

# Table of contents

<b>1</b>	<b>About this publication</b> .....	1
1.1	Who this publication is for.....	1
1.2	How this publication is set out.....	1
1.3	Information, not legal advice .....	1
1.4	Glossary.....	2
<b>2</b>	<b>Introduction</b> .....	4
2.1	The game industry – overview.....	4
2.2	The Australian game industry and market.....	5
2.3	Gamers today.....	6
<b>3</b>	<b>Copyright overview</b> .....	7
3.1	Introduction .....	7
3.2	What is protected by copyright? .....	7
3.3	Requirements for copyright protection.....	8
3.4	What is not protected by copyright? .....	10
3.5	Games and copyright.....	11
3.6	How long does copyright last?.....	14
3.7	Who owns copyright? .....	15
3.8	Who makes games? .....	17
3.9	What are the rights of the copyright owner?.....	18
3.10	Uses that are not rights of the copyright owner .....	19
3.11	When do you need permission from the copyright owner?.....	19
3.12	Technological Protection Measures and Electronic Rights Management Information.....	20
3.13	Exceptions to copyright.....	21
3.14	Specific exceptions for computer programs.....	23
3.15	Copyright infringement.....	25
3.16	What to do if someone infringes your copyright .....	26
3.17	Protection in other countries .....	28
3.18	Clones.....	28
3.19	Frequently asked questions .....	29
<b>4</b>	<b>Clearing copyright</b> .....	31
4.1	Introduction .....	31
4.2	Finding the copyright owner.....	31
4.3	Assignments .....	32
4.4	Exclusive licences .....	32
4.5	Non-exclusive licences.....	33

4.6	Contractual licences	33
4.7	Bare licences	34
4.8	Creative Commons	34
4.9	Express and implied licences	35
4.10	What rights should we ask for?	36
4.11	What should be covered in a contract	36
4.12	Middleware	39
4.13	Open source software	39
4.14	What if it all goes wrong?	40
4.15	Frequently asked questions	40
<b>5</b>	<b>Moral Rights and Performers' Rights</b>	<b>42</b>
5.1	Introduction	42
5.2	Nature of moral rights	42
5.3	Right of attribution	42
5.4	Right against false attribution	43
5.5	Right of integrity	43
5.6	Infringement of moral rights	44
5.7	Defences to moral rights infringement	45
5.8	Performers' rights	46
5.9	Frequently asked questions	47
<b>6</b>	<b>Distribution and monetisation models</b>	<b>49</b>
6.1	Introduction	49
6.2	Mobile games	49
6.3	Boxed games	51
6.4	Digital distribution	51
6.5	DRM	53
6.7	In-game purchases	55
6.8	In-game advertising	56
6.9	Other models	56
<b>7</b>	<b>User-generated content and communities</b>	<b>58</b>
7.1	Introduction	58
7.2	Types of user-generated content	58
7.3	Ownership of user-generated content	58
7.4	Assigning user-generated content	59
7.5	Licensing user-generated content	60
7.6	Allowing users to use your content	61
7.7	Communities	63

<b>8</b>	<b>Online play and international issues</b> .....	65
8.1	Introduction .....	65
8.2	Jurisdiction .....	65
8.3	What are the issues?.....	65
8.4	A games example .....	66
8.5	International protection .....	66
8.6	The current situation in Australia.....	67
<b>9</b>	<b>Other laws</b> .....	68
9.1	Introduction .....	68
9.2	Classification.....	68
9.3	Competition and Consumer laws .....	70
9.4	Trademarks.....	71
9.5	Patents .....	71
9.6	Confidential information.....	72
9.7	Privacy .....	72
9.8	Personality rights in the United States .....	72
9.9	Business names.....	73
9.10	Domain names .....	73
9.11	Passing off and reputation .....	74
9.12	Offensive or controversial material and cyber bullying.....	74
9.13	Defamation .....	75
9.14	Circuit Layouts.....	75
	<b>Appendix A:</b>	
	<b>Copyright collecting societies</b> .....	76