Education Licence A: Statutory Broadcast Licence

Statutory Broadcast Licence for Copying of Television and Radio Programs

The Copyright Act 1968 (Copyright Act) had been recently amended to incorporate the provisions of the Copyright Amendment (Disability and other Measures) Act 2017. This amending legislation repeals the Statutory Broadcast Licence (Part VA) and Statutory Text and Artistic Licence (Part VB) removing the copying limits and record keeping requirements, and replacing them with a new Section 113P. These amendments simplify the operation of the educational statutory licences and provide more flexibility for educational institutions and collecting societies to negotiate agreed terms. At this stage, we advise schools and TAFEs to continue to apply the existing notice and other requirements of the Statutory Broadcast Licence as outlined below until an update is provided.

Note: The majority of TAFE institutes are no longer covered by the Statutory Broadcast Licence. Only a handful of WA and NSW TAFE Institutes have the Statutory Broadcast Licence.

Please see the following link for further information detailing in what circumstances TAFE institutes can use films and television without relying on the Statutory Broadcast Licence.

use-of-television-programs-and-film-by-tafe-institutes-without-a-screenrights-licence

The following information only applies to Schools and those few TAFEs who are covered by the Statutory Broadcast Licence. If a TAFE institute is unsure whether it is covered by this licence, it can contact NCU.

Introduction

Educational institutions are able to copy radio and television programs from free and pay television broadcasts and communicate such copies for educational purposes under Section 113P of the Copyright Act known as the Statutory Broadcast Licence. Payment is made to Screenrights for the use of radio and television broadcasts under this licence. Screenrights is the declared collecting society that administers the Statutory Broadcast Licence scheme.

What does the Statutory Broadcast Licence cover?

The Statutory Broadcast Licence covers:

- TV broadcasts from free to air television (ABC, SBS, channels 7, 9, 10, Gem, etc);
- Radio broadcasts from free to air radio (AM, FM, Digital);
- Pay TV (eg Foxtel);
- Online TV/radio programs from a free to air broadcaster’s website including podcasts and catch up TV provided it has been broadcast by the free to air broadcaster.

The licence covers any program broadcast on television or radio, including: feature films; short films; documentaries; news and current events; television series; game shows; reality TV; quiz shows; cartoons; advertisements; and music video clips.

What is not covered by the Statutory Broadcast Licence?

The Statutory Broadcast Licence does not cover:

- Online TV/Radio programs from the websites of Pay TV/Radio broadcasters;
• Television programs from streaming services (eg Netflix, Stan, Presto);
• Purchased television programs from iTunes, Google Play, online or retail stores (eg ABC Stores, Dymocks) in any format (eg Mp4, Blu-ray, DVD or VHS);
• Online videos (eg from YouTube, vimeo, TeachersTube, Edmodo, Khan Academy);
• Online Games (eg from www.abc.net.au/abcforkids/).

You can copy short extracts from films and online videos for educational instruction in certain circumstances. For additional information on copying short extracts see: http://www.smartcopying.edu.au/information-sheets/tafe/flexible-dealing.

For more information on permitted acts that do not require a Statutory Broadcast Licence see below.

What is a copy?

A copy for the purpose of the Statutory Broadcast licence is a reproduction of a radio or television program from a free or pay television broadcast in any format (eg VHS, DVD, MP4) (referred to throughout this document as Copy Programs).

It makes no difference what recording device or platform you use to make a Copy Program, including educational products/services such as Clickview, Functional Solutions, Kanopy or OnDemand Media.

What is a communication?

A communication for the purposes of the Statutory Broadcast licence includes:

• Uploading or saving Copy Programs to a password protected share drive, intranet, content or learning management system or cloud storage for student and staff access;
• Emailing Copy Programs to staff and students.

A communication does not include:
• playing or streaming live television or radio programs;
• bookmarking and sharing links to online film and videos.

These activities are not copyright activities and therefore do not require a licence or permission.

For more information on permitted acts that do not require a Statutory Broadcast Licence see below.

Copying and communication must be for educational purposes

The Statutory Broadcast Licence allows educational institutions to copy for the educational purposes of the institution. Educational purpose includes a Copy Program or a communication of Copy Program made for:

• teaching purposes;
• used as part of a course of study;
• retained for library use as a teaching resource.

No Copying Limits

There are no specific copying limits under the Statutory Broadcast Licence. This means that an educational body can copy an entire broadcast of a television program or television series for educational purposes.

However, it is recommended that you only copy what you need for educational purposes. This is important for managing copyright costs under the Statutory Broadcast Licence.

Educational Institution must be covered by remuneration notice
The educational institution or its administering body must have a remuneration notice with Screenrights. All government schools are covered by their respective Department of Education remuneration notice and the majority of catholic and independent schools are covered by the remuneration notices of their respective Catholic Education Commissions and Offices and Associations of Independent Schools. Only a handful of TAFEs are covered by a remuneration notice to Screenrights.

Please contact your local CAG representative or the NCU if you wish to check whether your school or TAFE is covered.

Obtaining copies from other Educational Institutions

The Statutory Broadcast Licence allows educational institutions which have a remuneration notice with Screenrights to provide copies of radio and television programs to other educational institutions with a remuneration notice with Screenrights.

Obtaining Copies from Resource Centres

Educational institutions which have a remuneration notice with Screenrights can obtain copies of television and radio programs from resource centres.

Set out below is a list of resource centres:

<table>
<thead>
<tr>
<th>Resource Centre</th>
<th>URL</th>
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<tbody>
<tr>
<td>ClickView</td>
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<td>Enhance TV</td>
<td><a href="http://www.enhancetv.com.au">www.enhancetv.com.au</a></td>
</tr>
<tr>
<td>TV4Education</td>
<td><a href="http://www.tv4education.com">www.tv4education.com</a></td>
</tr>
<tr>
<td>QUT Tape Copying Service</td>
<td><a href="http://www.itservices.qut.edu.au/avservices/avrecording.jsp">http://www.itservices.qut.edu.au/avservices/avrecording.jsp</a></td>
</tr>
<tr>
<td>ResourceLink</td>
<td>email: <a href="mailto:mtucker@bne.catholic.edu.au">mtucker@bne.catholic.edu.au</a></td>
</tr>
<tr>
<td>(Copies are only supplied to Brisbane Catholic schools)</td>
<td></td>
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<tr>
<td>Understanding Faith</td>
<td><a href="http://www.understandingfaith.edu.au">http://www.understandingfaith.edu.au</a></td>
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Further information on resource centres can be found here Can I purchase or request a Copy Program from a resource centre?.

Labelling/Attribution

We recommend that you always label/attribute any material you copy under the Statutory Broadcast Licence with the name of the program, the channel it was copied from and the date the copy was made.

eg: Copied under the Statutory Licence in s 113P of the Copyright Act 1968 ‘Media Watch’, ABC, 17 August 2009

Notice Requirements
Each time a Copy Program is uploaded to a password protected share drive, intranet, content or learning management system or cloud storage for student and staff access, we recommend the following notice be attached to the copy:

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[WARNING]

This material has been copied [and communicated to you] in accordance with the statutory licence in section 113P of the Copyright Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act. Do not remove this notice
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A practical way of including this notice is to insert a link to the notice from the labelling information. This would mean that the notice would have to be uploaded onto one spot on the repository and be linked to when required.

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eg: Copied under the statutory licence in s 113P of the Copyright Act Media Watch', ABC, 17 August 2009
s113P Notice: http://www.smartcopying.edu.au/copyright-guidelines/education-licences-(statutory-
and-voluntary-licences)/section-113p.notice
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Where it is not possible to include a link to the notice from the attribution information, the notice may be displayed (flashed) on the screen as the user logs into the password protected share drive or intranet or content or learning management system or cloud storage.

Although the Copyright Act does require the notice be attached to the material, it is not always possible to do this and displaying the notice is a practical way of including the notice where Part s113P material is made available to students or staff on a password protected share drive, intranet, content or learning management system or cloud system.

Where the notice is displayed on screen, it is important to state that the notice will only apply to some of the material on the repository. This is because not all material saved to the repository will be material copied under the Statutory Broadcast Licence. For example:

```
[WARNING]

Some of this material may have been copied [and communicated to you] in accordance with the statutory licence in section 113P of the Copyright Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act. Do not remove this notice.
```

**Acts not permitted under the Statutory Broadcast licence**

The following activities are not permitted under the Statutory Broadcast Licence:

- selling or supplying Copy Programs for a profit;
- copying for non-educational purposes;
- copying on behalf of an institution not covered by a remuneration notice;
- lending Copy Programs to an institution not covered by a remuneration notice.

**Permitted acts that do not require Statutory Broadcast Licence?**
The following acts are permitted and do not require a Screenrights licence:

1. Playing to your classes for educational purposes:
   - live television and radio broadcasts;
   - purchased television programs (e.g. from iView, iTunes, ABC shop);
   - YouTube videos, DVDs and VHS, as well as digital videos (e.g. MP4);
   - online television programs (e.g. catch up or on demand television); and
   - content from embedded links.

2. Communicating purchased television programs (e.g. from iView, iTunes, ABC shop) for educational purposes to staff and students, subject to any conditions which have been disclosed prior to purchase which would prevent this;


4. Bookmarking and sharing links to online film and videos.

**Frequently asked questions**

**Can I make digital copies under the Statutory Broadcast Licence?**

Yes. Electronic or digital copies (CD, DVD, USB, mp4, etc) may be made from:

- broadcasts of free and pay radio and television programs; and
- online television webcasts and podcasts of free-to-air programs on the broadcaster's website.

**Can copy programs be made digitally available for students to access?**

Educational institutions covered by a remuneration notice can upload a Copy Program to a password protected share drive, intranet, content or learning management system or external platform (Clickview, Functional Solutions or Kanopy) for students to access for educational purposes.

If a Copy Program is communicated, the school or TAFE must take reasonable steps to make sure that the broadcast can only be accessed by staff and students.

**Can I make a preview copy before deciding whether to use it in class?**

An educational institution may make preview copies of television and/or radio programs. There is no requirement to mark preview copies. However the educational institution has 14 days from the day they made the copy, to decide whether it intends to use or keep it for educational purposes.

If the educational institution decides to keep the preview copy, it must mark it in the required manner.

If the educational institution decides not to use or keep the preview copy, it must delete the copy otherwise it will not be considered to be a preview copy.

**Can I lend or borrow copies to or from another institution?**
Copy Programs may not be sold or supplied for profit.

Copy Programs may be loaned to another educational institution if the institution is covered by a remuneration notice or is covered by a remuneration notice issued by your administering body. See above: Educational Institution must be covered by remuneration notice.

Can I purchase or request a Copy Program from a resource centre?

Yes you can purchase or request a copy program from a resource centre, provided your educational institution has issued a remuneration notice or is covered by a remuneration notice issued by your administering body. See above: Educational Institution must be covered by remuneration notice.

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Can I make a copy for another educational institution?

Copy Programs may be made on behalf of an educational institution requesting a copy, provided it is covered by a remuneration notice issued by the educational institution or a body administering the educational institution.

Will we have to participate in a copyright survey?

Schools and TAFEs are no longer required to participate in copyright surveys for the Statutory Broadcast Licence. Resource Centre records from Clickview, Functional Solutions, Enhance TV, etc are used to distribute licence income to rights-holders.

Other issues under the Statutory Broadcast Licence

Disability copying

Sections 113E and 113F of the Copyright Act contain new Disability Access Measures that allow educational institutions to copy material to provide to students with disabilities. For further information please see 3.2 Disability Access Measures in the Copyright Guidelines

Library copying
Non-profit libraries (including libraries within an educational institution) may copy videos, CD-ROMs or DVDs to:

- preserve their collection;
- assist with research carried out at the library;
- provide to students for their research and study; and
- loan to other libraries.

Copies may be made from existing copies either by the library or library acting on its behalf. For further information about library copying please see: http://www.smartcopying.edu.au/copyright-guidelines/library-and-disability-copying/3-1-library-copying

Playing a television or radio in the staffroom or other public areas of the school or TAFE Institute

You need permission to play the television or radio in the staffroom or other public area when it is not for an educational purpose. This is not covered by the Statutory Broadcast Licence. A public performance licence will also be needed from APRA and PPCA to cover any music and sound recordings included in television or radio programs.

SmartCopying Tips

Cost Burden

Your educational body pays fees for the copying of radio and television programs under the Statutory Broadcast Licence. To minimise the costs payable under this licence, it is good practice to:

1. Link to or embed to free to air television and radio programs (eg: ABCiview; SBS On Demand; PLUS7; 9Jumpin; tenplay) where possible rather than making a copy. Linking and embedding are not copyright activities because you are not actually copying the program, only providing an address to its location on another website. As a result, providing links to material on external websites or embedding content are good ways of managing copyright.