

Yes, Australian schools do pay to use free online content

In early June, the Australian Digital Alliance (ADA) launched its #copywrong website. Copyright Agency, who manages the collection of copyright fees from Australian schools under the statutory licence for education, took issue with some of the education examples included on the site. In their news item, *What's wrong with #copywrong*, Copyright Agency highlighted three #copywrong education examples that are 'unsubstantiated and inconsistent with the facts'.

The ADA and the school sector stands by the examples Copyright Agency disputes, and has pulled together some further information on educational copying to explain why. You can access the comprehensive summary [here](#), and we've pulled out some of the key points below.

'Australian schools currently pay millions of dollars to use content freely available on the internet'

Copyright Agency says:

"The schools' sector pays a flat fee per student for all content (print and digital) used in reliance on the statutory licence (i.e. that they would otherwise require a clearance for)". They do not pay Copyright Agency for other uses of content. In calculating the 'volume' of content used in reliance on the statutory licence, which is taken into account (amongst other things) in negotiations for the flat fee, Copyright Agency follows data processing protocols agreed with the schools' sector. As a result of those protocols, about half of the online content used by schools is excluded from the volume estimates. This includes content published under a Creative Commons licence, Free For Education licence or other terms allowing free use by schools."

It is correct that certain internet uses are – quite properly – excluded from volume estimates for the purposes of calculating fees payable under the statutory licence for education. Copyright Agency were able to agree with the schools sector that webpages that are covered by certain Creative Commons licences, or specified 'free for education' or similar, should be treated as non-remunerable under the licence. It is **simply not correct** however, to claim that Australian schools do not pay for other internet uses. Australian schools still pay significant amounts of money to use content that is made freely available on the internet (i.e. not behind a paywall, or requiring a password to access).

Openly available webpages **made up 81.4%** of the total web and non web digital materials that were paid for under the statutory licence in 2011. [Source: Table 8, 2011 Electronic Use System, AMR Report]

Here are some **actual examples** of the webpages that Australian schools paid licence fees to Copyright Agency for using in 2011 [Source: 2011 Schools Remunerable Data Set]:

- www.allergy.org.au - An information sheet about allergies released by the Australasian Society of Clinical Immunology and Allergy
- <http://maps.google.com.au> - Google maps
- www.italyguides.it/us/venice_italy/venice_travel.htm - Free tourism guides
- www.tourismtopend.com.au/pages/darwin - Free tourism guides and maps
- <http://dictionary.reference.com> - Dictionary.com
- www.qsa.qld.edu.au - The home page of the Queensland Studies Authority
- <http://wiki.answer.com/Q/What-is-a-tourist#ixzz1UVHNZTYHA> - A Wiki Answers webpage.

Printing extracts of these materials for classroom use would almost certainly be a fair – and free – use in the US and Canada.

'Australian schools pay up to four times more in copyright fees to deliver education using digital technologies than using paper copies.'

Copyright Agency says:

" Special provisions in Australia's Copyright Act allow schools to use nearly all text and images, print and digital, for education, provided there is fair payment for the content creator. The Australian Government has appointed Copyright Agency to manage these provisions (known as the educational statutory licence). By agreement between schools' representatives and Copyright Agency, the schools' sector pays a flat rate per student for all print and digital content used under the statutory licence (i.e. that would otherwise require copyright permission). The rate is less than \$17 per year for all content."

This is a tricky one, but bear with us. (And of course, check out the detailed summary [here](#)). As Copyright Agency itself recognises, the agreement currently in place with Australian schools takes into account the volume of copies and communications made under the statutory licence. The statutory requirement to record every digital copy and communication made - no matter how transient or technical, - means that this 'volume' calculation results in many more remunerable uses being recorded for the use of digital technologies than using paper copies for the same teaching activity. The current rate (\$17 per student) reflects this reality. The ADA has provided an example of how this volume calculation differs for teachers Ms Jones, using print technologies, and Mr Smith, using digital technologies, in the [summary](#).

The additional remunerable copies created in the course of teaching using digital technologies are taken into account in setting future rates payable under the licence. Over time, the 'volume' calculation for the use of modern teaching methods in Australian schools will continue to increase – by up to a factor of 4 - for the additional remunerable acts involved in digital uses when compared to paper based teaching methods.

The volume calculation is a factor in higher copyright fees paid by Australian schools in comparison with other jurisdictions. In contrast, the teaching activities done by Ms Jones and Mr Smith would almost certainly be considered to be fair – and free - uses of copyright materials in the US and Canada.

'Australian schools pay fourteen times more per student to use copyright works in schools than schools do in New Zealand. And up to seven times more than schools in the UK and five times more than schools in Canada.'

Copyright Agency says:

"The Australian statutory licence is more extensive than licences offered in other countries."

The ADA says the extensive nature of the Australian statutory licence is itself the problem. Not only do Australian schools pay for freely available online content, schools in Australia are required to pay for many uses that are recognised as free and fair in other countries. For example, Australian schools pay to hand out small extracts of books to students in classrooms. This is generally a free use in the US, Canada and Singapore. Australian schools also pay to display text on an interactive whiteboard, generally a free use in the US and Canada.

Copyright Agency says:

"Licences in other countries commonly don't cover:

- workbooks, worksheets ('consumables')
- standalone artistic works
- 'born digital' content
- repurposing and mashups"

The ADA notes that licences in other countries often don't cover many of these activities because the educational use of these materials may be considered to be a fair and free one. For example, copying an image from a freely available website for classroom use would generally be considered a fair and free use in the US and Canada. Plus, applying the Australian licence to workbooks and worksheets often causes unfair results, where the publisher is remunerated once when the school or parents buy a copy of the workbook, and again under the statutory licence when a teacher copies a page to use in a classroom exercise. We've

expanded further on this [#copywrong](#) example in the summary.

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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