



INFORMATION SHEET

G070v5

Music: copying MP3s, CDs, cassettes & records

November 2007

In this information sheet we outline the legal issues most relevant to copying CDs and other forms of recorded music. We cover issues such as copying CDs you own to play on your iPod and downloading MP3 files.

For more information about music and copyright, go to <http://www.copyright.org.au/music>. We update our information sheets from time to time. Check our website to make sure this is the most recent version.

The purpose of this information sheet is to give introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

Key points

- It is now legal to copy recorded music you own (such as a CD) to play on a device you own (such as an iPod), subject to certain conditions.
- If you agree to certain conditions before downloading a music file, those conditions still apply; they are not overridden by the new provision in the Copyright Act which allows copies of recorded music.

Copying CDs, records and cassettes you own for personal use

Since 11 December 2006, it has been legal to make copies of sound recordings you own for your own personal use, on a device that you own. The copy may, but need not be, in a different format. For example, you may copy music from CDs you own to:

- your computer;
- your portable music player (such as an iPod);
- a blank CD to play in the car;
- a blank CD for a second CD player; and
- a blank CD to keep as a backup.

Copying from a CD

You can copy from a CD if:

- you own the CD;
- it is a non-infringing copy (that is, it was not made illegally);
- you make the copy yourself; and
- you make the copy to play on a device you own.

The new provision therefore does not apply if:

- the CD is owned by someone else;
- the CD is an illegal copy;

- the copy is made for you by someone else; or
- you make the copy to play on a device owned by someone else.

Once you've made the copy, there are things you must not do with the copy or with the original CD. The copy will become an infringing (illegal) copy if you:

- sell the copy or the original CD;
- distribute the copy or the original CD;
- play the copy or the original CD in public (such as at an office party, club function or community event); or
- broadcast the copy or the original CD.

If you do any of these things with either a copy **or** the original commercial copy, the copy you made in reliance on the provision becomes an infringing copy.

You can, however, **lend** (but not give) the copy or the original CD to members of your family and to people you are living with.

Copying from cassettes and vinyl records

The new provision applies to cassettes and vinyl records in the same way that it applies to CDs.

Copying sound recordings other than music

The new provision applies to recordings of sounds other than music – talking books, for example.

Copying downloaded files such as MP3 files

The new provision applies to recorded sounds in a digital file such as an MP3 file, provided you own the file. You may have paid to download the file, or you may have been able to legitimately download the file without payment.

If you pay to download a file, you will nearly always be asked to agree to certain conditions before you do the download. Even if you don't pay for a download, you may still be asked to agree to certain conditions before you do the download. The new provision in the Copyright Act does not affect your obligation to abide by those conditions. In most cases, the download agreement allows you to make a number of copies of the downloaded file.

In some cases, the application of the new provision to a downloaded file may be excluded by the terms and conditions for the download. This may be relevant if you want to do something that is allowed by the new provision in the Copyright Act (for example, lend a copy to a member of your family) but not allowed by the terms and conditions of the download.

The new provision does not apply to illegal files, such as illegal mp3 files acquired using P2P software.

Copying recorded broadcasts and podcasts

The new provision does **not** apply to:

- a recording from radio or TV (even if made under the new time-shift exception); or
- a download from the internet of a radio broadcast (such as a podcast of an ABC program).

Common questions

Can I copy my vinyl record collection onto CD format?

Yes, provided each record is non-infringing and each copy is to play on a device – such as a CD player or a computer – that you own.

Can I copy music from my CDs to listen to on my MP3 player?

Yes, provided each CD is non-infringing and you own the CDs and the player. If the process requires copying the music onto a computer, you must own the computer too.

Can I listen to the copies outside my home?

Yes. You can watch or listen to the recording at home, or you watch or listen to it privately outside the home (for example, on a portable device such as an iPod).

Can I lend copies I have made to my friends?

No, unless they are part of your household. You may only lend copies you have made to your family and to people you live with.

Can I make an extra copy of a CD to give to my brothers and sisters?

No. You can only make a copy for you to play on a device that you own. You can lend, but not give, a copy you have made to your family and to people you live with.

Can I now set up a business transferring record collections onto CDs?

No. The new provision only applies to copies made by the owner of the records to play on a device that that person owns.

You would be able to copy music from vinyl records to CDs if:

- all the copyrights – the copyright in each piece of music, the copyright in each lyric and the separate copyright in the recorded sounds – have expired (see our information sheet *Duration of copyright*, available from <http://www.copyright.org.au/introductory>); or
- you have permission from the owner of each copyright.

If you did offer a copying service for customers, you are likely to infringe copyright.

I am a DJ and want to re-record music from vinyl records to CD. Can I do this?

Unless you own copyright in the material you wish to copy, or the copyright has expired, you will need permission to copy music from vinyl records to CD to use as a DJ. In 2003, several DJs were found to have infringed copyright when they remixed sound recordings, manufactured CDs of the remixed versions and offered them for sale, all without the permission of the recording companies as exclusive licensee of the copyright material.

You may be able to get a licence from the Australasian Performing Right Association (APRA) allowing you to transfer music into different formats. For more information, see http://www.apra.com.au/music-users/making_records/tranferring_music.asp.

See our information sheet *Music: DJs*, available at <http://www.copyright.org.au/music>.

Can I lend the copies I have made to the community broadcaster I volunteer for?

The new provision does not allow you to lend copies you have made for private use to a community broadcaster.

For more information on community broadcasters, see our information sheet *Community Broadcasters*, available from <http://www.copyright.org.au/film>.

What happens if I infringe copyright?

If you use copyright material in any of the ways reserved to the copyright owner without permission, you will infringe copyright, unless copyright has expired or unless you stay within the boundaries of an exception, such as the personal use exception discussed in this information sheet.

If you infringe copyright, the copyright owner is entitled to take legal action against you. For example, record companies in America, Europe and Canada have commenced proceedings against individuals for illegally swapping

music online. In Australia, several music companies commenced proceedings against three Australian universities for access to data stored on the university computer networks which may contain evidence of copyright infringement by staff and students.

In some cases – such as where someone has distributed infringing copies widely (for example by uploading them to an internet site) or has made them commercially available – criminal penalties may apply. For example, in November 2003, two university students from Sydney were given suspended jail sentences and ordered to complete community service for creating and operating a digital music website which allowed users to download thousands of songs for free without permission from the copyright owners.

For information on the consequences of infringement, see our information sheet *Infringement: actions, remedies, offences, penalties*, available from <http://www.copyright.org.au/permission>.

Further information

For further information about copyright, and about our other publications and training program, see our website – <http://www.copyright.org.au>.

Reproducing this information sheet

You may download and print one copy of this information sheet from our website for your reference, or you may purchase a printed copy from our online shop – <http://shop.copyright.org.au> – or direct from us.

Australian Copyright Council

The Australian Copyright Council is a non-profit organisation whose objectives are to:

- assist creators and other copyright owners to exercise their rights effectively;
- raise awareness in the community about the importance of copyright;
- identify and research areas of copyright law which are inadequate or unfair;
- seek changes to law and practice to enhance the effectiveness and fairness of copyright;
- foster co-operation amongst bodies representing creators and owners of copyright.



Australian Government



The Australian Copyright Council has been assisted by the Commonwealth Government through the Australia Council, its arts funding and advisory body.

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