Introduction

Unfortunately we all find ourselves in extraordinary times with the outbreak of COVID-19 in Australia. This has meant that a number of schools have had to close for periods of time and a number of students and their families have had to self-isolate.

In light of the above, and the risk that more schools across the country will have to close in the near future, this information sheet provides guidance to schools as to how they can continue to teach their students remotely. While there is not a definitive answer to all scenarios that schools may be presented with during this time, we can provide some general guidelines and best practice approaches to managing copyright issues for distance learning, as well as some guidance on the most likely scenarios facing teachers in their need to supporting student learning at this time.

This information sheet is confined to distance education for the purposes of school closures and student self-isolation due to COVID-19. It covers the situation where materials that were going to be used in class now need to be made available by teachers through distance learning (online). It does not cover other new uses of material or new materials that, but for COVID-19, would not have been used in your teaching. In those situations, our existing information sheets apply and you can contact the NCU for separate advice.

We encourage schools to take a common sense approach - we need to allow schools to continue to educate students without unreasonably prejudicing the legitimate interests of copyright owners during this time. Some of the copyright issues set out in this information sheet are complex, and for some questions we are receiving from teachers there are no ‘black and white’ answers. We are hopeful that copyright owners and licensing organisations will likewise take a pragmatic and common sense approach to these issues.

Please note NCU is in ongoing discussions with collecting societies and educational resource providers to continue to provide schools with the best possible information. Please check www.smartcopying.edu.au for regular updates including updated versions of this information sheet.

The short answer is this: in the vast majority of cases schools can use digital technologies to provide remote teaching and learning support to Australian students. If you were planning on using copyright material in a lesson for students, you can still use it to deliver that lesson to students remotely via the internet. However, care will need to be taken in the way content is provided to students remotely to ensure that these unprecedented circumstances do not lead to wider uses of content by students that may cause harm to copyright owners.
Some general principles to guide all remote teaching during a school closure

Here are some questions and general principles to assist you in preparing remote lessons for students. More information is provided on each of these below:

1. There are many free legal sources of content for students to access without teachers needing to make copies for students and these free resources should be considered. For example, if a music teacher needs students to listen to a particular song, is it available for students to access legally via services such as Spotify or YouTube? Is a news item you need students to view available on a catch up TV service such as ABC iView? If so, those freely available sources should be used.

2. If students need to read or view content that is available on the internet, can you send students an email or document with links to those resources rather than making copies of them for students? E.g. can students use their home internet connections to access research reports, newspaper articles or instructional videos rather than a teacher making a copy of these resources and sending them to students? If so, this should be done.

3. Students can also access many subscription services from home. For example, if the school has a subscription to services such as Hot Maths or Reading Eggs, students should be able to access those resources by logging in from home rather than teachers needing to copy content for the student.

4. Existing educational licences and exceptions under the Copyright Act 1968 (Cth) (Copyright Act) can apply even though teaching will now take place remotely. (For more information on the existing licences and exceptions in the digital teaching environment see https://www.smartcopying.edu.au/information-sheets/schools/copyright-in-the-digital-teaching-environment-a-manual-for-schools.) Generally, where a school/teacher has a right to use material in the physical classroom, the existing licences and exceptions should allow you engage in similar ways in a digital environment provided you comply with the common sense steps set out below:

   ● Only make the works available for those students that need to access them e.g. the relevant classes rather than all students enrolled at the school;
   ● Make the works available to view via password protected access only;
   ● Ensure that no further copies/downloads can be made;
   ● Only make the works available for the period of time for which they are needed;
   ● Archive or disable access by students to the works once they are no longer needed by the students (e.g. when the school re-opens); and
   ● When making any copies available, ensure there is a clear instructional purpose for doing so e.g. it is not just being made available in case it is needed.

5. If you are teaching remotely and need to use copyright content in your lessons (e.g. reading a storybook to children or playing a song), where possible you should live
stream the lesson to students to avoid making copies of this content. If this is not possible and you need to record the lesson to upload for students to access on demand, you should ensure this is on a password protected digital teaching environment (DTE) rather than on the open internet (e.g. on a website or public Facebook page).

Common ways that teachers/schools can deliver remote/online learning during school closures or assisting students in isolation

1. Holding virtual classes/lessons for students to watch in real-time;
2. Recording classes/lessons for students to access on-demand;
3. Putting content onto a DTE for students to access;
4. Mailing print resources to students.

These options are discussed in more detail below.

1. Holding virtual classes/lessons for students to watch in real-time (i.e. live rather than pre-recorded)

This is our recommended approach wherever possible to do so, as student viewing lessons from home is likely to be covered by an exception in the Copyright Act. For example, if a student is in isolation, can they ‘dial in’ to a lesson using technologies such as Skype, Facetime, Google Hangouts, Zoom or similar? If the school is closed, can a teacher live stream lessons to students at scheduled times? If so, these options should be used where possible, rather than recording classes/lessons for students to access on-demand.

Note the virtual class/lesson should only be available to those students who need it as part of their studies, for example only accessible via a username and password. For more information see: https://www.smartcopying.edu.au/information-sheets/schools/performance-and-communication-of-works-and-audio-visual-material-in-class---what-am-i-allowed-to-do-

2. Recording classes/lessons for students to access on-demand

This option is allowed, without restrictions, where no copyright materials are used in the lesson.

Where copyright materials are used, this option will most likely be allowed under the current educational use provisions in the Copyright Act subject to the following:

1. only make the recording available for students to view via password protected access;
2. ensure that no further copies/downloads can be made;
3. limit access to the video recording to those students that need to view it (e.g. the relevant classes rather than all students enrolled at the school);
4. only make the recording available for the time needed for the course of study; and
5. archive or disable access by students to the recording once it is no longer needed by the students.
We would also recommend that you add the following notice at the beginning of the video:

This video recording has been made available to you in accordance with the Copyright Act for you to view only. No further copies or sharing of the video should be made outside the class as the material in the recording may be the subject of copyright protection. Do not remove this notice.

If this is not practical, it would be a good idea to email students (or put a notice in school blogs or other communication platforms) reminding students that remote lessons are being provided to them as part of their school's response to COVID-19, and that they must not make any further copies of any of the content provided to them, including sharing with friends, via social media, or uploading to the internet.

Note in primary schools, teachers or school librarians may wish to make an audio or video recording of themselves reading a story book. This is likely going to be allowed subject to the same requirements above and provided you are unable to access an audio or video recording of someone reading the book within a reasonable time at an ordinary commercial price. Furthermore, in relation to the time needed (#4 above), we would recommend that you only make the recording available to students for a very short time (e.g. for one week only).

3. Putting content onto a DTE for students to access

During this time, teachers may wish to upload material to a DTE for students to access. You should be able to do this under certain provisions of the Copyright Act, provided you follow the following guidelines and requirements. Please note that there are different rules depending on the type of material you’re using as part of your teaching.

Materials from digital textbooks and resources

Where the school or parents on behalf of their students have purchased a digital textbook or paid subscription to educational materials for each student in the class, it should be ok for the teacher to upload short extracts and or chapters of the material onto a DTE as needed for the purposes of teaching the class. Teachers should follow the following steps to protect the copyright in those resources:

1. make the material available for students to view via password protected access;
2. ensure that no further copies/downloads can be made;
3. limit access to those students that need to view it (e.g. the relevant classes rather than all students enrolled at the school);
4. only make the material available for the time needed for the course of study; and
5. archive or disable access by students to the material once it is no longer needed by the students.
**Accessing digital copies of Sheet Music**

If you need to provide students access to digital copies of sheet music on the school DTE, we recommend the following:

1. Make one digital copy (per original purchased sheet music held by the school) available only to those students unable to attend school due to COVID-19 self-isolation quarantine on the school’s password protected intranet site. However, limit the number of students who can access the digital copy to the permitted number copies allowed to be copied under the Schools AMCOS licence. For example:
   - 15 copies per original for secondary students = access to the digital copy limited to 15 secondary students,
   - 30 copies for primary school students = access to the digital copy limited to 30 primary school students.

   This will help ensure that the copyright owner is not unreasonably prejudiced.

2. If you have already provided the permitted number of copies per original purchased sheet music to students under the Schools AMCOS licence, please purchase an additional original sheet music and provide access to a digital copy of that original. For further information on the permitted number of copies, please see [https://smartcopying.edu.au/copyright-guidelines/education-licences-(statutory-and-voluntary-licences)/education-licence-d-amcos-licence](https://smartcopying.edu.au/copyright-guidelines/education-licences-(statutory-and-voluntary-licences)/education-licence-d-amcos-licence)

3. Do not lend out any of the hard copies of that original copy of the sheet music (equal to the number of students able to access that sheet music on the site) while those digital copies are available. That is, please make sure you comply with the copying limits under the School AMCOS Licence regardless of whether hard copies or digital copies have been made. In working out whether you have complied with the access rules, make sure you count both hard copy and digital access (e.g. if you have 27 students in the classroom and you have provided 3 copies to isolated students in digital format that means you have reached the copying limit of 30).

4. Only make the digital copy available for the period of time that it is needed by those students in self isolation (e.g. the period of the self-isolation, which is currently 14 days) or for the period that school remains closed.

5. Disable access by the student/s to the sheet music once they return to school.

**Sound Recordings**

If your students need to listen to music, we encourage you to point them to streaming services such as Spotify, SoundCloud, Mixcloud. These services are free but also there are paid premium services available.
Students can also use their own personal music accounts such as Apple Music or Google Play.

With regard to audiobooks, you can stream these to your virtual class or refer students to lending or subscription sites that offer audiobooks such as Audible, BorrowBox, CloudLibrary, RBdigital or Overdrive. Uploading extracts of commercially available audiobooks to a DTE for remote access outside of class may possibly be permitted in very limited circumstances. Please contact the NCU for further advice. For free audiobooks to stream or download, see the below section on 'Free resources and subscriptions'.

With regard to podcasts, we recommend you provide links to podcasts for students to access remotely. Some free education podcast examples are:

- ABC Podcasts: https://www.abc.net.au/radio/podcasts/
- Google Podcasts: https://podcasts.google.com/

For more information on how you can currently use music, sound recordings and podcasts see: https://www.smartcopying.edu.au/information-sheets/schools/copyright-in-the-digital-teaching-environment-a-manual-for-schools/music-and-sound-recordings

https://smartcopying.edu.au/information-sheets/schools/podcasts---using

Broadcast Radio and Television

Teachers and schools are encouraged to direct students and parents to ABC iView, SBS on demand and other Australian broadcaster catch up television services.

If your school is subscribed to one of Screenrights’ Resource Centres such as Clickview, TV4Education or Enhance TV, copying and/or communicating copy programs to your students is allowed under the Screenrights licence. Where possible, we advise directing the students to the copied program to view only, rather than provide students with copy programs to download and save.

If you are in a remote community or have poor network/bandwidth, you may wish to provide students with copy programs broadcast on Australian television on USB and/or DVDs.

For more of what you can do with copy television and radio programs broadcast by Australian Broadcasters, see https://www.smartcopying.edu.au/information-sheets/schools/copyright-in-the-digital-teaching-environment-a-manual-for-schools/broadcast-radio-and-television
Films and Videos

We encourage parents and students to access subscription streaming services at home such as Netflix, Stan and Prime Video. Please note many of these services offer one month free trials. There are a number of educational resources available on free video sites such as YouTube or Vimeo. Students can be provided with links to view the appropriate educational resource on these platforms from home. Please note that for many services, such as YouTube, the terms of use state that children must be 13 years or over, so parent or guardian supervision may be required.

Where possible, teachers and schools are encouraged to provide links to students and parents or embed videos in their DTEs.

If a teacher needs to include film or video content in a lesson, we encourage this to be done via live stream in a lesson context wherever possible (see above). If this is not possible, a teacher may be able to include a short extract of film or video content in a lesson resource (such as including a short clip in a lesson slide presentation).

As a last resort, in the special case of a school closure or student isolation for COVID-19, if a student is required to watch e.g. a documentary as part of their coursework, and there is now no other way of facilitating this, a school may be able to make a copy for the student (e.g. on a DVD or USB), which should be password and copy protected, and should be returned to the school at the end of the time it is needed for the study unit. Although the copy should be copy protected, it is also important to advise students that no further copying or distribution is allowed.


https://www.smartcopying.edu.au/information-sheets/schools/using-youtube

4. Mailing print resources to students

Due to internet/bandwidth issues, teachers and schools may need to provide students with photocopies of print resources or a USB or DVD of print resources.

This is most likely allowed, subject to the same restrictions as set out above as well as the following requirements:
1. You should send a cover letter with the resources that states the materials have been provided for the student’s educational use during the COVID-19 outbreak and no further copies should be made;
2. If the student doesn’t need to print or edit the resources on the USB or DVD, lock the USB or DVD so that resources can only be viewed and no further copies or downloads can be made.

For more information see https://www.smartcopying.edu.au/copyright-guidelines/education-licences-(statutory-and-voluntary-licences)/education-licence-b-statutory-text-and-artistic-licence

Education apps

There are lots of great education apps available for schools and teachers to use to deliver online education from Apple and Google.

For more information, see https://www.smartcopying.edu.au/information-sheets/schools/using-applications-(apps)-in-the-classroom.

Smartcopying tips for teachers and schools

Link or Embed

Linking and embedding content are not copyright activities. This is because teachers are not actually ‘copying’ any material. Rather, teachers are providing students with a path to its location. Providing links and embedding material is a great way for teachers to manage copyright.

Limit

Ensure access to material is limited to the relevant students only. Limiting access is important for cost and risk management. For example, if only a specific class needs access to material, limit access to those students rather than allowing the entire school to access.

Label

All material created and used for educational purposes should be properly attributed. Attributing is important to ensure we don't pay licence fees for material we already own or are allowed to use – e.g. school created content. For more information see https://www.smartcopying.edu.au/information-sheets/schools/labelling-school-material

Use Creative Commons (CC) Licensed Material and Open Education Resources (OER)

Teachers and schools are encouraged to use Creative Commons (CC) licensed material and Open Education Resources (OER). CC licensed material and OER are free to access, modify and share. For information on where to find CC and OER materials, see
Archive material when it is no longer needed

Archive material as soon as possible when it is no longer required to help manage copyright risk and costs.

Archiving involves moving the material into a closed area online where it can only be accessed by one person, such as the school librarian, ICT Manager or teacher who uploaded the material.

Free resources and subscriptions

In addition to using Creative Commons licensed materials (see https://www.smartcopying.edu.au/open-education/open-education-resources/where-to-find-cc-licensed-material), students and parents are encouraged to take up the free resources and subscriptions on offer to students at this time:

- For example, see this list of education companies offering free subscriptions due to school closings: https://kidsactivitiesblog.com/135609/list-of-education-companies-offering-free-subscriptions/
- Scholastic has also curated a free digital learning hub designed to support virtual learning plans: https://classroommagazines.scholastic.com/support/learnathome.html?caching

For free audiobooks, some are able to be streamed on Spotify (Spotify offers a free account with ads and each student could create their own account and simply look for the audiobook) or elsewhere online, for example:

- OpenCulture (http://www.openculture.com/freeaudiobooks);
- Project Guttenberg (https://www.gutenberg.org/) and
- Librivox (https://librivox.org/) maintain lists of free audiobooks, most are classic works that are out of copyright or works that have been released by the author for free.

Note that many audiobook providers (e.g. Overdrive) offer free 30 day trials which may be useful to schools during this time.

Other good sites that offer openly licensed materials or resources that are able to be used for educational use are:

- Open Textbook Initiative: https://emedia.rmit.edu.au/oer/
● OER Commons (all Creative Commons licensed material is safe to use, otherwise check the resource’s terms of use): https://www.oercommons.org/
● NZ Maths: https://nzmaths.co.nz
● ABC Education: https://education.abc.net.au/home#!/home
● PBS Learning: https://www.pbslearningmedia.org/
● Scootle: https://www.scootle.edu.au/ec/p/home

Contact the NCU

The above gives general guidelines to schools on how to facilitate remote and online learning during the COVID-19 outbreak.

Please keep an eye out for updates as this information sheet will be updated as more information becomes available.

If you have any other questions or need additional guidance, please contact the NCU:
  ● Tel: 02 7814 3855
  ● Email: smartcopying@det.nsw.edu.au