
Copyright

The Role of Copyright

Why do we have a Copyright Act?

Copyright exists to promote learning; culture and the free flow of information, knowledge and ideas in the interests of all Australians. It is not just a law created for the protection of copyright creators and owners.

The essential function of the Copyright Act is to enhance the lives of all Australians, and this can only be assured if we all have reasonable access to the learning, knowledge, culture, and ideas in works produced in Australia.

Protecting the works of creators is important. Providing public access to those works is important. But most important of all is the establishment and maintenance of the best possible regulatory environment for learning, cultural development and the communication of scientific, technical and other research information.

Copyright as a regulatory device has long been accepted in common law jurisdiction. In fact, a functional approach to copyright has always been applied in Australia. Any suggestion that copyright has a life beyond that given by Parliament, that authors have natural rights in the products of their minds, has never had any basis under Australian law. Copyright only exists to the extent that Parliament decrees, and no more.

The technological environment

Technology has been a driving force for change throughout the history of copyright law. Digitisation and networking are at the root of many of the problems under the present Copyright Act 1968. There is now the ability to take copyright material from its traditional print, paper and plastic packaging and convert it into digital form. The rapid growth in the volume of digital information has been matched by the rapid expansion of digital networks. Therefore, not only is there more material, but also there are many more channels through which it can pass.

In a digitised environment, it is very **easy to reproduce and disseminate** copyright material. It is already possible, at the stroke of a few keys, for a large number of perfect copies to be made and 'posted' through the Internet to any number of people around the world. This is seen by some as an illustration of copyright's irrelevance to modern circumstances. Others see it as a threat to their most important form of protection and income. Two solutions have been suggested:

The **anti-copyright camp** argues that the law of copyright should be abolished, at least, as we currently understand it.

The **pro-copyright camp** tends to advocate new rights, broader rights, more protection and greater control for copyright owners.

If there is to be any hope of enforcing copyright, it must be respected as a **fair and balanced set of rights and freedoms**. Therefore, it must be an Act that makes sense to everyone.

Copyright

Access under copyright is ensured in a number of ways

First, copyright protects the original form of expression of an idea or fact. It does not protect the raw idea or the fact underlying the expression.

Second, only a limited number of specific rights are protected. Use of a work is not subject to copyright restrictions if the nature of that work does not fall within the scope of a defined right of copyright. To read a work is to use it, but as reading falls outside copyright's bundle of exclusive rights, this does not give rise to an infringement of copyright.

Third, the term of protection is limited, generally speaking to the life of the author plus 70 years. After that, it is in the public domain.

Fourth, the rights of copyright are qualified. This occurs for example by the doctrine of fair dealing, and by the provisions dealing with the use of copyright material in libraries and educational institutions.

How you can infringe copyright

Unless a special exception applies, you may need permission to use copyright material exclusively controlled by the copyright owner. If it is an important part of a work ... just using what may be a small part of a work could also be considered an infringement.

Other ways you may infringe copyright include:

- Authorise infringement by encouraging somebody else to infringe copyright material or giving them the means to do so;
- Importing material that contains copyright material;
- Selling infringing articles that have been imported without permission.

Hacking

Under the Copyright Act copyright owners can take action against people who circumvent technological measures. Owners can also take action against people who remove or alter electronic rights management information. In many cases it is classed as a criminal offence to deal commercially with circumvention or decoding devices.

You should remain aware at all times that copyright owners also use technology to identify and monitor digital copies of their material. This is also referred to as "electronic rights management information".

Sources:

- ACLIS Submission to the CLRC Review & Simplification of the Copyright Act, September 1995, pp.6-16.
An Introduction to Copyright in Australia. Australian Copyright Council. Information Sheet GO 10v6, March 2007.
Digital Copyright for Libraries, Archives, Galleries – Fact sheet, 8 November 2004, Department of Communications, Information Technology and the Arts, Document ID: 5732, Retrieved 13 November, 2004.