

## 2.5 Film, Video / DVD

### Overview

In this section, the term 'film' refers to all audio-visual material such as film, video / DVDs that shows moving images with or without sound.

Film includes anything which:

- is capable of being shown as moving images (film, video / DVD)
- is capable of being embodied in another article or thing which can be used to show the moving picture (eg an electronic file which can show the moving images when used with particular software: eg Windows Media Player)
- includes the soundtrack accompanying the moving images

Examples of films include:

- feature, short and documentary films
- animations or cartoons
- television programs
- film trailers
- television advertisements
- corporate or education videos
- video and computer games
- podcasts and vodcasts of audiovisual material.

### Who owns copyright in the film?

In general, the copyright owner of a film will be the film production company. If the film is commissioned by the educational institution (for example a school pays a production company to make a training or educational video), the educational institution, not the film production company, will usually be the copyright owner of the video.

It is very important to be aware that the copyright in underlying works incorporated in film (eg screenplays, music, art works) may be retained by the author of each of those works, not by the film production company.

See 1.5: Who owns Copyright? for further information

### Copying and communicating film

In general, copyright in a film will not be infringed where the copy or communication is done:

- with the express permission of the copyright owner  
See 1.10: Dealing with Copyright for further information
- under the fair dealing, flexible dealing or educational exceptions  
See 1.13: Copyright Exceptions for further information

[Back to top ↑](#)

#### a. Fair dealing

The copying of a film for fair dealing purposes is free and does not require the permission of the copyright owner. The fair dealing exceptions most relevant for educational institutions and students are:

- research or study - eg a student can copy and use the film either as part of their studies (provided the film is not used outside the classroom); or for the purposes of comparing lighting techniques, angles or themes; or to make a pastiche of extracts of a film/video as part of their studies
  - criticism or review - eg reviewing a film or DVD
  - parody or satire – eg including part of a film in a PowerPoint presentation to make a satirical point about something related to the film.
- See 1.13: Copyright Exceptions for further information

**b. Flexible dealings**

Schools and TAFE institutes can now use a film for non-commercial teaching purposes if the use is not covered by another [exception](#) or [Voluntary Licence](#) . In order to use the flexible dealings exception, teachers must assess whether the proposed use:

1. Is a special case  
Your use will be a special case where it is narrow in both a qualitative or quantitative sense. This means that you are only using what you need for educational instruction.
2. Is for educational instruction  
Educational instruction means teaching (including remote teaching), preparation for teaching, preparing materials for students to use for homework or research tasks, or other uses that are in connection with teaching.
3. Is **not** for commercial advantage or profit  
Your use will be commercial where you, your students or your institute are making a profit or gaining a commercial advantage from the use of the material. Cost recovery is likely okay.
4. Doesn't conflict with the normal exploitation of the copyright material  
Your use will probably conflict with the normal exploitation of the material where it is possible to purchase a similar resource.
5. Doesn't unreasonably prejudice the legitimate interests of the copyright owner or person licensed by the owner  
Your use will prejudice the copyright owner if you:
  - a. use more than you need;
  - b. interfere with the quality of the material;
  - c. expose the content to piracy, such as uploading the content to the Internet. Uploading the content to a password protected intranet, blog, wiki or content management system is okay provided students are not able to make further copies; and
  - d. don't remove the content from the password protected DTE as soon as practicable after it is no longer required for education instruction.

One example of an activity covered by the flexible dealings exception is a teacher who wants to show several short extracts of a film in class could copy the short extracts to a DVD to make their teaching easier.

Teachers should note that:

- it is not usually possible to copy an entire film unless the film is not commercially available in the form needed by the time the film is needed for class; and
- teachers are now permitted to circumvent an access control TPM to make a copy of a film.

**c. Educational exceptions**

**i. Screening films (videos / DVDs) in class**

Copyright is not infringed where a film (video / DVD) is screened in class if:

- it is in the course of education and is not for profit and
- the people in the audience or class are giving or receiving instruction or are directly connected with the place where the instruction is given

ii. **Communicating a film for classroom performance**

Schools and TAFE institutes can communicate a film to enable it to be screened in class (eg streaming a film from the Internet, showing a film to a virtual class or transmitting a film on DVD from a centralized player to a screen in a classroom).

d. **Other statutory exceptions**

- i. Filming sculptures and other artworks in public places [Link to 2.2 Artistic works and Photographs (d)(i)]
- ii. Filming buildings or models of buildings [Link to 2.2 Artistic Works and Photographs (d)(i)]
- iii. Incidental filming of artworks [Link to 2.2 Artistic Works and Photographs (d)(ii)]

See 2.2: Artistic Works and Photographs for further information

e. **Statutory Licence**

The Statutory Broadcast Licence will apply to all film and video which is recorded from broadcasts (eg TV). These recordings may be shown in class for educational purposes, subject to the marking and notice requirements. However, the Statutory Licence will not apply to a film, video / DVD which is commercially hired or bought by the school, its teachers or students.

See Education Licence A: Statutory Broadcast Licence for further information

[Back to top ↑](#)

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