

COPYRIGHT QUICK GUIDE

Fair dealing - Film, TV and YouTube

Presentation

The *Copyright Act (1968)* allows students and researchers to show/present films and TV programs in class to a closed or limited audience. A limited or closed audience would be defined as other student's or class members, presentation as part of examination/assessment. This provision does not allow films or TV programs included into presentations to be recorded, copied, placed online, or shown as part of a public activity.

Using snippets

You are able to rely on the fair dealing provisions '[research and study](#)' '[criticism and review](#)' or '[parody or satire](#)' to use snippets/clips from films and TV as part of assessment tasks. The use of clips/snippets under the fair dealing provisions must be for the genuine purpose of the provision such as criticising the film/TV program - forming an opinion on the work. Parody - transforming the original work into a new work that is either satirical or humorous.

The fair dealing provision of 'research and study' is a closed provisions and only applies whilst you are enrolled as a student other uses such as public screenings or entry into film competitions will require the [permission](#) of the copyright holder

The provisions of 'criticism and review' and 'parody and satire' are provisions that are open to the public yet are untested areas of law, care needs to be taken when relying on these provisions publicly. It is your own risk to rely on these provisions. Criticism and review, parody and satire if used publicly needs to be for the genuine act within the purpose of the provision, and adhere to [the fair dealing factors](#).

Creating mashups

Mashups incorporating commercially produced films, [downloaded films](#), TV programs, clips ripped from DVDs or YouTube videos need to be assessed against ownership rights and copyright exceptions such as fair dealing – research and study. Mashups can be created legally from out of copyright works [where [copyright has expired](#)], and also licensed works such as creative commons, or if you are undertaking the genuine act of fair dealing.

Works protected by copyright such as commercially produced films, [downloaded films](#), TV programs, clips ripped from DVDs or YouTube videos will most likely require the permission of the copyright holder in creating a mashup that is to be screened publicly, or entered into film competitions.

Most DVDs come with technological protection measures to stop DVDs from being unlocked, ripped/copied. Copyright law contains anti-circumvention [unlocking] provisions it is a breach of copyright law to circumvent or unlock a technological protection measure.

If you have created a mashup using snippets from TV, and/or commercial films as part of your assignment or assessment, fair dealing allows you to present the mashup in class.

Placing online, MyRMIT, blogs, wikis

The fair dealing provisions allow the use of copyright works at RMIT for assessment tasks such as blogs, wikis and e-portfolios hosted behind authentication [a password] within RMIT.

The fair dealing provisions do not apply to public sites such as blogger.com, Facebook, YouTube or alike. The fair dealing [provisions are closed provisions](#) and only available whilst undertaking a course of study, or research.

Copyright works incorporated into online environments within RMIT such as blogs, wiki's and e-Portfolio's can only remain online whilst you are enrolled if you are no longer enrolled in the course the works must be removed. Therefore, the responsibility for managing the use either falls with you the student **whereby you must remove all copyright works uploaded.**

YouTube, downloading, films, TV, Vimeo

YouTube, Vimeo, and other video sites can be used as long as the material you wish to use is a copy that has been placed online by the copyright holder – a legal copy.

You may embed videos into myRMIT websites, external blogs, Facebook etc, if the video you wish to embed is not an illegal copy of a work. It must be a video that has been placed onto the video site by the copyright holder.

Beware when downloading!!

The main problem with video download sites is that you will never be quite sure if the video has been uploaded by a individual who is not the copyright owner of the work and not entitled to upload the work. Take care to ensure you source copyright works that are not illegal copies.

The video upload might be considered an illegal copy, and by downloading or linking to the video you will also be undertaking an illegal activity - contributing to and authorising an infringement by way of linking to, or downloading an illegal copy of a copyright protected work.

YouTube and Vimeo terms of use prohibit the downloading of content unless the video clearly has a download button/function on the web page where the video appears. You are not permitted to download, reproduce, copy or upload to myRMIT or another website within RMIT any YouTube or Vimeo content without first obtaining permission. You may embed a YouTube or Vimeo videos, and you must ensure the copy is a legal copy and has been uploaded by the copyright holder.

Films, TV and educational programs purchased online

When you purchase a film IR TV program from an online source **you are personally** undertaking a contract with the provider for the purchase of the work. As part of the purchase you will be asked to click through 'I agree' - terms and conditions. This forms a personal contractual arrangement between you and the provider. If you wish to make use of the film and TV program that you have purchased online and where you have agreed to terms and conditions as part of the purchase, permission will be required before you can extract snippets or copy the work. If you purchase a film or TV program online the general assumption as part of the purchase contract is that you will watch the film or TV program only – personal use.

Fair dealing

[Fair dealing](#) is Australian law and relates to a specific set of provisions within the *Copyright Act (1968)* that are a set of rights awarded to the public in relation to the use of copyright works without permission.

Fair Use is US law and relates to a specific set of provisions within the US Digital Millennium Copyright Act (DMCA) that allows members of the public to reproduce copyright works without the permission of the copyright holder.

The fair dealing provisions allow for a reasonable portion of a work to be used. For artistic works, videos, film and sound recordings there is no simple defined rule as to how much you can copy for research and study purposes. Reasonable is the key factor reasonable in terms of the amount of works used, and reasonable in terms of the nature of the use.

RMIT Students are able to rely upon using a 'reasonable portion' of copyright works in creating assignments or research work at RMIT. The fair dealing provisions require you undertake a genuine act of fair dealing, the character of the use of the work must be for research and study, or criticism and review purposes.

- **Research or study:** undertaking a course of instruction or personal private research. This provision allows students and researchers to rely on using a reasonable portion of copyright works as part of their research or study. Research and study includes assessment, so you may include copyright works in your assignments, projects and theses, provided that you attribute the sources properly. All instances outside of 'research and study' will require the permission of the copyright owner or holder. This also includes demonstrating or showing your work to others as part of competitions or film nights.
- **Criticism or review:** criticism or review can be relied upon by persons who are employed or undertaking a legitimate task that involves criticising or reviewing a copyright work. For example a magazine review for a new release on DVDs that includes an image of the DVD cover could be considered a legitimate reliance on the fair dealing provision of criticism or review. As the act of review or criticism is a genuine act, an act of forming an opinion on the work – the DVD.

Parody and satire

[Parody and satire](#) is a new purpose within the fair dealing provisions. Copyright holders don't usually licence criticism of their works such as adaptations or mashup uses that casts them and the brand in a bad light. When undertaking a dealing with a copyright work for the purpose of parody and satire the dealing must be **legitimate**, a genuine act of parody and satire, and the use must be transformative, the new work must transform the original work into a work that is either satirical or humorous.

The amount used, and the market place for the existing work are important considerations with fair dealing - was a substantial amount of the existing work used, and was there an interference with the existing or potential market for the work. If not, was the part used an important part of the work and in using that part was the use competing in the market place with the original work. If it is found that a substantial amount of the original work has been used and the part used is an important part of the original work, and the use could have been licensed within the existing market, then the use would most probably be considered unfair and a breach of fair dealing/copyright law.

Important Note:

The fair dealing provisions **only apply while you are enrolled** as a student once you have completed your studies any copyright works used under the fair dealing provisions will require permission if the work is to be used for another purpose. For example if as a film student, I use a range of sort clips from commercial films as part of my assignment I am covered by fair dealing. If I then decide to enter my student film into a film competition to be shown at a movie festival, fair dealing no long applies and I would need to gain permission to use the short clips taken from the commercial films.

All uses of copyright works under these provisions must contain a credit statement/attribution statement referencing the creator/author of the work. It is best to include full reference details.

Getting advice

The [Copyright Management Service](#) can assist with further advice, feel free to [contact us](#) with any copyright queries you may have.