

# Technological Protection Measures and the Copyright Amendment Act 2006

## What are technological protection measures?

'Technological protection technologies' is a broad term that covers many different types of technologies used to control access to copyright content, or to prevent users from copying protected content. Content that is protected by a copy protection technology could include movies, games, software, CDs or digital music files, or even content stored in a protected area on a website (eg, where you have to pay money or enter a password to access the content).

There are two types of technological protection measures:

- "*Access Control Technological Protection Measures*" - which we will refer to as '**access control technologies**' in this Fact Sheet.
- "*Copy Control Technological Protection Measures*" which we will refer to as '**copy control technologies**' in this Fact Sheet.

'Circumvention devices' are technologies that are used to remove, disable or circumvent a technological protection measure. A 'circumvention service' is a service offered by someone to remove, disable or circumvent a technological protection measure.

**IT IS IMPORTANT TO REMEMBER THAT ANY COPYRIGHT CONTENT IN DIGITAL FORMAT COULD BE PROTECTED BY A COPY PROTECTION TECHNOLOGY. YOU SHOULD ALWAYS CONSIDER WHETHER THE REMOVAL OR ALTERATION OF THIS COPY PROTECTION TECHNOLOGY WOULD BE PROHIBITED BY THE COPYRIGHT ACT.**

## What are the rules about technological protection technologies?

The rules are:

1. You **are allowed** to remove, disable or circumvent a copy control technology.
2. You are **almost never allowed** to remove, disable or circumvent an access control technology.

**This means that schools cannot copy films, sound recordings, games or software in any circumstances if making the copy would involve the circumvention of an access control technology.**

3. There are **only 2 situations** where you **are allowed** to remove, disable or circumvent an access control technology:

- (a) when you are removing etc the access control technology in order to make a copy from a work in electronic form under the Statutory Print Licence (the Part VB licence administered by the Copyright Agency Ltd – CAL); or
  - (b) if you have obtained permission from the copyright owner.
4. You **are allowed** to manufacture, download or import a circumvention device as long as it is for your own use.
5. You are **never allowed** to do the following acts with a circumvention device:
- (a) manufacture or import it with the intention of giving it to anyone else (including someone else in a school)
  - (b) provide or distribute it to another person (including someone else in a school)
  - (c) offer it to the public (eg. advertising)
  - (d) communicate it (including emailing, or making it available on an intranet or the internet).
6. You are **never allowed** to give a circumvention device to anyone else (including sharing), or provide, or offer to provide, a circumvention service to anyone else (including someone else in a school).

### What are access control technologies?

**Access control technologies** are technological protection measures which are used by copyright owners to **control access** to their content. Some examples of access control technologies could be:

- password control systems (eg, a 'members only' password which limits access to special content on a website to authorised members)
- payment systems (eg, where you have to pay a fee to access certain content on a website).  
For example, the Choice website has some freely available publications and some publications that are restricted to people who have paid to access them
- time access controls (eg, a technology that manages how long you can access copyright content).  
For example, some movie download sites allow you to 'rent' and watch a movie for a period of time (eg, 24 hours). An access control disables your access to the film at the end of the 24 hour period.
- encryption measures applied to tapes or disks that only allow access to copyright content (eg, the film or music stored on the disk) to authorised players.

## What are copy control technologies?

**Copy control technologies** are technological protection measures applied to copyright content which **prevent, inhibit or restrict** the doing of a copyright act with that content (eg, making a copy of a protected film, emailing it or putting it online).

Some examples of copy control technologies could be:

- a software lock which prevents you from making a copy of a computer program
- encryption measures stored on the disk containing a movie or CD which prevent you from copying the movie or songs on the disk
- a technology that 'locks' documents to prevent them from being copied (eg, the function that 'locks' a PDF document to stop you from making a copy)
- a technology that makes an unauthorised copy of a film unwatchable (eg, some copy protection technologies add elements to the signal produced by a DVD/VHS player which make any recording of the film unwatchable).

## What can I do if I am not allowed to circumvent an access control technology?

In many situations, it will not be possible to copy a DVD or CD (or other copyright content) because to do so would involve circumventing an access control technology.

This does not mean that schools/TAFEs cannot use these types of content. It just means that you may have to use the content in a different way (ie, in a way that does not involve making a copy).

Teachers are allowed to play music, films and games to students in the following ways:

- playing a film on a VHS or DVD player in the classroom
- using a centralised VHS or DVD player (eg, in the library) to beam a movie to the classroom via an electronic reticulation system
- playing a film or music in class using a computer eg, playing it from the DVD drive of a computer connected to a large screen in the classroom (for a film) or loudspeakers (for music)
- playing a film or music to a virtual class (eg, through software such as Centra)
- playing a film or music from a learning management system eg, playing an educational resource that has been legally stored on Clickview
- making a copy of a film from television (under the Part VA licence administered by Screenrights) and making a digital copy of this version of the film.

# Frequently asked questions about technological protection measures

## WARNING!!!!!!

It is very important to realise that each technological protection measure works differently. Different types of content (eg, VHS tapes, DVDs, CDs and computer games) may have different types of technological protection measures.

**IT IS NOT ALWAYS EASY TO WORK OUT IF A PARTICULAR PROTECTION MEASURE IS AN 'ACCESS CONTROL' OR A 'COPY CONTROL' TECHNOLOGY.**

Note: these frequently asked questions relate mostly to copying movies on DVD or video tape and music CDs. If you have a question about other technologies or types of content, please contact your local CAG representative.

**Q: How do I know if something is an access control technology or a copy control technology?**

A: As there are so many different types of technologies out there, this is very a difficult question to answer. There is no hard and fast rule that can be applied to determine which type of technology each one is. Ultimately each type of technological protection measure needs to be analysed against the technical definitions in the Copyright Act to determine whether it is an access control technology or a copy control technology.

The general rule is this:

- if the technology controls the way in which you access content (eg, where it can be played, whether you can get access to it in the first place or how long you have access to the content), it is likely to be an access control technology
- if the technology stops or hinders you from copying the content (eg, there is a software lock, the 'Save' or 'Copy' menus are not accessible to you, or you get a message saying that the content is copy protected), the technology is likely to be a copy control technology
- if the technology has more than one function, but one function is to control access to content, it is likely to be an access control technology.

**You should always be very careful before removing/disabling technological protection measures from any copyright content. If you are unsure of whether what you want to do is allowed, you should contact your local CAG representative.**

**Q: Can I remove the copy protections on a VHS tape?**

A: The short answer is **yes**, for most VHS tapes.

Most commercially produced films on VHS tapes have some form of copy protection technology on them. The most commonly used technology is a system called Macrovision. When a VHS tape is played on a VHS player, a signal is beamed from the player to the television. Macrovision inserts additional 'spikes' or 'pulses' into this signal which are not seen by a person watching the tape. However, when the same VHS tape is copied to another VHS tape using a VHS recorder, the additional 'spikes' created by Macrovision distort the recorded film so that the image is unwatchable.

Macrovision is not a form of access control technology because it does not actually stop you obtaining access to the movie content (however because it restricts the copying of the movie by creating an unwatchable copy, it is very likely to be a copy control technology). Using a device such as a video stabiliser to remove the spikes created by Macrovision when making a copy of a VHS tape movie is not a circumvention of an access control technology and would be permitted.

**Q: Can I remove the copy protection technology on a DVD?**

A: The short answer is **no** for most commercial entertainment DVDs. The copy protection technologies that are found on commercial DVDs (eg, 'The Castle') are different and more complex to those found on a VHS tape. The most commonly used technology is a type of software system called CSS (Content Scrambling System) which is a software code on a DVD disc that operates in a 'lock and key' mode.

The code on the DVD disc encrypts the movie on the disc. When a DVD is played, a corresponding piece of software in the DVD player unlocks the code on the DVD and decrypts the movie so that the watcher can gain access to the unencrypted movie and it can be played. If a DVD player does not have the corresponding 'software key', it can't access the film so it can't be played. Because CSS controls access to the movie it is an access control technology and circumventing it is illegal. Most commercial DVDs will be protected by CSS and so it will be illegal to get around CSS for most DVDs.

Some educational DVDs (eg, non 'Hollywood' DVDs) may not be protected by CSS. If a DVD has a different type of technological protection measure and you are not sure if it is an access control technology you should contact your local CAG representative for assistance.

**Q: Can I copy a commercial movie (eg, The Lord of the Rings) from a DVD to load onto a content management system?**

A: No. To copy a movie from a DVD into a format that is suitable to load onto a content management system like My Classes or Clickview, a teacher would need to apply a decrypting software package to unlock the CSS code and obtain an unencrypted digital form of the movie. This would be a circumvention of an access control technology which is unlawful.

**Q: Can I use a DVD software like DVD Shrink to create a temporary copy of a film to let me copy small extracts of a film to use in class?**

A: No. To make a temporary copy of the movie from DVD, DVD Shrink breaks the CSS access and copy protections to obtain an unencrypted digital form of the movie. This is a breach of the ban against circumvention of an access control technology. It does not matter that only a temporary copy of the movie is created.

**Q: Can I use a video stabiliser to copy a movie on VHS tape onto DVD?**

A: It is OK to use a video stabiliser to remove the technological protection measure from a VHS tape. However, you must also make sure that you are also allowed to format shift the film from VHS to DVD.

A video stabiliser removes the spikes created by Macrovision (see above at 'Can I copy a movie from a VHS tape?') which is a copy control technology and not an access control technology, so using it when making a copy of a VHS tape movie is not a circumvention of an access control technology and is permitted.

**WARNING:** Schools/TAFEs are only allowed to copy a whole movie from VHS to DVD (format shifting) if the copying is for the purposes of educational instruction and where it is not possible to buy a copy of the film on DVD. So if you can buy a film in DVD format of the VHS tape version of the film you want to copy (eg, if your school has a VHS copy of The Man from Snowy River and you can buy a DVD version of that film), you are not allowed to make a format shift copy

For more information on format shifting, see the Information Sheet 'Format Shifting and the Copyright Amendment Act 2006 – What Am I Allowed to Do?'

**Q: Can I use software like Director's Cut to copy movies from VHS tape to DVD?**

A: It is OK to use software like Directors Cut to remove the technological protection measure from a VHS tape. However, you must also make sure that you are allowed to format shift the film from VHS to DVD.

Director's Cut software captures videos from a VHS tape which is an analogue source, and converts it into digital format. There is no contravention of an access control technology in this instance as most VHS tapes are protected by Macrovision, which is not an access control technology.

See the warning above in relation to format shifting commercially available films.

For more information on format shifting, see the Information Sheet "Format Shifting and the Copyright Amendment Act 2006 – What Am I Allowed to Do?"

**Q: I've heard that I'm allowed to format shift in certain cases. What if the tape or disc is protected by a technological protection measure?**

A: You are **never allowed** to circumvent an access control technology to make a format shift copy of a film or CD

You **are allowed** to circumvent a copy control technology – but you must be careful that your circumvention does not also involve the circumvention of an access control technology.

**Q: What about music CDs? Am I allowed to copy these?**

A: Unfortunately, there is no simple answer to this question.

Most CDs are protected by technological protection measures, but there are a multitude of different types of technology used. Some of these may be copy control technologies, but some will be access control technologies. Please contact your CAG representative for further information on copying music CDs.

For further information see the SmartCopying website at [www.smartcopying.edu.au](http://www.smartcopying.edu.au) or contact your local copyright manager. You can also contact the National Copyright Unit on (02) 9561 1204 or at email [delia.browne@det.nsw.edu.au](mailto:delia.browne@det.nsw.edu.au).