

READING 1 – COPYRIGHT LAW

1. Copyright Law

1.1 What is Copyright

Copyright is a part of “intellectual property law” and is a complex area, with many myths about what is and what isn’t allowed. The information below is an overview only. It is best to refer to expert advice when looking at Copyright issues.

Copyright protects the way an idea is expressed whether in writing, in music or in art forms.

It also protects television or radio broadcasts, computer software, videos, films, CDs and DVDs.

Note it is the way the idea is expressed that is protected under copyright – not the idea itself.

It is therefore different to “patent” that protects the “original or new” idea or a trade mark that protects a name or logo in your business.

1.2 How Does Copyright apply to Webpages

Copyright affects webpages mainly in the area of direct copying and plagiarism of text, copying of photos, graphics and even the design components and “programming” of the webpage.

It also applies to the versions of software and webpage templates used in webpage development and upload. They must be used in accordance with the copyright owners instructions – often this involves a licence with a licence fee.

All works are automatically copyrighted, even if the author does not mark them with the copyright symbol - ©.

1.3 Rules on Copying

There is no such thing as allowed amounts that may be copied or scanned and wont infringe copyright, even in educational contexts.

That’s right – the 10% rule is a myth! But we will see later how educational institutions are legally able to copy 10% upon payment of a licence fee.

The legal position in Australia is that the only time you do NOT need the copyright owners permission is if you are copying a part that is not a “substantial” part of the copyright material.

But “substantial” is not measured by volume – it is measured by the “significance” of that part ie “whether what has been used is important, essential or distinctive to the original work”. Yes – it is complicated!

Students and academic staff are however legally allowed to use copyright material without permission for the purpose of research or study – where the use is “fair”. The interpretation in the legislation and cases of “fair” is quite complicated too!

In any case – students are not permitted to plagiarise ie to use other peoples words. And as copyright does not protect the idea – you can normally safely put the idea in your own words and avoid breach of copyright. Correct protocol is for you to acknowledge the source of your idea.

So there is also no right to include other peoples material on web-pages without their permission. Nor are you allowed to email written work or on-line material without permission.

The fact that you cant find the author to seek their permission is not legal justification for breaching copyright.

1.4 Copyright Collections Agencies & College Materials

There is however a formal, legal process that has been put in place to facilitate effective but fair use of materials for educational (and some other) purposes. This is through the use of licence agreements via Copyright Collections Agencies.

Copyright collections agencies are organisations that will facilitate copyright use and the payment of licence fees. The collected fees are distributed back to the copyright owners they represent.

The most common Copyright Collections Agency in the education sector is the Copyright Agency Limited (CAL).

How CAL works is that educational institutions apply for a licence with CAL. An annual fee is paid based on student revenue. CAL samples the types of copyright material that has been used by licencees, and on the basis of that sample, distributes the collected fees amongst its copyright owner members ie the authors ..

There are two types of copyright licences needed by educational institutions. These are the:

- The Hardcopy Licence – ie copies made from books... including scanning copies of books; and
- The Electronic Reproduction and Communication Licence – ie copying softcopy material including sending it out by email or web-posting it

CAL licences are not open “copy anything and any amount” arrangements. They have strict restrictions - to allow fair copying of material for educational purposes, without infringing on the copyright owners commercial ability to make a living from selling the material.

RTOs for example are not allowed to copy more than one chapter or 10% of a publication under their CAL licence. If they want to use that much of the material they must arrange to purchase it. So this is where the 10% rule comes in BUT – a CAL licence must exist to do this AND the 10% rule is a little more complicated than that.

So it is important for RTOs to a) have the CAL licences; and b) ensure staff and students are given specific details on what they are allowed to copy and when under that CAL licence.

1.5 More Information on Copyright

For information about CAL go to <http://www.copyright.com.au>

For information about copyright laws in Australia go to www.copyright.org.au

Both organisations have excellent facts sheets and provide training services.

Also the Flexible Learning Net has developed an on-line information area called the Copyright Kitchen: <http://copyrightkitchen.flexiblelearning.net.au/main.php>