



INFORMATION SHEET G31

Videos, films & DVDs: screening in public

May 2004

This information sheet gives a brief overview of copyright law as it relates to the public screening of videos, films and DVDs (for the purposes of copyright law, there is no distinction between a film, a video and a DVD).

Common situations where permission might be necessary because the screening is “public” for copyright purposes include where videos are screened or in motels, retirement villages, pubs, clubs, restaurants, cafes, shopping centres and nightclubs. Permission may also be necessary where a non-profit organisation such as a club, a church or a sporting organisation wants to screen a film or DVD (for example as a fund-raiser or group activity).

The purpose of this information sheet is to give general introductory information about copyright. If you need to know about how the law applies in a particular situation, please get advice from a lawyer.

Introduction

Copyright law in Australia is set out in the Copyright Act 1968 (Cth) and in decisions of courts. The Act lists the types of material which are protected by copyright. The categories cover most forms of creative endeavour and include:

- the moving images and sounds in a film or video;
- the screenplay on which a film or video is based; and
- other material such as music and any sound recordings on the soundtrack.

Copyright protection is automatic. There is no registration of copyright in Australia, and there are no formal steps which need to be followed before a work is protected by copyright. There is no need for copyright material to carry a copyright notice or warning in order for it to be protected.

Need for permission to screen films or videos in public

Owners of copyright have exclusive rights to do certain things with their material. These rights include copying material, and showing or playing material (including films, DVDs and videos) in public. In general, a person who wants to use material protected by copyright in one of the ways reserved to the copyright owner, will need permission. Screening **part** of a video film or DVD will also generally require permission, even if the part is a small proportion of the whole.

To screen a film or video “in public”, you generally need permission from:

- the owner of copyright in the moving images and sounds;
- the owner of copyright in the script or screenplay;
- the owner of copyright in the music on the soundtrack; and
- the owner of copyright in any sound recordings on the soundtrack.

“In public”

For copyright purposes, screening a film, DVD or video outside the home is generally regarded as “in public”. In one case, a court held that screening a training video to 11 employees of a bank when the bank was not open to the general public was a “public performance” of the music on the video. In another case, screening videos in motel rooms was “in public”. Therefore, screening a film or video in a pub, restaurant, nightclub, cafe, shopping centre or factory will generally be “in public”. Permission is likely to be needed even if the screening is organised by a non-profit organisation, such as a church, social club, or sporting association, and even if a fee is not charged for viewing the film or video.

Owning a physical copy of a video, DVD or film does **not**, by itself, entitle you to screen it publicly.

Screening a film, DVD or video for educational instruction

Screening a film or video in a class that is not run for profit will not generally require the permission of the copyright owner. If you would like information about screening films or videos in class, see our information sheet *Videos and films: screening in class*.

Screening a film, DVD or video for government purposes

A person may screen a film or video on behalf of the Commonwealth or a State Government for government purposes without obtaining permission. However, the government must notify the owners of copyright, and the owners of copyright are entitled to fair payment. Not all uses of copyright material by governments will necessarily be for government purposes. Only those uses for purposes which are essentially governmental in nature are likely to be covered. For information on the exception for governments, see our information sheet *Government and copyright*.

Screening a film, DVD or video in a retirement villages

Residents watching a video in a retirement village in a similar way that they would in a private home are unlikely to be watching it “in public” for copyright purposes; for example, if some residents rented a video to watch in the common room on a Sunday evening. On the other hand, if the management of a village organised for a DVD or video to be shown, this is more likely to be “public”. In such situations, the DVD or video should be hired from an outlet that can authorise “public” screening.

The same principle applies to nursing homes. If the video or film screening is organised for the residents of a nursing home it is likely that the screening will be “in public”. In addition, if videos are reticulated from a central player to several rooms, a separate permission to “communicate” the video and the copyright material within it to the public is likely to be required.

As a practical rule of thumb, the less officially organised a screening, the less likely it might be “public”.

Screening a film or video in a hotel or motel

A motel or hotel that arranges to screen a film or video for the entertainment of its guests will infringe copyright unless it gets permission from the copyright owner. Such a screening is regarded as screening “in public”. Where videos are reticulated from a central player to several rooms, a separate permission to “communicate” the video and the copyright material within the video to the public is likely to be required.

How long does copyright last?

In most cases, copyright lasts for 50 years from the end of the year in which the creator of the material died. This general rule applies even if copyright is not owned by the creator. In some cases, copyright lasts for 50 years from the end of the year the material was made, or for 50 years from the year the material was first published.

Generally, it is extremely unlikely that the copyrights in **all** the elements of the film or video you want to screen will have expired. For example, while the copyrights in the images in a Charlie Chaplin silent movie have now expired in Australia, the copyright in the dramatic work unfolding in each of those movies will continue until 50 years after Chaplin died (that is, until 2027).

Getting permission

There is no single organisation that can give you permission to screen films and videos in public. In practice, you may need to purchase, rent or borrow films and videos from a supplier that can give you permission, on behalf of the copyright owners, to screen the film or video.

We understand that Roadshow Film Distributors handles most commercially produced films, including independently produced films (it does not, however, handle Columbia Tristar Films): contact Roadshow's non-theatrical division by email on publicperformance@roadshow.com.au; telephone 02 9552 8680.

If Roadshow does not handle the film you are interested in, contact 16MM Australia Pty Ltd: www.sixteenmm.com.au; telephone 02 9718 7800. In some cases, Film Australia and State Film Centres may handle films that they have funded or otherwise been associated with.

If none of these organisations can help you, you will need to contact the distributor. Contact details for the distributor of a particular film are generally listed on the video box or on the credits. It is unclear whether permissions will cover both the screening in public and any communication to the public where videos or films are reticulated from a central point to several rooms. If you are reticulating movies from a central point to other locations, you should raise this with the person or organisation giving you permission to screen the film or video.

If you are looking to cable films in-house (for example, for viewing in hotel or motel rooms), the company which is likely to be able to assist you is MovieLink (see www.movieink.net.au).

Your local video store will generally **not** be able to grant permissions either for public screenings or for in-house cabling.

Separate permission for music and recordings on the soundtrack: APRA & PPCA

Generally, you need permission for the public performance and playing of music and sound recordings within the soundtrack of the film will be needed in addition to permission for the public screening of the film itself.

Permission for the "public performance" of the musical work on a film is administered by the Australasian Performing Right Association (APRA), not by the bodies we refer to above.

Permission for the public playing of the separate sound recording in the soundtrack to the film is licensed by the Phonographic Performance Company of Australia (PPCA).

As a result of a special exception in the Copyright Act, non-profit clubs and societies set up for charitable, religious or social welfare purposes will not need a licence from PPCA, provided any funds raised are not used for purposes other than the organisation's purposes. These types of organisation will, however, still need an APRA licence.

The venue in which the DVD, film or video is to be screened may already be covered by licences from APRA and PPCA. If not, contact APRA and PPCA.

APRA's head office is at 6-12 Atchison Street, St Leonards, NSW 2065 (telephone (02) 9935 7900), and it has branch offices in Melbourne, Brisbane, Adelaide and Perth. Its website is at www.apra.com.au.

PPCA's office is at 19 Harris St Pyrmont NSW 2009, and its postal address is Box Q20 QVB PO Sydney NSW 1230. (Licensing telephone no. (02) 8569 1111). Its website is at www.pcca.com.au.

Consequences of unauthorised public screening

Screening a film or video in public without permission will usually be an infringement of copyright. A person may also infringe copyright by "authorising" another person to screen a film or video without permission. In addition, a person who permits premises to be used for an unauthorised public screening of a film or video may be liable.

A copyright owner who becomes aware of an infringement may take legal action, generally up to six years after the infringement has occurred. A copyright owner whose rights are infringed may seek orders from a court, including orders for financial compensation.

A person who infringes copyright for commercial purposes may also be charged with criminal offences.

Common questions

Can we screen small sections of feature films on video or DVD to illustrate lectures, sermons or other public talks?

Generally, you will need permission if:

- the part embodies an important or distinctive part of any copyright material; and
- none of the special exceptions apply to your use of the material.

Working out whether the part you want to use is an important or distinctive part (a “substantial part”) can be difficult. This question must be analysed on a case by case basis, as there is no rule which states how many minutes or what percentage of a video or DVD you can show without permission. In each case, the question is whether the part you want to show embodies an important or distinctive part of the entire film or of any of the underlying material.

For example, the shower scene in the film *Psycho* is a relatively small part of the film, but might be regarded as an essential or distinctive part of that movie. Also, you need to analyse the importance or distinctiveness of the part you want to show in relation not only to the images in the film, but also in relation to the screenplay and any other underlying copyright material such as the music embodied in the soundtrack and any separate sound recordings within the soundtrack. (For detailed information, see our information sheet *Quotes and extracts: copyright obligations*.)

Sometimes, however, you might be able to rely on special provisions in the Copyright Act to screen parts of videos or DVDs without permission. For example, if you are critiquing or reviewing a movie or the ideas in it, rather than merely using the segment for illustrative purposes, you might be able to rely on the exception in the Copyright Act which permits “fair dealings” for the purposes of criticism or review (for detailed information, see our information sheet *Fair Dealing*).

If you are teaching a class, and only staff and students are present, you are likely to be able to rely on a special exception which deems performances in such contexts not to be “public” (see our information sheet *Videos and films: screening in class* for further information). However, you should note that this provision does not permit you to *copy* the part you want to screen (for example, to avoid cueing problems). If you want to make such a copy, you will need to analyse whether or not that part of the film includes a substantial part of any copyright material and, if so, whether or not an exception to infringement applies.

Can we have a function such as a fund-raiser or social event where we all watch a sporting event or movie on TV?

There are a number of provisions in the Act which cover what permissions you need if you want to have a TV or radio on in public. As a result of these, you do not need permission from the relevant TV station or from the owners of copyright in the footage or movie that is being broadcast. Also, you do not need permission in relation to any sound recordings which are included within the broadcast.

You will, however, need to check that the venue or your organisation has a licence from APRA for the playing at your function of any music which is part of the broadcast.

You may also need permission for the public performance of any literary or dramatic works included in the broadcast, but there is no collecting society which licenses this.

Further information

For further information about copyright, see our website—www.copyright.org.au or contact us.

Reproducing this information sheet

You may download and print one copy of this information sheet from our web site for your reference. Otherwise, we sell printed copies of information sheets to Australian customers for AUD\$5.50 each (we may be able to offer a discounted price for multiple copies of an information sheet).

Australian Copyright Council

The Australian Copyright Council is a non-profit organisation whose objectives are to:

- assist creators and other copyright owners to exercise their rights effectively;
- raise awareness in the community about the importance of copyright;
- identify and research areas of copyright law which are inadequate or unfair;
- seek changes to law and practice to enhance the effectiveness and fairness of copyright;
- foster co-operation amongst bodies representing creators and owners of copyright.



The Australian Copyright Council has been assisted by the Commonwealth Government through the Australia Council, its arts funding and advisory body, through its Policy, Communication and Planning Division.

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