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The blanket solution for modern business

# IABC - Copyright Training

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# Agenda

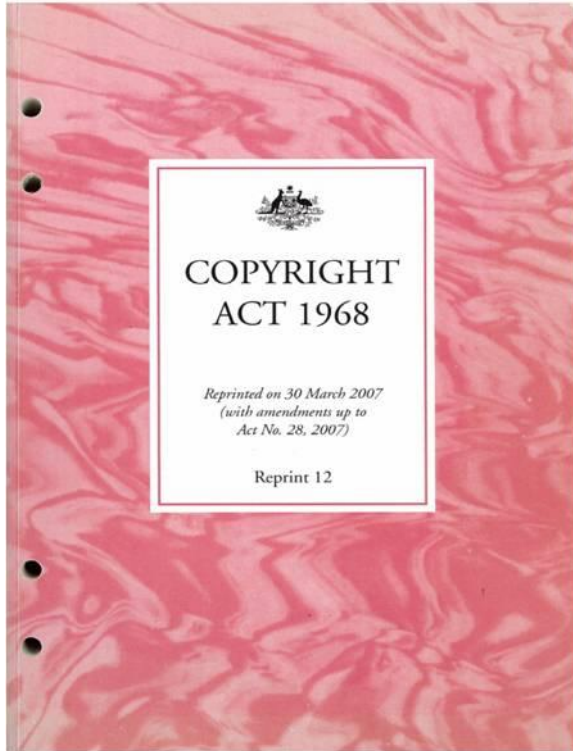
Section 1: Copyright refresher

Section 2: Q&A

Section 3: Copyright Licence



# Copyright



- **Copyright is a bundle of rights** granted to the copyright owner of an original work
- **Copyright protects a range of material**, including things such as text, images, maps, plans, music, recordings, broadcasts and footage
- **Copyright protection is automatic** – when something's created, it's protected whether or not it's in draft form or published



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# Key elements of *the Copyright Act*

**“reproduce”**: making any type of copy – including, for example, by hand copying, photocopying, recording, scanning and photographing

**“communicate”**: either transmitting copyright material (for example, by email or fax) or by making it available online (for example, on the internet or on internal servers such as intranets)

**“substantial part”**: copyright owners usually have rights not only over when all of their work is used, but also over parts that are distinctive, important or essential – even if these parts are comparatively small

**“collecting societies”**: in Australia, these are non-profit organisations that license copyright material on behalf of copyright owners

## Exceptions

- Research or study
- Libraries
- Legal advice
- Parody or satire
- Criticism or review
- Personal format shifting



# Copyright Checklist

1. Downloading and sharing material is OK, when it's for personal use or research
  2. I only reused 10% of a work
  3. I can email an article as long as it's to a colleague within my organisation
  4. I did attribute the person who wrote it ...
  5. It's OK because I'm not making a profit from it
  6. Just make 5 changes and you'll be OK ...
  7. We paid for it, so we can copy and distribute it ...
1. If you are copying or downloading as part of your job, it is unlikely to be covered by fair dealing
  2. You'll usually need a clearance – copying 10% is likely to be a “substantial part”
  3. Unless you have a licence or permission this will be a copyright infringement
  4. You still need a licence or permission to reproduce a work
  5. A copyright owner's rights apply whether or not you're making it commercially available
  6. You may still be using a “substantial part”, and need a clearance
  7. You purchased a copy. You did not purchase the reproduction or communication rights of the copyright owner.



# Copyright in the Courts – Recent Decisions

## • March 2011, Larrikin Music v EMI (Kookaburra 1934) - Use of flute riff in Down Under

- Men at Work found to use a substantial part of Kookaburra Sits on the Old Gum Tree – meaning an infringement of copyright occurred
- Even though Down Under was released in 1981, Larrikin did not realise the infringement occurred until a Spicks and Specks episode
- Federal Court determined that Larrikin was entitled to receive 5% of royalties from sales of Down Under after 2002

## • February 2011, Roadshow Films v iiNet – ISP liability for copyright infringement

- Several film studios took the ISP iinet to Court alleging that they had authorised the copyright infringement of their account holders, arguing that even when issued with information about their user's infringement iinet refused to take action by disconnecting their users accounts
- In a 2-1 decision the Full Federal Court determined that iinet did not authorise the infringement, however they said that it may be possible to find authorisation in other cases where there has been sufficient information about the infringement given to the ISP, or where the ISP's have ineffectual repeat offender policies
- the film studios have sought leave to appeal the decision in the High Court

## • January 2011, Telstra Corp v Phone Directories Co Pty Ltd – Subsistence of Copyright in Yellow and White Pages Directories

- Federal Court found that copyright does not subsist in the White Pages or Yellow Pages directories
- Decision was due in part to the automated process behind the database, and the fact that individual authors were hard to identify, and where they could be identified, could not be shown to have exerted an 'independent intellectual effort' in compiling the directories.
- The decision reversed a previous Australian court ruling which said that copyright did subsist in phone directories
- Relied heavily on the decision in IceTV v Nine Network



# Copyright in the Courts – Recent Decisions (cont)

- **September 2010, Fairfax v Reed International Books Australia – Newspaper Headlines**

- Federal Court confirmed that copyright does not subsist in copyright headlines (the rationale also applies to titles, names and slogans)
- Fairfax had alleged that Reed had reproduced a substantial part its Australian Financial Review publication in its services , which often included the headlines and by-lines of AFR articles
- “The need to identify a work by its name is a reason for the exclusion of titles from copyright protection in the public interest. A proper citation of a newspaper article requires not only reference to the name of the newspaper, but also reproduction of the headline.” Justice Bennett

- **2005 Publishers v Subito – library document delivery**

- German Publishers Association & STM Publishers v’s Subito document delivery service
- Publishers sought to achieve a comprehensive prohibition of any kind of document supply by libraries.

- **April 2009, Ice TV v Nine Network (Weekly TV Schedules) – Originality of TV program guides**

- IceTV had used portions of Nine’s television program guide in compiling their own television program guide. Nine alleged that IceTV had used a substantial portion of their guide, amounting to an infringement.
- The High Court supported the previous judgment that IceTV had not infringed as it had not used a substantial portion of the Nine guide.
- Because the parties in this case accepted that copyright subsisted in the television guides, that question was not examined by the court. However the case did look at the issue of subsistence, and subsequent cases have used it as authority on that issue.



# Useful sources

- Australian Copyright Council [www.copyright.org.au](http://www.copyright.org.au)
- Australasian Legal Information Institute [www.austlii.com.au](http://www.austlii.com.au)
- Australian Performing Rights Association - [www.apra-amcos.com.au](http://www.apra-amcos.com.au)
- Copyright Agency - [www.copyright.com.au](http://www.copyright.com.au)
- Screenrights - [www.screenrights.org](http://www.screenrights.org)
- Viscopy - [www.viscopy.org.au](http://www.viscopy.org.au)



Section 2

# Q&A



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## Section 3

# CAL COPYRIGHT LICENCE



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# Who is CAL?

- CAL is an Australian collecting society and peak licensing body
- Not for profit owned by our members
- Returning 85% of revenue to copyright owners
- 20,000 members
- Traditional creators: Publishers, Authors, Journalists, Visual artists
- Non traditional copyright owners: Corporate, Charities, Gov, Local Councils
- Education & awareness
- Consulting & engagement
- Managing licence schemes
- Copyright license products & services
- Lobbying and advocacy



# CAL licence - CopyrightAccess

## What is it?

- An annual blanket licence providing employees with a range of **rights** to 'copy' and 'communicate' a broad **repertoire** of copyright material

## Typical activities covered by the CAL licence

- downloading and sharing material from the internet
- emailing news articles to colleagues
- photocopying and scanning books
- saving onto your server
- posting published material to your intranet
- copying for inclusion in presentations and training



# 1. What's covered?: Rights

- Rights to Copy & Communicate
- Whole articles and 10% of a book or similar work
- Includes text and embedded works (images etc)

## **(i) Digital Internal**

- Email internally
- Post to Intranet
- Scanning
- Include in internal training & presentations
- Include in newsletters & reports

## **(ii) Digital storage**

- For term of licence

## **(iii) Hardcopy**

- Photocopying
- Faxing



# What's covered?: Rights

## (iv) Digital External

### (A) Australian News & Magazine Content

- Post to Internet website
- Post to extranet & clients portal
- Email externally to clients
- Usage conditions (*see below*)

Licensed Users	up to 3,000	3,001 to 6,000	6,001 to 15,000	15,001 to 30,000	30,001+
Articles displayed on Customer's Website	12	24	36	48	60
Articles displayed on Customer's Extranet	24	48	72	96	120
Articles emailed externally	36	72	108	144	180
<i>Maximum email recipients per Article sent</i>	50	100	150	200	250



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## 2. What's covered?: Repertoire

### **CAL members repertoire**

- Publishers
- Creators
- Contributors

### **+ International**

- Via bilateral rights agreements

### **Both formats covered**

- Digital format
- Hardcopy format

### **News Content**

- Newspapers domestic
- Newspapers international
- News magazines

### **General Content**

- Journals
- Magazines
- STM Content
- Books
- Annual reports
- Internet content
- Industry reports
- Database
- Reviews



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## 2. What's **NOT** covered?: Repertoire

The digital Rights to the following publications are excluded from the CAL CopyrightAccess licence:

- **AFR Group**
  - Australian Financial Review
  - CIO
  - BRW
  - MIS
  - Asset
  - Smart Investor
- Copy & communication of the above titles is permitted in hardcopy (i.e. Photocopy and hardcopy fax)
- Other Excluded Works published on CAL's website from time to time



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# Solution elements

- **Coverage**
  - Staff, departmental & company activity
  - Legal obligations
  - Risk & compliance
- **Communication**
  - Allows much more sharing of content
  - Enables progressive communications initiatives
- **Reputation**
  - Best business practise
  - Good corporate governance
  - Corporate social responsibility: respect for copyright



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# Key CAL licence benefits- departmental stakeholders

## Solution: Day to Day Operational

### 1. Knowledge & information management

- Maximise value of knowledge assets
- Empower information flow

### 2. Corporate Communications

- Integrate published material into internal communications
- Higher service level delivery to stakeholders

## Solution: Policy & Strategy

### 3. Legal requirements

- Meet copyright obligations
- Ensure validation of current practises & future initiatives

### 4. Compliance & Risk

- Minimise risk profile
- Indemnity against unintended infringements

### 5. Governance

- Good Corporate Social responsibility



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