



Copyright terms of use for websites: guidelines for CAL members

November 2009



More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au
ABN: 53 001 228 799
© Copyright Agency Limited

Purpose of these guidelines

These guidelines are to help CAL members avoid unintentionally excluding their entitlements to payment under statutory licences in the Copyright Act for use of content available from their websites. These statutory licences entitle educational institutions and government departments and agencies to use copyright content in a variety of ways in return for fair payment to the owners of the copyright.

Following these guidelines is also likely to assist people with access to the content to better understand what they may and may not do with it.

This information sheet is for guidance only. It is not legal advice.

Statutory licences for educational use

Under Part VB of the Copyright Act, educational institutions are entitled to use certain content from the Internet for educational purposes.

This content is:

- text;
- images (including illustrations, photographs, maps, charts and graphs); and
- notated music.

The uses the educational institutions are entitled to make of the content include:

- emailing to students;
- uploading to a learning management system;
- making available on an intranet;
- repurposing (making something new using the content, by adding to it, incorporating it and/or altering it);
- distributing to students on a CD-ROM or USB;
- printing; and
- photocopying printouts.

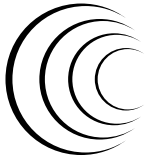
Under another statutory licence (Part VA, administered by Screenrights, www.screen.org), educational institutions can use podcasts and vodcasts of television programs that are available from the broadcasters' websites. Otherwise, audiovisual content is not covered by the statutory licences.

Statutory licence for government use: section 183

Government departments and agencies are entitled to use any copyright content for government purposes, but copyright owners are entitled to claim payment. CAL collects and distributes copyright fees for government use of text, images and notated music. Governments are entitled to use entire works, irrespective of whether or not they are commercially available.

Statutory licences sometimes excluded by direct licensing

The terms of use for many websites permit visitors to the site to use content from the site for certain purposes. This means that CAL has to work out, from the terms of use, whether an educational use of content from Internet has been allowed by the copyright owner without payment, or whether it is covered by Part VB and therefore generates a copyright payment. The position is similar for government use.



COPYRIGHT AGENCY LIMITED

How CAL decides if Part VB is excluded for schools & TAFEs

CAL and the Copyright Advisory Group (CAG) of the Schools Resourcing Taskforce of the Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEEDYA) have agreed on a protocol for the processing of website copyright notices. Under the protocol, CAL assigns one of the following classifications to the website's copyright notice:

Excluded from Part VB	Covered by Part VB
Non commercial use	Personal use
Use in your organisation	No terms and conditions but includes a copyright statement
Free copying	No terms and conditions
Free for education	Copying not permitted
	Password protected (and on register of licences)

To view the protocol, go to http://www.copyright.com.au/Quicklinks/Download_Centre/CAL_Data_Processing_Protocols.aspx.

What you need to do

Here are steps you can take to assist CAL to give effect to your intentions if you wish to retain your entitlement to income under the statutory licences.

Do:

- include a link to your terms of use on each page of your website (a link in the footer is common practice);
- have a separate webpage for your terms of use (rather than including the terms with, for example, your privacy policy);
- make sure your terms of use are internally consistent (don't have one sentence that seems to say one thing about copyright, and another sentence that says something different);
- make sure that the terms of use for each piece of content on your site, including downloadable files, is clear;
- include the phrase "Part VB and section 183 entitlements reserved" in your terms of use; and
- get a lawyer to check your terms of use.

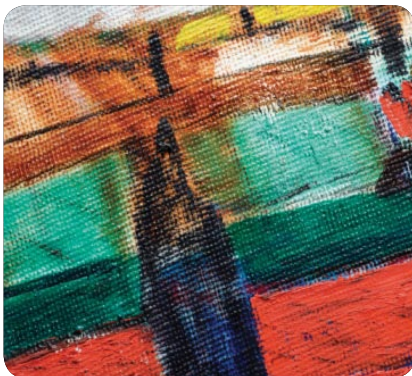
Don't:

- use any of the phrases in the "Excluded from Part VB" column above;
- simply prohibit commercial use (this will be treated as allowing any non commercial use, and will thus exclude Part VB);
- have more than one terms of use on your site, unless it is completely clear which terms of use apply to each piece of content on the site;
- use the word "Free" without being clear about:
 - what is "free": for example, viewing, downloading one copy for personal use, downloading one copy to use in connection with teaching, and
 - for whom the use is free: for example, teachers who subscribe to your loyalty program or alert service.

Additional steps for files downloadable from your website

Here we are talking about files that are not password-protected. We are preparing separate guidelines for password-protected files, and files that are downloadable after a sign-up process.

- in your terms of use, cover the use of files downloadable from your site as well as the use of content from webpages;

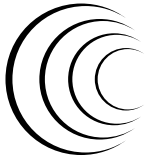


More information

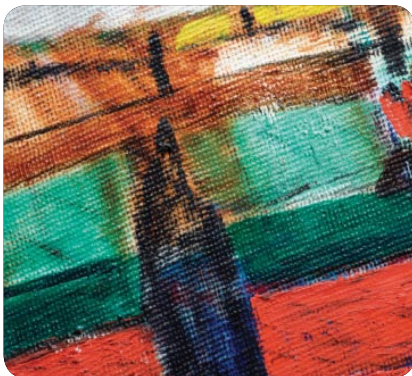
Copyright Agency Limited
Level 15, 233 Castlereagh Street
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au
ABN: 53 001 228 799
© Copyright Agency Limited



COPYRIGHT AGENCY LIMITED



More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au
ABN: 53 001 228 799
© Copyright Agency Limited

- include the copyright symbol (©), the name of copyright owner, and the URL for the terms of use, in each downloadable file (if possible, on each page of the downloadable file: once a document has been downloaded, schools may copy parts of it and those parts may not include the copyright notice or terms of use);
- if you invite visitors to your site to download and print documents from the site, make sure that invitation is subject to your terms of use; and
- add metadata to your files covering the terms of use.

Sample copyright terms of use

© [name of copyright owner or owners] [year or year range – for example “2005 – 2009”]: for example © Copyright Agency Limited 2009.

[date of terms of use]

Except as permitted by the copyright law applicable to you [*or these terms of use*], you may not reproduce or communicate any of the content on this website, including files downloadable from this website, without the written permission of the copyright owner.

[You may reproduce content from this website for your personal private use, provided it is not later used for any other purpose.]

or

[You may reproduce content from this website for your personal private use, or, if you are a teacher, to assess its suitability for your teaching, provided in either case it is not later used for any other purpose.]

[We may change these terms of use in the future. Check this page before re-using any content from this website]

Part VB and section 183 entitlements reserved.

For information about Part VB (educational use) and section 183 (government use) visit www.copyright.com.au and www.copyright.org.au.

Text in italics is optional.

Other information you may need to include on your website

You may need or want to include other statements for users on your website. These include:

- your privacy policy;
- your ABN; and
- disclaimers (for example, in relation to the accuracy or currency of information on your site).

CAL members may reproduce and adapt CAL's privacy policy for their websites.

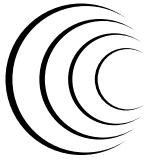
You should get legal advice about your obligations in relation to these issues.

More information

- CAL's website: www.copyright.com.au
- Australian Copyright Council webpages on educational use: www.copyright.org.au/education
- Australian Copyright Council webpages on government use: www.copyright.org.au/government

CAL is preparing separate guidelines on terms of use for content available :

- via an online subscription;
- in a downloadable file subject to sign-up or password protection; and
- on portable storage devices such as CD-ROMs and USBs.



COPYRIGHT AGENCY LIMITED

Use of these guidelines

For information about copying and communicating these guidelines, see the Terms of Use page on CAL's website: www.copyright.com.au (click on link in footer).

Check CAL's website (http://www.copyright.com.au/Quicklinks/Download_Centre/Information_Sheets.aspx) to make sure that this is the most recent version of these guidelines.

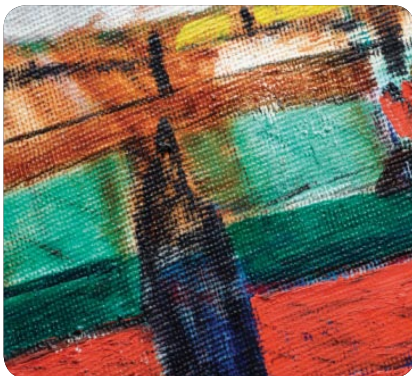
Who is CAL?

Copyright Agency Limited (CAL) is a not-for-profit company set up by Australian authors, journalists, visual artists, photographers and publishers to manage some of their copyright rights. CAL is owned by its members, membership is free, and members can themselves license the rights managed by CAL in certain situations should they choose to do so.

Code of Conduct

CAL is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from CAL's website and on request.



More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au
ABN: 53 001 228 799
© Copyright Agency Limited