**YouTube – Using (TAFE)**

**Risk management tips for teachers using YouTube**

* Don’t use content that is likely to be an infringing copy.
* Only use YouTube videos for the purpose of teaching. There should be no commercial benefit.
* Only use what you need.
* Check that you can’t purchase or readily license the content that you need from another source.
* Don’t expose the content to further [copying](https://smartcopying.edu.au/glossary/copy/) or [communication](https://smartcopying.edu.au/glossary/communicate/), such as giving students access to an electronic file that they could [copy](https://smartcopying.edu.au/glossary/copy/).

**What is YouTube?**

YouTube is a video sharing website that allows anyone to watch videos for free. Registered users can also upload videos for free.

To date over 1 billion users have watched over 5 billion videos on YouTube.

Many TAFE institutes are blocked from accessing YouTube, making it hard for teachers to use this resource as part of their teaching practice. In addition, YouTube has extremely broad categories of videos which make it time consuming to review videos in order to find videos that are appropriate for teaching purposes.

Those restrictions aside, many educators are using Web 2.0 technology as part of their teaching practice and are accessing YouTube from home or other non-TAFE access points.

**If I have access to YouTube in the classroom, can I stream YouTube to my class?**

You may be able to [stream](https://smartcopying.edu.au/glossary/streaming/) YouTube videos to a class under section 28 of the Copyright Act. This [streaming](https://smartcopying.edu.au/glossary/streaming/) may be directly from the YouTube website, or through a link to a YouTube video embedded on another website.

Section 28 allows teachers and students to play YouTube videos in class where it is:

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

See [Performance and communication of copyright material in TAFE Classes](https://smartcopying.edu.au/performance-and-communication-of-copyright-material-in-tafe-classes/) for further information on when section 28 will apply.

**Can I embed a YouTube video on another website then stream it to my class?**

Generally you may embed a link to a YouTube video on another website. In some cases this will not be possible as the uploader of the YouTube video will have disabled this functionality. In this case, you should not pursue embedding the link.

The YouTube website provides information on how to embed links to YouTube videos, see <http://www.google.com/support/youtube/bin/answer.py?answer=57788>.

You may be able to [stream](https://smartcopying.edu.au/glossary/streaming/) a YouTube video that you have embedded in another website, to a class under section 28 of the Copyright Act. Section 28 allows teachers and students to play YouTube videos in class in the circumstances described above.

**Can I download YouTube videos and use them as part of my teaching practice?**

**Downloading YouTube videos**

Downloading a YouTube video involves making a copy of it.

The Copyright Act may permit a copy to be made, however the terms of use on the YouTube website state that the videos are not to be downloaded (ie [copied](https://smartcopying.edu.au/glossary/copy/)).

Each jurisdiction will have to decide whether they will rely on what is permitted by the Copyright Act in light of YouTube’s terms of use. We recommend that you contact your [local copyright manager](https://smartcopying.edu.au/contact-us/) for further advice.

**(i) Downloading YouTube videos of copy Australian free-to-air broadcaster’s television program**

This will depend on your jurisdiction’s view as to whether they will rely on what is permitted by the Copyright Act in light of YouTube’s terms and conditions.

In very limited circumstances, [copies](https://smartcopying.edu.au/glossary/copy/) and [communications](https://smartcopying.edu.au/glossary/communicate/) may be made under the [Statutory Broadcast Licence](https://smartcopying.edu.au/glossary/statutory-broadcast-licence/) contained in section 113P of the Copyright Act. These circumstances are where:

* + the copy is made solely for an [educational purpose](https://smartcopying.edu.au/glossary/educational-purpose/)
	+ the particular YouTube video is of an Australian free-to-air broadcast, that is an ABC, SBS, Channel 7, Channel 9 or Channel 10 program and
	+ the particular YouTube video has been posted by the Australian free-to-air broadcaster – not somebody else. It is more likely that the broadcaster themselves has posted the video where the video is contained on a partner broadcaster’s YouTube Channel. At this time, the ABC has a YouTube Channel, see [here](https://www.youtube.com/user/ABCNetwork).

**Note:** The majority of TAFE institutes are no longer covered by the [Statutory Broadcast Licence](https://smartcopying.edu.au/glossary/statutory-broadcast-licence/). Only WA TAFE institutes and Bradfield Senior College in NSW are still covered.

There is no requirement to mark digital copies made under the [Statutory Broadcast Licence](https://smartcopying.edu.au/glossary/statutory-broadcast-licence/), though some TAFE institutes choose to mark all copies, irrespective of format. The marking would be:

[Name of Broadcast]
Made for [Insert Name of Institution] under s 113P of the Copyright Act 1968
Date of Broadcast: [insert date]

If the copy is to be [communicated](https://smartcopying.edu.au/glossary/communicate/) (eg on an intranet or Content Management System) it should be accompanied by a [warning notice](https://smartcopying.edu.au/guidelines/education-licences/section-113p-notice/) where possible and practicable. However, if the [communication](https://smartcopying.edu.au/glossary/communicate/) is made within the TAFE institute’s premises and no copies are able to be made, no warning notice is required.

**(ii) Other YouTube videos**

This will depend on your jurisdiction’s view as to whether they will rely on what is permitted by the Copyright Act in light of YouTube’s terms and conditions.

Depending on the circumstances, the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception may allow the YouTube video to be [copied](https://smartcopying.edu.au/glossary/copy/).

For the [Flexible Dealing](https://smartcopying.edu.au/flexible-dealing/) Exception to apply:

* 1. the YouTube video must not be a copy of content that is likely to be infringing. Content is unlikely to be infringing if it is on a YouTube Partner Channel – YouTube has many content partners that provide videos, including National Geographic, BBC Worldwide and Showtime.
	2. you must be using the video for the purposes of giving [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/)
	3. your use must be non-commercial
	4. the circumstances of your use must be a special case
	5. your use must not conflict with the normal exploitation of the video and
	6. your use must not unreasonably prejudice the copyright owner.

For further information, see [Flexible Dealing](https://smartcopying.edu.au/flexible-dealing/).

It is good practice to ***mark copies*** made under the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception with words similar to:

“Copied under section 200AB of the Copyright Act 1968”.

**(iii) Converting the format of YouTube videos for download**

If your jurisdiction is choosing to rely on what is permitted by the Copyright Act, there are still restrictions on the process you use for downloading the YouTube video.

YouTube videos are built in Adobe Flash. To enable them to be downloaded they need to be converted into a different file format. This is permitted under the Copyright Act provided that you do it yourself. You should also not provide assistance to anyone else to convert their YouTube videos.

**Showing a copy YouTube video file in class**

A copy of a YouTube video may be able to be shown in class under section 28 of the Copyright Act, provided it is for the purposes of [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/). For further information, see [Performance and Communication of Copyright Material in TAFE Classes](https://smartcopying.edu.au/performance-and-communication-of-copyright-material-in-tafe-classes/).

**Can we make the copy of the YouTube video available from the TAFE intranet or a content management system for teachers or students?**

**(i) Extract of an Australian broadcaster’s free-to-air television program\*\***

If the YouTube video is an extract of a television program that is made available by an Australian [free-to-air](https://smartcopying.edu.au/glossary/free-to-air-television-and-radio/) broadcaster, it may be placed on the TAFE intranet or content management system, provided it will only be used for [educational purposes](https://smartcopying.edu.au/glossary/educational-purpose/).

**(ii) Other YouTube videos**

In the case of other YouTube videos, whether or not it can be placed on a TAFE intranet or content management system will depend on the application of the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception.

Each use of the YouTube video must meet the requirements of the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception.

In between uses of the video under the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception, it is good practice to disable access to the video.

**Should I destroy or delete the copy YouTube video once it has been used for its purpose of educational instruction?**

**(i) Extract of an Australian broadcaster’s free-to-air television program\*\***

If the YouTube video is an extract of a [free-to-air](https://smartcopying.edu.au/glossary/free-to-air-television-and-radio/) television program made available by the broadcaster then it does not need to be deleted or destroyed.

**(ii) Other YouTube videos**

Generally, copies of other YouTube videos will not need to be deleted or destroyed.

However the copy video should:

* only be for [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/)
* not be uploaded to the internet and
* not be given to students as an electronic file that they could copy.

It is good practice to disable access to YouTube videos between uses that meet the requirements of the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception.

|  |  |  |
| --- | --- | --- |
|    | **Extract of an Australian free-to-air Broadcaster’s television program \*\*** | **Other YouTube videos (including YouTube content partners)** |
| **Can I download a YouTube video? \*** | Yes, under s 113P provided that:* the copy is made solely for [educational purposes](https://smartcopying.edu.au/glossary/educational-purpose/)
* the video is of an Australian [free-to-air broadcast](https://smartcopying.edu.au/glossary/free-to-air-television-and-radio/) and
* the video has been hosted by the broadcaster.
 | Yes, under the flexible dealing exception provided that:* the YouTube video is not likely to be an infringing copy
* you are using the video for the purposes of giving educational instruction
* your use is non-commercial
* the circumstances of your use is a special case
* your use does not conflict with the normal exploitation of the video and
* your use does not unreasonably prejudice the copyright owner.
 |
| **Can I convert YouTube videos into a different format in order to download them?\*** | Yes, provided that you do it yourself. | Yes, provided that you do it yourself. |
| **Can I show a YouTube video file in class?** | Yes, as long as it is for the purposes of [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/). | Yes, as long as it is for the purposes of [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/). |
| **Can I upload a YouTube video file to the TAFE intranet or content management system?** | Yes, as long as it is for the purposes of [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/). | Yes, under the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception provided that:* the YouTube video is not likely to be an infringing copy
* you are using the video for the purposes of giving [educational instruction](https://smartcopying.edu.au/glossary/educational-instruction/)
* your use is non-commercial.
* the circumstances of your use is a special case
* your use does not conflict with the normal exploitation of the video and
* your use does not unreasonably prejudice the copyright owner.
 |
| **Do I have to destroy copies of YouTube video files after use?** | No | No |

\* This question assumes your jurisdiction is relying on what is permitted by the Copyright Act despite YouTube’s terms and conditions.

\*\* Most TAFEs are no longer covered by the s113P [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/) . Only WA TAFE institutes and Bradfield Senior College in NSW are still covered. All other institutes can no longer rely on s113P to [copy](https://smartcopying.edu.au/glossary/copy/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) [broadcasts](https://smartcopying.edu.au/glossary/broadcast/). For more information, see [Use of Television Programs and Film by TAFE Institutes without a Statutory Broadcast Licence](https://smartcopying.edu.au/use-of-television-programs-and-film-by-tafe-institutes-without-a-statutory-broadcast-licence/).

For further information contact your [local copyright manager](https://smartcopying.edu.au/contact-us).