

COPYRIGHT QUICK GUIDE

Fair dealing & images

Presentation

The *Copyright Act (1968)* allows students and researchers to show/present images 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, and GRC presentations. This provision does not allow copyright works included into presentations to be recorded, copied, placed online, or shown as part of a public activity.

10%, adapting, changing, modifying

The 10% myth of modifying an image so that it is free of copyright restrictions is a myth. There is no 10% adaption rule for images, text or audio visual copyright works. The only instance where permission would not be required is where a new work has been created based on the concepts of the first work, and the new work is substantially different from the first work.

The [moral right of integrity](#) is an important consideration. If an existing work is modified to a point where a copyright holder feels the modification has affected the integrity of the work, including the authors reputation and honour. The author can bring an infringement accusation under right of integrity against you.

Creating mashups and collages

Mashups or collage creations incorporating copyrighted images need to be assessed against ownership rights and copyright exceptions such as [fair dealing](#) – research and study. The fair dealing provisions can also be used to create mash-ups or collages, however the fair dealing provision - research and study only applies whilst you are undertaking a course of study.

Mashups/collage can be created legally from out of copyright works [where [copyright has expired](#)], or creative commons licensed works.

THINK ABOUT – Creative Commons images instead of Google. [Search Google](#) for creative commons images.

Works protected by copyright will generally require the permission of the copyright holder in creating a mashup/collage. If a collage or mashup is created from a substantial part of an existing work it could be considered a breach of copyright in the original work.

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 is required for access eg: myRMIT].

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

Copyright works used online within RMIT such as blogs, wiki's and e-Portfolio's can only remain online whilst 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**, or alternatively the staff member assumes the responsibility and undertakes **to remove all of the copyright works** on your behalf.

Images beware!

Many image services such as Flickr, Photobucket, Imageshack, Twitpic, Pictiger, Pict.com all host creative commons licensed images. These sites may also contain images that could be considered a breach of copyright for example an image that is a photograph of a copyrighted work - an image of a painting taken at a Gallery or Museum such as this [Brett Whiteley Self Portrait](#)

Even though a photographer may declare photographs are available under creative commons licenses before using the images you must ensure they image do not infringe copyright. If in doubt contact the photographer to establish if they have obtained permission to photograph the underlying artistic work.

Google images

Images found on Google are copyright works Google is a search engine that searches the internet for images residing on websites. When using Google images check the copyright statement or terms and conditions of the website to establish what is permissible, or undertake to search Google for images that you can use freely such as creative commons images.

[How to search for creative commons images using Google](#)

Social media, YouTube, Flickr, Yammer, Facebook, blogs and wikis

Externally hosted public sites such as Flickr, Twitter, Yammer, or blogs and wikis contain terms of use that you are required to agree to in order to set up an account. Care needs to be taken to read and become familiar with the terms and conditions on the site. In accepting the terms of use you are agreeing to abide by the conditions outlined.

You can use [creative commons](#), or free images on social networking sites. You should not use creative commons non-commercial licensed images. Obtaining revenue from advertising would be considered a commercial undertaking.

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 requiring 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 use copyright works without the permission of the copyright holder.

The fair dealing provisions allow for a reasonable portion of a work to be used. A "reasonable portion" of literary, dramatic, or musical work for research and study purposes. 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 the work used, and reasonable in terms of the nature of the use.

The fair dealing provisions require you undertake a genuine act of fair dealing - the character your use must be for research and study purposes, 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. All instances outside of 'research and study' will require the permission of the copyright owner or holder. This also includes public demonstration or presentation your research or course work to others.

- **Criticism or review:** Criticism or review can be relied upon for research and study purposes that involve undertaking a legitimate task of criticising or reviewing a copyright work. For example reviewing a contemporary painting where images of the work are used as part of the overall act of reviewing or criticising the work, this would more than likely be considered a legitimate use of a work in reliance on fair dealing, as the act of reviewing or criticising is a genuine act, an act of forming an opinion on the work – the painting.

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 mashup uses that casts them and the brand in a bad light. When undertaking a fair dealing with a copyright work for the purpose of parody and satire the dealing must be legitimate - a genuine act of parody and satire, the use must be transformative and 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 original 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 not to be a fair dealing, and considered a breach of fair dealing/copyright law.

Important Note:

The fair dealing provisions **only apply while you are enrolled or undertaking research**, once you have completed your studies or research 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 short 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 or 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.