

Broadcast Educational Copying Guidelines

1. Copying/communication which is authorised by the copyright owner

Investment Banking Institute Business School Pty Ltd. (ABN: 46 142 988 921) TEQSA Registration Provider Number 12188(**IBIBS shall be entering into an agreement to pay royalties to Copyright Agency Ltd (CAL).**)

Some Higher Education Providers, including IBIBS, enter into licence agreements with the owners of copyright in broadcasts or in works or other subject matter included in the **broadcasts ((television, radio, cable and satellite).**

If you have a licence from all relevant copyright owners authorising copying and/or communication, then it is not necessary to use the Part VA statutory licensing scheme in relation to licensed copies and communications. Only copying/communication done in reliance on the statutory licence needs to be recorded and declared in accordance with the marking and record-keeping provisions of Part VA. Note, however, that it may be necessary to obtain licences from many third party copyright owners in relation to one broadcast, and that generally this will not be practical.

2. Fair dealing for the purposes of criticism or review

A fair dealing with an audio-visual communication does not infringe copyright in either the item or in any work or other audio-visual item included in the audio-visual item if it is for the purpose of criticism or review, provided there is sufficient acknowledgment of the item. Any acknowledgment should identify the author (unless the author is anonymous or has agreed or directed that they not be named) and identify the audio-visual item which is the subject of the criticism or review by its title or other description.

An example of how this provision might be relied on by IBIBS lecturer is where an audio-visual item such as a film or sound recording is copied to be played at an academic conference for the purpose of commenting critically on the material. Without the protection of the fair dealing provision, both the copying and the 'causing to be seen or heard in public' might (assuming a 'substantial amount' was used) amount to an infringement of copyright. If instead of being shown at a conference the copy was communicated by up-loading it onto the academic's web-page (still for the purpose of commenting critically on the material) this might also amount to a fair dealing.

In order to obtain the protection of this section, the purpose of the dealing must be criticism and review. If the court considers that the real purpose of the dealing was to capitalise on publishing another creator's material, or to make the material available to students for the educational purposes of the IBIBS, the protection will be lost.

3. Fair dealing for the purpose of research or study

A fair dealing with an audio-visual item does not constitute an infringement of copyright if it is for the purpose of research or study. While the criticism and review provisions of the Copyright Act contain no guidance as to what factors should be considered in determining if a dealing is 'fair', the research and study provisions do contain such guidance.

In determining whether a dealing constitutes a fair dealing for the purpose of research or study a court is directed to consider:

- the purpose and character of the dealing;
- the nature of the audio-visual item;
- the possibility of obtaining the audio-visual item within a reasonable time at an ordinary commercial price;
- the effect of the dealing upon the potential market for, or value of, the audio-visual item; and
- in a case where part only of the audio-visual item is copied or communicated - the amount and substantiality of the part copied or communicated in relation to the whole item.

4. Filming or recording broadcasts for private or domestic use

The copyright in radio and television broadcasts is not infringed if such broadcasts are copied for private and domestic use. There may be other copyright subject matter that is infringed. This provision cannot be relied on to copy broadcasts for the educational purposes of IBIBS. It relates only to copying undertaken for the private and domestic use of the person who makes the copy.

5. Commercially purchased or hired videos and sound recordings

There is no infringement of copyright if a teacher or student plays a commercially purchased or hired video or sound recording to a class in the course of giving or receiving educational instruction, provided that the audience is limited to students and teachers who are taking part in the instruction or to people who are otherwise connected with IBIBS.

It may be commercially better to purchase or hire videos and show these to students than to copy off-air and pay Screenrights. This may be so, for instance, when the material required is a feature film. Where at or before the time of supply of the video, the hirer or seller makes it known that there are limitations on screening the video for other than private and domestic use, to do so might give rise to a breach of contract.

6. Purchasing tapes from licensed Resource Centres

IBIBS may purchase tapes of broadcasts from Resource Centres that shall have a licence with Screenrights. IBIBS is not required to report these tapes under either record keeping or sampling, as the Resource Centres themselves pay the fee to Screenrights. Resource Centres which have a licence with Screenrights are listed on their website.

7. Preview copying

The Act contains preview provisions which allow IBIBS to make copies of broadcasts for the limited purpose of previewing those copies with a view to deciding whether or not to keep the copy and/or show it to students. Copies which are not required can then be wiped. Provided the preview provisions are complied with, a copy which is wiped within the 14 day preview period is treated as though the copy was never made.

In order to come within the preview provisions:

- the copy of the broadcast must be made by or on behalf of IBIBS; and
- the copy of the broadcast must be made and used solely for the purpose of enabling IBIBS to decide whether or not the copy should be retained for the educational purposes of IBIBS.

Once the copy has been made, IBIBS has 14 days during which to decide whether to retain the copy for the educational purposes of IBIBS, or to wipe it. If the copy is shown or communicated to students, or otherwise used for the educational purposes of IBIBS during this 14-day period, the benefit of the preview provisions will be lost and the copy will be treated as a licensed copy (see Part 3 for a discussion of licensed copying).

If only a segment of the copied broadcast is to be retained or communicated, take a copy of the segment and then wipe the original preview copy within the 14-day time period. By using the preview provisions in this way, IBIBS can avoid having to pay for copying of material that is never used.

8. What copying and communication is covered by Part VA?

Part VA of the Act contains a statutory licensing scheme for the copying and communication of broadcasts (television, radio, cable and satellite). Copying and/or communication done in reliance on the provisions of Part VA will not infringe the copyright in a broadcast, or in any work, sound recording or cinematographic film included in a broadcast.

9. What are the requirements for compliance with Part VA?

IBIBS is entering into a statutory licence with Screenrights in 2013, the organisation that collects money for broadcast copyright owners. To be covered by the licence, a copy or communication must be made by or on behalf of IBIBS, and it must be made solely for the educational purposes of IBIBS or another educational institution.

The 'educational purposes of IBIBS' include:

- use to teach students;
- making the copy available to students as part of a course of study at IBIBS; and

- retention in the IBIBS library or elsewhere (eg by a staff member) as a teaching resource

The protection against infringement afforded by Part VA will be lost if the copy is, with the permission of IBIBS, used for a purpose other than the educational purposes of the institution; made, sold or otherwise supplied for a financial profit; or given to an educational institution which does not at that time have a remuneration notice in force.

The Digital Agenda amendments require IBIBS to take "all reasonable steps" to ensure that access to broadcasts made available on-line in reliance on Part VA is restricted to those people entitled to receive access, eg staff and students of IBIBS or of another higher education provider with a remuneration notice in place. Copyright works made available on-line in reliance on Part VA must NOT be available for access by the general public.

IBIBS must also comply with the various marking and notice requirements contained in the Act and the Copyright Regulations. Each analog copy of a broadcast made under the scheme, or any container in which such a copy is kept, must be labelled in accordance with the Copyright Regulations. The label must either contain the following information:

Made for Investment Banking Institute Business School under Part VA of the Copyright Act 1968
 Date program was transmitted _____
 Date this copy was made _____
 (if different)

or, alternatively, the copy may be marked with an identifying number or other reference code which will enable Screenrights to identify IBIBS and locate a copy of the relevant copying record (see below).

There is no requirement to mark or label copies which are made in electronic form (eg a copy made on a CD-ROM or computer hard-drive). However, if such a copy is communicated, the steps set out immediately below must be followed.

Each electronic or digital copy which is communicated under Part VA must contain an electronic notice incorporating the following information:

COMMONWEALTH OF AUSTRALIA Copyright Regulations 1969
 WARNING

This material has been copied and communicated to you by or on behalf of **Investment Banking Institute Business School** pursuant to Part VB of the Copyright Act 1968 (**the Act**).

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

Do not remove this notice.

This notice **MUST** appear either before or at the same time as the material being communicated appears on the screen.

More information

For further information and legal advice on educational copying, contact IBIBS Copyright and Library Officer, by email legal@ibibs.edu.au