

# Using Podcasts – What am I allowed to do?

## What is a podcast?

A “podcast” is a digital media file that is made available on the Internet. It usually comprises visual and aural copyright material, including film, sound recordings and pictures. Podcasts with audiovisual content are sometimes called “vodcasts”.

Podcasts can be downloaded to computers and MP3/MP4 players such as Apple iPods or even mobile phones. Once downloaded, users can view/listen to a podcast wherever and whenever they choose.

This fact sheet covers the use of podcasts in schools. For information on creating podcasts in schools, see the **“Creating Podcasts – What Am I Allowed To Do?”** information sheet at [www.smartcopying.edu.au](http://www.smartcopying.edu.au).

## Using podcasts made available on the Internet

There are different rules for using podcasts made available on the Internet depending on whether the podcast is of a program that was broadcast on free-to-air radio or television.

### Using podcasts made available on the Internet Podcasts of programs broadcast on free-to-air radio or television

Following amendments to the Statutory Broadcast Licence in the Copyright Act, teachers can now use podcasts of programs that have been previously broadcast on free-to-air radio or television and made available on the broadcaster's website (eg, an episode of Behind the News or a Radio National program made available as a podcast on the ABC's website).

Teachers may copy and communicate those podcasts if the use:

- is by a school;
- is for an educational purpose; and
- complies with the marking and notice requirements.

'Communicate' includes posting on the Internet or intranet, sending by email and providing access over a network. If a teacher is making a podcast available on the Internet or intranet, they should make sure it can only be accessed by staff and students.

## Using podcasts made available on the Internet

### Podcasts that are not programs broadcast on free-to-air radio or television

If a podcast is made available on the Internet and is not of a program that has been previously broadcast on free-to-air radio or television, you still may be able to use it. It will depend on whether:

- the copyright owner has given permission; or
- a statutory exception applies, such as for fair dealing, flexible dealing or another statutory exception.

You will need to consider these questions if you want to use, for example:

- a podcast available of a subscription broadcast program, for example on the Discovery Channel website;
- a podcast available on the ABC's website of material connected with a program shown on the ABC (but not actually of the program itself such as additional "web only" content associated with a television program);
- a podcast available on a website other than a broadcaster's website, such as Taronga Zoo, NASA or the Australian Film Commission.

Again, if a teacher is making a podcast available on the Internet or intranet, they should make sure it can only be accessed by staff and students.

### Has the copyright owner given permission?

There are three situations where you will have permission to use the podcast:

- where the website says that educational use is permitted (eg a notice states the material is:
  - able to be used freely;
  - free for school or education use;
  - able to be used 'in your organisation').
- where the website has the NEALS logo, or is otherwise stated to be NEALS content, which means that schools can always use the material for free.
- where the teacher has received permission from the copyright owner to use the podcast (eg you may be able to get permission by asking the person or organisation listed at the 'Contact Us' section on the website).

Teachers should become familiar with websites that allow free educational use. They include:

- The Learning Federation materials available from your schools' education portal

- the Creative Commons website: [www.creativecommons.org](http://www.creativecommons.org)
- the Creative Commons educational material portal: <http://creativecommons.org/education/>
- Wikimedia Commons: [http://commons.wikimedia.org/wiki/Main\\_Page](http://commons.wikimedia.org/wiki/Main_Page)
- Enhance TV: <http://www.enhancetv.com.au/>

### Does a statutory exception apply?

If a fair dealing exception applies, teachers/students will be able to use a podcast without the permission of the copyright owner.

The fair dealing exceptions most relevant to **students** are:

- research or study - eg students downloading a podcast for their research and study
- criticism or review - eg students reviewing a podcast for an assignment. The source material, the author and copyright owner (if different) must be identified
- parody or satire – eg students using part of a podcast to include in a parody or satire (such as in another podcast).

Remember, that to rely on a fair dealing exception the portion of the podcast used must be reasonable having regard to the purpose of the use. Otherwise, the use might not be 'fair'.

Under the flexible dealings exception, **teachers** can use podcasts for non-commercial teaching purposes if the use is not covered by another exception or statutory or voluntary licence. To work out if the exception will be available, teachers must assess whether:

- the proposed use is narrow,
- it would conflict with a normal way the copyright owner exploits the material, and
- the use would unreasonably harm the copyright owner.

Teachers may also be able to rely on the exception in section 28 of the Copyright Act if they want to communicate a podcast to their class.

For further information see the SmartCopying website at [www.smartcopying.edu.au](http://www.smartcopying.edu.au) or contact your local copyright manager. You can also contact the National Copyright Unit on (02) 9561 1204 or at email [delia.browne@det.nsw.edu.au](mailto:delia.browne@det.nsw.edu.au).

## Further Reading

Borja, Rhea R. "**Podcasting Craze comes to K-12 Schools: Educators discover Value of Internet Audio Programs**" Education Week, 7 December 2005.

<http://www.nsboro.k12.ma.us/ipod.htm>

Correy, S. "**Music of the Blogospheres**"(Background Briefing)

<http://www.abc.net.au/rn/talks/bbing/stories/s1233531.htm>

Transcript of ABC Radio National Programme which gives a good general background to the rise of podcasting.

Educause Resource Centre "**Podcasting**" – links to resources for podcasting in education.

[http://www.educause.edu/content.asp?page\\_id=645&PARENT\\_ID=788&bhcp=1](http://www.educause.edu/content.asp?page_id=645&PARENT_ID=788&bhcp=1)

Meng, P. "**Podcasting and Vodcasting: A White Paper**", University of Missouri, March 2005.

[http://edmarketing.apple.com/adcinstitute/wp-content/Missouri\\_Podcasting\\_White\\_Paper.pdf](http://edmarketing.apple.com/adcinstitute/wp-content/Missouri_Podcasting_White_Paper.pdf)

Discusses technological aspects of podcasting as well possible educational uses and implications for education. Provides "How to Podcast", "How to Vodcast" flowcharts and a resources list.

Campbell, G. "**There's something in the Air: Podcasting in Education**", Educause, Nov/Dec 2005 pp 33 – 46.

[http://www.bio.purdue.edu/mt/feeds/pod\\_pedagogy/archive/2006/01/theres\\_somethin.html](http://www.bio.purdue.edu/mt/feeds/pod_pedagogy/archive/2006/01/theres_somethin.html)

WWWtools For Education, "**iPods and Podcasting in Education**"

<http://subscriptions.fasfind.com/wwwtools/m/8907.cfm?x=0&rid=8907>

Summarises the appeal of podcasting in education, the downsides (for example, ICT requirements) with multiple links to resources.