

Information sheet G32

Videos and films: screening in class

March 2001

In this information sheet we give a brief overview of copyright law as it relates to the screening of videos and films in class as part of non-profit educational instruction. See also our practical guide *Educational Institutions: Digital and AV Resources*. For information about screening films other than during educational instruction, see our information sheet *Videos and films: screening in public*.

Permission is generally not needed from copyright owners to screen a film or video in class for non-profit educational instruction. However, permission may be needed if the film or video is screened for another purpose – such as entertainment, or to keep pupils occupied when it rains at lunchtime.

In some cases, the terms and conditions applying to the purchase or hire of films or videos may mean you would be breaching a contract by screening the film or video in class, even though you are not infringing copyright.

Introduction

Copyright law in Australia is contained in the Copyright Act 1968 (Cth) and in decisions of courts. The Act lists the several categories of material that are protected by copyright. These categories cover most areas of creative endeavour including:

- the moving images and sounds in a film or video, and
- the screenplay in which a film or video is based.

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. Also, there is no legal requirement for material to carry a copyright notice or warning in order for it to be protected.

For the purposes of copyright law, there is no distinction between a film and a video.

At the moment, the relevant rule is that copyright in moving images and sounds on soundtracks lasts for 50 years. However, copyright in screenplays and music generally lasts for the life of the creator plus fifty years.

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 in public. This means that a person who wants to use material protected by copyright may be required to obtain permission from the owners of copyright.

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; and
- the owner of copyright in the music on the soundtrack.

For the purposes of copyright law, screening a film or video outside the home is generally regarded as in “public”. In one case, for example, 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, a court held that screening videos in motel rooms was “in public”.

Therefore, screening a film or video in a club, pub, restaurant, nightclub, cafe, shopping centre or factory will generally be “in public”. Permission may be needed even if a fee is not charged for viewing the film or video.

The fact that you own a video or film does not automatically entitle you to screen it publicly.

Screening a film or video in class may not need permission

Under the Copyright Act, screening a film or video in class is not “in public” and does not require permission if:

- it is in the course of educational instruction which is not given for profit; *and*

- all the people in the audience are giving or receiving instruction, or are directly connected with the place where the instruction is given.

This exemption does not apply if:

- a film or video is shown for entertainment purposes;
- the educational instruction is given for profit; or
- parents (who are not giving or receiving instruction) are present.

Screening a film or video in a boarding school

Students watching a video in a boarding school in a similar way that they would at home is unlikely to be “public” for copyright purposes; for example, if some boarders rented a video to watch in the boarding house common room on a Sunday evening. On the other hand, if a school organised for a film or video to be shown in a school hall or auditorium, this is more likely to be “public”. In such situations, the film or video should be hired from an outlet which can authorise “public” screening. As a practical rule of thumb, it may be that the less officially organised the screening, the less likely the screening will be “public”.

“Reticulating” films or videos from one room to another

In some cases, “reticulating” a film or video from one room to another (for example, from an IT department to classrooms) may require a separate permission from the copyright owner. This is because the *transmission* of the signal from one place to another may constitute a “communication” of the material in the film or video “to the public”.

If you are concerned about this issue, you should seek advice. If you are working in an educational institution, your peak organisation or governing body may be able to advise as to how you should approach this issue.

Legal obligations other than copyright

In some cases, when you buy or hire a film or video you may undertake to screen it in private and domestic situations only. If this undertaking is part of the agreement, you may be in breach of the agreement if you screen it in another situation – for example, in class. The undertaking may be part of a document you have signed – for example, when you joined a video club, or when you hired a video. The undertaking need not be in writing. For example, if a person renting you a video tells you it can only be used for private and domestic purposes, and you rent the video knowing this, you may breach an oral agreement if you use the video for other purposes.

Some videos have a printed notice which says that the video is for “domestic” and/or “private” use only, or that the video may not be used in educational instruction. If the person who sells or rents you a video draws your attention to such a notice, you may be in breach of your agreement with that person if you use the video for other purposes. If the notice is not drawn to your attention in this way, it is unlikely to have any legal effect.

It is often a good idea to make it clear to the person from whom you are hiring or buying a video that you intend to screen the video in class. A statement made by the Victorian Education Department in 1994, accepted by the Australian Film and Video Security Office includes the following:

Schools joining retail outlets must identify themselves as a school. Do not enrol under a teacher's name. The Australian Video Retailers' Association (AVRA) have stated that most video shops will accept the membership of a school and will allow schools to hire videos for educational purposes. However, it is the right of the video shop to refuse rental of a video if the retailer feels that the school is not adhering to Section 28.

We understand that this statement has also been adopted in other States.

Getting permission

If you want to show a film or video in a situation which is public, and which is not covered by the special exception for classroom screenings, you will need permission from the relevant copyright owners. Generally, permission is obtained by purchasing, renting or borrowing the film or video from an authorised supplier, which can give you permission on behalf of copyright owners. Some of these include:

- Film Australia;
- State Film Centres; and
- commercial organisations such as Roadshow Non-Theatrical 16mm & Video, and Showbiz Music Video (for video clips).

In addition, the Departments of Education in some States have video resource libraries, or may be able to assist with further sources. Alternatively, the *Yellow Pages* and similar publications contain listings and contact details of film and video distributors who may be able to give you permission.

Your local video store will generally *not* be able to grant permission to screen a film or video in public.

You may also need separate permission for the “public performance” of the music on a film, as this is administered by the Australasian Performing Right Association (APRA), not by the bodies we refer to above. Most educational institutions are, however, already covered by licences with APRA through the relevant Department or peak administrative or representative bodies.

Consequences of unauthorised public screening

Screening a film or video in public without permission will usually infringe copyright. A person may also infringe 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 for infringement.

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.

Further information about copyright

We publish a large range of information sheets which you print from www.copyright.org.au or buy from us in printed form. We also publish a range of book titles – see www.copyright.org.au or contact Customer Service for further information. If you are working in an educational institution, you may be interested in our practical guide, *Educational Institutions: Digital & AV Resources*.

Legal advice

The purpose of this information sheet is to provide 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.

A Copyright Council lawyer may be able to give you free legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations and is also available to people working in government, educational institutions and libraries. For further information about the service, see our information sheet *Australian Copyright Council: who we are, what we do* or see www.copyright.org.au (click the Advice button).

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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. The Copyright Council also acknowledges the financial assistance of the Australian Film Commission. The Australian Copyright Council is solely responsible for the editorial content and accuracy of this information sheet.

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January 2002

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Writers: contracts	18 Sep 2002	25	__S02Pe08	
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