

Copyright compliance and copyright licensing for local government

MAV Local Government Information
Management Group
2 February 2018

Agenda

Copyright law

Copyright in the workplace

Risk and responsibility

Copyright licensing

Q&A



Copyright law

Copyright 101: Core copyright elements



Section 183a and Local Government

For the purposes of The Copyright Act 1968 (Cth) Councils are not Government (the “Crown”) and are not covered by the statutory licence provisions and are not entitled to rely on the special provisions for governments.

Under Section 183a of The Copyright Act 1968 (Cth), if instructed by or for the services of State or Commonwealth Government copies can be made, but only if the appropriate licence fees are set by negotiation or tribunal.

The “Crown” (Federal, State and Territory Governments) pay a licence fee to Copyright Agency for a statutory licence which is calculated per FTE. Copyright Agency has been declared the collecting society for the reproduction by governments of text, artworks and music (other than material included in sound recordings or films).

Please read:

[Government: Commonwealth, State and Territory
Copyright and State Government law - NSW example](#)

“Fair dealing” exceptions

research or study

- it is unlikely to be considered research or study if you are doing so as part of your employment
- fairness test: includes the possibility of obtaining the work or adaptation within a reasonable time at an ordinary commercial price

reporting of news

- if newspaper articles could be freely used by any organisation under the reporting the news defence, it would effectively remove copyright for this category of material

giving of professional advice by a lawyer or a patent or trade marks attorney

criticism or review

parody and satire

enabling a person with a disability to access the material

Copyright Myths

I can use other people's content provided I credit them

Crediting the copyright owner relates to moral rights, the economic rights also need to be addressed

The story is about us, is based on our press release, or we advertise with that publisher, so we have an implied licence

While you do own copyright in your own press release, you do not automatically have any rights to a news article that is based on the press release

If there's no copyright notice, it's not covered by copyright

Copyright is automatic, no need to register or mark as "copyright"

If it's on the internet, anyone can use it

Copyright is not 'waived' when text or images are published on the internet. Guidelines for using online text and images usually appear on a website's 'terms of use' page.

I don't need permission if I copy less than 10%

Using even a very small part of someone else's work can require permission if that part is an important or integral part and was the result of skill and time

[Common copyright myths can put your organisation at risk. Click here to learn more...](#)

Copyright in the workplace

Example terms of use

The Australian

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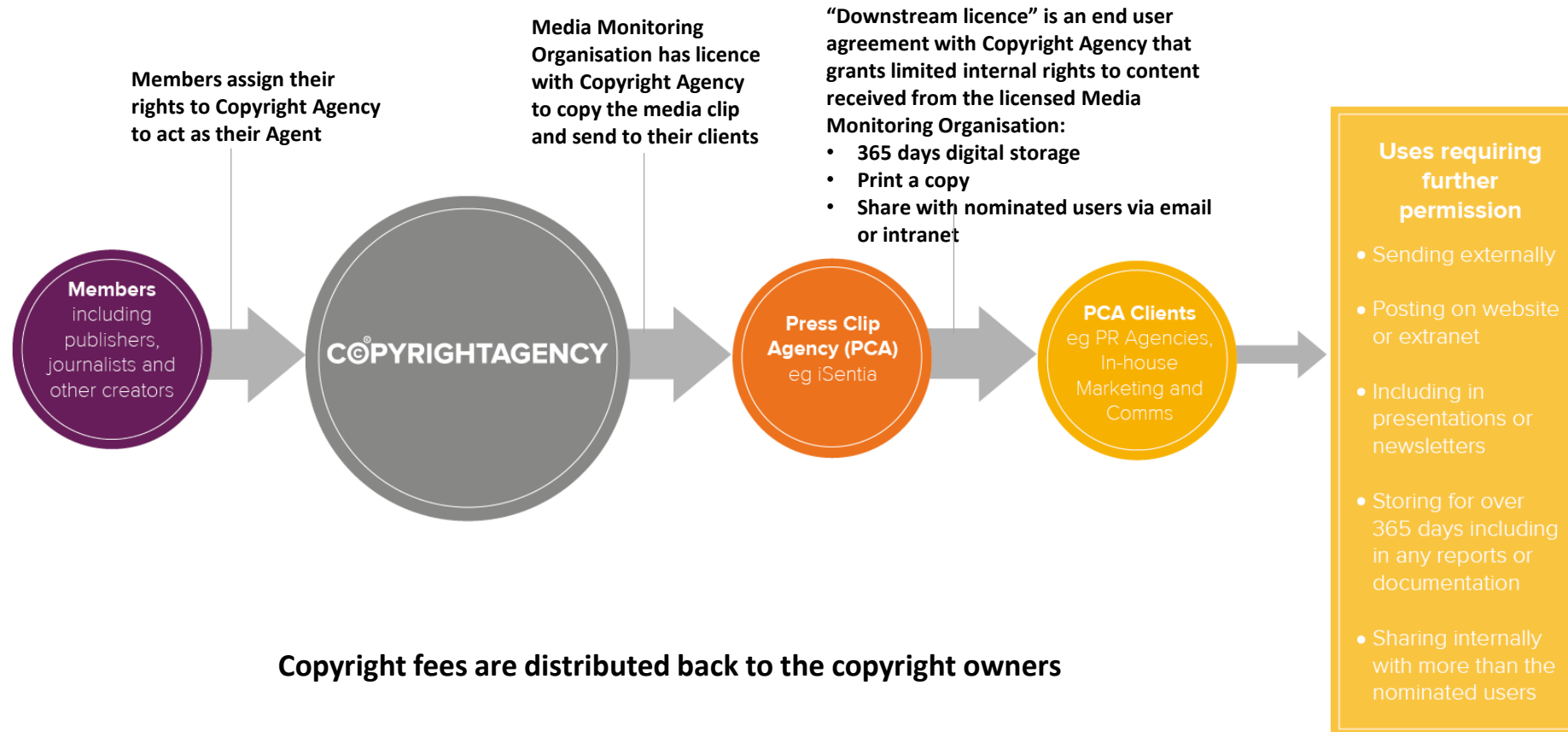
Elsevier Science

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Australian Geographic website

We grant you a limited, non-transferable licence to access and use the Website solely for your personal, non-commercial purposes. Except as provided in these terms and conditions, permission to reprint or electronically reproduce the Website in whole or in part for any other purpose is expressly prohibited, unless prior written consent is obtained from us.

Media clip supply chain



- **Making a copy from website or hard copy - requires a licence (print/save as PDF/scan/screenshot/cut+paste/etc.)**
- **Media clippings received from any other source you also need to obtain permission to use**

Local government copyright scenarios

Examples of documents and correspondence containing our members' work

Event acquittal reports

Grant and funding applications

Correspondence in/out

Articles tabled at meetings

Media reports received from external PR agency, tourism body or consultant/advisor

Submissions received

Attachments in Agendas

Media monitoring reports (unlicensed, or retained beyond digital storage limitation in the case of licensed press clips)

Councillor information bulletins

Tourism committee reports

Environmental Impact Statements

Presentations

Media clipping archives

- Full text
- Extracts or portions
- Images, tables, graphs

Local government copyright scenarios

Use of media articles:

- Use of licensed press clips outside of terms of use
- In-house media monitoring – print, download as PDF, screencap, cut+paste
- Working with festivals, events, tourism or public relations organisations
- Digital storage of media articles
- ***Risks: maintaining archive, presence of copies within IT infrastructure, sharing with external party, use in reports, presentations or other business documents***

Report authoring:

- Report authors access articles from databases, online sources, newspapers and journals
- Reference materials are saved to a location, printed as hard copy and shared amongst stakeholders
- ***Risks: maintaining archive/copy retained at location within IT infrastructure, sharing with external party, use in reports, presentations or other business documents***

Presentations:

- A staff member puts together a presentation – they source images from the internet without checking for copyright, they include screenshots of content from a publisher or other website, or a chart, table or graph they found
- ***Risks: infringement of image copyright, infringement of text copyright, potential for external sharing, retention of copies with IT infrastructure***

Local government copyright scenarios

Use of subscribed content outside terms of supply:

- A member of staff subscribes to a paid specialist industry publisher and forwards their copy of subscriber content to other staff members
- A staff member receives a copy of a specialist publication that has PDF tracking embedded in it, they also on-share with colleagues
- ***Risks: copyright owner finds out about on sharing and takes action against anyone involved in forwarding the material***

Executive and councillor briefings and information packages:

- News articles from multiple sources and other copyright materials appear in information packages distributed as PDFs or housed in a cloud location for access
- ***Risks: maintaining archive/copy retained at location within IT infrastructure, sharing with external party, use in reports, presentations or other business documents***

Funding and awards applications and acquittal reports:

- Council requests the applicants submit media articles as supporting evidence in the application phase and also in the subsequent acquittal reports of the successful applicants
- ***Risks: copies are saved into Council systems and shared amongst stakeholders, used in further business documents***

The copying and communication media articles is on public record

The media officer will maintain a record of articles...

...article (as attached)... *...distributed an article from...*
Provision of short articles from recent management journals for reading... Correspondence in: ... article
...attached media article...

Post-event acquittal: Please provide copies of media coverage...

X reported she is keeping press clippings on the gallery

Articles should be clearly scanned and sent to IMU for registration if deemed corporately relevant to Council's knowledge base
A copy of the article has been provided to all members
I have attached a copy of a recent media article regarding this.
Copy of media articles to be included in future agenda packages for the information of members

Collect all press clippings from newspapers which have articles about your events

Refer to article attached at Attachment C

Prior to the meeting Clr X distributed an article that was published in XXX

Attached to this report is a copy of a newspaper article on the matter

A copy of the article is included in the agenda attachments

Historical log of press coverage maintained to record Council over time

Risk and responsibility

Copyright and Information Management and Governance

Reproduction, communication and digital storage happens:

- Use of devices and connections which form part of Council's IT infrastructure to make copies of copyright materials – computers, scanners, photocopiers, internet
- Storage by Council staff, departments and councillors of copyright material they have copied themselves (or received from another source) on a server, Records Management System, external cloud storage, emails, hard drive or portable infrastructure (e.g. USB flash drive)
- Communication of copyright works using Council network connections – internal server network, intranet, email, website, third-party cloud-based platforms or file-sharing services
- Print out from a digital copy or online source; photocopy

Copyright governance in the digital landscape:

- Lack of awareness about copyright law means staff will unwittingly reproduce, communicate and store works without permission. Digital footprint means risk is amplified.
- “No copy” policies are shown not to work and do not match with actual practices
- Councils should proactively implement an annual copyright licence as a concrete, demonstrable measure to ensure compliance, reduce risk and put beneficial rights in place for staff to perform everyday functions while abiding with Federal law

Risk and responsibility

Copyright infringement: *If a person does or authorises the doing, in Australia, of any act falling within the copyright in a work without the copyright owner's permission*



Copyright Agency has identified over 300 local councils nationally who have copied or communicated our members' works in some way. These 300 councils include some of the same 126 councils contacted by the Copyright Agency in 2015 in relation to unlicensed use of newspaper articles.

[Strathfield Council apologises for breach of copyright](#)

[Copyright Agency's press release on the matter](#)

Recent case law shows the Federal Court supports appropriate licensing for copyright:

[Australasian Performing Right Association Limited v Escape Bar & Night Club Pty Limited & Anor \[2017\] FCCA 2690 \(3 November 2017\)](#)

Benchmarking

Local government copyright licensing

UK: More than **80%** of local governments have an annual copyright licence

AUST: **20% of local governments have an annual copyright licence**

Large business and copyright licensing

UK: Around **80%** of top FTSE companies have an annual licence

AUST: **50%** of the top ASX companies have an annual licence

Online copyright infringement (illegal downloading)*

UK: 18% of respondents had recently downloaded something illegally

AUST: 38% of Australians surveyed had recently downloaded something illegally

Corporate Governance Health Check

Demonstrated continuous improvement

Risks and controls go hand in hand

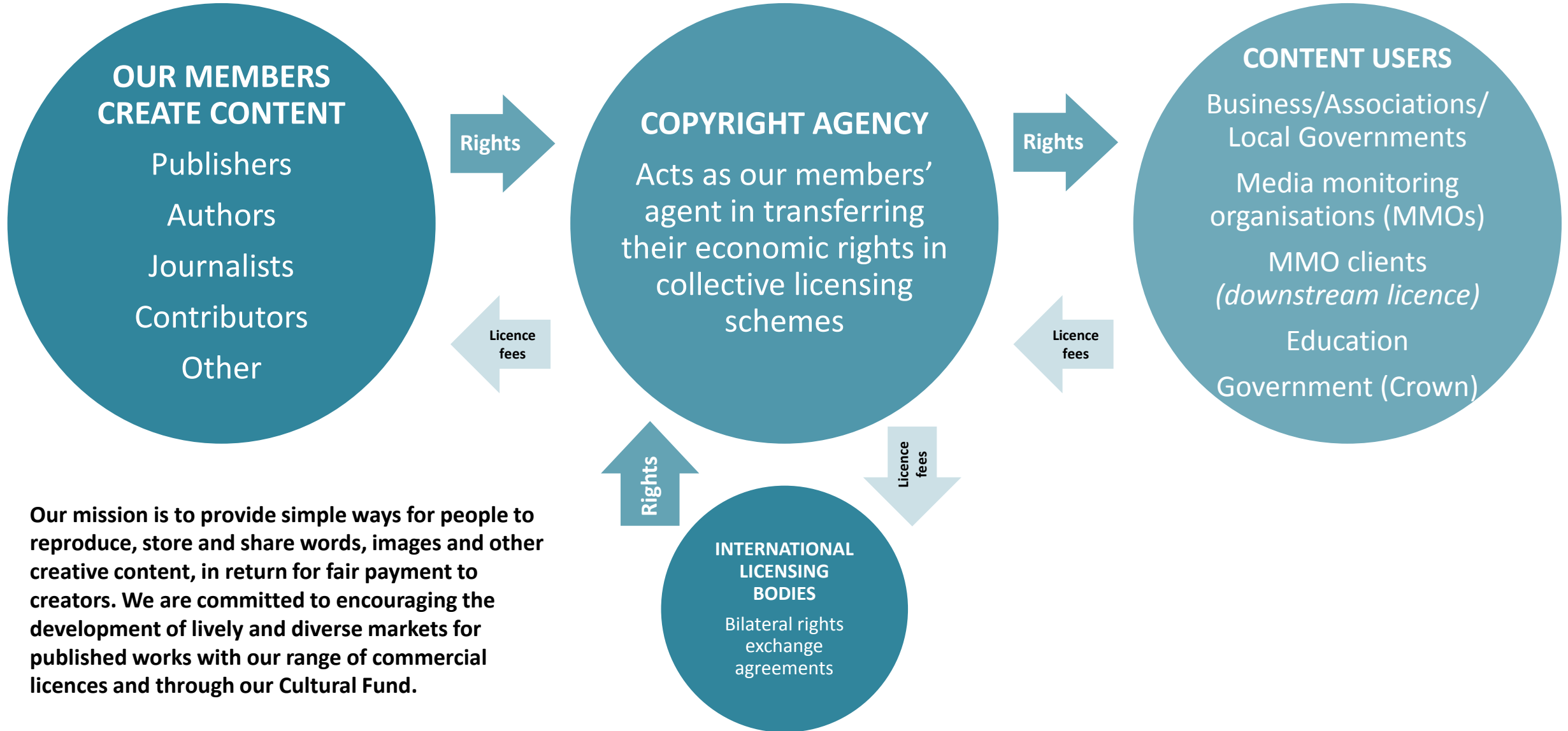
Accountability to the community

Follow best practice

* Source: 2017 Online Copyright Infringement Tracking reports. Intellectual Property Office (UK); Department of Communications (Australia)

Copyright licensing

Collective copyright licensing ecosystem



Our mission is to provide simple ways for people to reproduce, store and share words, images and other creative content, in return for fair payment to creators. We are committed to encouraging the development of lively and diverse markets for published works with our range of commercial licences and through our Cultural Fund.

Copyright Agency is here to help you manage and enable Council to use our members' work... An annual copyright licence puts reproduction, communication and digital storage rights in place for Council

	Australian Newspapers	Licensed Works Other Than Australian Newspapers
Photocopy / Scan / Save as PDF / Print from digital	✓	✓
Save and use copies received from external party	✓	✓
Email Internally to any employee	✓	✓
Store on internal servers and in records systems	✓	✓
Store on hard drives and portable devices	✓	✓
Use in internal presentations, reports, briefings, etc.	✓	✓
Table or distribute at external meetings	✓	✓
Extended rights for content received via a licensed MMO	✓	
Post to website and email externally	✓	✗
Supply to advisors in connection to legal proceedings	✓	✓
Supply in connection to patent applications	✓	✓
Supply to regulatory authorities	✓	✓

Benefits of an annual Copyright Licence



Efficiency and speed

- Fast, unencumbered flow of information and insights
- Incorporate a range of third party material received from external parties immediately into your workflow



Simplicity

- Single copyright licence
- Organisation-wide coverage with minimal exceptions



Governance and peace of mind

- Mitigates your risk profile and promotes a compliant culture
- Compliance for material reproduced, communicated and stored using Council IT infrastructure



Collaboration

- External rights: Australian newspaper and magazine content (share via email and make available on a public website)



Investing in knowledge

- The ability to retain and reuse third-party works from a range of sources enhances knowledge-sharing and knowledge assets across your teams

Price of an annual Copyright Licence

		4-15 INDOOR FTEs	16-25 INDOOR FTEs	26-77 INDOOR FTEs	78+ INDOOR FTEs
CopyrightAccess licence	Rate per year (ex GST)	\$1,083.34	\$1,448.99	\$1,808.36	N/A
	Rate per INDOOR FTE per year (ex GST)	N/A	N/A	N/A	\$23.36

Pricing (pricing in green valid to 30 June 2018:

The pricing of a licence is dependent on the amount of “indoor” FTEs (Full-time equivalent employees) at Council. Below 78 FTEs there are set brackets, and from 78 FTEs there is a flat rate of \$23.36+GST per FTE. (Price is only indexed to CPI – applied annually from 1 July)

Useful links

Learn about copyright law

Australian Copyright Council www.copyright.org.au

Australasian Legal Information Institute www.austlii.edu.au

Collecting Societies

Literary works copyright

Copyright Agency - www.copyright.com.au

Visual arts copyright

Viscopy - www.viscopy.net.au

Music copyright

Australian Performing Rights Association - www.apra-amcos.com.au

Audio-visual copyright

Screenrights - www.screenrights.org

Further information

Greg Taylor

Phone: (02) 9394 7722

Email: gtaylor@copyright.com.au

T: 02 9394 7600
F: 02 9394 7601
info@copyright.com.au

Level 11, 66 Goulburn Street
Sydney NSW 200
www.copyright.com.au

COPYRIGHTAGENCY

Appendices

APPENDIX 1: Content sources and use cases

Local governments rely heavily on news, internet and technical content

Popular sources of content

Newspapers and media monitoring	<ul style="list-style-type: none"> Local, State, National, International newspapers: Herald Sun, The Age, Fairfax Regional, Quest Community Newspapers, The Australian, AFR, etc. iSentia, Meltwater, Stream In-house media monitoring, PR Agencies, LGA, tourism bodies, event organisers, constituents, advisors
Databases	<ul style="list-style-type: none"> EBSCO, Factiva, LexisNexis, Trove
Internet	<ul style="list-style-type: none"> News websites, Online publishers and resources, ABC
Industry specific and technical	<ul style="list-style-type: none"> Subscriptions, journals, LG sector publications, library resources, technical reports

Common ways of copying and sharing

Digital	<ul style="list-style-type: none"> Make PDF copy, scanning, cut + paste, screen-cap, email, post intranet or website, data dumps, hard drives, digital storage devices, zip file, FTP transfer
Hardcopies	<ul style="list-style-type: none"> Print from digital to paper, photocopy
Servers and intranet	<ul style="list-style-type: none"> Make copies available to view, access and use on Council servers and intranets; digital storage
Reports, business documents and presentations	<ul style="list-style-type: none"> Internal sharing amongst employees via reporting, presentations, training, meetings and events, archiving External sharing with LGs, agencies, regulatory bodies, associations, business, external stakeholder, etc.

Common use cases



Communications and marketing

- Internal: presentations, reports, documents, newsletters
- External: Sharing via presentations, reports, email. Working with events/festivals, tourism bodies, other LGs, PR agency, consultant, regulators, associations)



Keeping up-to date / monitoring sentiment

- Keeping up with current news, industry developments, topical developments, community views/consultation
- Maintaining media archives, sharing stories of interest



Reporting, information sharing and discussions

- Incorporation of third party material in internal reports and presentations – extracts, tables, graphs, images
- Report authoring process – sharing of reference materials
- Sharing and retaining relevant news and topics
- Collaboration on projects and reports

APPENDIX 2: Compliance gaps – news & magazines

Copyright Agency's licence significantly extends the rights and usefulness of subscriptions to newspapers, magazines and licensed media monitoring services – covering gaps in rights created by common use cases

		News content providers				Rights extension	
		No subscriptions	Corporate subscriptions (AU Newspapers)	Database - enterprise subscriptions	Licensed media monitoring service	Copyright Agency	Use case examples
Share internally	Copy free ¹ and paid website content	✗	Limited ²	✗	✗	✓	• Copying from free and paid news sites
	Extension of rights to received content	✗	Limited ²	Limited ²	Limited ²	✓	• Receiving content from client / contractor
	Rights coverage to existing library	✗	✗	✗	✗	✓	• Copying and sharing of hardcopy newspapers
	Unrestricted organisation wide access	✗	Limited ²	Limited ²	Limited ²	✓	• Share internally with all staff (not a restricted list)
Share Australian newspapers and magazines <u>externally</u>		✗	✗	Limited ²	✗	✓	• On website, external email, presentations, meeting printouts/typed documents
Store for extended durations	>12 months	✗	✗	✗	✗	✓	• Archived long term in physical / digital library / records system
	Life of licence	✗	✗	✗	✗	✓	
Extend internal storage rights for copied content ³		✗	✗	✗	✗	✓	• Copied and stored long term in internal reports
Use international newspaper and magazines like local equivalents		✗	✗	Limited ²	Limited ²	✓	• Foreign newspapers – Times, WSJ
Cover for Indemnity		✗	✗	✗	✗	✓	• Accidental use of non-licensed content

Source: Copyright Agency and Venture Consulting analysis

1. Where website is open and does not expressly allow for the reuse of material on the site
2. Check your agreement or terms of service for limitation of any rights granted
3. Copying and sharing of existing physical and digital library of content

✓ Covered ✗ At risk

APPENDIX 3: Compliance gaps – journals

Copyright Agency's licence significantly extends the rights and usefulness of subscriptions to journal content – covering gaps in rights created by common use cases

		Journal content providers			Rights extension	
		No subscriptions	Corporate subscriptions	Database - Enterprise subscriptions	Copyright Agency	Use case examples
Share internally	10% of paid and free website content ¹	✗	Limited ³	✗	✓	• Clip and share from online journal articles
	Extension of rights to received content	✗	✗	✗	✓	• Receiving clippings from clients / research partner
	Rights coverage to existing library	✗	✗	✗	✓	• Copying / sharing older hardcopy journals in physical library
	Unrestricted organisation wide access	✗	Limited ³	Limited ³	✓	• Share clippings internally via email, newsletters
Store for extended durations	>12 months	✗	Limited ³	Limited ³	✓	• Storing and archiving tables / charts for future research / reading
	Life of licence	✗	Limited ³	Limited ³	✓	
Extend internal storage rights for copied content²		✗	✗	✗	✓	• Copying tables / charts in internal documents
Access international journal content		✗	Limited ³	Limited ³	✓	• Read and copy from international journals
Cover for indemnity		✗	✗	✗	✓	• Accidental copying of non-covered journals

Source: Copyright Agency and Venture Consulting analysis

1. Where website is open and does not expressly allow for the reuse of material on the site
2. If content is copied from primary source to another resource – e.g. reports, the licence covers copyright of copied content on new report (internally)
3. Check your agreement or terms of service for rights granted

✓ Covered ✗ At risk

Thank you