

Copyright Compliance Manual for Teachers

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Introduction

Teachers can use other people's material under special provisions in the Australian Copyright Act 1968 ('Copyright Act'). In order to rely on these provisions and comply with the Copyright Act, teachers **must** meet certain legal requirements. Teachers should also take into consideration copyright licence costs.

This document contains some **Smartcopying tips** to actively help manage copyright costs and assist teachers in complying with copyright when using content repositories.

A content repository is a digital space where content can be stored, accessed and shared amongst a group of people. Examples of content repositories used in schools include learning management systems, intranets, portals, interactive whiteboard galleries, wikis, blogs and media libraries.

In particular, teachers are encouraged to use material they have created, material created by their department/administering body or Free for Education material when copying and communicating content on a content repository.

It is important to note that none of the special provisions in the Copyright Act will apply where the material is not an authorised copy, ie where it is a pirated copy. The Internet does contain a lot of pirated material and it can be difficult to determine whether material available on the Internet is pirated. One good way of working out whether material is pirated is to consider who has uploaded the material and which website it has been uploaded onto.

When do copyright restrictions not apply?

There are four instances where teachers do not need to rely on special provisions in the Copyright Act:

A. Linking

Linking is not a copyright activity under the Copyright Act. This is because you are not actually 'copying' any material, rather just providing a path to its location on another website. As a result, providing links to material on external websites is a good way of managing copyright.

It is generally not necessary to seek the permission of the website owner when creating a link to their website. However, it is important to include an acknowledgement of the source website. The form of acknowledgement that is appropriate will depend on the circumstances. For example, if you are linking to a useful resource and you know the author of that resource, you may wish to include an acknowledgement such as "Mary Smith from X school has provided a useful summary on X's webpage".

B. Embedding

The term 'embedding' has several meanings. In this manual, 'embedding' is used to describe a specific type of link.

Embedding a link allows the user to view and access content as it sits in its original location without having to leave their website (e.g. blog or wiki) or intranet. It is commonly used for displaying online films, e.g. YouTube films, on websites.

Embedding involves copying the HTML code of the film, which is often displayed in a box near the film, and pasting it onto your website. The result of this is, rather than displaying the link, it will show a small screen of the film on your website.

The primary advantage to embedding material is that you do not need to copy the material in order to make it available on your website. Further, embedding is a good way to ensure that students only access the specific material you want them to see on a website, as opposed to accessing an entire webpage which may contain other material not appropriate or relevant to class exercise. It also means that the students do not leave the school content repository (eg class wiki or blog) in order to see that material.

Some websites, such as YouTube, provide the link for embedding films. This makes embedding an easy and practical alternative to copying. It is important to note that some websites may require you to include a link back to that website from your webpage containing the embedded material. For example, Clause 4 of the YouTube terms of use states:

'If you use the YouTube Embeddable Player on your website, you must include a prominent link back to the YouTube website on the pages containing the Embeddable Player'

C. Material Created by You or Your Department/Administering Body

If you are using material that:

1. Is your own original work created in the course of your employment and does not contain any material created by a person who is not an employee of your department/administering body
2. Was developed by your department/administering body and does not contain material that was created by a person who is not an employee of the department/administering body

you do not need to rely on the special provisions in the Copyright Act to use this material. This is because the department/administering body owns the copyright in this material.

However, you must always label the material properly.

For example, if it is your own original work created in the course of your employment, you must include details of your school, year and the department/administering body.

eg. Created by Mount Pritchard Public School, NSW Department of Education and Training, 2009

If the material is from the department/administering body, you must state that the material was created by the department/administering body, where it was sourced from and when it was sourced.

eg. Created by the Catholic Education Commission NSW, accessed through the Commission's intranet, 2009

D. Free for Education Material






In some cases, the copyright owner has already given their permission for a teacher to use their material. When this happens, this material is known as 'free for education'. The internet contains a variety of 'free for education' material.


1. Creative Commons

The most common source of free for education material is creative commons (CC). CC is a set of licences which creators attach to their work. All CC licences allow the material to be used for educational purposes. As a result, material available under a CC licence is 'free for education'. Depending on the

type of CC licence used, a teacher and student may also modify and share the material.

The table below provides a summary of the different CC licences and what is and is not permitted under each licence.

Licence Type	Licence conditions
Attribution 	Freely use, copy, adapt and distribute to anyone provided the copyright owner is attributed.
Attribution No Derivatives 	Freely use, copy and distribute to anyone but only in original form. The copyright owner must be attributed.
Attribution Share Alike 	Freely use, copy, adapt and distribute provided the new work is licensed under the same terms as the original work. The copyright owner must be attributed.
Attribution Non-commercial 	Freely use, copy, adapt and distribute for non-commercial purposes. The copyright owner must be attributed.
Attribution Non-commercial No Derivatives 	Freely use, copy and distribute to anyone but only in original form for non-commercial purposes. The copyright owner must be attributed.

<p>Attribution Non-commercial Share Alike</p> 	<p>Freely use, copy, adapt and distribute for non-commercial purposes provided the new work is licensed under the same terms as the original work. The copyright owner must be attributed.</p>
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For further information, see the 'Creative Commons Information Pack' on the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/956>

2. Free for education websites

There are also many websites which are 'free for education'. This is because their website terms and conditions permit material contained on the website to be copied for 'educational purposes'.

The following table provides a summary of when the terms and conditions of a website will mean the website is 'free for education'.

Note: It can be difficult to interpret the terms and conditions of a website to see whether the website material is 'Free for Education'. For example, the statements at numbers 2, 3 and 4 in the table below may seem like they have the same meaning, however, the use of a comma and inclusion of the word 'and' as opposed to 'or' makes a big difference. As the table shows, only the statement in numbers 4 and 6 below would make a website 'Free for Education'.

What the website terms and conditions state	Is the website 'Free for Education'?
1. Personal Use	No
2. Personal use and non commercial	No
3. Personal use, non commercial	No
4. Personal use or non commercial	Yes
5. Private or individual use	No
6. Use in your organisation	Yes
7. © name and/or year and no terms of use	No

8. No copyright © name and/ or year or no terms and conditions	No
9. Educational use	Yes
10. All Rights Reserved	No

For further information, see information sheet 'Understanding Website Terms and Conditions' on the Smartcopying website at:
<http://www.smartcopying.edu.au/scw/go/pid/999>

Labelling free for education material

All free for education material should be labelled with details of the copyright owner and author (if different to the copyright owner), the name of the work, where the material was copied from and when it was copied. Some free for education material may also require further information to be included. For example, when using creative commons material, you also need to include a link to the creative commons licence.

eg. Peter Alexander, 'Sounion Temple',
<http://www.flickr.com/photos/40681760@N07/3961143351/>, 5 August 2009 Available
 under a Creative Commons 2.0 Attribution licence:
<http://creativecommons.org/licenses/by/2.0/deed.en>

Artistic Works

Teachers are able to use artistic works such as photographs, illustrations, and images for educational purposes under a licence in the Copyright Act known as the Statutory Text and Artistic Licence.

For more examples of artistic works, see the Smartcopying website at:
<http://www.smartcopying.edu.au/scw/go/pid/658>

Access

Images copied under the Statutory Text and Artistic Licence can only be uploaded onto password protected content repositories with access restricted to teachers and students. Parents may be given access to this material provided it is for 'educational purposes' such as assisting students with their work.

Limits

There are no specific copying limits under the Statutory Text and Artistic for artistic works. However, it is recommended that you only copy what you **need** for educational purposes. This is important for managing copyright costs under the Statutory Text and Artistic Licence.

Labelling

You must always label any material you copy under the Statutory Text and Artistic Licence with the name of the copyright owner and author (if different to the copyright owner), where the material was copied from and when it was copied.

eg. Copied under Part VB of the Copyright Act 1968
S. Brooks, www.animalfarm.com.au/photos/2007/htm, accessed 10 May 2009

Notice Requirements

Each time an artistic work is copied and uploaded online, the following notice **must** be attached to that work:

**NOTICE ON MATERIAL REPRODUCED OR COMMUNICATED UNDER STATUTORY
TEXT AND ARTISTIC LICENCE**

**FORM OF NOTICE FOR PARAGRAPH 135ZXA(a) OF
COPYRIGHT ACT 1968**

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been reproduced and communicated to you by or on behalf of [*insert name of institution*] pursuant to Part VB of the *Copyright Act 1968* (**the Act**).

The material in this communication may be subject to copyright under the Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.

This is a mandatory notice prescribed under the Copyright Act.

The most practical way of including this notice is to insert a link to the notice from the labelling information. This would mean that the notice would have to be uploaded onto one spot on the repository and be linked to when required.

eg: Copied under Part VB of the Copyright Act 1968
S. Brooks, www.animalfarm.com.au/photos/2007/htm, accessed 10 May 2009
Part VB Notice: <http://www.smartcopying.edu.au/scw/go/pid/705>

A copy of this notice is available on the Smartcopying website at:
<http://www.smartcopying.edu.au/scw/go/pid/705>

For further information on the Statutory Text and Artistic Licence, see the Smartcopying website at:
<http://www.smartcopying.edu.au/scw/go/pid/700>

Smartcopying Tips

Cost Burden

The department/administering body pays considerable fees for the copying of images by teachers under the Statutory Text and Artistic Licence. To minimise the costs payable under this licence, it is good practice to:

- a. Link to the image wherever possible rather than copy the image. Linking is not a copyright activity because you are not actually copying the image, only providing an address to its location on another website. As a result, providing links to material on external websites is a good way of managing copyright.
- b. Access to the images should be limited to those students who need to access the images for class or homework exercises. Eg one class of students rather than the entire school.
- c. Remove the images as soon as they are no longer required for class or homework exercises. This is because the department/administering body will pay again for the same images every 12 months. This is known as 'anniversary copying'. See '**Flush the Repository**' below for further information.

Managing the Cost Burden

1. Flush the Repository

One practical way of managing anniversary copying costs is to remove all material copied under the Statutory Text and Artistic Licence from the repository every year. This can be done technically by tagging content copied under Statutory Text and Artistic Licence in a certain manner so that it can be easily identified and deleted automatically at the end of each year, ie before 31 December.

2. Use Free for Education Material

There are many places where teachers can go to find images which can be copied without having to rely on the Statutory Text and Artistic Licence. This is because the copyright owner has already given permission for the public to use their images. This material is known as 'free for education'.

The advantages to using 'free for education' material include:

1. It is free - The department/administering body does not pay for the use of this material by teachers.
2. There are no mandatory notice requirements.
3. Access to this material does not need to be restricted to students and teachers. Therefore, free for education material can be used on content repositories which are open to the public.

Some places to source free for education images include:

1. **Flickr (www.flickr.com):** Photo community which contains thousands of images licensed under creative commons (CC) licences.
2. **Open Photo (<http://openphoto.net/>):** Photo community with over 3,000 CC licensed photos in various categories

Many Australian museums, libraries and cultural institutions release artistic material under CC through Flickr. Some include:

- a. **State Library of NSW (<http://www.flickr.com/photos/statelibraryofnsw/>)**
- b. **National Library of Australia: Picture Australia**
 - 'People, Places and Events': http://www.flickr.com/groups/pictureaustralia_ppe/
 - Our Town: http://www.flickr.com/groups/pa_ourtown/
 - Re-Picture: <http://www.flickr.com/groups/re-pictureaustralia/>
- c. **Powerhouse Museum:**

- 'Play' Materials: <http://play.powerhousemuseum.com/>
 - 'Photo of the Day' Images:
<http://www.powerhousemuseum.com/imageservices/>
 - Flickr Commons Images:
(http://www.flickr.com/photos/powerhouse_museum/)
- d. **Australian War Memorial** (<http://www.flickr.com/photos/australian-war-memorial/>)

For information on creative commons (CC), including how to find and use CC material, see the 'Creative Commons Information Pack' on the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/999>

Text

Teachers are able to use literary, dramatic and musical works (e.g. text books, articles, poems, song lyrics, plays) in text form for educational purposes under a licence in the Copyright Act known as the Statutory Text and Artistic Licence.

For more examples of literary, dramatic and musical works, see the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/658>

Access

Material copied under the Statutory Text and Artistic Licence can only be uploaded onto password protected content repositories with access restricted to teachers and students. Parents may be given access to this material provided it is for 'educational purposes' such as assisting students with their work.

Limits

The copying limits for literary, dramatic and musical works are:

- 10% or 1 chapter of a book (whichever is greater)
- 10% of words on a website or from a CD Rom. Determining 10% of the words on a website can be difficult and at times impossible. A good rule of thumb is to just copy what you need from the website for educational purposes.
- One article in a journal, 2 articles if on the same subject matter (including articles from online publications such as e-journals, e-books or e-newspapers)

You can copy the **whole work** if:

- it has not been separately published
- or is not commercially available within a reasonable time at an ordinary commercial price. It is currently agreed that 'reasonable time' is six months for text books and thirty days for other material.

In all cases, it is recommended that you only copy what you **need** for educational purposes. This is important for managing copyright costs under the Statutory Text and Artistic Licence.

Labelling

You must always label any material you copy under the Statutory Text and Artistic Licence with the name of the copyright owner and author (if different to the copyright owner), where the material was copied from and when it was copied.

eg: Copied under Part VB of the Copyright Act 1968

Notice Requirements

Each time a literary, dramatic or musical work is copied and uploaded online, the following notice **must** be attached to that work:

<p style="text-align: center;">NOTICE ON MATERIAL REPRODUCED OR COMMUNICATED UNDER STATUTORY TEXT AND ARTISTIC LICENCE</p> <p style="text-align: center;">FORM OF NOTICE FOR PARAGRAPH 135ZXA(a) OF COPYRIGHT ACT 1968</p> <p style="text-align: center;">COMMONWEALTH OF AUSTRALIA</p> <p style="text-align: center;"><i>Copyright Regulations 1969</i></p> <p style="text-align: center;">WARNING</p> <p>This material has been reproduced and communicated to you by or on behalf of [<i>insert name of institution</i>] pursuant to Part VB of the <i>Copyright Act 1968</i> (the Act).</p> <p>The material in this communication may be subject to copyright under the Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act.</p> <p>Do not remove this notice.</p>

This is a mandatory notice prescribed under the Copyright Act.

The most practical way of including this notice on all literary, dramatic and musical works is to insert a link to the notice from the labelling information. This would mean that the notice would have to be uploaded onto one spot on the repository and be linked to when required.

eg: Copied under Part VB of the Copyright Act 1968
R. Davis, www.shortstories.com.au, accessed 12 June 2009
Part VB Notice: <http://www.smartcopying.edu.au/scw/go/pid/704>

A copy of this notice is available on the Smartcopying website at:
<http://www.smartcopying.edu.au/scw/go/pid/705>

For further information on the Statutory Text and Artistic Licence, see the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/700>

Smartcopying Tips

Cost Burden

The department/administering body pays considerable fees for the copying of material by teachers under the Statutory Text and Artistic Licence. To minimise the costs payable under this licence, it is good practice to:

- a. Link to material wherever possible rather than copy the material. Linking is not a copyright activity because you are not actually copying the image, only providing an address to its location on another website. As a result, providing links to material on external websites is a good way of managing copyright.
- b. Access to the material copied should be limited to those students who need to access the material for class or homework exercises. Eg one class of students rather than the entire school.
- c. Remove the material as soon as it is no longer required for class or homework exercises. This is because the department/administering body will pay again for the same material every 12 months. This is known as 'anniversary copying'. See '**Flush the Repository**' below for further information.

Managing the Cost Burden

1. Flush the Repository

One practical way of managing anniversary copying costs is to remove all material copied under the Statutory Text and Artistic Licence from the repository every year. This can be done technically by tagging content copied under Statutory Text and Artistic Licence in a certain manner so that it can be easily identified and deleted automatically at the end of each year, ie before 31 December.

2. Use Free for Education Material

There are many places where teachers can go to find text material which can be copied without having to rely on the Statutory Text and Artistic Licence. This is because the copyright owner has already given permission for the public to use their material. This material is known as 'free for education'.

The advantages to using 'free for education' material include:

- a. It is free - The department/administering body does not pay for the use of this material by teachers.
- b. There are no mandatory notice requirements.
- c. Access to this material does not need to be restricted to students and teachers. Therefore, free for education material can be used on content repositories which are open to the public.

For a list of Free for Education resources, see the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/936>

Radio and Television Programs

A. Off-air Television and Radio Programs (pay and free-to-air)

Teachers are able to copy radio and television programs from free-to-air and subscription (pay TV) channels for educational purposes under a licence in the Copyright Act known as the Statutory Broadcast Licence.

Access

Broadcasts copied under the Statutory Broadcast Licence can only be uploaded onto password protected content repositories with access restricted to teachers and students. Parents may be given access to this material provided it is for 'educational purposes' such as assisting students with their work.

Limits

There are no specific copying limits under the Statutory Broadcast Licence. This means that a teacher can copy an entire television series for educational purposes.

However, it is recommended that you only copy what you **need** for educational purposes. This is important for managing copyright costs under the Statutory Broadcast Licence.

Labelling

You must always label any material you copy under the Statutory Broadcast Licence with the name of the program, the channel it was copied from and the date the copy was made.

eg: Copied under Part VA of the Copyright Act 1968
'Media Watch', ABC, 17 August 2009

Notice Requirements

Each time a copy of a radio or television broadcast is uploaded online, the following notice **must** be attached to the copy:

NOTICE ON MATERIAL COMMUNICATED UNDER PART VA LICENCE

FORM OF NOTICE FOR PARAGRAPH 135KA (a) OF THE
COPYRIGHT ACT 1968

COMMONWEALTH OF AUSTRALIA

Copyright Regulations 1969

WARNING

This material has been copied and communicated to you by or on behalf of [*insert name of institution*] pursuant to Part VA of the Copyright Act 1968 (*the Act*).

The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.

This is a mandatory notice prescribed under the Copyright Act.

The most practical way of including this notice is to insert a link to the notice from the labelling information. This would mean that the notice would have to be uploaded onto one spot on the repository and be linked to when required.

eg: Copied under Part VA of the Copyright Act 1968

'Media Watch', ABC, 17 August 2009

Part VA Notice: <http://www.smartcopying.edu.au/scw/go/pid/704>

A copy of this notice is available on the Smartcopying website at:

<http://www.smartcopying.edu.au/scw/go/pid/704>

For further information on the Statutory Broadcast Licence, see the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/699>

Smartcopying Tips

Cost Burden

The department/administering body pays fees for the copying of radio and television programs under the Statutory Broadcast Licence. To minimise the costs payable under this licence, it is good practice to:

- a. Link where possible to online programs on broadcaster websites. Linking is not a copyright activity because you are not actually copying the program, only providing an address to its location on another website. As a result, providing links to material on external websites is a good way of managing copyright.
- b. Access to the broadcast should be limited to those students who need to access the broadcast for class or homework exercises. Eg one class of students rather than the entire school.
- c. Remove the broadcast as soon as it is no longer required for class or homework exercises. This is because the department/administering body will pay again for the same broadcast every 12 months. This is known as 'anniversary copying'. See '**Flush the Repository**' below for further information.

Managing the Cost Burden

Flush the Repository

One practical way of managing anniversary copying costs is to remove all broadcast material copied under the Statutory Broadcast Licence from the repository every year. This can be done technically by tagging content copied under Statutory Broadcast Licence in a certain manner so that it can be easily identified and deleted automatically at the end of each year, ie before 31 December.

B. Online free-to-air television and radio programs (podcasts and webcasts)

Link Where Possible

It is important to link to podcasts and webcasts of free-to-air television and radio programs from the broadcaster's website wherever possible. Linking is not a copyright activity as you are not actually copying the program, only providing an address to its location on another website. As a result, providing links to programs on a broadcaster's website is a good and cost effective way of managing copyright.

Where linking is not practical

Where linking to the podcast or webcast of a free-to-air television and radio program is not practical, teachers can copy the podcast or webcast from the broadcaster's website under a licence in the Copyright Act known as the Statutory Broadcast Licence.

This includes podcasts and webcasts from the following broadcaster websites:

- SBS
- ABC
- NITV
- Channel 7
- Channel 9
- Channel 10

Access

Webcasts/podcasts copied under the Statutory Broadcast Licence can only be uploaded onto password protected content repositories with access restricted to teachers and students. Parents may be given access to this material provided it is for 'educational purposes' such as assisting students with their work.

Limits

There are no specific copying limits under the Statutory Broadcast Licence. This means that a teacher can copy an entire television series for educational purposes.

However, it is recommended that you only copy what you **need** for educational purposes. This is important for managing copyright costs under the Statutory Broadcast Licence.

Labelling

You must always label any material you copy under the Statutory Broadcast Licence with the name of the program, URL address of the broadcaster's website and the date it was copied.

eg: Copied under Part VA of the Copyright Act 1968
'Compass', www.abc.net.au, 25 August 2009

Notice Requirements

Each time a podcast or webcast is uploaded online, you **must** attach the following notice:

<p style="text-align: center;">NOTICE ON MATERIAL COMMUNICATED UNDER PART VA LICENCE</p> <p style="text-align: center;">FORM OF NOTICE FOR PARAGRAPH 135KA (a) OF THE COPYRIGHT ACT 1968</p> <p style="text-align: center;">COMMONWEALTH OF AUSTRALIA</p> <p style="text-align: center;"><i>Copyright Regulations 1969</i></p> <p style="text-align: center;">WARNING</p> <p>This material has been copied and communicated to you by or on behalf of [<i>insert name of institution</i>] pursuant to Part VA of the Copyright Act 1968 (<i>the Act</i>).</p> <p>The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright protection under the Act.</p> <p>Do not remove this notice.</p>

This is a mandatory notice prescribed under the Copyright Act.

The most practical way of including this notice is to insert a link to the notice from the labelling information. This would mean that the notice would have to be uploaded onto one spot on the repository and be linked to when required.

eg: Copied under Part VA of the Copyright Act 1968
'Compass', www.abc.net.au, 25 August 2009
Part VA Notice: <http://www.smartcopying.edu.au/scw/go/pid/704>

A copy of this notice is available on the Smartcopying website at:
<http://www.smartcopying.edu.au/scw/go/pid/704>

For further information on the Statutory Broadcast Licence, see the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/699>

Smartcopying Tips

Cost Burden

The department/administering body pays fees for the copying of radio and television webcasts/podcasts under the Statutory Broadcast Licence. To minimise the costs payable under this licence, it is good practice to:

- a. Link to the television and radio webcast/podcast where possible rather than copying it. Linking is not a copyright activity because you are not actually copying the program, only providing an address to its location on another website. As a result, providing links to material on external websites is a good way of managing copyright.
- b. Access to the webcast or podcast should be limited to those students who need to view the webcast or podcast for class or homework exercises. Eg one class of students rather than the entire school.
- c. Remove the webcast/podcast as soon as it is no longer required for class or homework exercises. This is because the department/administering body will pay again for the material every 12 months. This is known as 'anniversary copying'. See '**Flush the Repository**' below for further information.

Managing the Cost Burden

Flush the Repository

One practical way of managing anniversary copying costs is to remove all material copied under the Statutory Broadcast Licence from the repository every year. This can be done technically by tagging content copied under Statutory Broadcast Licence in a certain manner so that it can be easily identified and deleted automatically at the end of each year, ie before 31 December.

C. Online pay television and radio programs (podcasts and webcasts)

Link Where Possible

It is important to link to podcasts and webcasts of pay /subscription TV and radio programs from the broadcaster's website wherever possible. This is because the terms and conditions of the website may not permit copying by teachers or schools for educational purposes. As a result, a teacher may be prohibited by contract from copying podcasts/webcasts of pay/subscription TV and radio programs from the broadcaster's website.

Linking is not a copyright activity as you are not actually copying the program, only providing an address to its location on another website. As a result, providing links to programs on external websites where possible is a hassle free way of managing copyright.

Where linking is not practical and a copy must be made

Teachers may upload podcasts and webcasts of pay/subscription TV and radio programs onto password protected content repositories under s 200AB of the Copyright Act provided the podcast/webcast can only be viewed by teachers and students who are directly giving or receiving the instruction for which the copy has been made, ie one class as opposed to the entire school.

For s. 200AB to apply, the following requirements **must** be met:

1. The podcast/webcast is not a pirated copy

If the copy is available on the broadcaster's website, it is unlikely to be pirated copy.

2. The podcast/webcast is needed for educational instruction

Educational instruction includes using the material to prepare for class, to use in a classroom exercise, for compiling resources for homework, research or assessment tasks or any other activity connected with teaching.

3. The teacher is only copying what is needed for educational instruction.

4. It is not possible to purchase a copy of the broadcast in digital format.

5. The use does not prejudice the copyright owner.

Prejudice to the copyright owner is likely to arise where:

- a. more than what is needed of the podcast/webcast for educational instruction is copied.

- b. the podcast/webcast is not removed from the digital repository **as soon as practicable** after it is no longer required for class or homework exercises.
- c. the quality of the podcast/webcast is interfered with
- d. the podcast/webcast is placed on a content repository that is open to the public. Placing the podcast/webcast on a password protected content repository with access restricted to teachers and students of one class only is OK.

Note: While the Copyright Act may permit a copy to be made under s 200AB, many website terms and conditions may not permit copying by teachers or schools for educational purposes. As a result, it is arguable that a teacher is prohibited by contract from copying the film. For this reason, it is important to link where possible.

For further information on s 200AB, see information sheet 'The New Flexible Dealings Exception: What am I allowed to do?' on the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/542>

Labelling

It is good practice to label broadcast copies with the name of the program, URL address of the broadcaster's website and the date it was copied:

eg: Copied under s 200AB of the Copyright Act 1968
'Creatures of the Sea', www.nationalgeographic.com, 10 August 2009

Access

Webcasts/podcasts copied under s200AB can only be uploaded onto parts of a password protected repository that can be viewed by teachers and students of one or more classes who are directly giving or receiving the instruction for which the copy has been made.

Flushing

Webcasts and podcasts copied under s 200AB should be removed from the digital repository **as soon as practicable** once they are no longer required for educational instruction.

One practical way of ensuring that s 200AB copies are flushed from the repository regularly is to tag these copies in a way that enables them to be identified and automatically deleted every few months.

Films (online, VHS and DVDs)

A. Online Films

Link where possible

It is important to link to films wherever possible. This is because the terms and conditions of the website may not permit copying by teachers or schools for educational purposes. As a result, a teacher may be prohibited by contract from copying films for educational purposes.

Linking is not a copyright activity as you are not actually copying the film, only providing an address to its location on another website. As a result, providing links to films on external websites where possible is a good way of managing copyright.

Embed where possible

Embedding is a specific type of link. Embedding a film will allow the film to be displayed on your website (eg. wiki or blog) without you having to upload the film onto your website.

Embedding involves copying the HTML code of the film, which is often displayed in a box near the film, and pasting it onto your website. The result of this is, rather than displaying the link, it will show a small screen of the film on your website

Embedded films mean that a teacher or student does not need to leave their website (eg. wiki, blog or intranet) in order to watch the films as they would need to do with a direct link. Further, embedding is a good way to ensure that students only access the specific material you want them to see on a website, as opposed to accessing an entire webpage which may contain other material not appropriate or relevant to class exercise, (eg. comments or advertisements).

Case in Point: YouTube

The terms and conditions of YouTube state that the YouTube films can only be used for 'personal, non-commercial' uses. This does not include copying by teachers and schools for 'educational use'. As a result, a teacher may be prohibited by contract from copying films off YouTube.

It is important to link to YouTube films or embed YouTube films into your content repository (eg intranet, wiki or blog) where possible. YouTube makes embedding easy as it provides the link to enable a viewer to embed the film on their own website.

Linking or embedding YouTube films is the most practical risk management approach to accessing YouTube films.

TeacherTube: A Practical Alternative

The terms and conditions of TeacherTube permit copying for 'educational use' provided a link to TeacherTube is included and the author is credited. As a result, TeacherTube is a free for education resource and can be freely copied by teachers for educational purposes.

For further information on YouTube and TeacherTube, see the following information sheets on the Smartcopying website:

'Using YouTube' at: <http://www.smartcopying.edu.au/scw/go/pid/855>

'Using TeacherTube' at: <http://www.smartcopying.edu.au/scw/go/pid/858>

Use Free for Education Material

There are several places on the Internet teachers can go to find films which can be copied for educational purposes.

This is because the copyright owner has already given permission for teachers to use their films. This material is known as 'free for education'.

A primary advantage to using 'free for education' material is that access to this material does not need to be restricted. Free for education material can be uploaded onto content repositories which are password protected and open to the general public.

As mentioned above, TeacherTube (www.teachertube.com) is a great alternative to YouTube.

The following websites host films which are available under Creative Commons licences (CC). All CC material is 'free for education':

- <http://www.blip.tv> – free film distribution site
- <http://wiki.creativecommons.org/Film> - CC wiki listing notable CC licensed films.
- <http://www.revver.com> – advertising supported CC film site
- <http://www.oddjobjack.com/freejack.php> - Master flash files and bitmaps of every piece of art used in the Odd Job Jack cartoon, available under a CC licence

Where linking or embedding is not practical and a copy must be made

Teachers may upload online films onto password protected content repositories under s 200AB of the Copyright Act provided the film can only be viewed by teachers and students who are directly giving or receiving the instruction for which the copy has been made, ie one class as opposed to the entire school.

For s. 200AB to apply, the following requirements **must** be met:

1. The film is not a pirated copy

Think about who uploaded the film and whether they have permission to make it available online. Avoid copying films off Peer 2 Peer websites, as these films are most likely pirated copies.

2. The film is needed for educational instruction

Educational instruction includes using the material to prepare for class, to use in a classroom exercise, for compiling resources for homework, research or assessment tasks or any other activity connected with teaching.

3. The teacher is only copying what is needed for educational instruction.

In most cases, teachers should only be using short extracts of a film for educational instruction.

Copying an entire film for educational instruction is unlikely to be permitted under s 200AB except in very limited circumstances.

4. It is not possible to purchase the film in digital format.

5. The use does not prejudice the copyright owner.

Prejudice to the copyright owner is likely to arise where:

- a. more than what is needed of the film for educational instruction is copied
- b. the film is not removed from the digital repository **as soon as practicable** once it is no longer required for class or homework exercises.
- c. the quality of the film is interfered with
- d. the film is placed on a content repository that is open to the public. Placing the film on a password protected content repository with access restricted to teachers and students of one class only is OK.

For further information on s 200AB, see information sheet 'The New Flexible Dealings Exception: What am I allowed to do?' on the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/542>

Note: While the Copyright Act may permit a copy to be made under s 200AB, many website terms and conditions do not permit copying by teachers and schools for 'educational purposes'. As a result, it is arguable that a teacher is prohibited by contract from copying the film. For this reason, it is important to link where possible.

Labelling

It is good practice to label copies with the name of the film, URL address of its location and the date it was copied:

e.g: Copied under s 200AB of the Copyright Act 1968
'Body Parts', www.teachertube.com, 5 August 2009

Access

Films copied under s200AB can only be uploaded onto parts of a password protected repository that can be viewed by teachers and students of one or more classes who are directly giving or receiving the instruction for which the copy has been made.

Flushing

Films copied under s 200AB should be removed from the digital repository **as soon as practicable** once they are no longer required for educational instruction.

One practical way of ensuring that s 200AB copies are flushed from the repository regularly is to tag these copies in a way that enables them to be identified and automatically deleted every few months.

B. Making a digital copy of a film from a VHS

Teachers may make a digital copy of a film from a VHS tape to upload onto password protected content repositories under s 200AB of the Copyright Act provided the digital copy can only be viewed by teachers and students who are directly giving or receiving the instruction for which the copy has been made, ie one class as opposed to the entire school.

For s. 200AB to apply, the following requirements **must** be met:

1. The original copy is a lawful copy.

This means that the school or teacher bought the VHS tape or it is a genuine, non-pirated copy given to the school or teacher.

2. The film in digital format is needed for educational instruction.

Educational instruction includes using the material to prepare for class, to use in a classroom exercise, for compiling resources for homework, research or assessment tasks or any other activity connected with teaching.

Note: Creating an online library of films 'just in case' the films may be needed for future exercises is not permitted. There must be a specific educational purpose in mind at the time the digital copy is made.

3. The teacher is only copying what is needed for educational instruction.

In most cases, teachers should only be using short extracts of a film for educational instruction.

Making a digital copy of an entire film for educational instruction is unlikely to be permitted under s 200AB except in very limited circumstances.

4. It is not possible to purchase the film in digital format.

5. The use does not prejudice the copyright owner.

Prejudice to the copyright owner is likely to arise where:

- a. more than what is needed of the film for educational instruction is copied
- b. the film is not removed from the digital repository **as soon as practicable** once it is no longer required for class or homework exercises
- c. the quality of the film is interfered with
- d. the film is placed on a content repository that is open to the public. Placing the film on a password protected content repository with access restricted to teachers and students of one class only is OK.

For further information on s 200AB, see information sheet 'The New Flexible Dealings Exception: What am I allowed to do?' on the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/542>

Labelling

It is good practice to label copies with the name of the film, and the date it was copied:

e.g: Copied under s 200AB of the Copyright Act 1968
'Body Parts', 5 August 2009

Access

Films copied under s200AB can only be uploaded onto parts of a password protected repository that can be viewed by teachers and students of one or more classes who are directly giving or receiving the instruction for which the copy has been made.

Flushing

Films copied under s 200AB should be removed from the digital repository **as soon as practicable** once they are no longer required for educational instruction.

One practical way of ensuring that s 200AB copies are flushed from the repository regularly is to tag these copies in a way that enables them to be identified and automatically deleted every few months.

C. Making a digital copy of a film from a DVD

In most cases, teachers are not permitted to make a digital copy of a DVD. This is because most commercial DVDs (eg, 'The Castle') are protected by access control technological protection measures (ATPMs).

ATPMs are technologies which prevent a user from easily accessing and copying the content on a DVD. The most common ATPM technology is a type of software system called CSS (Content Scrambling System). CSS operates like a 'lock and key' code on DVD. In order for a viewer to watch the DVD, the DVD player must be equipped with the corresponding 'software key' to unlock the content and allow it to be viewed. A popular term used to describe CSS is 'region coding'.

It is illegal to circumvent an ATPM under the Copyright Act. Making a digital copy of a commercial DVD is likely to involve circumventing the ATPM and therefore is illegal.

For further information on Technological Protection Measures, see information sheet 'Technological Protection Measures and the Copyright Amendment Act' on the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/522>

Sound Recordings copied from vinyl, cassettes and CDs

It is common practice for schools to include popular commercial music in podcasts/vodcasts or short films. This is only permitted in very limited circumstances and should be avoided where possible. A practical alternative to using commercial music is using 'free for education' music. See below for further information on free for education music, including links to websites where you can find free for education music.

Free for Education Material

There are several places on the Internet teachers can go to find sound recordings which are 'free for education'. Free for education material is material which can be copied for educational purposes. This is because the copyright owner has already given permission for teachers to use their music.

A primary advantage to using free for education material is that access to this material does not need to be restricted. Free for education material can be uploaded onto password protected content repositories and repositories that are open to the general public.

The following websites contain music which is available under Creative Commons licences (CC). All CC material is 'free for education':

- <http://ccmixter.org> – CC sound remix tool and archive
- <http://www.opsound.com> – CC music archive
- <http://www.magnatune.com> – CC record label
- <http://jamendo.org> – CC music distribution site
- <http://freesound.iua.upf.edu/> – collaborative database of CC licensed sounds
- <http://cchits.org/> – collaborative podcast where users can contribute, find, and share music under CC licences
- <http://www.artistserver.com/> – music community
- <http://soundtransit.nl/> – archive of "field recordings" from various locations around the world published under a CC Attribution licence

Audio Network

Another practical option is to licence sound recordings from 'Audio Network'. Audio Network is an online store where sound recordings can be cheaply purchased and licensed to suit the needs of a school.

For further information on Audio Network, see:

<http://www.audionetworkplc.com>

Copying the sound recording from vinyl, cassette or CD

Teachers may make a digital copy of a sound recording from vinyl, cassette or CD to upload onto password protected content repositories under s 200AB of the Copyright Act provided the digital copy can only be viewed by teachers and students who are directly giving or receiving the instruction for which the copy has been made, ie one class as opposed to the entire school.

For s.200AB to apply, the following requirements **must** be met:

1. The original copy is a lawful copy.

This means that the school or teacher bought the vinyl, CD or cassette or it is a genuine, non-pirate copy given to the school or teacher.

2. The sound recording in digital format is needed for educational instruction.

Educational instruction includes using the material to prepare for class, to use in a classroom exercise, for compiling resources for homework, research or assessment tasks or any other activity connected with teaching.

Note: Creating an online music library 'just in case' the music may be needed for future exercises is not permitted. There must be a specific educational purpose in mind at the time the digital copy is made.

3. The teacher is only copying what is needed for educational instruction.

In most cases, teachers should only be using certain tracks from sound recordings (CDs and Vinyl) which are necessary for educational instruction and should remove the copy tracks as soon as practicable after the lesson or assignment/homework exercise is completed.

Making a digital copy of an entire CD or record for educational instruction is unlikely to be permitted under s 200AB except in very limited circumstances. For example, where you cannot purchase the CD or record.

4. It is not possible to purchase the sound recording in digital format.

Some sound recordings may be available for purchase in MP3 format from iTunes. Buying music off iTunes for use in the classroom does raise some tricky legal issues. This is because the terms and conditions of the iTunes store allow users to purchase music for 'personal, non-commercial use' and not 'educational use'. As a result, a teacher may be prohibited by contract from purchasing music from iTunes to use at school for educational purposes.

It may be better for a teacher to purchase the music in another format, i.e. vinyl, cassette or CD, and make a digital copy of the needed track under s 200AB. Remember in most cases, section 200AB will not permit you to copy the entire vinyl record, audio cassette or CD, except in very limited circumstances.

5. The use does not prejudice the copyright owner.

Prejudice to the copyright owner is likely to arise where:

- a. more than what is needed for educational instruction is copied
- b. the copy track is not removed from the digital repository **as soon as practicable** once it is no longer required for class or homework exercises
- c. the quality of the music is interfered with
- d. the copy track is placed on a content repository that is open to the public. Placing the copy track on a password protected content repository with access restricted to teachers and students of one class only is OK.

For further information on s. 200AB, see information sheet 'Format Shifting and the Copyright Amendment Act: What am I allowed to do?' on the Smartcopying website at: <http://www.smartcopying.edu.au/scw/go/pid/529>

Labelling

It is good practice to label copies with the name of the sound recording, artist and the date it was copied:

e.g: Copied under s 200AB of the Copyright Act 1968
'Let it Be', Beatles, 5 August 2009

Access

Sound recordings copied under s200AB can only be uploaded onto parts of a password protected repository that can be viewed by teachers and students of one or more classes who are directly giving or receiving the instruction for which the copy has been made.

Flushing

Sound recordings copied under s 200AB should be removed from the digital repository **as soon as practicable** once they are no longer required for educational instruction.

One practical way of ensuring that s 200AB copies are flushed from the repository regularly is to tag these copies in a way that enables them to be identified and automatically deleted every few months.

Using digital sound recordings (iTunes and other digital stores)

Some online music stores sell music in MP3 format. In most cases, these online stores have terms and conditions which only permit the music to be used for 'personal, non-commercial use'. This does not include 'educational use', ie use by teachers and schools.

iTunes is the biggest online digital music store. The terms and conditions of the iTunes store only allow users to purchase music for 'personal, non-commercial use'. This does not include teachers or schools buying music for 'educational purposes'. As a result, a teacher may be prohibited by contract from purchasing music from iTunes to use at school for educational purposes.

In addition, none of the agreements with the music collecting societies allow schools to make sound recordings available online, eg on an intranet or wiki and blog.

A practical alternative to buying digital music from iTunes and other online stores is to:

1. Use 'free for education' music.
2. Purchase digital music from Audio Network

Free for Education Material

There are several places on the Internet teachers can go to find digital sound recordings which are 'free for education'. Free for education material is material which can be copied for educational purposes. This is because the copyright owner has already given permission for teachers to use their music.

A primary advantage to using 'free for education' material is that access to this material does not need to be restricted to the students of your class. Free for education material can be uploaded onto content repositories that are open to the general public.

The following websites contain music which is available under Creative Commons licences (CC). All CC material is 'free for education':

- <http://ccmixter.org> – CC sound remix tool and archive
- <http://www.opsound.com> – CC music archive
- <http://www.magnatune.com> – CC record label
- <http://jamendo.org> – CC music distribution site
- <http://freesound.iaa.upf.edu/> – collaborative database of CC licensed sounds
- <http://cchits.org/> – collaborative podcast where users can contribute, find, and share music under CC licences
- <http://www.artistserver.com/> – music community

- <http://soundtransit.nl/> – archive of “field recordings” from various locations around the world published under a CC Attribution licence

Audio Network Music

Audio Network is an online store where sound recordings can be cheaply purchased and licensed to suit the needs of a school.

For further information on Audio Network, see:

<http://www.audionetworkplc.com>