

Students and Copyright

What is copyright?

A simple definition of copyright is that it is a bunch of rights in certain creative works (literary works, artistic works, musical works, computer programs, sound recordings, films and broadcasts) which can be used to stop others from copying the creative works without permission.

At its most basic, copyright is simply the exclusive right to copy.

The rights are granted exclusively to the copyright owner to reproduce (copy, scan, print) and communicate (email, put on Internet) 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 their permission. Only the copyright owner can licence or sell these rights to someone else.

Why is copyright important?

Copyright is important because it gives creators control over their creative works. This means they can decide who uses their work, how it can be used and if they will charge a fee to other people who want to use it. This gives creators the ability to earn a living from their works and/or to control how their works are used or disseminated.

What does copyright 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. Basically, copyright only protects creativity that is in a tangible medium.

The types of works copyright protects include:

Artistic Works

paintings, photographs, maps, graphics, cartoons, charts, diagrams and illustrations

Literary Works

novels, textbooks, poems, song lyrics, newspaper articles, computer software, computer games

Musical Works

melodies, song music, advertising jingles, film scores

Dramatic works

plays, screenplays and choreography

Films and moving images

Feature films, short films, documentaries, television programs, interactive games, television advertisements, music videos and vodcasts

Sound recordings

MP3 files, CDs, DVDs, vinyl and tape recordings, podcasts.

Broadcasts

Pay and Free to air television and radio

It is important to note that online text, images, broadcasts, videos and music on websites, wikis, blogs and social networking sites are all protected by copyright. See **Public Domain** below

When does copyright apply?

In Australia, copyright protection is automatic. This means that a work does not need to be registered or have a copyright notice on it to be protected by copyright. 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).

Copyright and plagiarism

The relationship between copyright and plagiarism can be tricky to understand. Plagiarism is a type of misconduct that, in some cases, may also give rise to copyright infringement. Plagiarism occurs where a student uses someone else's ideas or words in their work and pretends they are their own. If the student has used a lot of someone else's words without that person's permission, copyright infringement may also occur.

Who owns the copyright in work?

The person who creates a work will normally own copyright in it.
In general;

- the creator of a visual art work will own the copyright in the artwork
- the author of a poem will own copyright in the poem
- the production company of a film will own copyright in the film
- the composer of a song will own copyright in the music of a song
- the record company will own the copyright in a sound recording of music
- the broadcaster will own the copyright in the radio or television broadcast

How long does copyright last?

The period of protection will differ depending on the type of creative work.

- Artistic, literary, musical and dramatic works are protected from the time the work is created until 70 years after the creator has died.
- Films, sound recordings and broadcasts are protected for 70 years from the end of the year in which the work was released.

What is the public domain?

Once the period of copyright protection expires, the work is in the 'public domain'. This means that anyone can copy the work without having first to obtain permission from the copyright owner.

Some people mistakenly believe that once a work is published or available for free from the Internet, it is in the 'public domain'. This is not true. Publicly available Internet material, such as an online newspaper articles or images on Google or Flickr, are all protected by copyright. Public domain works are works where the period of copyright protection has expired.

When can you use other people's work?

If you want to use someone else's work, you can generally only use it if:

1. Your use is permitted under an exception contained in the Australian Copyright Act ('Copyright Act').

There are a list of exceptions called 'fair dealing' in the Copyright Act that allow students to copy and use other people's works for the purpose of 'research and study', 'criticism and review', 'satire and parody' and 'reporting the news'. See section on **Fair Dealing**.

2. The copyright owner has said that it can be used for free or has licensed the material under a Creative Commons licence. See the section on **Creative Commons**.

3. You ask the copyright owner for permission and they give it. This is called permission or a licence. See section on **Obtaining Permission**.

1. Fair Dealing

Students can copy and communicate limited amounts of works under "fair dealing" without seeking the permission of the copyright owner. To rely on fair dealing, the use of the material must be **fair** and for the purpose of:

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

Most of the copying students will do will fall under fair dealing for research and study. In some cases, a student will be copying material under both fair dealing for research and study *and* another fair dealing purpose such parody and satire or criticism and review.

Overall, deciding whether a student's use is 'fair' will be determined largely by how much of the work has been copied. This can be tricky as the Copyright Act provides little guidance on what constitutes a 'fair' amount.

TIP: Students should link to material or use Creative Commons licensed material where possible. See **Creative Commons** and **Smartcopying Tips** below.

How much is 'fair'?

The Copyright Act states that students are permitted to copy a **reasonable portion** of a literary, dramatic or musical work in both print and electronic form for the purpose of research or study. Reasonable portion is defined to be 10% of the number of pages or one chapter if the work divided into chapters.

In all other cases, the Copyright Act is silent on how much a student can copy for their use to be 'fair'. This means that no guidance is provided on how much of:

- A sound recording, film/moving image or broadcast can be used by a student under fair dealing for the purpose of research or study.
- Any work can be copied under fair dealing for criticism or review, parody or satire or reporting of the news.

As a general rule, students should only copy what is **necessary** for the fair dealing purpose to ensure that their use is 'fair'. In most cases, this will only be an **extract** of the work and not the whole work. For example, in preparing an essay, a student is likely to copy several pages from a book or an article from a journal. This is permitted provided the extracts copied are necessary for the student's research or study. Further, if the student is making a parody of a song or film, it is unlikely that the student will need to copy the whole work for the fair dealing purpose. In such a case, copying an extract of the song or film as necessary will be 'fair'.

In limited circumstances, a student may be permitted to copy a whole work provided the whole work is necessary for the fair dealing purpose. For example, a student may need to copy an entire short poem when preparing a critique on the poem.

Overall, when relying on fair dealing, students must:

- Use extracts and not whole works. In rare cases, a whole work can be copied provided it is necessary for the fair dealing purpose.
- Always attribute the author and publisher where the source is known. See **Attribution** below.

TIP: Where possible, students should link to material and use Creative Commons licensed material, See **Smartcopying Tips** for some smart ways of managing copyright

2. Creative Commons

Creative Commons is a set of licences which creators attach to their work. All Creative Commons licences allow the material to be used for free for educational purposes.




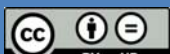
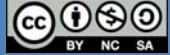
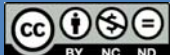
Using Creative Commons in your homework and class exercises is a good alternative to relying on the fair dealing exceptions. This is particularly because the fair dealing exceptions are complex, making it difficult for a student to:

- Copy an entire work or large portions of a work
- Modify and remix a work.

Using CC material removes these barriers as:

- Students can copy an entire work without limitation
- Students can modify and remix the material.

There are six standard CC licences. The table below lists these licences and the different conditions which attach to each.

Licence	Symbols	Type of use	You can
Attribution (BY)		Commercial and non-commercial	<ul style="list-style-type: none"> • Copy; • Adapt or modify; • Redistribute (publish, display, publicly perform or communicate the work); and • License to others.
Attribution-Noncommercial (BY-NC)		Non-commercial only	<ul style="list-style-type: none"> • Copy; • Adapt or modify; • Redistribute (publish, display, publicly perform or communicate the work); and • License to others.
Attribution-Share Alike (BY-SA)		Commercial and non-commercial	<ul style="list-style-type: none"> • Copy; • Adapt or modify; • Redistribute (publish, display, publicly perform or communicate the work); and • License to others on the same terms as the original work.
Attribution-No Derivative Works (BY-ND)		Commercial and non-commercial	<ul style="list-style-type: none"> • Copy; • Redistribute (publish, display, publicly perform or communicate the work) verbatim copies; and • License to others
Attribution-Noncommercial-Share Alike (BY-NC-SA)		Non-commercial only	<ul style="list-style-type: none"> • Copy; • Adapt or modify; • Redistribute (publish, display, publicly perform or communicate the work); and • License to others on the same terms as the original work.
Attribution-Noncommercial-No Derivative Works (BY-NC-ND)		Non-commercial only	<ul style="list-style-type: none"> • Copy; • Redistribute (publish, display, publicly perform or communicate the work) verbatim copies; and • License to others

For more information, see the 'Creative Commons Information Pack' on the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/956>.

3. Obtaining permission

You will need to seek permission from the copyright owner if you wish to use the work in a way which is not permitted by fair dealing.

Only a copyright owner can give permission, known as a licence, for others to copy, communicate and/or perform their work.

Sometimes the copyright owner will ask for payment in exchange for giving permission. Other times, the copyright owner will give permission to use their work for free subject to certain conditions, such as with Creative Commons licences.

Attributing Material

All material copied and/or communicated in your work should be labelled with the details of the copyright owner and author (if different to the copyright owner), the name of the work, where the material was copied from and when it was copied.

Creative Commons Material

When attributing Creative Commons material, you should:

- Credit the creator;
- Provide the title of the work;
- Provide the URL where the work is hosted;
- Indicate the type of licence it is available under and provide a link to the licence (so others can find out the licence terms); and
- Keep intact any copyright notice associated with the work.

eg. Peter Alexander, 'Sounion Temple',
<http://www.flickr.com/photos/40681760@N07/3961143351/>, 5 August 2009
Available under a Creative Commons 2.0 Attribution licence:
<http://creativecommons.org/licenses/by/2.0/deed.en>

For further information on attributing Creative Commons material, see the Smartcopying website at: <http://www.smartcopying.edu.au/scw/webdav/site/scwsite/shared/attribute.pdf>

Smartcopying Tips

1. Link to material

Linking is not a copyright activity. This is because you are not actually 'copying' or 'communicating' any material, you are just providing a path to its location on another website. Providing links to material on external websites will not infringe copyright and you do not need to seek permission from the website owner to include a link to their website.

2. Use embedded links

Embedding is another type of linking, except you don't have to leave your website (e.g. blog or wiki) or intranet to access the content. It is commonly used for displaying online films, e.g. YouTube films, on websites.

Embedding involves copying the HTML code of the film, which is often displayed in a box near the film, and pasting it onto your website. The result of this is, rather than displaying the link, a small screen of the film will be shown on your website.

The primary advantage to embedding material is that you do not need to copy the material in order to make it available on your website. Some websites, such as YouTube, provide the link for embedding films. This makes embedding an easy and practical alternative to copying.

3. Create your own material

If you are using material that is your own original work and does not contain any material created by another person, you do not need to rely on the fair dealing exceptions as you are the copyright owner.

It is important that you label your original work with your name and the year it was created. This is so others know that the work is your original work and that you own copyright in that work.