

YouTube: Use by Teachers

Risk Management tips for teachers using YouTube

- Don't use content that is likely to be an infringing copy.
- Only use YouTube videos for the purpose of teaching. There should be no commercial benefit.
- Only use what you need.
- Check that you can't purchase or readily license the content that you need from another source.
- Don't expose the content to further copying or communication, such as putting the material on the internet or giving students access to an electronic file that they could copy.

What is YouTube?

YouTube is a video sharing website that allows anyone to watch videos for free. Registered users can also upload videos for free.

To date over 79 million users have watched over 3 billion videos on YouTube.

Many Australian Schools are blocked from accessing YouTube, making it hard for teachers to use this resource as part of their teaching practice. In addition, YouTube has extremely broad categories of videos which make it time consuming to review videos in order to find videos that are appropriate for teaching purposes.

Those restrictions aside, many educators are using Web 2.0 technology as part of their teaching practice and are accessing YouTube from home or other non-school access points.

If I have access to YouTube in the classroom, can I stream YouTube to my class?

You may be able to stream YouTube videos to a class under section 28 of the Copyright Act. This streaming may be directly from the YouTube website, or through a link to a YouTube video embedded on another website. The YouTube website provides information on how to embed links to YouTube videos.

See information sheet 'Performance and communication of works and audio visual material in class – What am I allowed to do?' for further information on when section 28 will apply.

Can I download YouTube videos and use them as part of my teaching practice?

Downloading YouTube videos

Downloading a YouTube video involves making a copy of it.

The Copyright Act may permit a copy to be made, however the terms of use on the YouTube website state that the videos are not to be downloaded (ie copied).

Each jurisdiction will have to decide whether they will rely on what is permitted by the Copyright Act in light of YouTube's terms of use. We recommend that you contact your local copyright manager or contact the National Copyright Unit for further advice. See the Smartcopying website at www.smartcopying.edu.au for contact details.

(i) Downloading YouTube videos of copy Australian free-to-air broadcaster's television program:

This will depend on your jurisdiction's view as to whether they will rely on what is permitted by the Copyright Act in light of YouTube's terms and conditions.

Please note that there were no examples of YouTube copyright Australian free-to-air broadcasts programs at the time of writing this information sheet, but this could change very quickly.

In very limited circumstances, copies and communications may be made under the broadcast statutory licence contained in Part VA of the Copyright Act. These circumstances are where:

- the copy is made solely for an educational purpose;
- the particular YouTube video is of an Australian free-to-air broadcast, that is an ABC, SBS, Channel 7, Channel 9 or Channel 10 program; and
- the particular YouTube video has been posted **by** the Australian free-to-air broadcaster – not somebody else. It is more likely that the broadcaster themselves has posted the video where the video is contained on a partner broadcaster's YouTube Channel. We are not aware of any of the free-to-air broadcasters having a designated channel at this time.

There is no requirement to mark digital copies made under the statutory licence, though some schools choose to mark all copies, irrespective of format. The marking would be:

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]

If the copy is to be communicated (eg on an intranet or Content Management System) it must be accompanied by a warning notice.

However if the communication is made within the school's premises and no copies are able to be made, no warning notice is required. See the 'National Copyright Guidelines: Licence Notices' for the form of notice.

(ii) Other YouTube videos:

This will depend on your jurisdiction's view as to whether they will rely on what is permitted by the Copyright Act in light of YouTube's terms and conditions.

Depending on the circumstances, the Flexible Dealing Exception may allow the YouTube video to be copied.

For the Flexible Dealing Exception to apply:

1. The YouTube video must not be a copy of content that is likely to be infringing. Content is unlikely to be infringing if it is on a YouTube Partner Channel – YouTube has many content partners that provide videos, including National Geographic, BBC Worldwide and Showtime
2. You must be using the video for the *purposes of giving educational instruction*.
3. Your use must be *non-commercial*.
4. The circumstances of your use must be a *special case*.
5. Your use must not *conflict with the normal exploitation* of the video using.
6. Your use must not *unreasonably prejudice the copyright owner*.

For further information, see information sheet 'The new flexible dealings exception – What am I allowed to do?'

It is good practice to **mark copies** made under the Flexible Dealing Exception with words similar to:

"Copied under section 200AB of the Copyright Act 1968"

Converting the format of YouTube videos for download

If your jurisdiction is choosing to rely on what is permitted by the Copyright Act, there are still restrictions on the process you use for downloading the YouTube video.

YouTube videos are built in Adobe Flash. To enable them to be downloaded they need to be converted into a different file format. This is permitted under the Copyright Act **provided that:**

- you do it yourself
- you do not provide assistance to convert the YouTube videos.

Showing a copy YouTube video file in class

A copy of a YouTube video may be able to be shown in class under section 28 of the Copyright Act, provided it is for the purposes of educational instruction. For further information, see information sheet 'Performance and communication of works and audio visual material in class – What am I allowed to do?'

Can we make the copy of the YouTube video available from the School Intranet or a Content Management System for teachers or students?

(i) Extract of an Australian broadcaster's free-to-air television program:

If the YouTube video is an extract of a television program that is made available by an Australian free-to-air broadcaster, it may be placed on the School Intranet or Content Management System provided it will only be used for educational purposes.

For further information, see information sheet 'Copyright Implications of Content Management Systems: Schools'.

(ii) Other YouTube videos:

In the case of other YouTube videos, whether or not it can be placed on a School Intranet or Content Management System will depend on the application of the Flexible Dealing Exception.

Each use of the YouTube video must meet the requirements of the Flexible Dealing Exception.

In between uses of the video under the Flexible Dealing Exception, it is good practice to disable access to the video.

Should I destroy or delete the copy YouTube video once it has been used for its purpose of educational instruction?

(i) Extract of an Australian broadcaster's free-to-air television program:

If the YouTube video is an extract of a free-to-air television program made available by the broadcaster then it does not need to be deleted or destroyed.

(ii) Other YouTube videos:

Generally, copies of other YouTube videos will not need to be deleted or destroyed.

However the copy video should:

- only be for educational instruction
- not be uploaded to the Internet and
- not be given to students as an electronic file that they could copy.

It is good practice to disable access to YouTube videos between uses that meet the requirements of the Flexible Dealing Exception.

	Extract of an Australian free-to-air Broadcaster's Television Program	Other YouTube Videos (including YouTube Content Partners)
Can I download a YouTube video? *	Yes, under Part VA provided that: <ul style="list-style-type: none"> • the copy is made solely for educational purposes; • the video is of an Australian free-to-air broadcast; and • the video has been posted by the broadcaster. 	Yes, under the Flexible Fair Dealing Exception provided that: <ul style="list-style-type: none"> • The YouTube video is not likely to be an infringing copy. • You are using the video for the purposes of giving educational instruction. • Your use is non-commercial. • The circumstances of your use is a special case. • Your use does not conflict with the normal exploitation of the video. • Your use does not unreasonably prejudice the copyright owner.
Can I convert YouTube videos into a different format in order to download them?*	Yes, provided that you do it yourself	Yes, provided that you do it yourself
Can I show a YouTube video file in class?	Yes, as long as it is for the purposes of educational instruction	Yes, as long as it is for the purposes of educational instruction

	Extract of an Australian free-to-air Broadcaster's Television Program	Other YouTube Videos (including YouTube Content Partners)
Can I upload a YouTube video file to the School intranet or Content Management System?	Yes, as long as it is being used for educational purposes.	Yes, under the Flexible Fair Dealing Exception provided that: <ul style="list-style-type: none"> • The YouTube video is not likely to be an infringing copy. • You are using the video for the purposes of giving educational instruction. • Your use is non-commercial. • The circumstances of your use is a special case. • Your use does not conflict with the normal exploitation of the video. • Your use does not unreasonably prejudice the copyright owner.
Do I have to destroy copies of YouTube video files after use?	No	No

* This question assumes your jurisdiction is relying on what is permitted by the Copyright Act despite YouTube's terms and conditions.

For further information see the Smartcopying website at www.smartcopying.edu.au or contact your local copyright manager.