Copyright and e-learning
June 2013
Outline

- What is Copyright?
- University’s licences
- Copyright issues in the e-learning environment
- Students and Copyright
- Developments in Copyright law
- Questions
What is Copyright?

- **Exclusive economic rights** given to authors or creators of works to protect their works against unauthorised use

- Copyright Act 1968 (Commonwealth)
  - but regularly amended in response to technology & concerns

- Can be assigned (i.e. given) to other persons / organisations
What is Copyright?

- Copyright protects
  - the expression of ideas in a material form

- Copyright does not protect
  - Ideas
  - Styles
  - Techniques
  - Facts / Information
  - Names

- Must be original, but no need for literary or artistic quality
What does Copyright apply to?

• “WORKS”
  – literary (eg. books, journal articles, newspaper articles, song lyrics, computer programs, tables, compilations)
  – dramatic (eg. plays)
  – written music
  – artistic (eg. paintings, sculptures, photographs)
What does Copyright apply to?

- “SUBJECT MATTER OTHER THAN WORKS” (SMOW)
  - cinematograph films
  - sound recordings (distinct from the underlying music or lyrics)
  - TV and radio broadcasts
  - Published editions (typographical arrangement & layout of publications)
Does Copyright apply to data?

- Copyright cannot apply to data itself, but may apply to the way in which it is presented

- Mere information / collection of data = **no**
  - e.g. Measurements, Lists, collation of survey responses

- Compilation produced with exercise of author’s skill, judgment, creativity or effort in selecting, presenting or arranging the information = **maybe**
  - e.g. assembly of data into a useful matrix; pictorial representation of data
Does Copyright apply to data?

Telstra Corporation Limited v Phone Directories Company Pty Ltd [2010] FCA 44
- No © in White and Yellow Pages because
  - author(s) could not be identified
  - no originality

Dynamic Supplies Pty Ltd v Tonnex International Pty Ltd [2011] FCA 362
- Compatibility chart (csv file) featuring printer and computer details
- © subsists because:
  - Designed by specific employee
  - Intellectual effort in selection of information & arrangement
When does Copyright exist?

- Automatic upon creation
- Free
- No need to apply © symbol
- Generally lasts for life of creator + 70 years
- © has expired if creator died before 1 Jan 1955
- Refer: [www.adelaide.edu.au/copyright/overview/duration/](http://www.adelaide.edu.au/copyright/overview/duration/)
What does having “copyright” actually mean?

• For *Works*, exclusive rights to:
  
  - reproduce the work (*eg. photocopy, scan, film*)
  
  - make the work public for the first time (*eg. publish*)
  
  - communicate the work to the public (*eg. via email, broadcasting, internet*)
  
  - perform the work in public [*excluding artistic works]*
  
  - make an adaptation (*eg. a translation, arrangement*) [*excluding artistic works]*
What does having “copyright” actually mean?

- For **SMOW**, exclusive rights to:
  - reproduce the work
  - show films or play sound recordings in public
  - transmit films or sound recordings to the public using any form of technology
Moral Rights

**Personal legal rights** belonging to creators of *Works* and cinematograph films

1. **The right of attribution of authorship**
   - right to be attributed when the work is reproduced, published, etc.

2. **The right not to have authorship of a work falsely attributed**
   - one must not credit the wrong person as being the creator of a work
   - any alterations must be acknowledged
Moral Rights

3. The right of integrity
   - a work may not be used in a derogatory way that could affect the creator's standing or reputation

- Moral Rights cannot be assigned
- Correct referencing is always important
Copyright compliance within the University

- Copyright Act applies to University as well as individuals

  - Staff must not infringe copyright whilst undertaking University duties
  - University facilities must not be used to infringe copyright
  - Breaches may constitute misconduct and/or personal liability
Using other people’s works for teaching purposes

- You are free to use if:
  - material is owned by the University
  - “insubstantial portion” of a Work (usually <1%)
  - material is available under Creative Commons licence

**OTHERWISE**

- Special University licences for teaching purposes (Part VA, Part VB, Music); or
- Certain special exemptions – very narrow; or
- Obtain licence / permission from copyright owner
Part VA Licence – TV / Radio broadcasts

Statutory licence; annual fee ($70k) to Screenrights

Staff may copy:
- Whole or part of the broadcast or podcast*;  
  (*if originally delivered as broadcast)

- In any format;  
  - video or audio tape  
  - DVD or CD  
  - Save to hard drive or server

- Copies can be made available online  
  - Must be limited to current staff & students
Part VA Licence – TV / Radio broadcasts

- **Labelling requirements:**
  - *Made for the University of Adelaide under Part VA of the Copyright Act 1968*
  - *Station/Channel*
  - *Name of Program*
  - *Date program was transmitted*
  - *Date this copy was made (if different)*

- Upload to MyUni via MyMedia
  - correctly complete the copyright declaration

- If distributing via email or in Powerpoint, must insert Part VA Warning Notice
Part VB Licence – Text / Images

Statutory licence; annual fee ($650k) to Copyright Agency Limited

✓ Books
✓ Poems, songs
✓ Journal / newspaper articles
✓ Music scores
✓ Images from hardcopy or internet
✓ Published editions
## Part VB Licence – copying limits

<table>
<thead>
<tr>
<th>Type of work</th>
<th>Copying limit</th>
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<tbody>
<tr>
<td>Books</td>
<td>• 10% or one chapter, whichever is greater</td>
</tr>
<tr>
<td>Music scores (if &gt;10 pages)</td>
<td>• More if out-of-print or not commercially available in reasonable time</td>
</tr>
<tr>
<td>Literary work in an anthology (e.g. poems, songs)</td>
<td>• Whole work (if &lt;15 pages)</td>
</tr>
<tr>
<td>Music scores (if &lt;10 pages) Songs / poems (not in anthology)</td>
<td>• 10%</td>
</tr>
</tbody>
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*Life Impact* The University of Adelaide
# Part VB Licence – copying limits

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| Journal / newspaper articles (not accessed by electronic subscription) | • One article from each issue  
• Multiple articles permitted if on the same subject |
| Images (in hardcopy) | • Whole image if explains accompanying text  
• Only a reasonable portion if separately published |
| Published edition (where © in underlying work is expired) eg. Penguin classics editions | • Can copy in full |
## Part VB Licence – copying limits

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<tr>
<td>Text on websites</td>
<td>• 10% of words</td>
</tr>
<tr>
<td>Images (electronic)</td>
<td>• Whole image</td>
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<td></td>
<td>(but check legitimacy of source)</td>
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Part VB Licence – requirements

- If you wish to distribute copies electronically:
  - digitise through DRMC
  - limit to students in the course (use MyUni)
  - must contain prescribed Warning Notice
  - 10% / 1 chapter limit applies across University
COMMONWEALTH OF AUSTRALIA
Copyright Regulations 1969

WARNING

This material has been reproduced and communicated to you by or on behalf of The University of Adelaide under Part VB of the Copyright Act 1968 (the Act).

The material in this communication may be subject to copyright under the Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.
Music Licence

Collective agreement; annual fee ($63k) to APRA / AMCOS / ARIA

- copy / communicate sound recordings (from physical media) for educational purpose

- Student / staff performance of musical works

- Play sound recordings at University events

* Musical work must be on APRA / AMCOS list
Music Licence

- Can distribute copies on CD or upload to MyUni via MyMedia

- Labelling requirements:
  - Name of composer and/or lyricist and/or arranger
  - Artist/group name
  - Record company label
E-learning FAQs

1. What about DVDs?

Ok to screen in class (incl video conferencing & live streaming) - for educational instruction and limited to students enrolled in the course

Recordings not permitted unless obtain permission

2. Can I copy text / images from websites?

Yes if:
- Within Part VB limits; or
- Permitted by the website terms

BUT not if reasonably apparent that material has been uploaded illegitimately
E-learning FAQs

3. Can I use YouTube videos?

Ok to hyperlink or access the clip in class
BUT not if reasonably apparent that material has been uploaded illegitimately

Copying is not permitted

4. What can I copy from e-journals?

Depends on e-journal subscription licence – check with Library
Usually at least Part VB limits, but some may permit more
E-learning FAQs

5. Can I make copies of music purchased from iTunes

iTunes terms & conditions apply – “personal, noncommercial use”

6. Can I upload copies of course materials to websites other than MyUni?

Access to copies made under Part VA / VB / Music Licence must be limited to students enrolled in the course.

7. Can I upload / communicate copies of past students’ works?

Students own IP in their work.
You will either need to comply with Part VB limits or obtain permission from student.
E-learning FAQs

8. What about MOOCs?
- Publicly available
- Cannot rely on Part VA, VB and Music Licence
- Will require licence if use 3rd party material
- Expect copyright owners / collecting societies to come down hard on © infringement
Students and Copyright

- Students responsible for their own actions in dealing with © material
- Fair Dealing exemptions allow “reasonable portion”
  - Research or study (e.g. assignments, thesis)
  - Criticism or review (e.g. journal article, conference paper)
- “Reasonable portion”
  - 10% or 1 chapter for literary works
  - other factors to take into account for other works
Future developments in Copyright law

Australian Law Reform Commission review
- “Copyright and the Digital Economy” Issues Paper – 2012
  - Submissions from tertiary sector

- Further Discussion paper – June 2013
  - Suggests abolishing statutory licences
  - Replace with broad “fair use” exemption for educational purposes

- Final Report due to Attorney-General - 30 Nov 2013

- Changes to Copyright Act – 2014?
Questions?

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www.adelaide.edu.au/copyright
www.copyright.org.au – Australian Copyright Council