Marking and labelling copyright materials

This information sheet is for teachers who create or compile resources for students, and for curriculum units that develop resources for TAFEs or schools. It covers the following:

- Labelling material that has been copied or communicated to students under the statutory licences
- Labelling material that has been created by you, your TAFE or an educational body (e.g. TAFE Commission or government department etc.)
- Labelling OER/CC content
- Labelling other material where you have the permission of the copyright owner to use the content

Labelling is important.
By labelling teaching materials correctly you help ensure not only that copyright owners get paid when their content is copied under the statutory licence, but also that schools are not required to pay under the statutory licence to use content that they own or have permission to use. In 2017, TAFEs and schools paid approximately $70 million in copyright fees to Copyright Agency. It is likely that a significant proportion of these fees were paid to copy material owned by schools, TAFEs and educational bodies.

Labelling material that has been copied or communicated to students under the statutory Text and Artistic or Broadcast licence

Content that is made available to students under the statutory licence should - wherever possible - include a label containing sufficient information to enable Copyright Agency or Screenrights to identify the owner of copyright. For example: the name of the author, title, publisher, edition or date of publication, and ISBN or ISSN. (It's not enough to include just the name of the author: the author is often different from the copyright owner.) If you are copying from a website, you should include the full URL.

If you are copying broadcasts, include the name of the program, the channel it was copied from and the date the copy was made.

There is no longer any statutory obligation to include a notice stating that copyright material has been copied/communicated in reliance on either of the statutory licences. Despite this, NCU suggests that it would be good practice to include the following notice - where this is reasonably practicable - on text and artistic works, or broadcasts, that have been copied under the statutory licences (http://www.smartcopying.edu.au/copyright-guidelines/education-licences-(statutory-and-voluntary-licences). This is in order to limit the potential liability of the TAFE or school in the event that a student uses the content in a way that may infringe copyright:

[WARNING]
This material has been copied [and communicated to you] in accordance with the statutory licence in section 113P of the Copyright Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act. Do not remove this notice.

The same notice applies regardless of whether you are copying under the Text and Artistic Statutory licence or the Broadcast Statutory licence.

A practical way of including this notice to electronic material is to insert a link to the notice from the attribution information, eg:

Copied under the statutory licence in s 113P of the Copyright Act
Media Watch’, ABC, 17 August 2009
[Link to warning notice]
This would mean that the notice would have to be uploaded onto one spot on the repository and be linked to when required.

Where it is not possible to include a link to the notice from the attribution information, the notice could be displayed (flashed) on the screen as the user logs into the password protected share drive or intranet or content or learning management system or cloud storage. If using this approach, you should modify the notice to make clear that it applies to only some of the material on the repository:

![WARNING]

Some of this material may have been copied [and communicated to you] in accordance with the statutory licence in section 113P of the Copyright Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act. Do not remove this notice.

If you are presenting a PowerPoint that includes material copied under the statutory licence, you could include an introductory or closing slide containing this notice.

**Labelling material that has been created by you, your TAFE or an educational body (eg TAFE Commission or government department etc.)**

Material that has been created by you, your school or an educational body should be clearly labelled as such in order to avoid the possibility of the school having to pay under the statutory licence to use the content. This is best done with a footer on each page. For example:

© NSW Technical and Further Education Commission (TAFE NSW), 2018.© TAFE NSW – Sydney Institute 2018

**How do you know if material is owned by a school or educational body?**

TAFEs, and educational bodies own copyright in all material created by their employees as part of their duties. TAFE’s and educational bodies also own copyright in material created by a person or organisation who has agreed in writing to assign copyright in the material they create to the school or educational body. For example, a resource developer (an independent contractor), who has been engaged to write a module, may have been required to assign copyright in the module to the TAFE or educational body as part of their contract of engagement.

**Labelling OER/CC content**

Open educational resources (OER) are resources that are free to use, and free to adapt, remix and improve. Ideally they are licensed under the Creative Commons CC-BY (Attribution) or CC-BY-SA (Share Alike) licence. See [OER info sheet at http://www.smartcopying.edu.au/open-education/open-education-resources] for information on how to use, and where to find, OER resources. NCU encourages teachers to use OER resources wherever possible.

CC licences require that users of the work attribute the creator. This means you always have to acknowledge the creator of the CC work you are using, as well as provide any relevant copyright information. See “How to attribute Creative Commons licensed materials” for detailed information on what information you should include.[http://www.smartcopying.edu.au/open-education/creative-commons/creative-commons-information-pack-for-teachers-and-students/how-to-attribute-creative-commons-licensed-materials]

**What if the resource you have created contains some CC content, and some third party content that is not CC?**

You must ensure that any third party content that is not CC licensed is clearly identified as such. This can be done either by including a notice
directly under the third party content, or by giving a general notice that includes all third party non-CC content. For example: ‘Smith, J 2014, How to label third party content © National Copyright Unit, NSW, all rights reserved, used with permission.’

or ‘All material on this website, except as identified below, is licensed under the Creative Commons Attribution 4.0 International Licence. To view a copy of this licence, visit http://creativecommons.org/licenses/by/4.0/.’

Material that is not licensed under a Creative Commons licence is:

• Commonwealth Coat of Arms
• Material protected by a trade mark
• Logo
• Photographs on pages 4, 5 and 6
• Poem on page 2
• [Etc]

All content not licensed under a Creative Commons licence is all rights reserved, and you must request permission from the copyright owner to use this material.

What if I am using clip art?

If you are using clip art, always check the terms and conditions of use, and try to use openly licensed clip art - such as from the Open Clip Art Library at CLKER.com.

It is often not practical to label each individual image, so include the notice in the footer of the page on which the images appear. For example:

Clip art sourced from Microsoft (which is freely licensed).

Labelling other material where you have the permission of the copyright owner to use the content

If you have permission from the copyright owner to reproduce the material you should check with them how they would like to be attributed. The permission should allow the school or educational body to reproduce the material, and for the material to be subsequently copied, and, if appropriate, communicated, by the school or educational body for its educational purposes. Ideally, you should seek permission to make it available under a CC-BY (Attribution) or CC-BY-SA (Share Alike) licence and label it as such.

Ensuring that the person who grants you permission is actually the copyright owner

The author of the copyright work may not be the copyright owner: they may have assigned copyright to a publisher.

You must ensure that any permission that you receive has been given the person or entity that owns the copyright.

If the copyright owner is not willing to licence the content under a CC licence, you should ensure that the permission that is provided clearly permits the school or educational body to reproduce and communicate the material for educational purposes. Ideally, you should seek a permission that allows the TAFE or educational body to not only reproduce the work for the resource being created, but also to make further copies of the work, and to communicate the work to students, for educational purposes. You should clearly indicate next to the work or in the footer of each page that you have this permission. For example:

Reproduced and made available for copying and communication by [insert name of TAFE or educational body] for [its] educational purposes with the permission of [name copyright owner].

If the copyright owner will only agree to the work being reproduced for inclusion in the resource you are creating (i.e. the permission does not extend to further copies or communications of the work) you should make this clear. For example:

Reproduced and made available for copying and communication by [insert name of TAFE or educational body] for [its] educational purposes with the permission of [name copyright owner].