**Issue 1 - October 2018 - THE LATEST NEWS IN COPYRIGHT FOR AUSTRALIAN SCHOOLS AND TAFE**

**Welcome to the first Copyright for Educators Update from the National Copyright Unit.**

The National Copyright Unit (NCU) is a specialised unit that provides copyright assistance and advice to all Australian government and non-government schools as well as TAFEs in Australia.

NCU is a small secretariat that acts on behalf of the Copyright Advisory Group (CAG) which reports to the COAG Education Council. CAG’s committee members are senior representatives from State and Territory Departments of Education and the Catholic and Independent school sectors. The NCU was established in 2005 to:

* provide specialist copyright assistance to schools and TAFEs;
* negotiate and administer the School and TAFE sectors licences with Australian Collecting Societies and related copyright surveys; and
* advocate for copyright law reform benefitting education.

For practical copyright advice, information on our national seminar series and Copyright for Educators (C4E) course please contact our team and/or see our [Smartcopying Website](http://www.smartcopying.edu.au/).

**Important Copyright Law Reform - Positive Changes for Australian Schools**

In late 2017, copyright in education saw some exciting new changes to the law after many years of advocacy led by NCU, through CAG on behalf of the school and TAFE sectors. The well overdue changes make things easier and more practical for educators and cuts red tape on previous outdated and unnecessary copyright restrictions in education.

**New Disability Access Exceptions**

In December 2017, two new disability access exceptions were introduced under the *Copyright Amendment (Disability and Other Measures) Act (***CADM***)*.

1. Use of copyright material by organisations assisting persons with a disability (‘organisational disability exception’); and
2. Fair dealing for the purpose of assisting persons with a disability (‘fair dealing for disability exception’).

Both exceptions cover a broad range of disabilities such as difficulty in reading, viewing, hearing or comprehending copyright material in a particular form. This includes students:

* with vision impairment, or
* who are unable to hold or manipulate books, or
* with an intellectual disability, or
* with general learning difficulties such as dyslexia.

Both exceptions can be used by schools and TAFEs to assist students with a disability, but the circumstances in which they apply differ.

The organisational disability exception allows schools and TAFEs to make accessible format copies for students with a disability **if the copyright material is not commercially available in the format required by the student and with the appropriate features they require**. There is no restriction on the kind of format that can be created under this exception and could include the copying of a whole text work to a more accessible format.

The fair dealing for disability exception allows teachers to copy materials for students with a disability **provided the use is ‘fair’**.

Under these new exceptions, teachers are now able to:

* create a digital version of a hardcopy book and make any necessary adjustments, such as the font size or colour, to assist students with difficulties
* provide captions, audio-descriptions or subtitles to audio visual material (eg YouTube, films, etc) for hearing impaired students
* convert a book into Easy English
* create audio books for students with vision impairment

It can be tricky for a teacher to work out which disability exception they should rely on. We recommend, if you wish to copy or format shift an entire copyright work that you use the organisational disability exception provided the material is not commercially available.

Where you are copying an extract or portion of a work for a disabled student, you may be able rely on the fair dealing for disability exception. You can rely on this exception regardless of whether the material that your student requires is commercially available.

For further information see the Smartcopying [Disability Access Exceptions Guidelines](http://www.smartcopying.edu.au/copyright-guidelines/library-and-disability-copying/3-2-disability-access-exceptions).

**Exam copying exception**

CADM also remedied the out of date exam copying exceptions. Schools and TAFE institutes are now permitted to copy **all** types of material - e.g. images, text, music, videos and films – for inclusion in exams. The new expanded exception applies to both hardcopy (i.e. paper) and online exams.

For further information see the Smartcopying [Exam Copying Information Sheet](http://www.smartcopying.edu.au/information-sheets/schools/copying-for-exams-what-am-i-allowed-to-do).

**New Technology Protection Measures (TPMs) Exceptions**

In December 2017, new regulations were introduced allowing schools to circumvent or break Technology Protection Measures (TPMs) when making a copy from TPM protected material under the following educational provisions:

* the Statutory Text and Artistic Licence (copying text and images)
* the Statutory broadcast licence (copying television or radio programmes that have been broadcast)
* the flexible dealing exception in s 200AB of the Copyright Act (copying film/video or audio works)
* Making a copy under the organisational disability exception or the fair dealing disability exception

Before these new regulations, teachers may have been unknowingly breaching the anti-circumvention of TPMs provisions of the Copyright Act, when making copies when relying on above exceptions or the statutory licences as the act of copying in some of the above instances may have involved breaking the TPMs protecting the source material.

The new regulations solve this problem. Teachers can do the following without fear of being in breach of the anti-circumvention TPM provisions:

* Include short extract of films in classroom presentations, for example include a short extract of the film Gallipoli in a teacher’s presentation on WWI
* caption a film for deaf disabled students.

For further information please see the Smartcopying [TPM Information Sheet](http://www.smartcopying.edu.au/information-sheets/tafe/technological-protection-measures/technological-protection-measures-2018).

**Conclusion**

There is more copyright law reform on the horizon, so keep a lookout for further changes and updates on our Smartcopying website: <http://www.smartcopying.edu.au/copyright-law-reform/current>.

In the meantime, NCU is here to provide copyright assistance and advice to schools and TAFEs. You can contact us on Tel: 02 7814 3855 and at [smartcopying@det.nsw.edu.au](mailto:smartcopying@det.nsw.edu.au).

The purpose of this update is to provide a summary and general overview of selected copyright issues. It is not intended to be comprehensive nor does it constitute legal advice. If you need to know how the law applies in a particular situation, please get advice from the National Copyright Unit.