**Performance and Communication of Copyright Material in Class**

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Schools are allowed to [perform](https://smartcopying.edu.au/glossary/performance/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) copyright material in class under a free exception in the Copyright Act (section 28). If your use meets the conditions set out below, you can [perform](https://smartcopying.edu.au/glossary/performance/) and [communicate](https://smartcopying.edu.au/glossary/communicate/) copyright material to your class for free and without the copyright owner’s permission.

**What is a performance?**

A [performance](https://smartcopying.edu.au/glossary/performance/) under the Copyright Act includes any mode of visual or aural presentation, such as:

* reading a story, news article, journal, handbook or other [literary work](https://smartcopying.edu.au/glossary/literary-works/)
* playing:
	+ - television programs from free to air and pay television
		- radio programs from free to air radio and digital radio stations
		- television programs from streaming services (eg Netflix, Stan)
		- a [film](https://smartcopying.edu.au/glossary/film/) in any format (eg DVD or a [film](https://smartcopying.edu.au/glossary/film/) from iTunes, Google Play, etc)
		- purchased material in any format (eg a [film](https://smartcopying.edu.au/glossary/film/), audiobook, television program or series)
		- online television programs from catch up television (eg ABC iView, SBS on Demand, 7plus)
		- sound recordings in any format (eg CD, DVD, cassettes, digital music from iTunes, Google Play)
* staging a [performance](https://smartcopying.edu.au/glossary/performance/) of a play
* displaying a diagram or plan on an overhead transparency
* displaying content from a live website on an interactive whiteboard or
* reciting a poem.

**What is a communication?**

A [communication](https://smartcopying.edu.au/glossary/communicate/) under the Copyright Act involves making copyright material available online or electronically transmitting copyright material.

‘Making material available online’ can include uploading material to a digital space for student access and use via password protected access such as:

* a shared drive/intranet (eg Microsoft 365)
* content or learning management systems (eg Moodle, Blackboard, Brightspace or Equella) or
* to a closed class area on an education platform (eg Edmodo, Verso or Google Classroom).

‘Electronic transmission’ includes emailing, streaming or using an electronic reticulation system to share material (eg libraries might have an electronic delivery system to transmit material centrally).

A communication does not include:

* playing or streaming live television or radio programs or
* bookmarking or sharing links to online [film](https://smartcopying.edu.au/glossary/film/), videos, radio programs and games.

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

**When can I perform a work or audio-visual item in class?**

Teachers and students can read or [perform](https://smartcopying.edu.au/glossary/performance/) a [literary](https://smartcopying.edu.au/glossary/literary-works/), [dramatic](https://smartcopying.edu.au/glossary/dramatic-works/) or [musical work](https://smartcopying.edu.au/glossary/musical-works/), or play [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and [films](https://smartcopying.edu.au/glossary/film/) in class, where it is:

* in the course of education and is 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.

**Note:**this exception does not extend to playing [films](https://smartcopying.edu.au/glossary/film/) or [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) for non-teaching activities. See below for further information.

**When can I communicate works and audio-visual materials in class?**

Teachers and students can communicate:

* [literary](https://smartcopying.edu.au/glossary/literary-works/), [dramatic](https://smartcopying.edu.au/glossary/dramatic-works/) or [musical works](https://smartcopying.edu.au/glossary/musical-works/)
* [films](https://smartcopying.edu.au/glossary/film/) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/)
* television and radio [broadcasts](https://smartcopying.edu.au/glossary/broadcast/) (including works embodied in those [broadcasts](https://smartcopying.edu.au/glossary/broadcast/)) and
* [artistic works](https://smartcopying.edu.au/glossary/artistic-works/),

to classes, to enable classroom [performances](https://smartcopying.edu.au/glossary/performance/) and playing of [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/) and [films](https://smartcopying.edu.au/glossary/film/) in class using new technologies.

**What uses of copyright material am I allowed to make?**

Some of the things you are allowed to do are to:

* use an electronic delivery system to transmit a television program or [film](https://smartcopying.edu.au/glossary/film/) from a central DVD player in the library to a monitor in the classroom
* play a [film](https://smartcopying.edu.au/glossary/film/) from a content or learning management system (such as Moodle or ClickView) in class
* make a [film](https://smartcopying.edu.au/glossary/film/) available via a content or learning management system for access by distance education students for the purpose of a particular class and
* display or project material to a class, such as a poem, on an electronic whiteboard, flat panel or data projector.

**What about making material available online to students and staff?**

Making material available online for students and staff to access involves [communicating](https://smartcopying.edu.au/glossary/communicate/) that material. It can also often involve making an intermediate copy to get the material in a form suitable for uploading onto the intranet or content management system.

Section 28 allows the [communication](https://smartcopying.edu.au/glossary/communicate/) of content when it is made merely to facilitate the classroom [performance](https://smartcopying.edu.au/glossary/performance/) of that content. Any content that is [communicated](https://smartcopying.edu.au/glossary/communicate/) should be removed at the end of the lesson. For example, to play a [film](https://smartcopying.edu.au/glossary/film/) to your class you are able to first upload that [film](https://smartcopying.edu.au/glossary/film/) to your school’s learning or content management system (or to your school’s intranet or education platform) to facilitate you being able to play the [film](https://smartcopying.edu.au/glossary/film/) to your class. As soon as the lesson is over though, you must remove the [film](https://smartcopying.edu.au/glossary/film/) from wherever you’ve uploaded it to.

There is some overlap between what schools are allowed to do under section 28, the [statutory licences](https://smartcopying.edu.au/glossary/statutory-licences/) and the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception in section 200AB.

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| **Type of use** | **Type of content** | **What is allowed** | **Copyright status** |
| One off use (no storage beyond class) | All | Making material available online for students and staff to access. Material must be removed at the end of the lesson. | Free |
| Longer term storage | [Works](https://smartcopying.edu.au/glossary/works/) (eg, books, text, photographs, diagrams, scores, poetry) | Making material available online for students and staff to access is allowed under the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/glossary/statutory-text-and-artistic-works-licence/), Note copying limits apply – for more information see our [Statutory Text and Artistic Works](https://smartcopying.edu.au/guidelines/education-licences/the-statutory-text-and-artistic-works-licence/) guidelines. | Paid for under the [Statutory Text and Artistic Works Licence](https://smartcopying.edu.au/glossary/statutory-text-and-artistic-works-licence/) |
| Longer term storage | Off-air [broadcasts](https://smartcopying.edu.au/glossary/broadcast/) (TV and radio) | Making material available online for students and staff to access is allowed under the [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/) – for more information see our [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/) guidelines. | Paid for under the [Statutory Broadcast Licence](https://smartcopying.edu.au/guidelines/education-licences/statutory-broadcast-licence/) |
| Longer term storage | Other audio visual content (eg, [films](https://smartcopying.edu.au/glossary/film/) and [sound recordings](https://smartcopying.edu.au/glossary/sound-recordings/)) | Making material available online for students and staff to access ***may*** be allowed under the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception (section 200AB). For more information, see [Flexible Dealing](https://smartcopying.edu.au/flexible-dealing/) and [Format Shifting](https://smartcopying.edu.au/faq/format-shifting/). | Free |

Teachers are encouraged to use materials licensed under [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) whenever appropriate for their teaching needs. For further information on [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/), see [Creative Commons Information Pack for Teachers and Students](https://smartcopying.edu.au/creative-commons-information-pack-for-teachers-and-students/).

**What uses of copyright material am I not allowed to make under s 28?**

There are some uses of copyright material that you will not be able to make, such as:

* making material available online for students and staff to access where it is not for the purpose of showing the content in class
* making material available online where access is not restricted (eg by a password) to the students and staff who need the material
* keeping content available online for students and staff to access for longer than the time needed for the class (ie for permanent or longer term storage).

**Note:** You may be able to make material available online for students and staff to access (eg on a password protected shared drive; intranet; content or learning management system; or cloud storage for student and staff access) for a longer period of time under a [statutory licence](https://smartcopying.edu.au/glossary/statutory-licences/) or under the [flexible dealing](https://smartcopying.edu.au/flexible-dealing/) exception – see the table above.

* [communicating](https://smartcopying.edu.au/glossary/communicate/) or [performing](https://smartcopying.edu.au/glossary/performance/) a work, such as a poem, or playing a [film](https://smartcopying.edu.au/glossary/film/) or [sound recording](https://smartcopying.edu.au/glossary/sound-recordings/):
	+ - to the parents of students
		- for a fundraising activity
		- at a school excursion or camp where there is no teaching involved
		- for non-teaching purposes in the school (eg, showing a [film](https://smartcopying.edu.au/glossary/film/) at lunch on a rainy day with no teaching involved, playing music at school concerts, dances or formals, sports days, fairs, etc).

**Note:** While section 28 will not apply to teachers and students [performing](https://smartcopying.edu.au/glossary/performance/) and [communicating](https://smartcopying.edu.au/glossary/communicate/) music for non-teaching activities, schools may be able to do these activities under the [Schools Music Licence](https://smartcopying.edu.au/guidelines/education-licences/schools-music-licence/).

There are also alternative sources of music such as [Creative Commons](https://smartcopying.edu.au/glossary/creative-commons-cc/) licensed music which can be played for free, see [Where to Find CC Licensed Music](https://smartcopying.edu.au/where-to-find-cc-licensed-material/).