



## Educators: Using AV materials

This information sheet covers use of audiovisual material by educational institutions. Check our website at [www.copyright.org.au/education](http://www.copyright.org.au/education) to make sure this is the most recent version, and for links to more information, publications and training. See also the information for schools, prepared by the schools' Copyright Advisory Group, at [www.smartcopying.edu.au](http://www.smartcopying.edu.au).

**These notes give introductory information only. If you need to know how the law applies in a particular situation, please get advice from a lawyer.**

### TV and radio broadcasts

The Copyright Act, in Part VA, allows an educational institution to copy and communicate material from radio and TV. The use must be for educational purposes, and the institution must be covered by a remuneration notice with Screenrights ([www.screen.org](http://www.screen.org)). Part VA (the Screenrights scheme) covers cable, satellite and broadcast services, whether free-to-air or subscription, but **not** on-demand services. It also covers some podcasts and vodcasts of broadcast programs.

### *What you can do with broadcast material (Screenrights copies)*

Under the Screenrights scheme, you can copy anything from a broadcast – TV or radio programs, advertisements, trailers and so on – for the educational purposes of your institution. There are no limits on the amount you can copy, and no limits on the number of copies you can make, provided it is for the institution's educational purposes. Copies can be made in any format, and may be loaded onto learning management systems.

Provided you have the communication licence (which we understand is the case for almost all schools, universities and TAFEs), you can also "communicate" the copies – for example, by reticulating programs to different classrooms, streaming them online, or making them available online for staff or students to access.

You can make copies for other educational institutions entitled to rely on the Screenrights scheme. Screenrights copies may be lent to staff and students within the institution where this is for educational purposes. However, you should not lend a Screenrights copy to anyone outside your institution.

Screenrights copies may be screened or played in class – see below. However, you must not play Screenrights copies other than for educational purposes – for example, for entertainment at a film night or on an excursion.

### *What are your obligations under the Screenrights scheme?*

To rely on the Screenrights scheme, your institution (or its governing body) needs to enter an agreement with Screenrights. Almost all educational institutions are covered by the Screenrights licence, in almost all cases covering communication. (Some RTOs, and some small or new independent institutions, may not be covered.)

There are some administrative obligations. If you make analog copies (e.g. videos) you must mark each copy – see Screenrights brochure for details. There is no such obligation for digital copies, but it is generally a good idea to record such information. You do not need to keep records of what you copy, except during a sampling period, unless your institution has chosen the "full records" option. (We understand that only some RTOs and small independent institutions have chosen this option).

If you communicate Screenrights material, you must take reasonable steps, such as passwords and secure websites, to ensure that only teachers and students have access to the material.

If making material available online, or transmitting it, you need to provide a special notice with the electronic copy – see Screenrights brochure for details. This notice is not, however, necessary if the communication is made only within the premises and in such a way that recipients cannot copy or communicate it further (or in other circumstances agreed with Screenrights).

### *Resource centres*

If you miss a program, you may be able to get a copy from Tape Services at the SA Curriculum Resources Unit: [www.tapeservices.sa.edu.au](http://www.tapeservices.sa.edu.au). Another possible source (within 28 days of the broadcast) is the Integrated Help Services Section at Queensland University of Technology (IHSS): [www.ihss.qut.edu.au/teaching/audio,videoand.jsp](http://www.ihss.qut.edu.au/teaching/audio,videoand.jsp).

The "Enhance TV" service offers copies, study guides and resource material. See [www.enhancetv.com.au](http://www.enhancetv.com.au).

**Copies from broadcasts before 29 January 1990**

The Screenrights scheme came into effect on 29 January 1990. Copies from radio or TV before that date are technically infringing copies, and are not covered by the scheme. Pre-Screenrights copies may be kept in the library, lent them and played in class, but you are not generally entitled to make further copies. In some cases, however, you may be able to copy a pre-Screenrights tape in reliance on s 200AB (see below).

**Podcasts, vodcasts and digital files on websites**

Since 11 December 2006, the Screenrights licence has covered radio and TV programs made available online by a broadcaster – for example, as podcasts or vodcasts – provided the material is being or has been broadcast free-to-air. If you are entitled to rely on the Screenrights scheme, you can copy and communicate such material, under the conditions outlined above.

Any other material on broadcasters' websites (such as full interviews where only an extract was broadcast), or AV files made available online by anyone other than a free-to-air broadcaster, is not covered by the Screenrights licence. Whether or not you can copy and communicate such material depends on the licence terms and conditions (if stated), or any implied licence. In some cases, section 200AB may be relevant – see below.

Although downloading and copying digital AV files may require permission, screening or playing the material in class, and communicating it for this purpose, does not infringe copyright provided the educational instruction is not for profit – see below.

**Commercially produced DVDs, videos, CDs etc**

There is no general exception in the Copyright Act allowing educational institutions to copy or communicate AV material that has not been broadcast.

The only specific provision permitting copying of commercially produced videos, DVDs, CDs or similar items concerns replacement of such an item where:

- the item is or was in a library collection; **and**
- it has been lost, stolen, damaged or has deteriorated; **and**
- it is not commercially available.

The librarian must make a written declaration that she or he has made a reasonable investigation and is satisfied that the item is not commercially available. Declarations must be filed and kept in chronological order.

Schools and universities may be able to rely on a licence from AMCOS/ARIA to copy and communicate music CDs – see below.

In some cases, you may be able to rely on the new section 200AB to copy commercially produced AV material. However, you will need to consider the

provision in relation to each item or situation – see below.

Films and sound recordings may be screened or played in class – see below.

**Copying music CDs**

Schools and universities may copy recordings in the AMCOS/ARIA repertoire for student analysis and for playing at events run by the school or university.

Under the AMCOS/ARIA licence for schools, access (including remote access) to recorded music stored on a school intranet can be given for any of the allowed purposes **provided**:

- the relevant material is stored only on the institution's intranet server;
- access is username and password protected;
- records of user logins are kept; and
- access is for listening only, and not downloading.

We understand that similar conditions apply under the AMCOS/ARIA licences for universities.

The Australasian Mechanical Copyright Owners' Society (AMCOS) represents music publishers and can give licences for the reproduction of music in its repertoire. The Australian Record Industry Association (ARIA) can give permission for the copying of certain sound recordings. Details of the school licences offered by APRA/AMCOS and ARIA are available in *Music Copyright for Schools*, published by AMCOS and available for download from [www.apra.com.au/music-users/downloads/schools\\_2006.pdf](http://www.apra.com.au/music-users/downloads/schools_2006.pdf).

**Screening and playing AV material****In class**

The Copyright Act allows people to perform any copyright material in the course of not-for-profit educational instruction, without permission. Following amendments to the Copyright Act that came into effect on 11 December 2006, communication to enable material to be played or screened in class also does not require permission (section 28). A communication may occur, for example, if a reticulation system is used.

Note that this provision does **not** entitle you to copy an item in order to communicate it. If you cannot copy the item under the Screenrights scheme or a licence (for example, a licence granted in relation to material downloaded from the internet), you will need to consider whether you can rely on section 200AB (see below), or whether you need to seek permission.

**Outside class**

If you are playing or screening material other than in the course of educational instruction (e.g. at film nights), you need to get a copy from a distributor

licensed to give permission (e.g. Roadshow Non-Theatrical Film & Video Hire).

You will also need a licence from the Australasian Performing Right Association (APRA) for performance of the music and lyrics in the films. APRA's website is at [www.apra.com.au](http://www.apra.com.au).

You will not generally need a licence for performance of the sound recordings included in the film (from PPCA, the Phonographic Performance Company of Australia) unless commercial interests are involved.

### **Playing infringing copies of CDs or DVDs**

You may infringe copyright if you play an infringing or pirate copy of a CD or DVD. We understand that this issue does not arise for analog material, such as audio and video tapes.

### **Section 200AB: "special case" or "flexible dealing" exception**

On 11 December 2006, the new section 200AB came into force. Section 200AB provides an exception to infringement for educational institutions in limited circumstances, where no other exception covers the situation. The drafting of the section is complex. You may need to get guidance, or specific advice, from within your sector. For detailed information on the provision, and where it might apply, see our practical guide *Special case exception*.

### **Removing or disabling a TPM, or decoding encrypted broadcasts**

Copyright owners are generally entitled to take legal action if you circumvent "access control technological protection measures" (TPMs) they have used to protect access to their material. Using programs such as DVDSHrink or DeCSS to remove the CSS protection on a DVD, for example, may result in such action. We are not aware that these issues apply to analog material such as videos.

The ability to rely on section 200AB to copy the material does **not** give you the right to circumvent an access control TPM. However, there are some exceptions allowing circumvention of access control TPMs. Most relevantly, there are exceptions allowing educational institutions and libraries to circumvent access control TPMs in order to decide whether or not to acquire the protected material, or to replace items under the relevant exceptions.

The Copyright Act also allows copyright owners to take legal action if someone accesses encoded broadcasts without permission, or makes or deals with unauthorised decoders. There are no provisions in the Act that exempt educational institutions from the decoding prohibitions.

### **Use of films & recordings by students**

Special provisions in the Copyright Act allow fair dealing with AV material for research or study. This will generally allow students to copy, edit, communicate and play AV material for the purposes of their research or study, provided the use is fair.

There is also an exception to infringement for fair dealing for parody and satire.

Students may be able to rely on the private copying exceptions – for example to copy CDs they own onto an iPod.

### **Further information & assistance**

- **copyright information:** [www.copyright.org.au/information](http://www.copyright.org.au/information)
- **publications:** [www.copyright.org.au/publications](http://www.copyright.org.au/publications)
- **training:** [www.copyright.org.au/training](http://www.copyright.org.au/training)
- **assistance with a specific copyright issue:** [www.copyright.org.au/assistance](http://www.copyright.org.au/assistance)

### **Reproducing this information sheet**

You may download and print one copy of this information sheet from our website for your reference. For any other uses, please contact us.

**The Australian Copyright Council** is a non-profit organisation, with five full-time and four part-time staff. The Council's services include providing information, assistance and advice in response to nearly 4,500 enquiries a year, publications, training, research and submissions on copyright policy.



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