

2.6 CD-ROMS

Overview

A CD-Rom is a compact disc that stores vast amounts of information such as course work, text books or other reference materials.

In this section, a CD-Rom may be protected as a:

- literary work (compilation)
- cinematographic film

Where the CD-Rom includes sound recordings or moving images (video clips or animation), it will be categorised as a film.

It is important to note that CD-Roms may contain many copyright works, for example:

- text (literary work)
- photographs, drawings and other images (artistic work)
- video (film)
- audio recordings (sound recordings)
- music (musical works and sound recordings)
- computer program (literary work)

Copying and Communicating CD-ROMs

In general, copyright in CD-Rom 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 fair dealing, flexible dealing or educational exceptions.
- under other statutory exceptions for computer programs.
See 1.13: Copyright Exceptions for further information

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a. Fair Dealing

The copying of material from the CD-Rom 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 copying works (text, images, audio or video) from the CD-Rom for use as part of their studies
- criticism or review – eg a student reviewing a particular CD-Rom for a student publication or website)
- parody or satire – eg a student using some content from the CD-Rom for parody or satire as part of an assignment.

See 1.13: Copyright Exceptions for further information

b. Flexible dealings

Schools and TAFE institutes can now use CD-Rom content for non-commercial teaching purposes if the use is not covered by another exception or Statutory or Voluntary Licence. In most cases, literary (text) and artistic works on a CD-Rom will be covered by the Statutory Text and

Artistic Licence, so the flexible dealings exception will not apply.

If the CD-Rom contains films, interactive content, games or music, the flexible dealings exception may apply. Teachers must assess whether the proposed use:

- 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 that may be covered by the flexible dealings exception is making a copy of a small extract of the CD-Rom to disc or PowerPoint to play in class if that extract is not separately commercially available.

For further information, see information sheets:
Flexible Dealing and Technological Protection Measures

c. **Computer Programs exceptions**

The exceptions for computer programs under the Copyright Act will generally not apply to CD-Roms because most CD-Roms contain and embody a number of different copyright works such as artworks, print works, films and sound recordings in addition to a computer program.

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d. **Statutory Licences**

Statutory Text and Artistic Licence

The Statutory Text and Artistic Licence allows educational institutions to print, communicate and make electronic copies of text and graphic files on a CD-Rom under the Electronic Use System.

However, most CD-Roms are purchased with a licence which may override the Statutory Text and Artistic Licence and other permitted uses provided under the Copyright Act (see below). If you are unsure about this, please check with your local copyright manager.

It is important to note that the Statutory Text and Artistic Licence does not cover the copying of software, sound recordings, film, video, Internet radio or web TV.

Education Licence B: Statutory Text and Artistic Licence for further information

e. **Voluntary Licences**

Shrink wrap or educational licences

Most CD-Roms are purchased with a 'shrink wrap licence' or a 'special educational licence'. The licence sets out the terms and conditions for the use of the CD-Rom.

The terms and conditions of a shrink wrap licence may conflict with exceptions and Statutory Licences under the Copyright Act. It is currently unclear whether the terms of the shrink wrap licence would override a school/TAFE institutes rights to copy material under the Copyright Act. This is a difficult issue and is currently being considered by the Commonwealth Government. If you are uncertain about what you may do with a CD Rom you should contact your local copyright manager.

These are some common activities permitted by some CD Rom licences:

- copying text, images, audio or video onto the computer clipboard
- printing hard copies of the text, images, audio or video from the CD-Rom
- permitted amount that can be copied from the CD-Rom
- making the CD-Rom or the material embodied in it available over a intranet
- installing the run program on a number of machines
- lending the CD-Rom to students or staff.

See also FAQs: CD Rom

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The Smartcopying website has been produced by the National Copyright Unit on behalf of the Copyright Advisory Groups (Schools and TAFEs).

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