted below.

Copying and communicating from television and radio - record keeping

Very few education institutions provide Screenrights with a records notice.

Most education institutions are covered by and rely on a sampling remuneration notice (amount to be paid is estimated under a sampling procedure). If covered by the sampling remuneration notice, there is no need to keep records, except during the period in which the sampling survey is carried out.

Making analogue copies (Video tape or cassette) - marking

Regardless of whether the educational institution is covered by the record or sampling remuneration notice, it must either physically mark the physical copy (video) or its container.

- The relevant information to be marked on the copy is set out in Appendix A Statutory Broadcast Licence

[See Appendix A: Statutory Broadcast Licence - Marking Requirements](#)

Making digital copies (DVD) - marking

Educational institutions are not required to mark digital copies of programs. However, some educational institutions mark all copies, irrespective of the format.

What the Statutory Broadcast Licence does not cover

Statutory Broadcast Licence does not cover the copying of commercially released material such as hired or bought:

- CDs, CD-Roms
- audio cassettes
- videos/DVDs

It is important to note that unless a film or video has been copied from television or radio, it may generally not be copied, even if it is not commercially available.

Remember the following activities are not permitted under the Statutory Broadcast Licence:

- selling or supplying copies for a profit
- copying for non-educational purposes
- copying on behalf of an institution not covered by a remuneration notice.

Other issues under the Statutory Broadcast Licence

i. Disability copying

The Statutory Broadcast Licence allows institutions assisting persons with intellectual disabilities to copy or communicate any copy of a television or radio broadcast.

[See 3: Copying for Special Purposes](#) and [3.2: Assisting children with disabilities](#)

ii. Library copying

Non-profit libraries (including libraries within an educational institution) may copy videos, CD-Roms or DVDs to:

- replace lost or stolen items from their collection
- replace copies that have been damaged or have deteriorated
- obtain an item that is not commercially available.

Copies may be made from existing copies either by the library or another library acting on its behalf.

c. Other relevant issues for television and radio broadcasts

Resource Centres

Copies may also be obtained from a Notified Resource Centre. The only Notified Resource Centre currently available is:

Tape Services SA Curriculum Resources Unit

- Copy programs from primary to upper secondary and adult.
- <http://www.tapeservices.sa.edu.au>

Taking photographs of a television screen

This may be an infringement of copyright in the:

- actual television broadcast
- television program (protected separately as a film under copyright)

Playing a television or radio in class

It is not an infringement to play the television or radio as part of the class instruction or course.

Playing a television or radio in the staffroom or other public areas of the educational institution

You need permission from APRA to play the television or radio in the staffroom or other public area.

Copying radio or television programs from the Internet and Webcasts

This is not covered by the Statutory Broadcast Licence. This is because the licence applies only to 'broadcasts' delivered by a broadcasting service. Online communication is not considered to be a broadcasting service and therefore not covered by the Statutory Broadcast Licence licence. A webcast made by a broadcaster which is simulcast with a broadcast may however be treated as a broadcast.

[SEE FAQs \(Television and Radio Broadcasts\)](#)

What can I copy/communicate?

Internet and Websites

Overview

In this section:

- A **website** is a collection of web pages, published together on the Internet by one person or organisation under the same domain name (Internet address)
- A **webpage** is a text file usually coded in HTML, which may also contain JavaScript or other commands.
- **Internet** refers to Internet resources that are usually provided in the form of hypertext documents commonly referred to as 'web pages' and may incorporate any combination of text, graphics, or other digital objects

Copyright protection of online material

Material on the Internet is protected by copyright. It is not clear that a website as a whole is protected by copyright, however, the material that comprises the website will be protected and may be owned by different people.

[See: Who owns copyright?](#)

For example, a webpage may contain the following content:

- A logo (artistic work)
- Text (literary work) Photographs or still images, drawings, charts, maps (artistic works)
- Moving images (audio-visual work or film)
- Music (musical work and sound recording)
- Other sounds (sound recordings)
- Site map (literary and artistic works)
- Links to other sites
- Conditions of access and use in relation to content on the website
- Website address or domain name

Other useful definitions

Download means transferring data (usually a file) from another computer to the computer you are using. The opposite of *upload*.

Upload means transferring data (usually a file) from the computer you are using to another computer. The opposite of *download*.

Webcast or **streaming** refers to the live presentation of information in a continuous (streaming) format delivered through the Internet web. A webcast might be associated with other webpages or other web-browser-based content in addition to the live stream.

Copying and communicating material from the Internet

In general, copyright in print, musical and artistic works, sound recordings or film contained on the Internet will not be infringed, where the copy or communication is done:

- with the permission of the copyright owner

[See: Dealing with copyright](#)

- under the free use exceptions or other statutory exceptions
- under the Parts VA (television and radio broadcasts) and VB statutory licences (Print works)

[See Appendix B: Statutory Print Licence](#)

a. Copying with permission of the copyright owner

Most websites specify what uses visitors can make of the material contained on the website. Users should search the site to see if there are any permissions. Permissions are usually found on buttons or links called copyright or disclaimer or a file headed 'conditions of use'.

Some websites allow users to forward articles to interested persons by way of email. Permission to forward a copy or link to an online article will be implied where the webpage contains an icon with the words 'Email this article to a friend' or there is some other invitation to copy or communicate.

There are three situations where an educational institution will have permission to copy material from the Internet and does not need to rely on the Part VA or VB statutory licence:

- where the website says that educational copying is permitted (for example, a notice such as 'This material is copyright free for schools'). An example of a website that is freely available for use by teachers is the Copyright Aware website (www.copyrightaware.gov.au) which has been developed to assist schools understand the implications of the recent Digital Agenda amendments to the Copyright Act
- where the teacher has received permission from the copyright owner to make the copy (for example, you may be able to get permission by asking the person or organisation listed at the 'Contact Us' section on the website)
- if permission to make the copy is implied. Permission to make a copy may be implied is where the webpage contains a printer icon with words such as 'printer-friendly format'. This suggests that a teacher can print one copy of the webpage. However, a printer icon (or similar words) may not always mean you can print the material. You should always check that there is nothing in the copyright notice or website terms of use (such as a limitation allowing personal use only) that means that permission should not be implied

b. Free use exceptions

The Copyright Act contains a number of free use exceptions which allow copyright material to be used without the permission of the copyright owner. The free use exceptions relevant for educational institutions are set out below.

Fair dealing

The copying of print works for fair dealing purposes is free and does not require the permission of the copyright owner. The fair dealing exceptions most relevant for educational institutions and students are:

- research or study - for example, students downloading articles from the Internet for their research and study
- criticism or review - for example, students reviewing websites for a student publication. The source material, the author and copyright owner (if different) must be identified
- reporting the news - for example, students reporting the news in an e-zine or other online periodical publications

c. Other statutory exceptions

Temporary copies and technical reproductions

It is not a copyright infringement to make a temporary reproduction of a print work, artistic musical work or audio-visual work if the reproduction is part of the technical process of communicating that work.

[See below: Other Relevant Issues: Browsing](#)
[See below: Other Relevant Issues: Caching](#)

d. Statutory Licences

There are two relevant statutory licences applicable to Internet materials.

i. Statutory Broadcast Licence

Much broadcast material is available on the Internet as a webcast (same content but different communication technology).

The Statutory Broadcast Licence has a very limited application to the webcasts and will only apply to the copying of television and radio broadcasts that are simultaneously webcast with the broadcast.

[See: Television and Radio Broadcasts](#)
[See Appendix A: Statutory Broadcast Licence](#)
[See Appendix F: Notices](#)

ii. Statutory Print Licence

Part VB of the Copyright Act provides a special statutory licence which allows educational institutions to:

- reproduce and communicate print works (literary, musical, dramatic and artistic works):
 - to its students
 - for educational purposes

[See Appendix B: Statutory Print Licence](#)

EUS

The Electronic Use Scheme (EUS) under the Statutory Print Licence may be relied on by educational institutions to copy and use print works from the Internet.

Copying a reasonable portion of an online work

Under the EUS of the Statutory Print Licence, an educational institution may copy:

- artistic works (photographs, graphic images, drawings, maps or charts)
- articles from electronic publications or periodicals (e-zines or online newspapers)
- one chapter or 10 percent of the number of words of a literary work (other than online articles in an online publication or periodical)
- 10 percent of the number of words of a literary work
- 10 percent of the notated musical work (online version of sheet music)

Where it is possible to identify a 'work' on the Internet, within a website or as a separate publication made available from a website, an educational institution may copy a reasonable portion of that work under the EUS of the Statutory Print Licence.

Uses outside the EUS

The EUS does not cover the reproduction or communication from the Internet of:

- film, video, DVDs or other audio-visual material
- computer software
- sound recordings including MP3 files

- webcasts

Copying more than a reasonable portion or the whole of the work

An educational institution may copy more than a reasonable portion of that work, if the work:

- if the work is not separately published
- if the copyright owner will not or cannot make it available within a reasonable time and at an ordinary commercial price

In practice, this means that before you may copy more than a reasonable portion of a work, you must contact the copyright owner to identify:

- whether the work in question has been separately published
- if yes, whether the copyright owner will make the work available within a reasonable time at an ordinary commercial price

A work is both separately published and commercially available where it:

- is available for sale in a shop, by mail or on a CD-ROM
- can be downloaded from the Internet for a fee
- is separately available for purchase by email or some other means

Practical tips on using the Internet under EUS

If an educational institution wishes to rely on the EUS under the Statutory Print Licence on material, it should:

- search the site to see whether it states that copying by way of download or printing material from the website may be done for non-commercial or educational purposes
- send an email to the webmaster to establish whether the material has been separately published
- if the material has not been separately published and the site or webmaster does not expressly state that you can print out or download material from the website, you will need to establish whether the material is available in electronic form within a reasonable time
- if the material is separately published and available within a reasonable time, then you must only copy within the EUS limit, 10 percent or one chapter of the material
- if the material is not separately published or available within a reasonable time, then you may copy, print or download material without limitation, provided it is for an educational purpose

Other relevant issues

i. Browsing

Every time a user browses a webpage, a copy of the content of that page is transmitted and stored in the electronic memory (**RAM**) of the user's computer.

Browsing or simply online viewing of copyright material on the browsing computer from a website will fall into the exception which allows temporary reproductions to be made as part of a technical process or making and receiving a communication. This covers any reproduction that occurs automatically and for technical reasons in the course of looking or listening to a work or film or sound recording stored on a remote website.

ii. Printing and Downloading

Printing a hardcopy or saving a soft copy of a webpage is a reproduction under the Copyright Act.

Unless done with permission or authorised under the Act, downloading a sound file or a document from a website will be an infringing reproduction, not a temporary reproduction as the reproduction in a form of permanent storage on the browsing computer.

iii. Caching

Caching is a term which captures a number of different actions:

- automatic saving a temporary Internet file on a browsing computer. This occurs at a school level, system level or ISP level and is known as passive caching
- mirroring of whole websites, that is, setting up a mirror website on an ISP
- mirroring of selected items from a website retention of a copy of accessed material on a website on the browser's ISP; which is a form of active caching

Passive Caching

In general, passive caching will not infringe copyright.

It is likely that passive caching is impliedly licensed by the copyright owner where the copyright owner has given permission for their material to be included on a website. Most copyright owners know that the material will most likely be automatically cached by visitors to the site.

Active Caching

Active caching is also called 'mirroring' and is likely to infringe copyright.

A 'mirror' involves the creation of a mirror on a duplicate of pre-determined approved sites for access by students and teacher. The content is set up by direct human intervention and planning.

Mirroring of selected items from a website or whole website involves an active decision by the educational institution or teacher as to what sites to be included.

Retaining a copy of accessed material from another website and setting up a mirror website infringe copyright and will require the copyright owner's permission.

iv. Caching and fair dealing

The creation of mirror sites by students may fall into the exception of fair dealing if done for the purpose of:

- research and study
- criticism and review
- reporting the news

v. Copyright notice and Restricted Access

Many websites contain copyright notices such as ' ©XXXX Pty Ltd 2005 All rights reserved', or a statement saying that the content cannot be stored on an intranet or copied for commercial purposes. However, this does not

always mean that educational institutions cannot copy or communicate the material for educational purposes.

Educational institutions can copy print material from the Internet for educational purposes following the rules in the statutory licences even if there is a copyright notice on the website that would otherwise make the copying an infringement.

However, if the educational institution has been granted access to the website and its copyright material only after agreeing to accept certain terms and conditions which prevent certain types of uses, it may be contractually bound to comply with those terms and conditions.

vi. Linking to other websites

[See: Linking to other websites](#)

vii. Peer to Peer Networks

[See: Peer to Peer networks](#)

viii. Creating a webpage

When creating a webpage, educational institutions are likely to use a wide range of copyright material, some of which will be pre-existing and some of which will be newly created by the teacher and students. All of the material will be protected by copyright.

Educational institutions must clear the rights of all the material they use which they do not own. Preferably, when using material that already exists on the web, you will use material which is available for free if used for education. Always check the terms and conditions on the website from which the material is copied.

A suggested approach to rights clearance is set out below:

- Do you own the copyright?

[See: Who owns copyright?](#)

[See: Staff copyright](#)

[See: Student copyright](#)

- Has copyright in the material expired?

[See: How long does it last?](#)

- Is the use of the material covered by fair dealing or other statutory exceptions?

[See: Defences and exceptions to infringement](#)

- Is the amount to be copied insubstantial?
- Do you have permission or a licence?

[See: Dealing with copyright](#)

[SEE FAQs \(Internet and Websites\)](#)

What can I copy/communicate?

Multimedia

Overview

What is multimedia?

There is no specific category of multimedia in the Copyright Act. Multimedia is a relatively new term that refers to the combination of material (otherwise available) in digital format. Film and video are passive forms of multimedia products (linear and not interactive) and are not dealt with in this section.

[See: Film, Video/DVD](#)

This sections deals with new multimedia products.

What is a multimedia product?

A multimedia product is one where:

- the content can be viewed or accessed in non-linear way
- the information is stored on a computer program or memory chip
- the information is accessed by a user through the use of a specialised computer program

Examples include CD-Roms, DVDs, and computer games.

How are multimedia products protected under copyright?

The exact form of protection for a multimedia product in the Copyright Act is unclear. The three main categories under which multimedia products may be protected are as a:

- computer program (subcategory of a literary work)
- compilation (subcategory of a literary work)
- film

i. Computer program

Where a multimedia product contains computer programs or software that allow:

- non-linear viewing of the material
- use of the material contained in the multimedia product

it may be categorised as a computer program.

ii. A compilation

A multimedia product that mainly is made up of text, figures and symbols may be categorised as a compilation, a subcategory of literary works.

If the compilation is made up of artistic images only, it will not be a compilation. However, each image and the work would be protected as an artistic work.

If the compilation is made of both text and images, it is likely the images would be protected separately as artistic works.

iii. Film

If the multimedia product contains any moving images (film or video) it may be categorised as a film. The images must be capable of being shown as a moving picture.

Copying and communicating material from multimedia

In general, copyright in print works, musical artistic works, sound recordings, and film contained in a multimedia product will not be infringed where the copy or communications is done:

- with the express permission of the copyright owner

[See: Dealing with copyright](#)

- under the free use or other statutory exceptions

a. Free use exceptions

The Copyright Act contains a number of free use exceptions and other matters which allow copyright material to be used without the permission of the copyright owner. The free use exceptions relevant for educational institutions are set out below.

Fair dealing

The copying of multimedia products or work contained in multimedia products for fair dealing purposes is free and does not require the permission of the copyright owner. The relevant fair dealing exceptions are:

- research or study
- criticism or review
- reporting the news

[See: Defences and exceptions to infringement](#)

b. Other statutory exceptions

There are no statutory exceptions that deal specifically with multimedia products.

c. Other relevant issues for multimedia works

Use of existing works

Multimedia products often incorporate existing works which are separately protected under copyright, for example:

- text (literary works)
- images (artistic works)
- music (musical works and sound recordings)
- film or videos.

If staff or students are incorporating existing works into the multimedia product for a fair dealing purpose or under the Statutory Print Licence and wish to show or distribute the multimedia product other than for an educational purpose, permission (a licence) must be sought from the relevant copyright owners.

[See: Who owns copyright?](#) and [How to clear rights](#)

Who is the copyright owner of the multimedia product?

This again will depend on which category the product falls into.

The issue of ownership is usually dealt with in the employment and independent contractors agreements.

For educational institutions producing multimedia products with staff and/or students, the institution should obtain a written assignment of all copyright in the material. This will prevent any claims being made at a later stage.

[See: Who owns copyright?](#) and [Dealing with copyright - Assignments](#)

Moral rights

i. Attribution

Educational institutions creating multimedia products or reproducing works from multimedia products, where reasonable, should acknowledge the source material and the author of the material.

Where the educational institution is creating a multimedia product, it should obtain a written moral rights consent from all its contributors including students.

ii. Altering or adding to existing works

Educational institutions creating multimedia products that comprise of existing copyright material and/or original copyright material should get written consent from all the authors of the material. This is especially so, if you are altering or adding to existing works. If the requisite consent is not obtained, you may infringe the author's rights of integrity of authorship.

One of the exclusive rights provided to owners of literary, musical and dramatic works in the Copyright Act is the right to adapt the work. Altering or adding to existing works may infringe the copyright owner's right.

[See: Moral rights](#)

Creating a digitised version of an existing work

This will require the permission of the copyright owner.

Using unpublished material

This will require permission of the copyright owner.

[SEE FAQs \(Multimedia\)](#)

What can I copy/communicate?

Databases

Overview

An electronic database is viewed for copyright purposes as a compilation and under the Copyright Act, a compilation is protected as a literary work. Compilations include timetables, rosters, catalogues, dictionaries, encyclopedias, anthologies, directories, tables of factual information, lists, radio and television program guides.

An electronic database is a large centralised assembly of information in electronic form. The database may be accessed by computer via telephone, cable, satellite or broadband.

A database may be a collection of:

- original material
- pre-existing material

In most cases, a database will be protected as a literary work where it can be shown that substantial labour and expense was spent on its creation.

Limited protection for databases

It is important to note that copyright protection is limited for databases. Only the presentation and arrangement of the database is protected as a compilation.

The actual contents or information contained in the database is not protected by copyright and therefore information can be extracted and used. However, if a substantial part of the database is *copied*, copyright will be infringed. 'Substantiality' is based on the quality of what is taken, not the quantity.

a. Free use exceptions

The Copyright Act contains a number of free use exceptions and other matters which allow copyright material to be used without the permission of the copyright owner. The free use exceptions are relevant for educational institutions and are set out below.

Fair dealing

The copying of databases or work contained in databases for fair dealing purposes is free and does not require the permission of the copyright owner. The fair dealing exceptions most relevant for educational institutions and students are:

- research or study
- criticism or review
- reporting the news

[See: Defences and exceptions to infringement](#)

b. Other statutory exceptions or licence schemes

There are no specific exceptions in the Copyright Act that deal with databases.

[See: Print Works](#)

What can I copy/communicate?

Computer Software

Overview

Computer software is protected as a literary work under the Copyright Act. In general the educational institution's use of computer software will be governed by the licence agreement which accompanies the software.

It is important to note that:

- the Statutory Print licence does not apply to computer software
- the licence terms will override the defence of fair dealing and other statutory exceptions
- the specific exceptions under the Copyright Act for computer programs do not apply to other types of digitised material such as CDs, CD-Roms, DVDs, Mp3 files

In most cases, the extent of permitted use of a computer program will be dictated by its licence.

a. Free use exceptions

The Copyright Act contains a number of free use exceptions and other matters which allow copyright material to be used without the permission of the copyright owner. The free use exceptions relevant for educational institutions are set out below.

Fair dealing

The copying of multimedia products or work contained in multimedia products for fair dealing purposes is free and does not require the permission of the copyright owner. The relevant fair dealing exceptions are:

- research or study
- criticism or review
- reporting the news

[See: Defences and exceptions to infringement](#)

b. Statutory exceptions

A number of specific exceptions apply to the reproduction and adaptation of computer software. If the educational institution or student owns a legitimate copy of computer software or has a licence from the copyright owner to use the software, then the following exceptions will apply.

Running the program for the purpose for which it is designed

Copyright in a computer program or any works incorporated in or associated with the program will not be infringed by running the program for the purpose for which it is designed.

This exception cannot be relied on if running the computer program is not permitted under the licence or by direction of the copyright owner.

For example:

- the educational institution runs the program on more computers than the licence allows
- second-hand copies of computer software, use of which is limited to the original purchaser and not to be on-sold

Back-up Copies

You are permitted to make a back-up copy for the purpose of:

- being used or stored in lieu of the original
- enabling the owner to make a further reproduction if the original or the other reproduction is 'lost, destroyed or rendered unusable'
- normal back-up copying of data for security purposes (this extends to all copyright material held on the computer's operating system)

This exception does not apply to the making of a copy from an infringing or unlicensed copy or if the program has been so designed that copies cannot be made without modifying the program.

Reverse engineering and interoperability

Educational institutions and students are permitted to reproduce computer software for the purpose of creating an interoperable program or article.

Correcting error and security testing purposes

Decompilation of programs for the purpose of testing errors and security testing is permitted.

c. Statutory exceptions and contract

None of the following exceptions may be overridden by contract:

- the making of back-up copies
- reproduction or adaptation for interoperability
- decompilation for correcting errors and security testing purposes

This means you can rely on these exceptions even if the licence specifically prohibits these activities.

d. Types of Licences

The purchaser of computer software obtains only limited rights to make use of that software. In this way, the acquisition of computer software differs from the acquisition of other educational materials. The purchaser obtains a licence to use the software under specific licence conditions that may be found in the licence agreement. The licence agreement might be set out on the packet containing the disc, attached to the manual or displayed on the screen. The conditions of the licence must be observed.

Copyright owners license their software for different user situations, including:

- a single computer licence
- site licences which allow for multiple copies of disks to be made for use on computers within a single school or institution
- network licences, which allow for the use of software on a computer network

If the conditions of the licence attached to a piece of computer software are unacceptable, the software should be returned to the supplier. To enhance user access to software programs, educational institutions should negotiate for improved licence conditions at the time of purchase.

e. Practical re-negotiation tips

Schools may consider the following licence conditions as a basis for negotiation:

- the number of machines on which it may be used ,that is, single or multi-user/s

- whether it may be used on a local area network
- provision of remote access
- the right to make hardcopies of a search and the amount which may be copied
- the purpose and use of the material
- the right to electronically store a copy of any search output
- the making of a copy of the software for archival purposes
- whether a copy of the CD-Rom may be loaded onto hard disc, for example, some CDs allow the complete file to be downloaded onto a hard disc provided that the CD-Rom is kept on the site and not used simultaneously on another machine
- whether the software and accompanying documentation can be transferred to another end user (under the terms of a licence schools cannot sell software to another school, however, the licence can be transferred if the copyright owner agrees)
- permission to schools to make copies of superseded versions of software at reasonable cost
- the loan of software for use at home by teachers and students
- where teachers own programs, whether they are permitted to use programs at school as well as home.

[SEE FAQs \(Computer Programs\)](#)

Copying for Special Purposes

Library Copying

Copying for students' research or study

Libraries may, on request from students, copy a literary, dramatic, musical or artistic work. The request must be in writing and must contain a declaration from the student that it is only for research or study and not for any other purpose.

The library exceptions cover:

- hardcopy reproductions
- electronic reproductions of a work in hardcopy form
- reproduction and communication of a work in electronic form

The library exceptions do not extend to audio-visual material or sound recordings such as:

- CD-Roms, which contain sound files, video clips or animation
- CDs
- DVDs, videos or film
- copying by libraries for other libraries

A school library may supply a copy of material for either a user of another library or to be included in another library's collection if it receives a written request.

Copying Limits

Copying limits and restrictions vary for hardcopy and electronic material.

Hardcopy materials

- In the case of a periodical publication, one article, or two or more articles from the same issue if the articles relate to the same subject matter.
- In the case of a work other than an article in a periodical, 10 percent or one chapter, whichever is the greater.
- In the case of an anthology of works, no more than 15 pages.
- If more than a reasonable amount is required of a work in hardcopy, the teacher-librarian or teacher-in-charge of the requesting library must be satisfied that the work to be copied is not available for purchase, new, as a separate publication, at an ordinary commercial price or within a reasonable time.
- The date on which the copy is made and the name of the requesting library must be marked on the copy.

Materials in electronic form

- In the case of a literary or dramatic work other than a periodical publication, an insubstantial amount (being less than 1 percent of the total number of words in the work) may be copied without any notice or marking requirements if:
 - the reproduction or communication is carried out on the premises of an educational institution; and is
 - for the purposes of a course of study provided by that institution the library may reproduce and post this material online provided that not more than 1 percent of the total number of words of any work is reproduced or communicated within a 14-day period.
- If more than an insubstantial amount is required (but no more than a reasonable amount being 10 percent), an electronic notice in the form prescribed in Appendix F must be given with the work.
- In the case of a periodical publication, one article, or two or more articles from the same issue if the articles relate to the same subject matter. A notice in the form prescribed in Appendix F must be given with the work.

- If more than a reasonable amount of a work (other than a periodical publication) in electronic form is required, the teacher-librarian or teacher-in-charge of the requesting library must be satisfied that the work to be copied is not available for purchase, new, as a separate publication, at an ordinary commercial price or within a reasonable time.
- If a copying charge is made, it must not exceed the cost of making and supplying the copy.

Scanning, downloading and communicating

School libraries are permitted to scan or download the permitted amount and either fax or email to the requesting library.

Where an electronic reproduction of a work is communicated, it must be:

- accompanied by a specific notice

[See Appendix F: Notices](#)

- the reproduction held by the sending library must be destroyed as soon as practicable after the communication.

Libraries making electronic copies of acquired works

A requesting library may make an acquired work available in electronic form as part of its collection.

The library must ensure that electronic copy is made available:

- within its premises
- to teachers or students in a read only format

No copying or communicating of this work is available unless it is the subject of a further interlibrary request and the same process has been followed.

Request Forms

Where a school library requests a copy of material from another school library, it must complete an interlibrary request form in the required form.

You can obtain a sample request and copying form from:

<http://education.qld.gov.au/information/service/libraries/forms/Is-interloanreq.html>

Record Keeping for Interlibrary copying

All records of copying should be kept for four years. Three separate files are recommended, namely:

- requests made
- requests pending
- copies supplied

All the forms that relate to interlibrary loans must be filed chronologically by the date of declaration.

What can I copy/communicate?

Assisting children with disabilities

The Statutory Broadcast Licence and the Statutory Print licence of the Copyright Act provide a special statutory licence for assisting persons with disabilities:

- Part VA of the Copyright Act provides a special statutory licence that allows institutions to copy and communicate radio and TV broadcasts to assist persons with an intellectual disability.
- Part VB of the Copyright Act provides a special statutory licence that allows institutions to copy and communicate material to assist a person with a print or an intellectual disability.

A brief outline of the statutory licences applicable to these institutions is set out below. For further details of these schemes and the compliance procedures, see:

[Appendix A: Statutory Broadcast Licence](#)

[Appendix B: Statutory Print Licence](#)

[Appendix F: Notices](#)

a. Part VA - Intellectual Disability Licence

Part VA of the Copyright Act provides a special statutory licence which allows institutions to reproduce and communicate off-air copies of television and radio broadcasts to students for the purpose of assisting persons with an intellectual disability.

Who does the Statutory Broadcast Licence cover?

The scheme covers institutions which:

- copy from radio and television
- communicate the material to persons with an intellectual disability (via email, intranet or secure website)

What the Statutory Broadcast Licence does not cover

The Statutory Broadcast Licence does not cover the copying of commercially released material such as hired or bought:

- CDs, CD-Roms
- audio cassettes
- videos/DVDs

It is important to note that unless a film or video has been copied from television or radio, it may generally not be copied, even if it is not commercially available.

Remember the following activities are **not** permitted under the Statutory Broadcast licence:

- selling or supplying copies for a profit
- copying for non-educational purposes
- copying on behalf of an institution not covered by a remuneration notice.

Material covered by the Statutory Broadcast licence

Any program broadcast on television or radio is covered under the statutory licence including:

- feature films
- documentaries
- television series' episodes
- game shows

- news and current events
- cartoons
- advertisements
- music clips

Amount that can be copied

There is no limit to how much may be copied. The institution may copy an entire film or television series. However, the copy must be made or communicated to assist persons with an intellectual disability.

For example:

- a teacher may make a compilation of material copied from broadcasts for class
- the broadcast can be copied outside the school premises (such as a teacher's home) provided it is done on behalf of the educational institution for educational purposes.

provided it is done on behalf of the educational institution for educational purposes.

Notice or marking requirements on copy broadcasts

There are certain compliance procedures that must be followed when:

- making copies from television or radio
- communicating copies made from television or radio.

[See Appendix A: Statutory Broadcast Licence](#)

Copying - record keeping

Very few institutions provide Screenrights with a records notice.

Most institutions are covered by and rely on a sampling remuneration notice (amount to be paid is estimated under a sampling procedure). If covered by the sampling remuneration notice, there is no need to keep records, except during the period in which the sampling survey is carried out.

Analog copies (Video tape or cassette) - marking

Regardless of whether the institution is covered by the record or sampling remuneration notice, it must either physically mark the physical copy (video) or its container.

The relevant information to mark on the copy is set out in Appendix A: Statutory Broadcast Licence

[See Appendix A: Statutory Broadcast Licence - Marking Requirements](#)

Digital Copies (DVD) - marking

Institutions are not required to mark digital copies of programs. However, some educational institutions mark all copies, irrespective of the format.

Communicating material copied from television and radio - record keeping

Very few institutions provide Screenrights with a records notice.

Most institutions are covered by and rely on a sampling remuneration notice (amount to be paid is estimated under a sampling procedure). If covered by the sampling remuneration notice, there is no need to keep records, except during the period in which the sampling survey is carried out.

Communicating material copied from television and radio - marking

As long as the educational institution ensures that any communication of a broadcast is:

- only within the educational institution
- can only be accessed by those entitled to receive the broadcast; and
- there is no way to record or communicate the broadcast

the institution is not required to mark the material.

Other issues under the Statutory Broadcast Licence

i. Library copying

Non-profit libraries (including libraries within an educational institution) may copy videos, CD-Roms or DVDs) to:

- replace lost or stolen items from their collection
- replace copies that have been damaged or have deteriorated
- obtain an item that is not commercially available.

Copies may be made from existing copies either by the library or another library acting on its behalf.

b. Part VB - Print Disability Licence

Educational institutions may copy or communicate a literary or dramatic work for the purpose of helping a person with a print disability.

A person with a print disability is a person:

- without sight
- whose sight is severely impaired
- unable to hold or manipulate books
- unable to focus or move his or her eyes or
- with a perceptual disability.

It does not include persons have any general learning difficulties, or those for whom English is their second language.

What does the Print Disability Licence cover?

Under the licence, educational institutions may:

- make a sound recording of a literary or dramatic work. This includes recording the work onto paper, tape, disk or any other device that records sounds
- make or communicate a Braille version of a literary or dramatic work where no new Braille version is available within a reasonable time at an ordinary commercial price
- make and communicate a large print version of a literary or dramatic work where no new large print version is available
- make a photographic version of a literary or dramatic work where no new photographic version is available.

Extends to 'temporary' or 'ephemeral' copies

The Print Disability Licence permits educational institutions to make temporary copies for the purposes of producing a version of the work for a print disabled reader. The temporary copy must be destroyed within three months of the day on which it was made.

What is not covered by the Print Disability Licence?

The Print Disability Licence does not cover the copying and communication of:

- artistic works
- musical works
- literary or dramatic works that are available in the required format.

Undertaking to CAL

Educational institutions who wish to copy under this licence must provide CAL with a written undertaking to pay for the copies of communications made.

Notices

Sound recordings of works and communications of copied works must be accompanied by a notice which notifies users that the works have been copied under the Intellectual Disability Licence.

[See Appendix F: Notices](#)

Marking requirements

Copies made under the Print Disability Licence must be marked in a certain manner. The marking of the relevant copy applies to the temporary or ephemeral copy used to make the print disability recording or other version. The marking requirements do not apply to the actual final print disability version.

Limits on copying under the Print Disability Licence

An educational institution may copy the whole of a literary and dramatic work provided:

- the copying is made to assist the Print Disabled reader and
- the work is not available in the required format.

c. Part VB - Intellectual Disability Licence

Educational institutions may copy or communicate certain works for the purpose of helping a person with an intellectual disability.

There is no definition of a person with an intellectual disability so this term will be interpreted according to medical and legal standards.

Scope of Intellectual Disability Licence

Under the licence, educational institutions may copy or communicate:

- a published literary, dramatic, musical or artistic work
- a published sound recording or film
- published work included in a sound broadcast
- a television broadcast.

Extends to 'temporary' or 'ephemeral' copies

The Intellectual Disability Licence permits educational institutions to make temporary copies of the above items for the purposes of producing a copy for the intellectually disabled reader. The temporary copy must be destroyed within three months of the day on which it was made.

What is not covered by the Intellectual Disability Licence?

The Intellectual Disability Licence does not cover:

- published works included on a website or webcast; and
- work that is available in the required format.

Undertaking to CAL

Educational institutions who wish to copy under this licence must provide CAL with a written undertaking to pay for the copies of communications made.

Marking requirements

Copies made under the Intellectual Disability Licence must be marked in a certain manner depending on whether it is a hardcopy or electronic use of the material. The marking of the relevant copy applies to the temporary or ephemeral copy used to make a copy for the intellectually disabled reader. The marking requirements do not apply to the actual final print disability version.

[See Appendix F: Notices](#)

Limits on copying under the Intellectual Disability licence

An educational institution may copy the whole of a literary and dramatic work provided:

- the copying is made to assist the intellectually disabled reader and
- the work is not available in the required format.

[See: Appendix B: Statutory Print Licence - Special Issues](#)

Definitions

Eligible institution includes:

- Schools
- TAFE
- Universities

Copy includes photocopying, audio taping, scanning or saving to disc.

Communication includes putting material on a website, emailing, broadcasting or faxing the permitted copyright material.

Photographic version means a copy of a work produced as a film strip or series of separate transparencies designed to meet the needs of disabled readers.

Published includes making the work available to the public for sale.

Copyright issues of interest to Schools

Staff copyright

a. Government Schools and TAFEs

Government school and TAFE teaching staff are generally employed by the relevant state or territory department of education. As the relevant department of education is a direct instrument of the Crown (government), the Crown copyright ownership provisions apply to works created by the relevant department's permanent employed staff and casual teachers.

The Crown copyright provisions provide that the Crown owns copyright in all works, films, sound recordings and broadcasts for works:

- created or made under the direction or control of the Crown
- first published in Australia by the Crown

This includes all works created under a consultancy or commission agreement unless there is an agreement dealing with ownership of the copyright that is to the contrary.

b. Independent Schools

Where the teacher is employed directly by the school, then employer ownership provisions under the Copyright Act apply.

The independent school as the employer owns copyright materials produced by the teacher in the course of their employment, unless there is an agreement to the contrary.

Course notes, syllabuses and other teaching materials are likely to be owned by employers. On the other hand, if a teacher wrote a textbook or article on the subject they teach, copyright ownership of the textbook will belong to the teacher unless the school had required the teacher to write the book.

c. TAFEs

Employment of TAFE teachers varies across Australia. Some are employed directly by the institution, others are employed by the state or territory administering body or department of education.

Some TAFE institutions are independent statutory bodies and will be covered by the employer copyright ownership rule, not the Crown copyright provisions.

Copyright issues of interest to Schools

Student Copyright

a. Copyright ownership of student works

Generally, the student as an author of a work will own copyright in works they make while enrolled in a school or TAFE.

It is also unlikely that the provisions relating to Crown copyright would apply to works created by students in government schools.

b. Assignment of student copyright

Some TAFEs require as a condition or term of enrolment that all copyright in works created by their students while enrolled in the institution will vest in the institution.

This is a form of assignment of copyright and must therefore be in writing and signed by the student to be effective. The signing of the enrolment form by the student will most likely meet these requirements.

Copyright issues of interest to Schools

Copyright in school photographs

In general, copyright in photographs taken by an external photographer of individual students and classes will be owned by the photographer, unless there is an agreement to the contrary. Educational institutions should obtain a licence from the photographer in the contract of engagement with the photographer to:

- reproduce the photographs in their publications
- limit the photographer's use of the images to the sale to parents and students.

See Schedule: Sample licence letter to photographer

Alternatively, you should contact your relevant legal officer for advice or assistance in preparing a written licence.

See contact list of State and Territory Legal officers.

Copyright issues of interest to Schools

Dealing with ICIPR

As stated in 1.19 above, there is no specific legislation that protects or governs ICIPR. The best non-legislative means of dealing with ICIPR is to develop an organisational cultural protocol. A protocol may include guidelines on procedure, a code of behaviour or a set of rules on how to recognise and deal with ICIPR.

The development and use of protocols is becoming common practice in government and the corporate sector. By way of example, set out below is the NSW Ministry of the Arts Indigenous Arts Protocol.

a. Principles

- All Aboriginal people are entitled to respect for their culture
- All Aboriginal cultural heritage, including cultural expression, is the intellectual property of Aboriginal people
- Aboriginal people have the right to protect and manage the use of their cultural heritage and expression
- Aboriginal people have the right to benefits accruing from any activities that use their cultural heritage and expression
- Aboriginal people have a right to Government support in the protection and maintenance of their cultural heritage and expression

b. Guidelines - (for arts workers and organisations developing project proposals)

As best practice, any projects involving Aboriginal cultural expression should be negotiated with the owner/s using appropriate protocols which include:

- An agreement outlining the conditions of consent should be obtained from the owner/s for projects to commence and continue.
- An acknowledgement of the owner/s of the cultural heritage or expression.
- A clear description in plain and appropriate language of:
 - i. the aims and objectives
 - ii. the methodology
 - iii. how the results are to be interpreted
 - iv. what the results are to be used for
 - v. what the anticipated benefits to the community will be.

Proposals should also demonstrate that

- the project will not result in damage to Aboriginal cultural integrity; and
- the collected information remains the intellectual property of the people who provided it.

An Aboriginal perspective should be sought on all issues surrounding the proposal.

c. ICIPR Checklist

The following questions are intended as a guide to assist educational institutions in negotiations and consultations with Aboriginal communities.

- Does your nominated Aboriginal community representative have the authority to speak for or on behalf of the proposed project?
- Have you received written consent from the traditional owners/custodians of ICIPR for the project? Does the community understand the aims, objectives and methodology of the project?
- Does the community understand how the outcomes of the project will be used?

- Have you made arrangements with the community to provide feedback on the project at all stages?
- Have you acted in good faith and respected the privacy of Aboriginal peoples and communities?
- Have you ensured that the community understands the copyright issues of the project?
- Does your proposal safeguard Aboriginal sensibilities?

Copyright issues of interest to Schools

Linking to other websites

a. What is a hyperlink?

A hyperlink is text or an image on a webpage. When it is clicked on by the user it acts as link to another webpage or another place on the current webpage. The text or image usually is presented in a different colour or underlined. Most hyperlinks link the user to the name of the other site or its homepage URL.

b. What is deeplinking?

A deep link is sometimes referred to as an embedded link. A deep or embedded link directs the user to an inside page of a website and bypasses the linked site's home page.

c. Does hyperlinking infringe copyright?

The law on hyperlinking is unclear. In general, by including a hyperlink, you are not actually copying. Most webmasters are happy for other sites to link to theirs provided the link goes direct to their homepage as this will result in more hits on the site.

It is important to note if the link incorporates text or graphics (for example, a news headline or a logo) it may infringe copyright and you may need permission from the copyright owner.

However, in the case of deeplinking where links go to other parts of a site, this may cause the following problems:

- the material may be presented out of its proper context
- the user may think they are accessing your website and material and not the linked website
- the user will not see any warnings or conditions contained in the homepage. This may result in a claim that you are authorising copyright infringement or engaging in misleading conduct

Other areas of law such as trade practices and the tort of passing off are more relevant in this scenario.

d. What is best practice?

Adequate acknowledgment of the source website should be observed where any kinds of links are used.

Requesting permission from the website owner is generally not required unless the link reproduces text or graphics or bypasses the homepage of the website. As best practice it is recommended that deeplinking does not occur without the permission of the website owner.

e. What is framing?

Framing means linking to another website in such a way that it is not obvious to the person accessing the page, that they are in fact viewing a different website.

f. Does framing infringe copyright?

It is not clear whether framing infringes copyright, however, as in the case of deeplinking above, framing may cause the following problems:

- the material may be presented out of its proper context

- the user may think they are accessing your website and material and not the linked website
- the user will not see any warnings or conditions contained in the homepage. This may result in a claim that you are authorising copyright infringement or engaging in misleading conduct.

Other areas of law such as trade practices and the tort of passing off may apply in these circumstances.

Copyright issues of interest to Schools

Music on hold

Music on hold is music played to a caller while they wait to be connected or transferred to a person. Educational institutions that use music on hold should either:

- obtain a licence from where the music is published and owned by someone else or
- commission original music under a contractual arrangement with a composer which provides that the copyright in the music is assigned to the institution and is not subject to APRA rights

Copyright issues of interest to Schools

Peer to Peer Networks

a. What are Peer to Peer networks?

Peer-to-peer networking (P2P) is an application that runs on a person's personal computer and shares files with other users across the Internet.

P2P networks connect individual computers together to share files instead of having to go through a central server. Once a P2P application is installed on a personal computer, the computer, in effect, becomes a 'mini-server' and people can start downloading files from it. In the same way, a person can start downloading files from anybody else who is online and has the same application installed.

Common uses for P2P files sharing include sharing music, pictures, movie files and other documents.

b. How does this infringe copyright?

Where the files being shared comprise of copyright material that belongs to someone else, then the act of downloading will be infringing the copyright owner's rights in that material.

The use of P2P to share or trade copyright works without the copyright owner's permission may give rise to an action for infringement of copyright.

The act of making copyright material available on a server in a form in which it can be accessed by others is arguably exercising the copyright owner's rights of reproduction and communication to the public.

c. Staff and student liability

Staff or students who use P2P to make film or music available online without the authorisation of the copyright owner may be personally liable. Students have been charged under the criminal offences of the Copyright Act for making hundreds of music files available to be downloaded.

[See: Liability of schools and individuals for copyright infringement](#)

d. Educational institutions' liability

Where a staff member is acting within the course of his or her employment, the educational institution will be vicariously liable for any infringement even where the staff member has been directed not to do that activity.

An educational institution may be found liable for authorising the infringing conduct of its staff and students, where it has provided access to the equipment used to carry out the infringing conduct (personal computers, service providers and Internet access). Educational institutions must take reasonable steps to ensure that their equipment is not used to infringe copyright.

[See: Liability of schools and individuals for copyright infringement](#)

How to clear rights (where there is no statutory licence or voluntary agreement in place)

You should always check whether copyright in the work has expired. If the work is still in copyright and the proposed use, reproduction or communication of the work is not covered by a statutory or other licence or any of the statutory exceptions, then the educational institution will need to obtain permission direct from the copyright owner.

The first step is to identify the author and the copyright owner of the work.

- a. Books/ stage plays/ screenplays
 - the publisher
 - the Australian Publishers Association (ABPA) <http://www.publishers.asn.au/>
 - Copyright Agency Limited <http://www.copyright.com.au>
 - Australian Writers Guild (for plays and screenplays) <http://www.awg.com.au>
- b. Photographs, illustrations and other artistic works
 - the author or their representative gallery
 - the publisher if the work is published as a post card, poster or in a book or magazine
 - Australian Publisher Association <http://www.publishers.asn.au/>
 - VISCOPY <http://www.viscopy.com>
 - National Association for the Visual Arts (NAVA) <http://www.visualarts.net.au>
 - Illustrators Australia PO Box 1174, St Kilda South, Victoria 3182 ph: 1300 720 181
 - The Society of Advertising, Commercial and Magazine Photographers of Australia <http://www.acmp.com.au>
- c. Films, videos and DVDs
 - the production company if an Australian film
 - the Australian distributor if an overseas film, video or DVD
 - Australian Film Commission <http://www.afc.gov.au>
 - Film Australia (contact for government-owned films prior to June 1991) <http://www.filmaust.com.au/>
 - Screenrights <http://www.screen.org/>
 - Screensound <http://www.screensound.gov.au>
- d. Television
 - the production company
 - the free to air broadcaster or Pay television provider
 - Screenrights <http://www.screen.org/>
- e. Radio
 - the radio station
 - Community Broadcasting Association of Australia <http://www.cbaa.org.au/>
 - Commercial Radio Australia <http://www.commercialradio.com.au>
- f. Music
 - music publisher
 - AMCOS <http://www.amcos.com.au>
 - APRA <http://www.apra.com.au>
 - <http://www.immedia.com.au> (publisher of the Australian Music Directory)
- g. Grand Right Works
 - APRA <http://www.apra.com.au>
 - AMCOS <http://www.amcos.com.au>

- Hal Leonard Australia Pty Limited ausadmin@haleonard.com
- Dominie Pty Ltd <http://www.dominie.com.au>

h. Sound recordings

- record company or label
- PPCA <http://www.pcca.com.au>
- ARIA <http://www.aria.com.au>
- <http://www.immedia.com.au> (publisher of the Australian Music Directory)

[SEE FAQs \(How to clear rights\)](#)

Frequently Asked Questions (FAQs)

Print Works

Question	Answer
How many copies can we make?	As many as you need for your educational institution's educational purpose.
Can we reproduce a page from a book for a student or a teacher?	Yes, if the print of the page is from a book of more than 10 pages.
Can we reproduce two or more articles from the same journal or newspaper?	Depends - and only if each article relates to the same subject matter (eg, front page story and an editorial on the same issue).
Can we download to print more than one article from the website of a newspaper?	Depends - and only if each article relates to the same subject matter (eg front page story and an editorial on the same issue). Note that downloading an article = a reproduction
How many separate works can we reproduce from an anthology?	Depends. This needs to be determined in relation to each separate work in the anthology. <ul style="list-style-type: none"> As many as you like, provided that the work is no more than 15 pages long. None - if the work is longer than 15 pages, has been separately published and is commercially available. <p>None - if the work is an artistic work (photograph or drawing).</p>
Can we photocopy or scan all of a book that is out of print?	Yes, provided the book is not commercially available within a reasonable time (six months for a textbook and 30 days for all other works) at an ordinary commercial price.
What about compiling reading material from other sources for students?	Compiling a reader for students as part of the required materials for the required course must be done <ul style="list-style-type: none"> in accordance with the Hard Copy scheme of the Statutory Print Licence; or with the permission of the relevant copyright owner.
What is meant by a ' reasonable time '?	A ' reasonable time ' for text books is six months and for all other works is 30 days.
How much can you copy if the print work has not been separately published?	You may copy the entire work where it has not been separately published.
What is the meaning of separately published ?	Separately published generally means the work is made available by the copyright owner to members of the public including: <ol style="list-style-type: none"> if in hard copy form - made available as a book, brochure, information sheet or other publication which contains the work on its own if in electronic form <ol style="list-style-type: none"> made available on a CD-ROM or

	<ul style="list-style-type: none"> ii. disc made available on a website where the copyright owner has authorised the visit for free or payment to make their own reproductions for free
How much can you copy if the work has been published but is not commercially available within a reasonable time?	You may copy the entire print work where the print work is published but is not available within a reasonable time.
What is a ' reasonable portion '?	'Reasonable portion' means 10% of the number of pages in the work or one chapter. Where it is an electronic work, a reasonable portion is approximately 10% of the number of words.
What is a periodical?	A periodical is a publication published on a periodic basis, such as weekly, monthly, quarterly and annually. It includes newspapers, magazines, academic and professional journals.
What is a periodic article?	Any work in a periodical would be an article (apart from artistic works such as diagrams, drawings or photographs).
Can we make material that we have copied under the EUS available to students and other teachers by email or on the schools' intranet?	Yes, provided the material is being posted for the educational purposes.
Can we only copy under the Statutory Print Licence or can we seek permission from the copyright owner instead?	There is nothing in the Copyright Act that prevents a person from seeking permission directly from the copyright owner, or relying upon a separate licence given by the copyright owner. However if the copying is covered under a licence, it makes sense to rely on it.
What is an ' educational purpose '?	Educational purposes include: <ul style="list-style-type: none"> a. for teaching purposes b. where there is a connection with a particular course of instruction; or c. inclusion in the institution;s library collection.

Useful Links and References

<http://www.copyrightaware.gov.au>

The Copyright council:

<http://www.copyright.org.au>

The Arts Law Centre of Australia: <http://www.artslaw.com.au>

Frequently Asked Questions (FAQs)

Artistic Works and Photographs

Question	Answer
Can we copy illustrations or photos from a book, conference paper or article if they explain text being copied?	Yes, you can copy the whole of an illustration provided that it explains the text.
Can artistic works be copied for examination purposes?	Yes, for examinations but not for class exercises.
Can a new work be created from an existing artistic work?	No, unless the copyright owner has given permission. This also raises moral rights issues.
Can cartoons be copied to be used as part of a class discussion?	Yes, provided that the cartoon is not separately published or the separate publication is not available within a reasonable time at an ordinary commercial price.
What is the meaning of separately published?	<p>Separately published generally means the work is made available by the copyright owner to members of the public including:</p> <ul style="list-style-type: none"> a. made available as a book, brochure, information sheet or other publication which contains the work on its own b. made available on a CD-ROM or disk c. made available on a website where the copyright owner has authorised the visit for free or payment to make their own reproductions for free
Can a teacher copy a diagram onto the board in a class?	Yes, there is a special provision in the Copyright Act which allows for copying by hand in class.
Can images be copied from a disk or from a CD-ROM?	<p>Yes. From a copyright perspective, any artistic works may be reproduced and/or communicated if in electronic form.</p> <p>No, if the CD-ROM contains terms or conditions which prohibit the copying of images from the CD-ROM.</p>
Can an artistic work be scanned or digitised?	Yes, provided that the artistic work is not separately published or the separate publication is not available within a reasonable time at an ordinary commercial price.
Can an artistic work be photographed?	Photographing an artistic work is a reproduction and is therefore subject to the same limitations as if the artistic work were photocopied.
Can a work of sculpture be photographed?	Yes, if it permanently situated in a public place or premises open to the public.
Can buildings be photographed?	Yes, buildings and models of buildings may be photographed.
Can an artistic work be included in a film?	Yes, provided it is incidental to the principal subject of the film.
Can we use Microsoft clip art and other clip art from the Internet?	Under the End User Licence Agreement (EULA) available on the Microsoft website, it is likely that

	<p>most uses of clip art in a school environment are permitted.</p> <p>Check the licence if you are unsure.</p> <p>Before using clip art from other websites, read the terms and conditions to see what is permitted. Contact the website administrator if you are unsure.</p>
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Frequently Asked Questions (FAQs)

Musical Works

Question	Answer
What is AMCOS?	<p>Australasian Mechanical Copyright Owners Society Limited (AMCOS) administers and distributes royalties collected for reproduction of musical works.</p> <p>Most schools are covered by a voluntary licence for the copying of sheet music with AMCOS.</p>
What can we copy under the AMCOS licence?	<ul style="list-style-type: none"> • Choral Sheet • Part or parts of an ensemble or orchestral work • handwritten transcriptions • handwritten transpositions • separately published musical work • collections of music or albums • a song from a vocal score • works that are unavailable for purchase
How many copies can be made from an original copy of print music?	<p>There are different copying limits depending on:</p> <ul style="list-style-type: none"> • the type of music to be copied • whether the copy is being made in a primary or secondary school • the number of published originals of particular musical works that the school/staff member owns <p>As a guide, the following copying limits apply: Primary schools - up to 30 copies of the whole or a part of a separately published work.</p> <p>Secondary schools - up to 15 copies of the whole or a part of a separately published work.</p> <p>Choral sheets - up to five copies of the whole or a part.</p> <p>Special permission must be obtained from the publisher or additional copies purchased if more than the permitted number is required.</p> <p>See Appendix D: AMCOS Licence</p>
Does the original copy of print music need to be marked?	<p>Yes. The original copy of print music must be marked with the following:</p> <ul style="list-style-type: none"> • the name of the educational institution for which the copies were made • the date on which the copies were made • the number of copies made from it
Do the copies of the original print music made under the AMCOS licence by the school need to be marked?	<p>Yes. All copies made under the AMCOS licence must be marked with:</p>

	<ul style="list-style-type: none"> • the name of the educational institution • the date on which the copy was made • the words 'AMCOS LICENSED COPY' • the name of the teacher who owns the work (if the work is not owned by the educational institution) <p>The original must also be marked 'AMCOS LICENCE - COPIES MADE'</p>
Who owns the copies of the original copy of print music?	AMCOS licensed copies of the original belong to the educational institution for which they were made, even if the copies were made from an original musical work owned by a staff member.
Can these copies be used by private music teachers where the tuition is on the school premises?	No, this is not permitted.
Can we loan these copies to another school?	No. They may not be lent to any other organisation, including other schools even if the original is owned by a staff member.
Can we loan copies to our own students?	Yes, copies belonging to a school can be loaned to students of that school if it is for an educational purpose.
Can we copy borrowed or hired music publications?	No.
Can we make an overhead transparency copy of a sheet music?	Yes. If copying by hand, this is permitted under the Copyright Act. If photocopying onto a transparency, this is covered by the AMCOS licence.
What are grand right works?	Grand Right Works include: <ul style="list-style-type: none"> • an opera, operetta, musical, play, ballet, revue or pantomime consisting of words and music written expressly for it. • a large choral work of over 20 minutes duration, with or without instrumental accompaniment.
Are grand right works covered by the AMCOS licence?	No, Grand Right Works are not covered by the AMCOS licence. You must seek the permission of the publisher.
What works are not covered by the AMCOS licence?	The AMCOS licence does not apply to: <ul style="list-style-type: none"> • photocopied music (unless it is a replacement of a licensed copy) • reference books music textbooks • libretti • 'entire' Grand Right Works • instrument method and music tutor books • borrowed or hired music publications
What is APRA?	The Australian Performing Rights Association is a non-profit organisation of composers, authors and music publishers, which administers public

	performance, transmission and broadcasting rights on behalf of its members.
Are we covered by an APRA licence?	Yes, all government schools and most non-government schools and TAFEs are covered by the APRA licence.
Can we play recorded music at school events or over the school's public amplifier system? For example, sports day, assemblies, concerts, discos, karaoke competitions.	Yes, the APRA licence covers all performances at the school or at functions connected with the school's activities.
Do we need permission from APRA for students to perform musical works at eisteddfods?	No, the eisteddfod organiser should arrange this.
Can we use pre-recorded music in school performances and concerts?	Yes. The playing of pre-recorded music at a school event is covered by the APRA licence.
Can we perform a musical work for a school performance or concert?	Yes. The playing of a musical work at a school event is covered by the APRA licence. However, in order to perform a Grand Right Work (musical work performed in a theatrical context), permission must be obtained directly from the music publisher.
What is ARIA?	Australian Record Industry Association (ARIA) is a national industry association that represents the interests of record companies.
Are we covered by the AMCOS/APRA/ARIA licence?	All primary and secondary government schools and many religious and independent schools are covered by the AMCOS/APRA/ARIA licence. The licence permits the making of audio and video recordings of musical works and dubbings of sound recordings for or of a school event or for educational instruction.
What works are not covered by the AMCOS/APRA/ARIA licence?	The AMCOS/APRA/ARIA licence does not apply to: <ul style="list-style-type: none"> • performances of Grand Right Work or excerpts from that work • performance of musical works and associated words composed for a ballet if that performance is accompanied by a visual representation of that ballet or excerpts of that ballet • large Choral Works (over 20 minutes duration) or excerpts from that work • musical work or excerpts of that work performed in a dramatic context, except where the performance is in accordance with any licence granted to the educational institution by APRA
Can we make a video recording of the school performance or concert for archival purposes?	Yes. This is covered by the AMCOS/APRA/ARIA licence. The recording must be kept on school premises.
Are parents allowed to video a school concert, music festival or eisteddfod or any portion of such a performance?	Yes, the AMCOS/APRA/ARIA licence permits schools to allow parents to make recordings for private and domestic purposes. However, the school may choose not to permit this.

	Check with the school before making a recording.
Can we distribute or sell copies of the video to students and their families?	Yes, provided that the distribution is for free or on a cost-recovery basis.
Can we use music in a film or video production that is part of an educational course?	If used by a teacher, the relevant copyright owners' (generally the publisher) permission is required in order to do this. A student may however rely on the fair dealing exceptions (research or study). However, if the student wishes to show the production for a purpose other than an educational purpose, the student will require the permission of the copyright owner.
Can we make back-up or archival copies of records, cassettes or CDs for educational purposes?	No.
Can we copy CD-ROMs that incorporate music or sound recordings under the AMCOS/APRA/ARIA licence?	Yes, provided it is: <ul style="list-style-type: none"> • for a school event; • of a school event; or • for educational instruction
Can we make copies of recorded music from vinyl, cassettes or CDs?	Yes, provided it is: <ul style="list-style-type: none"> • for a school event; • of a school event; or • for educational instruction
Can we make copies of recorded music from Mp3 files?	No, Mp3 files are not covered by the AMCOS/APRA/ARIA licence and therefore cannot be reproduced.
Can students make their own recordings using samples of existing sound recordings?	Yes, this is likely to fall within the fair dealing exception (research and study). However, if the student wishes to play the sound recording for a purpose other than an educational purpose, the copyright owner's permission is required.
Do we need a student's permission to video record their performances in the classroom?	Yes, you can obtain this verbally or imply it if the student is aware they are being recorded and continue to perform.
Do we need students' permission to video record their performances in school concerts, music festivals or eisteddfods?	Yes, you can obtain this verbally or imply it if the student is aware they are being recorded and continue to perform.
Do we need to get permission from students to record their performance in a student film or video?	Yes, you can obtain this verbally or imply it if the student is aware they are being recorded and continue to perform.
Can teachers and students perform work in class?	Yes, provided the performance is in the course of educational instruction in the presence of only the teacher and students from that class.
Do we need a student's permission to take photographs of their performances?	No.
Are school concerts covered by the AMCOS/APRA/ARIA licence?	Yes, the APRA licence permits performance of musical works at a school concert, and the APRA/AMCOS/ARIA licence permits audio and video recordings of the performance.

Are eisteddfods covered by the AMCOS/APRA/ARIA licence?	No. The eisteddfod organisers are responsible for arranging the licences for works to be used in the eisteddfod.
Can we copy music tutor or instrument method books?	No, this is not covered by the AMCOS licence. However, you may copy up to 10 percent (reasonable portion).
Can we make a song booklet or music booklet for school purposes?	No, this would require the publishers' or copyright owners' permission in relation to each musical work to be included.

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Frequently Asked Questions (FAQs)

Sound Recordings

Question	Answer
What is a sound recording?	It is the actual recording of a particular performance of a song, sound, noise or recitation of other works.
What does it include?	A CD, digital audio tape, Mp3 files, vinyl or any other method for storing sounds.
Can I play a sound recording in class?	Yes, provided it is the course of instruction.
What is AMCOS?	Australasian Mechanical Copyright Owners Society Limited (AMCOS) administers and distributes royalties collected for reproduction of musical works. Most schools are covered by a voluntary licence for the copying of sheet music with AMCOS.
What is ARIA?	Australian Record Industry Association (ARIA) is a national industry association that represents the interests of record companies.
What is APRA?	The Australian Performing Rights Association is a non-profit organisation of composers, authors and music publishers, which administers public performance, transmission and broadcasting rights on behalf of its members.
Are we covered by the AMCOS/APRA/ARIA licence?	All primary and secondary government schools and many religious and independent schools are covered by the AMCOS/APRA/ARIA licence. The licence permits the making of audio and video recordings of musical works and dubbings of sound recordings for or of a school event or for educational instruction.
Can we make back-up or archival copies of records, cassettes or CDs for educational purposes?	No.
Can we make copies of CD-ROMs that incorporate music or sound recordings under the AMCOS/APRA/ARIA licence?	Yes, provided that the copy is: <ul style="list-style-type: none"> • for a school event; • of a school event; or • for educational instruction
Can we make copies of recorded music from vinyl, cassettes or CDs?	Yes, provided it is: <ul style="list-style-type: none"> • for a school event; • of a school event; or • for educational instruction
Can we make copies of recorded music from Mp3 files?	No, Mp3 files are not covered by this licence and therefore cannot be reproduced.
Can we play recorded music at school events or over the school's public amplifier system? For example, sports day, assemblies, concerts, discos, karaoke	Yes, the APRA licence covers all performances at the school or at functions connected with the school's activities.

competitions.	
Can students play a sound recording to the class that they bought from home?	Yes, provided it is part of educational instruction.
Can students make their own recordings using samples of existing sound recordings?	Yes, this is likely to fall under the fair dealing exception if it is done for an educational purpose. To play or copy the recording for a purpose other than an educational purpose, the student will need the copyright owner's permission.
What is the PPCA?	The PPCA is the Phonographic Performance Company of Australia which is a non-profit association of record companies that licenses public performances of sound recordings on behalf of its members.
Do we have special licences with PPCA?	No. The PPCA ordinarily will not require schools to have a licence to perform sound recordings (such as playing a CD). In most cases, the performance of a sound recording in connection with a school's activities will be covered by an exception under the Copyright Act.

Frequently Asked Questions (FAQs)

Film and DVD

Question	Answer
Can we make back-up copies of films or videos?	No. Pre-recorded videos, films or any other AV material cannot be copied by an educational institution.
Can we make copies of films for intellectually disabled students?	Yes, copying is permitted for the purpose of assisting people with an intellectual disability.
Can we screen a video or DVD that has been hired by a student or teacher in class?	<p>Under the Copyright Act, you are permitted to show a film or DVD as part of class instruction.</p> <p>However, DVDs are usually subject to terms and conditions from the hirer (for example, video shop) and also the distributor (the warning within the film), these terms may prevent you from showing the video and DVD in public (for example, class).</p> <p>Check the terms and conditions on the film and DVD and also from where the film or DVD was hired.</p>
Can we convert videos into another format, for example, from NTSC to PAL?	No, unless you have permission from the copyright owner. This also has moral rights implications.
Can a student make a video tape of extracts from films for use in class?	Yes, this would likely constitute fair dealing for the purpose of research and study.
Can we make replacement copies of films where the original is damaged?	A library within an educational institution may make replacement copies where an original from its collection is lost, stolen or damaged but only if a replacement is not commercially available within a reasonable time.
Can we use a single image from a film?	Generally, you will need permission to use an individual frame or still image from a film.

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Frequently Asked Questions (FAQs)

CD-ROM

Question	Answer
Where do I find the licence for a CD-ROM?	The terms and conditions should be printed on the packaging or a pamphlet may have been included with the CD-ROM. In some cases it may be found on a digital file within the CD-ROM itself.
Can we reproduce material from CD-ROMs?	This should be clear from the licence. If there are no terms and conditions, then the Statutory Print Licence applies and you can copy up to 10 percent of a literary, dramatic or musical work and the whole of an artistic work.
Can we make a back-up copy of a CD-ROM?	Yes, if the CD ROM contains computer software. Otherwise no, unless the CD-ROM contains a licence agreement which may contain a permission. Legal advice should be sought due to the fact that CD-ROMs will often contain several (often hundreds) of distinct copyright works.
Are students able to reproduce material contained within the CD-ROM onto their own disk?	Once again the licence agreement should be consulted first. If the agreement is unclear a student may reproduce material from a CD-ROM provided it is for their own research or study.
Can CD-ROMs be lent to students?	Yes, CD-ROMs may be lent to students unless the terms and conditions on the CD-ROM prevent this.

Frequently Asked Questions (FAQs)

Television and Radio Broadcasts

Question	Answer
What is Screenrights?	Screenrights is the collecting society responsible for collecting royalties for television and radio broadcasts under the Statutory Broadcast Licence.
Who has a Statutory Broadcast Licence?	All government and most non-government schools and TAFEs have given a remuneration notice to Screenrights and are therefore covered by the licence.
What may be copied under the Statutory Broadcast Licence?	Any program broadcast on television or radio including: films, documentaries, game shows etc. may be copied for an educational purpose.
What is an off-air broadcast?	An off-air broadcast is a record of an on-air broadcast.
How much can be copied and how many copies may be made?	There is no limit to how much may be copied under the Statutory Broadcast Licence or how many copies can be made.
Who may copy?	Teachers and students alike may copy provided that it is on behalf of an educational institution which has given a remuneration notice to Screenrights.
What is meant by educational purposes of the educational institution?	Educational purposes include: <ul style="list-style-type: none"> teaching purposes used as part of a course of study
Can a school borrow a video of a program they may have missed from another school?	No, educational institutions may not lend copies to anyone other than students or members of staff of their own institution. However, schools may request another school to record or copy a program in their collection as long as both schools have a remuneration notice with Screenrights.
What if we missed a program? How can we obtain a copy?	You can obtain copies from: Tape Services, SA Curriculum Resources Unit http://www.tapeservices.sa.edu.au Furthermore Screenrights may be able to assist you locate a program.
What happens when a school makes a copy of a broadcast but decides not to keep it?	If the item is used at all or if it has been kept for longer than 14 days it is no longer regarded as merely a preview copy and must be marked with the relevant information.
What marking requirements are there for copies retained by the school?	There are only marking requirements for analog copies. Either the physical item must be marked or the container in which it is kept must be marked. The relevant notation consists of the name of

	<p>the institution for which the copy is made, the date of broadcast, the date the copy was made.</p> <p>See Appendix A: Marking Requirements</p> <p>There are no marking requirements for digital copies.</p>
Can we make duplicate copies of a broadcast copied before 29 January 1990?	No. The Statutory Broadcast Licence does not apply before this date. Though schools may continue to use recordings of TV or radio programs before 29 January 1990, it cannot make copies of such recordings.
Who may borrow copies?	Only students or members of staff of the institution may borrow copies of the item.
Can schools copy from satellite or microwave broadcasts?	Screenrights scheme allows material to be copied from satellite broadcasts, provided the recording is made in Australia.
Can the school copy from cable television?	Similarly, Screenrights permits recording from cable provided it is done in Australia.
Can we copy a program off-air while we are overseas, for example a program in French for French classes?	Only copies made within Australia for educational purposes are protected. The permission of the copyright owner must be obtained.
Can we purchase a video from a commercial retailer and use it as a resource in the classroom?	There may be an obligation under the contract between the purchaser and the retailer not to show the video out of home. This will only usually be binding if the purchaser was notified about it before the agreement to purchase was completed. If such an obligation exists then the purchaser will be infringing it by showing the video in class, despite not infringing copyright. It is recommended to purchase AV material from educational suppliers.
Can we copy a commercially produced video purchased by the school?	No, you will need the copyright owner's permission.
Can we copy a program from television even if a commercial video of the program is available for sale (eg ABC documentaries)?	Yes.
How do schools enrol in a video shop?	Schools can join video stores in the name of the school.
Can video shops refuse to rent a video to a school?	Yes.
Do schools need to own a recording before copying it?	Yes, schools must have made the recording or own a copy made by a school under the Screenrights licence.
What format can the recordings be in?	Broadcasts can be recorded either onto an analog (for example, tape) or digital (for example, DVD) medium.
Are we allowed to copy films, videos or DVDs under this licence?	You may copy films but only from the television. No copying of videos or DVDs is permitted.
Are schools allowed to make recordings of off-air broadcasts for each other?	No. However, school libraries may do so. See: Interlibrary Copying

Frequently Asked Questions (FAQs)

Internet and Websites

Question	Answer
Can we use works reproduced on another website?	<p>A website's terms and conditions should indicate whether copying is permitted.</p> <p>If there are no terms and conditions, then the Statutory Print Licence applies and you can copy up to 10 percent of the words in a literary, dramatic or musical work and the whole of an artistic work.</p>
What is browsing?	Browsing is viewing material on a website.
Does browsing infringe copyright?	No.
Can we download, use and print copyright work from a website?	<p>Yes, you can download, use and print up to 10 percent of the number of words in the work or all of an artistic work.</p> <p>You can download, use or print more of the work provided you have the permission of the copyright owner or if the work is not separately published (or the separately published work is not available within a reasonable time at an ordinary commercial price.)</p>
Can we post material on our intranet?	<p>Yes, you can post up to 10 percent of the number of words in the work or all of an artistic work.</p> <p>You can post more of the work provided you have the permission of the copyright owner or if the work is not separately published (or the separately published work is not available within a reasonable time at an ordinary commercial price.)</p>
Can we make copies of copyright works made under the licence from CAL or Screenrights available on the school intranet?	Yes, provided the intranet is only accessible by the staff and students of the school.
If someone places a work on a website, does this mean that they lose copyright?	No.
Can we make copies of works from the Internet to give to students as part of their instruction?	<p>Yes, you can copy up to 10 percent of the number of words in the work or all of an artistic work.</p> <p>You can copy more of the work provided you have the permission of the copyright owner or if the work is not separately published (or the separately published work is not available within a reasonable time at an ordinary commercial price.)</p>
What is caching?	Caching may be passive- automatically saving a temporary Internet file on a browsing computer, or active- mirroring a whole or selected parts of a website on the browser's Internet service provider.

Does caching infringe copyright?	Passive caching does not infringe copyright. Active caching will infringe copyright, if more than a reasonable portion or an entire website is cached.
Can we print a photograph from a website?	Yes, unless there is an express term of the website that you have agreed to which doesn't allow it.
Can we print copies of newspaper articles from a newspaper's website?	Yes, under Statutory Print Licence, you are allowed to print works for students for educational purposes.
What are Mp3 files?	They are highly compressed files, usually containing music.
What is peer-to-peer sharing?	Peer-to-peer allows a computer user to share files with other users across the Internet.
Can we download Mp3 files from a website under a special licence?	No. There is no special licence that allows downloading of Mp3 files from the Internet.
Can we record music or a film that is streamed live from a website?	No. Not unless there is express permission from the copyright owner.
Can we stream music live from a website as part of class instruction?	Yes.
Do we need permission to place a hyperlink on our website to another website?	No, if the link is to the name of the other website or home-page URL Yes, if the link includes a logo or graphic image from the linked website and bypasses the homepage of the other website.

Frequently Asked Questions (FAQs)

Multimedia

FAQs Question	Answer
What are multimedia works?	Multimedia works are products that use a combination of digitised text, images, moving pictures, sound and computer programming
How are multimedia works protected under copyright?	Multimedia works may be protected as: <ol style="list-style-type: none"> films literary works (compilations) and each component part will attract copyright protection, for example, photographs (artistic works) computer software (literary works)
Are there special licences in place that deal with the use of multimedia works for educational purposes?	No.
Can we reproduce parts of existing copyright works?	Yes, you can reproduce up to 10 percent of the number of words of a literary, dramatic or musical work or all of an artistic work. You cannot reproduce film or moving pictures. For sound recordings, you may make reproductions under the AMCOS/APRA/ARIA licence
Can we use parts or 'samples' of existing materials?	Students may rely on the fair dealing defences to use a reasonable portion. However, if staff or teachers wish to use multimedia, the permission of the copyright owner in the material will be required to reproduce any substantial part.
What if the use by the school or the student is for a non-commercial purpose?	There is no defence of parody under the Copyright Act. Students may use (by copying a work) a reasonable portion of a work under the fair dealing exception.
Do we have to acknowledge the source material or its authors when it is reproduced?	You need to acknowledge authors of work, however, not the source material unless the terms and conditions of the multimedia product require it.
What is clip art?	Single frame photographs available on CD-ROM, computer programs or from an Internet server.
When can clip art be used?	It depends on the source of the clip art. It will be necessary to check the licences attached to the clip art that you want to use.
Can we use works from a photo library?	Yes, but you should check the agreement with the photo library before using these works.
Can we use a still image from a film?	Generally, you will need permission to use an individual frame or still image from a film.

Can we use a sample of recorded music?	Generally, you will need permission of the copyright owner.
Can we use copies of off-air broadcasts for multimedia productions?	No, they cannot be copied into another form.
Can we use old unpublished materials?	This will require permission of the copyright owner.
Do we need to get permission from students if we are reproducing a CD-ROM and we are using their works created in class?	Yes. Students will own the copyright in their works.
Can we copy images from a disk or CD-ROM?	Yes, this is covered by the Statutory Print Licence unless the terms and conditions on the disk prohibit it.

Frequently Asked Questions (FAQs)

Computer Programs

Question	Answer
If a computer program is on the Internet, has it lost copyright?	No.
Can I download a computer program from the Internet?	You should check the terms with the program to see that the program has been legally posted on the Internet. If the owner has expressly permitted free access then you can download it.
Can I use a computer program on more than one computer at school?	It will depend on the terms of the licence given to the school for the program. If the program is run on more computers than the licence allows, copyright may be infringed.
Can I make a back-up copy of a computer program?	Yes, but only for security or replacement purposes.
Can I make a copy of a computer program from home to use at school?	You should check the terms of the software licence. If you have already copied the software onto a computer at home, it is unlikely you can copy it onto a computer at school.
Can I lend software to students or staff?	This will depend on the terms or conditions of the relevant licence agreement.
Where is the licence for a computer program?	Licence terms and conditions may be in a pamphlet or booklet which comes with the software. If you downloaded the program from the Internet, the site may have the terms and conditions, and you may have to agree to licence terms before you download the program.

Frequently Asked Questions (FAQs)

How to Clear Rights

Question	Answer
What if the copyright owner is deceased?	Check the probate registry to identify the beneficiaries of the deceased artist's estate.
What if the copyright owner is a company that no longer exists?	Check with the Australian Securities and Investment Commission(ASIC) http://www.asic.gov.au to find out where the assets including copyright went when the company was wound up.
What if you cannot locate the copyright owner?	<p>There is no defence under the Copyright Act for infringing copyright because the copyright owner cannot be located. As a result, there is always a risk that the school will infringe copyright if it uses material without permission of the copyright owner.</p> <p>However, if copyright is infringed in circumstances where the school was not aware and could not have reasonably suspected that it was infringing copyright, schools will not be held liable to pay damages.</p>

Appendix A

Statutory Broadcast Licence

Statutory Broadcast Licence for Copying of Television and Radio Programs

The Statutory Broadcast Licence is set out in Part VA of the Copyright Act. It permits educational institutions to copy radio and television programs including programs from:

- free to air radio and television
- satellite and subscription (pay) radio and television

Payment is made to Screenrights which is the declared collecting society that administer the Statutory Broadcast Licence scheme.

[See: Collecting Societies](#)

All copying under the Statutory Broadcast Licence of the Copyright Act must be:

- by an educational institution
- for an educational purpose
- comply with the marking and notice requirements.

Definitions

Educational institutions include:

- schools
- TAFEs
- Universities

Educational purpose includes a reproduction or communication of a television or radio program made for:

- teaching purposes
- used as part of a course of study
- retained for library use as a teaching resource

Reproduction includes making an audio or audiovisual copy (video) copy of the program.

Communication includes:

- posting on the Internet or intranet
- sending by email
- providing access over a network

What may be copied

There is no limit on the number of copies that can be made. Copies can also be made on behalf of other schools who are covered by the Screenrights licence. All government schools and most non-government schools are covered by the Statutory Broadcast Licence.

Marking requirements

Copies made after 1 July 1990

Educational institutions must mark or stamp the analog copies (video or audio) with the following notice:

Made for [insert name of institution]
under Part VA of the *Copyright Act 1968*
Date of broadcast: [insert date]
Date this copy made:[insert date]

Copies made before 1 July 1990

Educational institutions may keep copies of television and radio programs made from broadcasts or transmission before 1 July 1990. They are not allowed to make further copies. The following notice is required on these copies:

Made for [insert name of institution]
before 1 July 1990
DO NOT COPY

Record Keeping

Educational institutions are only required to keep records during the sampling period when it is selected as sample institution.

Notices

Where the educational institution is communicating the copy program (intranet), each digital copy must be accompanied by a warning notice.

[See Appendix F: Notices](#)

If the communication is made within the institution's premises and no copies are able to be made, no warning notice is required.

Restricted Access

Educational institutions must take reasonable steps to make sure that access to the digital copy communicated is restricted to those persons that are allowed to access it (staff and/or students).

Preview Copies

An educational institution may make preview copies of television and/or radio programs. There is no requirement to mark preview copies. However, the educational institution has 14 days from the day they made the copy, to decide whether it intends to use or keep it for educational purposes.

If the educational institution decides to keep the preview copy, it must mark it in the required manner.

If the educational institution decides not to use or keep the preview copy, it must wipe or destroy it.

Lending or selling copies

Copies may not be sold or supplied for profit.

Copies may not be loaned to anyone else or to another educational institution, even if the institution has given a remuneration notice.

However, copies may be made on behalf of an educational institution requesting a copy, provided it is covered by the Statutory Broadcast Licence. The cost of copying may be reimbursed.

Digital copies and communication

Electronic or digital copies (CD or DVD) may be made from broadcasts or other transmission of radio and television programs.

A digital copy may be communicated electronically by:

- the institution's intranet
- by email

As above, there must be:

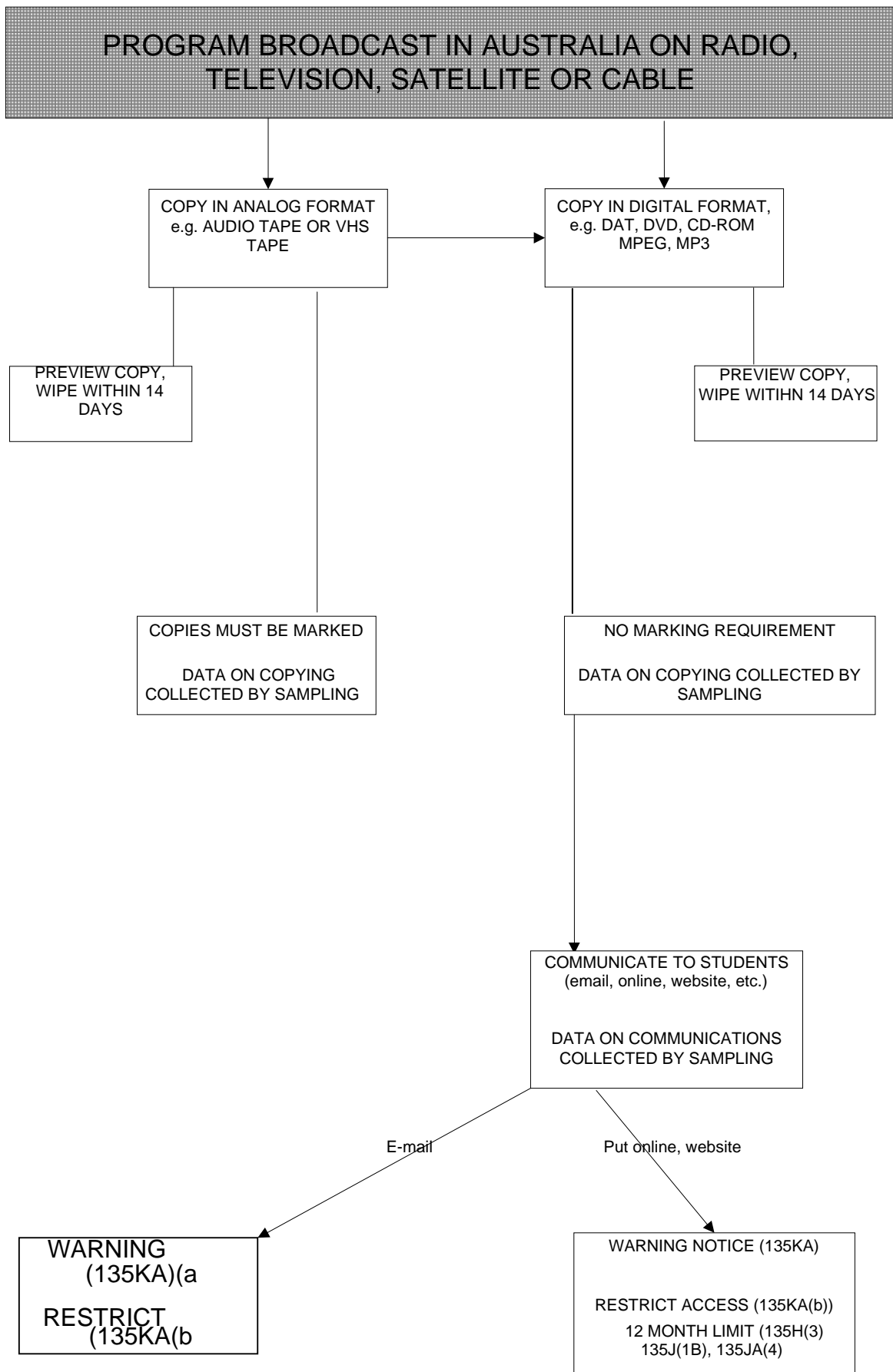
- a remuneration notice in force
- copy and communication made by or on behalf of the education institutions
- for an educational purpose
- compliance with the notice, marking and records requirements where applicable

Statutory Broadcast Licence and Webcasts

Webcasts are not ordinarily included in the Statutory Broadcast Licence. Schools may not copy or communicate a webcast without the permission of the broadcaster.

The only instance in which a webcast may be copied under the Statutory Broadcast Licence is if the webcast is a simulcast of a free to air or subscription television station.

HOW PART VA OF THE COPYRIGHT ACT APPLIES



Appendix B

Statutory Print Licence

Statutory Print Licence for Educational Copying of Literary, Dramatic, Musical and Artistic Works

The Statutory Print Licence is based upon the provisions of Part VB of the Copyright Act which permits educational institutions to make multiple copies of literary, dramatic, musical and artistic works for educational purposes. Payment is made to the Copyright Agency Limited (**CAL**) which is the collecting society that administers the Statutory Print Licence. All government schools and most non-government schools and TAFEs are covered by the Statutory Print Licence.

[See also: Collecting Societies](#)

All copying under the Statutory Print Licence must be:

- by an educational institution
- for an educational purpose
- within the limits of the Statutory Licence
- covered by a remuneration notice given to CAL.

Any copying outside the Statutory Print Licence requires permission from the copyright owner.

Definitions

Educational institutions include:

- schools
- TAFEs
- Universities.

Educational purpose includes a reproduction or communication of copyright work:

- made for teaching purposes
- made and used as a part of a course and study
- made and retained in the library for use as a teaching resource.

Reproduction includes scanning and photocopying.

Communication includes posting a work on the Internet or an intranet site, sending by email or fax or providing access over a network.

Hardcopy in relation to literary, dramatic and musical works in print form includes books, magazines, newspapers, journals or periodicals.

Electronic works in relation to literary, dramatic and musical works in electronic form includes CD-ROMs, websites, word documents and emails.

Separately published generally means supplying copies to the public or making copies available to the public. For example:

- hardcopy (book, brochure, information sheet or other publication)
- CD-ROM or disk
- website.

Reasonable time is six months for textbooks and thirty days for other material. For electronic works, in an online context, reasonable time may be shorter, given the ease of electronic delivery of materials via the Internet.

Ordinary commercial price is likely to be what the market rate for that work is or has been or a comparable price to other works of the same nature.

Copying an Insubstantial Part

Educational institutions may make multiple copies of insubstantial parts of literary and dramatic works (but not musical or artistic works) for free and without a remuneration notice.

What is an insubstantial part?

In relation to **hardcopy works**:

- less than the whole work where the work is two or fewer pages
- up to two pages where the work is between two and 200 pages
- more than two pages but not more than 1 percent of the total number of pages where the work exceeds 200 pages

In relation to **electronic works**:

- no more than 1 percent of the total number of words in the work.

Time Limits on copying an insubstantial part of a work

There is an express time limit between acts of copying from the same work. Educational institutions cannot claim the benefit of this provision if that work (whether the same or a different part) has already been, in the previous 14 days:

- reproduced for the same student or teacher
- communicated to the same student or teacher
- made available online within the school's intranet.

In addition, the copying must be:

- carried out on the educational institution's premises
- used for educational purposes.

Record keeping or marking requirements

There is no requirement to:

- pay for copying of an insubstantial part
- keep records of such copying.

Copying A Reasonable Portion - Remunerable Licence

Where an educational institution may reproduce or communicate a 'reasonable portion' of a literary, musical or dramatic work. Depending on the format of the Work, a different licence scheme applies:

- Hardcopy Scheme
- Electronic Use Scheme (**EUS**).

Hardcopy Scheme

What the hardcopy scheme covers

The hardcopy scheme covers the reproduction of hardcopy literary, dramatic, musical and artistic works including:

- photocopying of a hardcopy book or page
- scanning of a hardcopy document into an electronic form.

Copying Limits

Reasonable portion

The copying limits under the hardcopy scheme permit an educational institution to reproduce:

- an article in an issue of a periodical (such as a journal, newspaper, magazine)
- more than one article in a periodical if the article is on the same subject
- a literary work of no more than 15 pages are published in an anthology
- a reasonable portion of a print work in hardcopy, (10 percent of or one chapter of a print work).

Whole work

In addition, a whole work can be copied in the following circumstances:

- the whole of a literary, dramatic, musical or artistic work that has not been separately published (including unpublished works)
- the whole of the work is not available in either hard copy or electronic form within a reasonable time at an ordinary commercial price
- the whole of a published edition where the underlying work is out of copyright.

Notice requirements

Where a hardcopy work is reproduced in hardcopy form, (for example, photocopied) there is no requirement to place a notice on the copies made. However, where a hardcopy work is *converted* into electronic form and communicated, each reproduction or communication must include a specific notice.

[See EUS Notice Requirements and Appendix F: Sample Form of the Notice](#)

EUS

What the EUS covers

EUS covers original works created or accessed in a digital format. The EUS applies where a literary, dramatic, musical or artistic work is in electronic form and is either reproduced or communicated for educational purpose, including:

- copying literary, dramatic, musical and artistic works from electronic form (such as from a CD-ROM or a website)
- making electronic or digital copies of hardcopy of a literary, dramatic, musical or artistic work (for example, saving to disk, scanning parts of a textbook, scanning an artwork with accompanying text)
- communicating text by electronic means (via email, intranet or a secure website [*caching*]).

What the EUS does not cover

The EUS does not cover:

- reproduction of computer programs
- reproduction or communication of print works for uses other than educational use
- reproduction or communication of sound recordings, audiovisual material or webcast or net casts (web radio or web TV).

Copying Limits

Reasonable portion

Under the EUS licence educational institutions may reproduce and communicate:

- 10 percent of the words of an electronic work
- an article in an issue of a periodical (e-journal, e-newspaper, e-zine, CD-ROM and other electronic publications)

Whole work

In addition, a whole work can be copied in the following circumstances:

- the whole of a literary, dramatic or musical work which has not been separately published (including unpublished works such as conference paper or research paper on disk that are not available to the public)
- the whole of a literary, dramatic or musical work that is not available in electronic form within a reasonable time at an ordinary commercial price
- the work is an artistic work.

EUS Notice Requirements

Where a work is communicated in electronic form (for example, by email or being made available on the educational institution's intranet):

- it must include the prescribed notice
[See Appendix F: Sample Form of Notice](#)
- reasonable steps must be taken to ensure that the material is made available on a password protected site
- no more than the limited amount may be made available at any one time
- the material should be removed after 12 months or it will be regarded as being reproduced again.

Work	Relevant limit	Notice required
Literary, artistic and dramatic works	Reasonable portion (defined below)	s135ZXA notice is required.
Musical works	The relevant limit is 10 percent of the number of pages.	s135ZXA notice is required.
Periodical publications	One article from the periodical or two or more where the articles relate to the same subject matter	s135ZXA notice is required.
Artistic works accompanying literary,	All of an artistic work may accompany a reproduction or	The same notice requirements which apply

dramatic or musical works	communication of a literary, dramatic or musical work if it relates to that work.	to the accompanying literary, dramatic or musical work
---------------------------	---	--

[See Appendix F: Sample Form of Notice](#)

Copying and Communicating the Whole Work

An educational institution may reproduce multiple copies or communicate more than a reasonable portion of a literary, dramatic or musical work (up to the whole work) if it is:

- not separately published
- not published at all
- not separately available at an ordinary commercial price within a reasonable time

It is important to note that there are different provisions in relation to artistic works.

[See Special Issues: Artistic Works](#)

Remuneration Notices

Educational institutions must give CAL a remuneration notice before they can rely on the Statutory Print Licence.

Sample Notice

Under the sampling remuneration notice, schools are not required to keep a record of their usage of copyright material unless they are included in a sampling exercise. This usually occurs every few years. This exercise requires the school to record all uses of copyright material over a certain period of time. This data is used to set licence fees and calculate relative distribution rates for copyright owners.

Records Notice

Though schools have the option of keeping a record of all works reproduced or communicated under the Statutory Print Licence, the Records Notice scheme has not been adopted by schools and the Sample Notice scheme operates to its exclusion.

Special Issues

Artistic Works

Artistic works are treated differently under the Statutory Print Licence.

Definitions

- Hardcopy includes photographs, slides, prints, posters, postcards.
- Electronic copy includes clip art, scanned copy, graphic image file, tif or jpeg.

Reasonable portion and insubstantial copying

The Copyright Act does not define ‘a reasonable portion’ of an artistic work. It is not clear what amounts to insubstantial copying of an artistic work. Usually, the whole of the artistic work is copied, and this does not become an issue.

Hard Copy Scheme - Copying Limits

Artistic works accompanying text: the whole or part of an artistic work which accompanies text may be reproduced.

Artistic works with no more accompanying text: the whole or part of an artistic work that:

- has not been separately published
- as a separate publication is not available within 30 days may be copied.

‘Separately published’ means that the work is available separately and should be purchased if available.

EUS - Copying Limits

Under the EUS, all of an artistic work may be copied and communicated.

No more than one work may be made available at any time including by:

- email
- making available on the education institution's intranet

Notice Requirements

Where an educational institution communicates an artistic work (by email or caching on an intranet), the artistic work must be accompanied by the correct notice.

Separate Publication of an artistic work

Separate publication of an artistic work occurs where it is commercially available. For example as postcard, poster, slide set or similar reproduction or as an e-card or digital artwork on the Internet.

It does not include a public exhibition of an artistic work.

Copying artistic work where accompanying literary, dramatic or musical work

Educational institutions may copy the whole or part of an artistic work if it accompanies a literary, dramatic or musical work by way of illustration or explanation. This does not cover copying artistic works contained in an article or other work that is unrelated to the accompanying text.

Where artistic work is available in electronic form

Where an artistic work is not available in hardcopy form (because it is not accompanying the text or has not been commercially published), the educational institutions may still make a copy under the EUS where the artistic work is available in electronic form (for example, on the Internet) for educational purposes.

Communication of Artistic Work in electronic form

When an artistic work is communicated in electronic form:

- include a notice in form set out in Appendix F
- the educational institution must take reasonable steps to ensure the work is made available on a password protected site
- and the work should be removed after 12 months or it will be remunerable as a new copy

Making Slides of artistic works

Educational institutions are permitted to make slides from artistic works from art books provided slides of the artistic work are not commercially available.

Musical Works

Copying a whole of a musical work

The Statutory Print Licence does not cover more than 10 percent of sheet music unless the work is not available within a reasonable time and an ordinary commercial price. For this reason most schools rely on the AMCOS licence.

Anthologies

The Statutory Print Licence does not cover:

- anthologies
- collections of artistic or musical works.

Copying limits for whole or part of works included in an anthology

The educational institution may copy any of a separate literary or dramatic works in anthology where the work is 15 pages or under. If the educational institution wishes to copy a number of separate works contained in the anthology, it may only copy up to 10 percent of the anthology.

The educational institution may copy more than 15 pages of a work in an anthology where the work is not separately published.

The Internet

The Statutory Print Licence covers educational institutions copying literary dramatic, musical and artistic works from websites including:

- artistic works - digital photographs, drawings, charts, graphic images, clip art
- literary works - articles in electronic periodicals, e-zines, online newspapers, electronic versions of books
- dramatic works - electronic version of plays, screenplays or dance notation
- musical works - electronic version of sheet music

Definitions

Webpage is a text file usually coded in HTML.

Website is a collection of webpages, published together on the Internet by one person or organisation under the same domain name (Internet address).

Reasonable portion and the internet

A reasonable portion is for a print work on the Internet is:

- 10 percent of the words in the work or up to one chapter if the work is divided into chapters
- one article in a periodical publication (for example, e-zines, online versions of newspapers).

The concept of ‘a reasonable portion’ in relation to artistic works does not usually arise, as usually only the whole work is copied.

[See also: Artistic works and photographs and Appendix B: The Statutory Print Licence and Artistic works](#)

Separately published in an online context

Educational institutions should ask the following questions:

- is the document something you would expect to receive as a complete work in hardcopy form, such as a newsletter, report, discussion paper or fact sheet? If yes, it is likely that the document is separately published
- has the document been made available in a separate format, such as a PDF or Word document? If yes, it is likely that the copyright owner views the document as being separately published

- if the document is in HTML format, does the website treat it as a ‘stand-alone’ document? For example, does the website describe it as a report or separate document, or provide an index or description of the document? If yes, it is likely that it is separately published
- is the document published or authored by someone other than the owner of the website? If yes, it is likely that the document has been separately published
- is the document a webpage part of a collection of webpages all concerned with the same subject matter? If yes, it is not likely to be separately published.

Examples of separately published works on the Internet

There is no simple rule on how to apply this general principle to the Internet, however, the following principles may provide some assistance:

- a collection of webpages on the same theme or subject area arranged under the same domain name, such as the sporting information available at sports.ninemsn.com, or each subject matter area on Microsoft Encarta.
- a directory of material containing information on a Government project. For example, www.noie.gov.au (website of the National Office for the Information Economy) contains directories on a number of Government programs, such as Access and Equity, the Information Economy, and the Government Online Strategy
- a link to an external website. As a general guide, if the link takes you to material published by a different person or organisation or under a different domain name, it should be considered to be a different website (for example, a link from www.det.nsw.gov.au to www.tafe.nsw.gov.au from the NSW Department of Education and Training Website)
- Material within a website hierarchy that is analogous to a newspaper or magazine should be treated as a periodical publication. For example, the ninemsn site contains news updates as well as a link to the *Bulletin* magazine
- A website that contains information on one subject matter or theme should be considered to be a work. For example:
 - the website for a television show
 - the website for a product or series of related products, or on a particular sport or recreational activity
 - the website for an industry association.

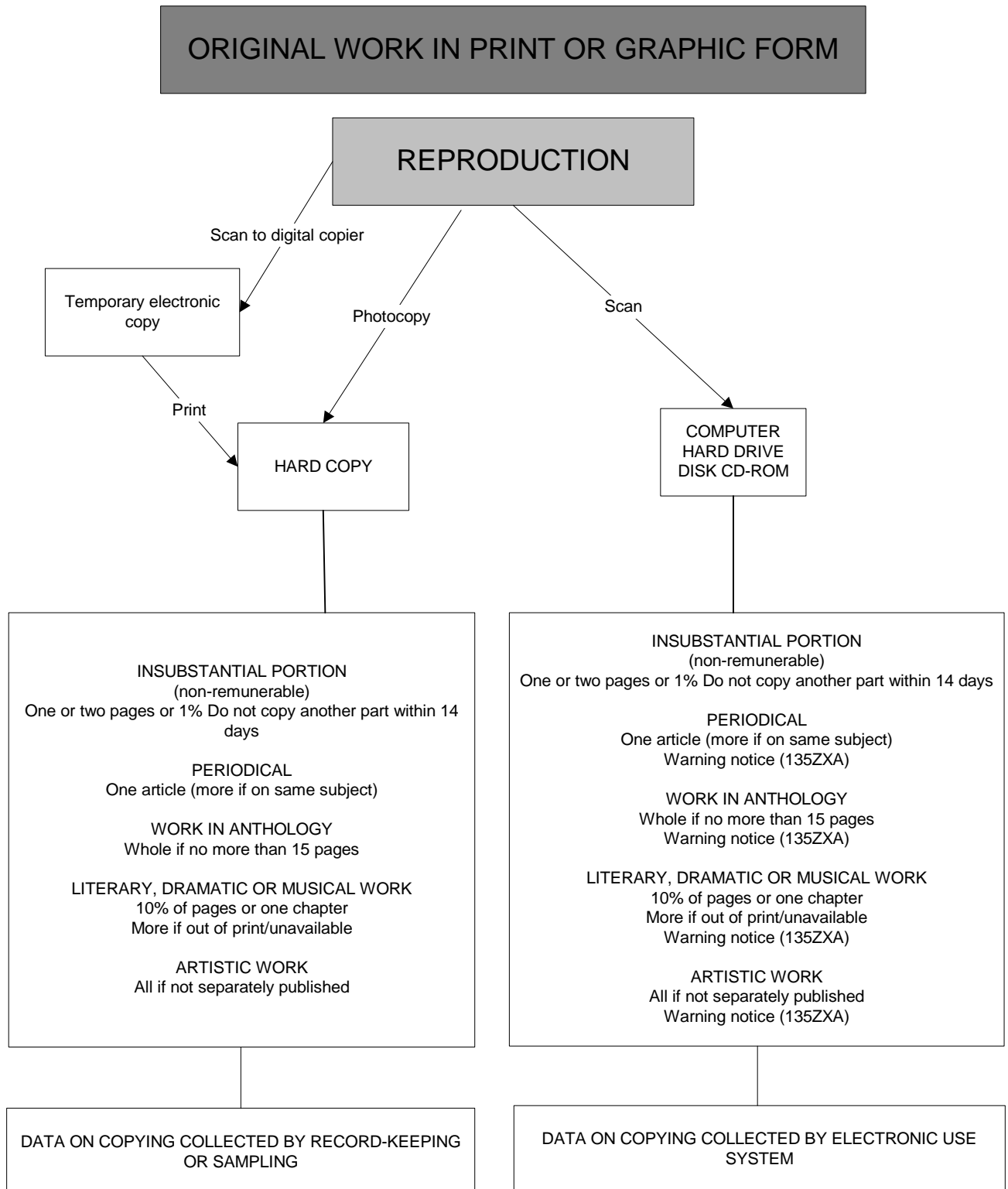
Internet Print World Analogy Table

It is relatively easy with some online content to draw analogies with the print world. See comparative table below:

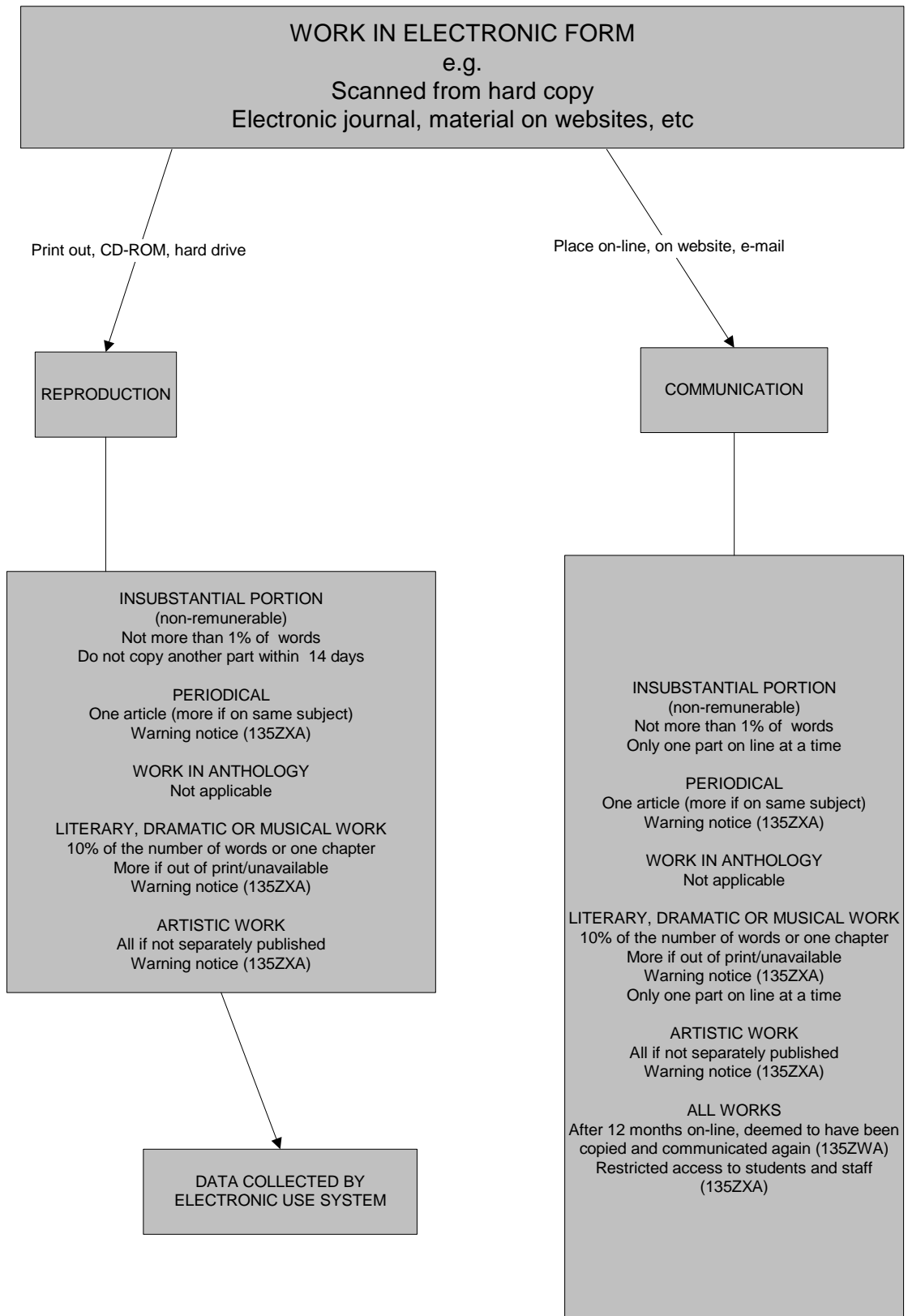
Type of website/webpage	Print world analogy	What can I copy online?
An online magazine or journal (for example, <i>The Bulletin</i> , <i>Women’s Weekly</i> , <i>British Medical Journal</i>)	A magazine or journal	One article from each edition (for example, one article from the March edition of a magazine, or from the summer volume of a journal). Two or more articles may be copied from the same edition if they relate to the same subject matter.
A newspaper website (for example, <i>The Sydney Morning Herald</i> or <i>The Age</i> website)	A newspaper	One article per day (or per edition, if there is more than one edition per day)

Type of website/webpage	Print world analogy	What can I copy online?
		Two or more articles may be copied if they relate to the same subject matter.
A report or other document that is separately published online (for example, as a PDF file)	A report/printed publication	10 percent of the words in the work, or up to one chapter if the work is divided into chapters.
A collection of webpages containing information under a common hyperlink or index (for example, a collection of recipes, poetry or medical fact sheets)	An anthology	There is no separate provision for electronic anthologies in the Copyright Act. A solution to this issue is being discussed with CAL.

HOW PART VB OF THE COPYRIGHT ACT APPLIES (I)



HOW PART VB OF THE COPYRIGHT ACT APPLIES (II)



Appendix C

APRA Licence

APRA Licence for the Public Performance and Communication of Musical Works by Schools

The Australasian Performing Rights Association (**APRA**) is a non-profit organisation of composers, authors and music publishers, which administers public performance, transmission and broadcasting rights on behalf of its members.

[See: Collecting Societies](#)

Copyright owners have exclusive rights over the public performance of their work which includes the:

- live performance of a play, or a piece of music
- performance in a school choir
- playing of a sound recording
- the showing of a film or a video recording.

All public performances of copyright musical works by schools, that is, outside the classroom, require a licence, for example at concerts, speech nights, fetes, Christmas carol nights, and at other venues outside the school premises such as shopping malls, town halls etc.

The APRA Licence grants each participating school a licence authorising the performance in public of any or all works within the APRA repertoire.

Most government and non-government schools are covered by this agreement.

Definitions

Schools include all government primary and secondary schools and most non-government primary and secondary schools.

Small performing rights:

- performances by a choir or by musicians, of songs or music up to 20 minutes in length, in their entirety
- the playing of music and lyrics of commercially distributed sound recordings, including the playing of radio

Dramatic context performances refer to dramatic context to a performance in conjunction with acting, costumes, scenic accessories, or other dramatic effects of works other than those specifically written for the stage.

Grand Right Works include vocal or other scores from musicals, operas, operettas, music theatre works, ballets, pantomimes and stage shows and large choral works (longer than 20 minutes duration).

What the APRA schools licence covers

The APRA Licence covers the small performing rights of the public performance rights in music and accompanying lyrics. Under the APRA licence, a school and its students may perform musical works at the school or at a function connected with the school's activities.

The performances may be given:

- at schools
- by students and teachers of a school at non-school venues.

The following uses of music are covered by the APRA licence if they take place on the school premises:

- playing music by way of CD players, television or radio
- live performances or playing of recorded music at sports days or fairs
- school concerts by students (choirs, singing groups, school band, orchestra or rock bands)
- school formals and dances
- performance at school award nights or graduations
- playing of recorded music for dance or fitness classes
- the APRA licence applies to the playing of pre-recorded music on audio cassette and CDs by an educational institution, unless a fee is charged.
- The APRA licence also covers dramatic context performances by:
 - primary schools; and
 - secondary schools, but only if no fee is charged and the performance is not publicised beyond the school community.

What is not covered by the APRA licence?

- Grand Right Works
- Rock Eisteddfod competitions
- interschool music festivals
- performances given by professional musicians, regardless of whether or not an admission fee is charged, may not be covered under the licence.

[See: Musical Works](#)

Appendix D

AMCOS Licence

AMCOS Licence for the Photocopying of Printed Musical Works by Schools for Educational Purposes

The Australasian Mechanical Copyright Owners Society Limited (AMCOS) administers the AMCOS Schools photocopying Licence. This licence allows printed copying of printed musical works (sheet music) by or on behalf of schools. All government schools and most non-government schools are covered by this licence.

Conditions of licence

All copying under the AMCOS licence must be:

- by a primary or secondary school covered by the licence
- for an educational purpose
- within the specified limits of the AMCOS licence
- covered by a remuneration notice given to AMCOS
- in relation to original copies of works which are either owned by the school or have been bequeathed to the school.

Any copying outside the AMCOS licence will require permission from the copyright owner.

Definitions

Choral Sheet means a separately published small choral work to be sung by a choir or group of singers with or without accompaniment.

Educational purpose includes a reproduction of a musical print work that is:

- made for teaching purposes
- made and used as a part of a course and study
- made and retained in the library for use as a teaching resource
- made by a band, choir, orchestra or instrumental ensemble of that particular school.

Grand Right Works include vocal or other scores from musicals, operas, operettas, music theatre works, ballets, pantomimes and stage shows and large choral works (longer than 20 minutes duration).

Vocal Score means a publication which sets out the musical notation and lyrics of a large choral or vocal work.

What the AMCOS Licence does not cover

The AMCOS licence does not cover copying:

- for private tuition, even if it takes place on the educational institution's premises
- for external church services or external examinations
- into a digital format or scanning of musical works
- of music textbooks
- of music tutorials
- of libretti
- of Grand Right Works.

Even if the copies are originally made for a permitted purpose, they cannot be used for the purposes listed above.

Copying Limits

How many copies can we make?

- There are different limits to:
 - the amount of copying
 - types of works copied
 for primary and secondary schools.
- Remember the copying limits are linked to the number of originals of each musical work owned by the school or the teacher.
- Unlike the Statutory Print Licence, there is no requirement that the work not be commercially available.

Primary Schools

Type of musical work	Permitted no. of copies per original
Separately published works	30 copies in total
Vocal score	30 copies in total
Choral Sheet	5 copies in total
Ensemble of orchestral work	30 copies in total
Music Collection	30 copies in total with a maximum of 3 from a vocal score
Transcription by hand of melody and/or lyrics of a song	30 copies in total
Transcription by hand of musical work into a different key (Transposition)	30 copies in total
Orchestral/ band set	30 additional instrumental parts

Secondary Schools

Types of musical work	Permitted no. of copies per original
Separately published works	15 copies in total
Vocal score	15 copies in total
Choral Sheet	5 copies in total
Ensemble of orchestral work	30 copies in total
Music Collection and Albums	15 copies in total with a maximum of 3 from a vocal score
Transcription by hand of melody and/or lyrics of a song	15 copies in total

Types of musical work	Permitted no. of copies per original
Transcription by hand of musical work into a different key (Transposition)	15 copies in total
Orchestral/ band set	30 additional instrumental parts

Marking Requirements

- **AMCOS Licence Marking Requirements**

Educational institutions copying musical works under the AMCOS licence must meet certain marking requirements on the published musical work and its copies.

Original Music

- Number of copies made
- Name of the school
- Date copied

Licensed Copies

- AMCOS licensed copy
- Name of the school
- Date copied
- Copy number in relation to total number of copies, for example, 1/5.

It is recommended that schools purchase a stamp with the above wording for Licensed Copies, either from AMCOS or from your local printer. Licensed Copies must be stamped, and it is most important that the number of copies made from the original music is marked on or attached to the music, so that schools can keep a record of the number of copies made from each original.

AMCOS Notices

There are different notice requirements for primary and secondary schools.

Primary Schools

The following notice must be photocopied and displayed near photocopiers where sheet music is copied under the AMCOS Licence for educational purposes.

- The copying rights are for each musical work purchased and not per school, per teacher or per year.
- Rearrangements or variations of musical works are **not** permitted.
- These copying rights are for the teaching purposes of the school only (and **not** for private tuition or teaching).
- Visiting, itinerant or casual teachers should note particularly point 2 above.

The **ORIGINAL MUSIC** must be marked by placing on it the words:

‘AMCOS LICENCE - COPIES MADE’

All **COPIES** must be marked by placing on each copy the words:

‘AMCOS LICENSED COPY’

[name of school]

[date copied]

[name of the teacher who owns the original (where original is not owned by the school)]

All copies made remain the property of the school for which they were made.

Secondary Schools

The following notice must be photocopied and displayed near photocopiers where sheet music is copied under the AMCOS Licence for educational purposes.

MUSIC COPYING RIGHTS

SECONDARY (8-12) SCHOOLS

15 copies for each **separately published work purchased** by the School or member of staff.

5 copies for each **choral sheet purchased** by the School or member of staff.

15 copies of a song from a **vocal score purchased** by the School or member of staff. A maximum three songs from one vocal score may be copied.

Multiple copies of a part or parts of an **instrumental work purchased** by the School or member of staff provided that the aggregate number of parts copied does not exceed 30.

15 copies of a **work which is not separately published** (that is, only available in a collection).

15 copies of a **work which is not available for purchase** from the School’s supplier.

A **transcription** of lyrics and melody line or lyrics only of a work **purchased** by the School or member of staff and thereafter 15 copies of the transcription.

A **transcription** of a work **purchased** by the School or member of staff thereafter 15 copies of the transposition.

Replacement copies may be made where copies have been lost, stolen or destroyed but under no circumstances should the total number of copies of each work exceed the permitted number.

NOTE:

- Copying rights do not apply to music textbooks, music tutorials, libretti or the copying of Grand Right Works.
- The copying rights are for each musical work purchased and not per school, per teacher or per year.
- Rearrangements or variations of musical works are **not** permitted.
- These copying rights are for the teaching purposes of the school only (and **not** for private tuition or teaching).
- Visiting, itinerant or casual teachers should note particularly point 2 above.

The **ORIGINAL MUSIC** must be marked by placing on it the words:

‘AMCOS LICENCE - COPIES MADE’

All **COPIES** must be marked by placing on each copy the words:

‘AMCOS LICENSED COPY’

[name of school]

[date copied]

[name of the teacher who owns the original (where original is not owned by the school)]

All copies made remain the property of the school for which they were made.

Appendix E

AMCOS/APRA/ARIA Licence

AMCOS/APRA/ARIA Licence for the Reproduction of Musical Works and Sound Recordings by Educational Institutions

The AMCOS/APRA/ARIA licence covers the reproduction of musical works and sound recordings for non-commercial educational and commemorative purposes.

The AMCOS/APRA/ARIA Agreement allows schools to record pieces of music, lyrics and sound recordings for use in concerts and other School Events.

Definitions

School events include:

- concerts held at the school
- concerts organised by the school at a different venue, where parents and friends are invited
- sports days with recorded music
- school fêtes with live or recorded music

The following are not regarded as school events:

- a dance festival run by another organisation
- an eisteddfod organised by an eisteddfod body
- a performance by a professional musician

What may be recorded?

- The making of recordings by schools of live performances of school events
- The dubbing of existing sound recordings of musical works
- The distribution of recordings to the students of the school to assist them in music classes or other creative subjects
- The distribution of recordings as a commemorative recording of a performance is important to note that only audio recording of such events is covered by this licence. The recordings should not be distributed for profit.

Permitted Recording Formats

Permitted formats are: sound cassette, video tape, DVD and CD, CD-ROM but not Mp3.

School Events covered by the AMCOS Licence

School events that may be recorded under this licence include:

What the Licence does not cover

This licence does not extend to:

- the video recording of musicals
- other performances of music set in a dramatic context
- downloading of music from the Internet

Labelling requirements

- on the recording 'This recording has been made under the AMCOS/APRA/ARIA licence for educational purposes only'

- on the cover – title, composer/arranger and if dubbed from a commercial recording, the artist and the record company

Recovering costs

Schools are permitted to make recordings for other licensed schools and recover costs.

Appendix F

Notices:

Part VA Notices

Part VB Notices (EUS)

Fair Dealing Notices

Library Copying Notices

NOTICE ON MATERIAL COMMUNICATED UNDER PART VA LICENCE

**FORM OF NOTICE FOR PARAGRAPH 135KA (a) OF THE
COPYRIGHT ACT 1968**

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been copied and communicated to you by or on behalf of [*insert name of institution*] pursuant to Part VA of the Copyright Act 1968 (*the Act*).

The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright protection under the Act.

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**NOTICE ON MATERIAL REPRODUCED OR COMMUNICATED UNDER
STATUTORY PRINT LICENCE**

**FORM OF NOTICE FOR PARAGRAPH 135ZX(a) OF
THE COPYRIGHT ACT 1968**

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Copyright Regulations 1969

WARNING

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Do not remove this notice.

NOTICE TO BE DISPLAYED NEAR COPYING EQUIPMENT
FORM OF NOTICE FOR SECTIONS 39A AND 104B OF THE COPYRIGHT ACT
1968
IN RELATION TO THE REPRODUCTION OF WORKS AND THE COPYING OF
PUBLISHED EDITIONS

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

- A reproduction that is a fair dealing under the Copyright Act 1968 (the Act), including a fair dealing for the purposes of research or study
- A reproduction that is authorised by the copyright owner

It is a fair dealing to make a reproduction for the purposes of research or study, of one or more articles on the same subject in a periodical publication, or, in the case of any other work, of a reasonable portion of a work.

In the case of a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10 percent of the number of pages, or one chapter, is a reasonable portion.

In the case of a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10 percent of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40 (2) of the Act.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.