



# Education: Using Audio Visual Materials

This information sheet covers use of audio visual material by educational institutions.

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

A Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions, archives and libraries.

We have a range of information sheets on a number of topics and publish books that analyse specific areas of the law. We can provide this information sheet in an accessible format on request. Check our website for information about our publications [here](#) and details of our seminar program [here](#).

## Key points

- Special provisions in the *Copyright Act* allow educational institutions to use copyright material for educational purposes without permission from the copyright owner.
- The *Copyright Act* contains a statutory licence for educational institutions in Division 4 of Part IVA which is managed by Copyright Agency, Screenrights and APRA|AMCOS.
- Educational institutions covered by a remuneration notice with Copyright Agency can rely on the Statutory Education Licence to copy and communicate text and images in ways that usually require permission for educational purposes. The government has appointed Screenrights to manage the licence that allows educational institutions to copy and share broadcast content. There are also arrangements in place with APRA|AMCOS for music licences.
- Educational institutions who are part of the Screenrights statutory licence scheme can copy and communicate material broadcast on radio and television, provided such use is for educational purposes. Educational institutions are generally unable to copy commercially produced DVDs and videos without obtaining specific permission.
- Copyright material (including films and music) can be performed and communicated in class without the permission of the copyright owner. However, performances and communications outside the class setting require a licence. Your educational institution may be licensed for performances and screenings that take place outside class.

## Television and radio broadcasts

The *Copyright Act* provides for a statutory licence which allows an educational institution to copy and communicate radio and TV broadcasts. Screenrights ([screenrights.org](http://screenrights.org)) is the declared collecting society for the statutory licence. To be eligible, the educational institution must be

covered by a Screenrights remuneration notice (i.e an undertaking to pay for the uses made) and the copying and communication must only be for educational purposes.

The statutory licence covers copying and communication of cable, satellite and broadcast services, whether free-to-air or subscription, but not on-demand services. It also covers copying and communication of some podcasts of broadcast programs.

### **How do we get access to the Screenrights scheme?**

To rely on the Screenrights scheme, an educational institution needs to enter into an agreement with Screenrights. Almost all schools and universities are covered by the Screenrights scheme. TAFEs, Registered Training Organisations (RTOs), and some small or new independent institutions may need to check with Screenrights to see whether they are signed up to have the Screenrights licence.

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

Under the Screenrights scheme, teachers and staff at educational institutions can copy anything from a TV or radio broadcast for the educational purposes of the institution. There are no limits on the amount that can be copied and no limits on the number of copies that can be made. Copies can be made in any format and may be loaded onto learning management systems.

Educational institutions 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.

Under the Screenrights scheme, educational institutions may make Screenrights copies for other educational institutions who are part of the Screenrights scheme, but not loan them. Educational institutions cannot otherwise provide Screenrights copies to anyone outside their institution. Screenrights copies may be loaned only to staff and students within the institution where this is for educational purposes.

Screenrights copies may be screened or played in class, however, Screenrights copies must not be used for any reason other than for educational purposes. For example, entertainment at a film night or on an excursion is unlikely to be for educational purposes.

### **Screenrights copies and resource centres**

Resource centres are licensed by Screenrights to make Screenrights copies and can provide content to educational institutions participating in the Screenrights scheme. Content obtained from resource centres may be used in the same way as Screenrights material recorded by the institution itself. See the Screenrights website for a list of resource centres [here](#).

### **Copies from broadcasts before 29 January 1990**

The Screenrights scheme came into effect on 29 January 1990. Copies from radio or TV made before that date are not covered by the scheme and are technically infringing copies. Pre-Screenrights copies may be kept in the library, loaned and played in class, but as they are infringing copies you are unable to make further copies.

In order to use such content in the flexible ways provided under the Screenrights scheme, your institution could try to obtain Screenrights copies of the same content (i.e. broadcasts of the content that were recorded after 29 January 1990).

## Podcasts and digital files on websites

Since 11 December 2006, the Screenrights scheme has covered radio and TV programs made available online by a broadcaster (e.g. podcasts or catch-up TV) provided the content 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.

Any other additional material on broadcasters' websites (such as a full interview where only an extract was broadcast) or material made available online by anyone other than a free-to-air broadcaster, is not covered by the Screenrights scheme. Whether or not you can copy and communicate such material will depend on the terms and conditions of use of the material set out on the website or any implied licence.

## Commercially produced DVDs and videos

The Screenrights scheme does not cover copying of commercially produced content in DVDs and videos. Moreover, there is no general exception in the *Copyright Act* allowing educational institutions to copy or communicate AV material that has not been broadcast.

In most cases, educational institutions will need a licence from the copyright owner to copy content in DVDs and videos.

## Copying and using music

### *Music industry collecting societies*

- The Australasian Mechanical Copyright Owners' Society (AMCOS) represents copyright owners of musical works (generally music publishers, composers and songwriters), and licenses the reproduction of musical works in their repertoire ([apraamcos.com.au](http://apraamcos.com.au)).
- The Australasian Performing Right Association (APRA) works in conjunction with AMCOS to represent copyright owners of musical works and licenses the public performance of musical works in their repertoire ([apraamcos.com.au](http://apraamcos.com.au)).
- The Australian Record Industry Association (ARIA) represents copyright owners of sound recordings (generally record labels and companies) and licenses the copying of sound recordings in their repertoire ([aria.com.au](http://aria.com.au)).
- The Phonographic Performance Company of Australia (PPCA) represents copyright owners of sound recordings and licenses the public performance of sound recordings in their repertoire ([ppca.com.au](http://ppca.com.au)).

### *Industry agreements*

Schools and universities have negotiated blanket licence agreements with the music industry collecting societies which permit them to copy sound recordings for use in class and to play at events run by the school or university. They can also make recordings of events that might contain music.

### *Primary and secondary schools*

Primary and secondary schools have the option of getting the APRA AMCOS ARIA Music Recordings and Access (A/V) Licence. This licence enables schools to:

- make audio recordings of music where the music is:
  - to be played at a school event
  - part of a school event
  - for students to analyse as part of a course of instruction
  - for inclusion in an electronic presentation

- make video recordings of school events which feature music and integrate music into video recordings of school events
- permit students to integrate music into films they make as part of their course work or for use at school events
- make audio and video recordings available to students and staff on the school intranet or content management system for educational purposes **provided**:
  - the relevant material is stored only on the institution's intranet server
  - access is username and password protected
  - access is only for listening, with no ability for downloading

All recordings made under the licence must contain a special notice indicating that the recording has been made under the terms of the licence and there are limitations on the distribution and sale of the recordings. In addition, some types and uses of music are excluded from the licence. For example, the licence does not permit copying recordings for use in, or making recordings of a performance of, a grand right work (such as an opera or musical).

Further details of this licence may be found on the APRA AMCOS website ([apraamcos.com.au/music-customers/licence-types/music-in-education/schools/](http://apraamcos.com.au/music-customers/licence-types/music-in-education/schools/)).

### *Universities*

Universities have access to the Universities Licence negotiated in 2005 with APRA AMCOS, ARIA and PPCA. Under the Universities Licence, staff and students at eligible universities can:

- make audio and video recordings for use at university events, of university events and for educational purposes;
- make audio and video recordings available to students and staff on the university intranet or content management system for streaming or download (provided the relevant material is stored only on the institution's intranet server); and
- access is username and password protected; give free performances of live and recorded music for educational purposes and university events.

All recordings made under the Universities Licence must contain a special notice indicating that the recording has been made under the terms of the licence and there are limitations on the distribution and sale of the recordings. In addition, some types and uses of music are excluded from the licence. For example, the licence does not permit copying recordings for use in or making recordings of a performance of a grand rights work (such as an opera or musical).

Further details of this licence may be found on the APRA AMCOS website ([apraamcos.com.au/music-customers/licence-types/music-in-education/universities/](http://apraamcos.com.au/music-customers/licence-types/music-in-education/universities/)).

### *Sharing playlists created on music streaming services*

Staff who have signed up to services such as Spotify or Pandora will have entered into a user agreement with that service. The terms of use of music streaming services typically restrict the use of their service to use that is personal and non-commercial. For example, it is unclear whether a teacher sharing a Spotify playlist with students (for the purpose of the students listening to the music on the playlist via their own Spotify accounts as part of their course work) would fall within such terms of use. In general, schools and universities should check the terms and conditions of the service to find out whether the way their staff are using the service is permitted.

Additionally, there may be copyright issues in relation to a playlist which is a copy of a track listing from a commercially available compilation album. In 2013, the Ministry of Sound record label brought legal proceedings in the United Kingdom against Spotify on the basis that Spotify did not

take action to prevent its customers from creating and sharing playlists which were identical to the track listings on Ministry of Sound compilation albums. The proceedings were settled out of court.

## Screening and playing audio visual material

### In class

The *Copyright Act* contains a specific exception that allows people to perform copyright material in the course of not-for-profit educational instruction without the permission of the copyright owner. The *Copyright Act* also allows communication of copyright material to enable it be played or screened in class. A communication may occur, for example, if a reticulation system or learning management system is used.

An educational institution is not allowed to copy an item in order to communicate it. If a copy cannot be made under the Screenrights scheme or a relevant licence (e.g. a licence granted for material downloaded from the internet), you will need to consider whether you can rely on section 200AB or need to seek permission to make a copy.

See further our information sheet [Films: Screening in Class](#)

### Outside class

#### *Primary and secondary schools*

The schools sector has negotiated a blanket licence with Roadshow PPL under which eligible schools can play films to students for non-educational purposes such as rainy-day lunchtimes, excursions, school camps and after-school and holiday care programs operated by the school. This is known as the Roadshow Schools Co-curricular Licence. If your educational institution is not covered by the Schools Co-curricular Licence or your proposed use falls outside of the type of screening the allowed, your institution should seek permission from the non-theatrical distributor to screen a film other than as part of class teaching.

#### *Universities and TAFEs*

If your educational institution wants to play or screen a film other than in the course of educational instruction (for example, at a film night), you need to obtain a licence from the film's non-theatrical distributor.

#### *Other relevant licences for all educational institutions*

If your institution wants to screen a film for non-educational purposes, not only does the screening of the film require a licence, but the public performance of the **music and lyrics** contained in the film also requires a licence.

You should check with your educational institution to find out whether your film screening event will be covered by any existing licences you may have with APRA. Most schools and universities will be covered by their relevant blanket licence agreements, however some restrictions may apply. For example, if your film screening event is intended to be profit-making, the licence may not apply. If your institution does not have any existing licences with APRA or you are not sure whether your institution's APRA licence will cover your film screening event, contact APRA|AMCOS to determine your licensing options ([apraamcos.com.au](http://apraamcos.com.au)).

You will not generally need a licence for performance of the **sound recordings** included in the film unless commercial interests are involved.

See further our information sheet [Films: Screening in Public](#)

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

The industry licences and exceptions available to educational institutions will not apply in relation to the use of infringing material: you will infringe copyright if you play an infringing or 'pirate' copy of a CD, DVD or digital file.

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

Section 200AB provides an exception to infringement for educational institutions in limited circumstances, where no other exception covers the situation. For example, format-shifting or loading material onto servers in educational contexts might be allowed if the activity fits within the provision's scope.

The drafting of the section is complex. Guidance, or specific advice, may be required on when section 200AB might apply.

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

Technological protection measures (TPMs) are used by copyright owners to control access to and/or copying of their material. Common examples of TPMs include coding on DVDs to prevent the DVD from being copied. TPMs generally do not apply to analogue material such as videotapes and cassettes.

Under the *Copyright Act*, copyright owners are generally entitled to take legal action for circumvention of an access control TPM. However, there are some specific exceptions that allow educational institutions to circumvent TPMs in some circumstances, such as when educational institutions are reproducing or communicating material under the statutory licence.

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 broadcast decoding prohibitions.

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

Special provisions in the *Copyright Act* allow fair dealing with AV material for certain purposes. The most relevant in an education context is fair dealing for research or study. Students might be able to rely on these provisions 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.

For more details, see our information sheet [Fair Dealing: What Can I Use Without Permission](#).

Students may also be able to rely on the format-shifting exceptions for personal use – for example to copy CDs they own onto an iPod, or videotapes into a digital format.

As discussed above, schools covered by the APRA|AMCOS/ARIA Schools Licence: Music recordings and access may allow students to incorporate music in student films. For more information, see our information sheet [Music: Use in Home Videos and Student Films](#).

### **Further information and advice**

A Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For further information about the service, see the Legal Advice section of our website [copyright.org.au](http://copyright.org.au).



You may also be interested in the information for schools prepared by the National Copyright Unit for schools and TAFE at [smartcopying.edu.au](http://smartcopying.edu.au).

APRA|AMCOS has produced the *Guide to Music Copyright for Australian Educators* which is available at [http://apraamcos.com.au/media/6289/ampal-guide-to-print-music\\_final.pdf](http://apraamcos.com.au/media/6289/ampal-guide-to-print-music_final.pdf).

### Reproducing this information sheet

Our information sheets are regularly updated. Please check our website to ensure you are accessing the most current version. Should you wish to use this information sheet for any purpose other than your reference, please contact us for assistance.

### About us

The Australian Copyright Council is an independent, non-profit organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies.

We are advocates for the contribution of creators to Australia's culture and economy; the importance of copyright for the common good. We work to promote understanding of copyright law and its application, lobby for appropriate law reform and foster collaboration between content creators and consumers.

We provide easily accessible and affordable practical, user-friendly information, legal advice education and forums on Australian copyright law for content creators and consumers.

Australian Copyright Council respectfully acknowledges the Gadigal people, the owners and custodians of the land on which our office is located. We pay our respects to the elders and to all First Nations elders: past, present and emerging. This always was and always will be Aboriginal land.



Australian Government



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

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