**Answering teachers’ common questions about fair use**

The Australian Law Reform Commission (ALRC) has proposed the introduction of a fair use exception to future proof Australia’s copyright laws and ensure that fair uses of copyright materials are permitted in Australian schools.

More information about the ALRC’s proposals as well as information on [debunking some of the common myths](https://smartcopying.edu.au/mythbusting-fair-use/) about fair use and [why Australian schools need fair use](https://smartcopying.edu.au/why-australian-schools-need-fair-use/) is available on the [Smartcopying website.](https://smartcopying.edu.au/)

This document tries to answer some questions teachers have asked about the impact of the ALRC’s proposals.

**Will fair use mean I have to get copyright permissions myself?**

No.  As is currently the case, the National Copyright Unit, on behalf of the Copyright Advisory Group to the Standing Council on School Education and Early Childhood (CAG) would provide clear information about what copyright uses are allowed in Australian schools.

Schools and teachers would not be required to seek individual permissions for their uses of copyright content in classrooms.  Nor would copyright owners have to negotiate individually with schools and teachers.

**Will teachers have to make copyright decisions in the classroom?**

Most things that teachers want to do with copyright content in class would be covered by either fair use or by the current statutory licences.  Clear guidelines and educational materials would explain what uses are permitted.

As is currently the case, teachers may sometimes need to use their judgment.  For example, different copyright considerations can apply to new releases and out of print materials.  This would be the same with fair use.

**Will fair use create more work for teachers?**

No.  We believe fair use would actually make things much easier for teachers.

Teachers currently need to learn different rules for different types of content and different teaching technologies.  For example, different rules currently apply to novels v short story collections, artworks v illustrations, CDs v MP3s, books and newspapers.  The rules apply differently depending on whether the teacher is standing at the photocopier or the interactive whiteboard.

In contrast, fair use would allow clear and simple guidelines to be created for teachers which could apply irrespective of the content, teaching method or technology being used

**Will fair use mean teachers are more likely to get sued?**

No.  The previous answer explains why we believe that fair use will actually make life easier for teachers by replacing a set of technical and complex rules with simple, clear guidelines that can work with digital technologies.

We believe that fair use will actually make it safer for teachers to use new technologies in the classroom.

In theory, it has always been the case that teachers can be sued if they infringe copyright.  As far as we know, this has never happened in Australia.  Consider this:  teachers in the United States have worked with fair use since 1976 and we are not aware of any teacher who has been sued for copyright infringement.

**Does fair use mean authors won’t get paid?**

No.  The Australian school sector spends over $665 million each year purchasing educational content for students.  In addition, government and non-government schools collectively spend an additional $80 million dollars each year on licence fees paid to collecting societies for the use of copyright content in Australian schools.

There is no suggestion that the ALRC’s proposals would impact in any way the amount that the school sector spends buying educational resources.  Furthermore, the ALRC has made it very clear that its proposals would not harm copyright owner markets. The ALRC has proposed a fair use assessment which specifically requires consideration of the impact of any educational use on copyright markets and the value of copyright works. If a use unreasonably harms copyright owners, it wouldn’t be considered fair, and licence fees would still be required.

Some activities that are identified as fair uses would no longer be remunerable, which may have some impact on licence fees. However any impact on licence fees would be confined to uses that do not significantly impact on copyright owners. The ALRC’s proposals would mean however, that Australian schools were no longer required to spend public funds on activities that do not affect copyright owner markets, such as:

* printing out a fact sheet on head lice from the Department of Health and Ageing’s website to hand out to students
* printing copies of a free tourism map from a website for students to use in class
* asking a student to print a map from Google maps for a homework exercise

Fair use will simply ensure that licence fees are better directed to authors who are trying to make a living from their works.