

# COPYRIGHT QUICK GUIDE

## *Fair dealing – Music & sound*

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### **Presentation**

The *Copyright Act (1968)* allows students and researchers to use, and present music in class to a closed or limited audience. A limited or closed audience would be defined as other student's or class members, and presentation as part of examination/assessment. This provision does not allow for music 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 or short samples of music as part of assessment tasks. The use of samples or snippets under the fair dealing provisions must be for the genuine purpose of the provision such as criticising the music - 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 music competitions will require the permission of the copyright holder for musical works used.

The provisions '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 music, [downloaded music](#), samples ripped from CDs 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 openly licensed works such as creative commons.

Works protected by copyright such as commercial music will require the [permission](#) of the copyright holder in creating a mashup that is to be performed publicly, or entered into music competitions.

Most CDs come with technological protection measures to stop the CD from being 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 commercial music as part of your assignment or assessment, fair dealing (research & study) allows you to present/perform 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 that are hosted behind authentication [a password] within RMIT.

The fair dealing provisions do not apply to public sites such as blogger.com, sound cloud, 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 authenticated online environments [ behind a password] within RMIT such as blogs, course sites & e-Portfolios can only remain online whilst you are enrolled if you are no longer enrolled in the course the works must be removed. Therefore, you the student **must remove all copyright works uploaded.**

### **Beware when downloading!!**

The main problem with download sites is that you can never be sure if the musical work has been uploaded by an individual who is the copyright or owner of the work. Take care to ensure you source copyright works that are not illegal copies.

The musical work upload might be considered an illegal copy, and by downloading or linking to the work you will also be undertaking an illegal activity - contributing to and authorising an infringement by providing a link to the work directly other to access the work.

### **Music purchased online**

When you purchase music 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 music that you have purchased online, you need to ensure you use is in line with the agreed terms and conditions. If you purchase musical work online the general assumption as part of the purchase contract is that you will only use the music for **your** personal use.

### **Music Licence**

RMIT has a music licence that allows the use of commercial musical works by students for educational purposes. The music licence has been negotiated with the four musical societies that represent music composers, artists, and record labels.

The key requirement of the music licence is that the musical works used must be listed in the catalogue of works of the four music societies. Most music released within Australia will be listed in the catalogue of works of the four music societies.

The musical licence allows:

- Students to make video recordings of university events that include musical works performed in any format for their own private and domestic purposes.
- Synchronisation of musical works or sound recording[s] with video recordings of classroom related activity or a University event, that includes:
- A video recording of student analysis of musical works as part of a course of instruction or classroom related activity.
- Audio recordings on CD of a musical work[s] or sound recording[s] can only be made for the following purposes:

- Recording is to be used as part of a course of instruction, or any classroom related activity,
- Recording to be provided to students for analysis purposes as part of a course of instruction or classroom related activity,
- Place musical works **online to** streamed via an RMIT network and secured behind authentication [password access only]. Please complete the registration form to stream a musical work online.
- Any musical work(s) placed online is not to be made available in a format that would allow the work to be downloaded. Musical works cannot be emailed.

For more information on the music licence contact [copyright@rmit.edu.au](mailto:copyright@rmit.edu.au)

Each musical work placed online, onto a CD/DVD or synchronised with a video must contain the notice below.

This recording has been made by the RMIT University under the express terms of an educational licence between it, ARIA, AMCOS, APRA and PPCA and may only be used as authorised by RMIT University pursuant to the terms of that licence.

Also including

- the title of each musical work;
- the name of each composer, lyricist and arranger of the musical work; and
- if the recording is an ARIA Sound Recording, the artist/group name, and the record company label.

### 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, music 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 for 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 or 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. 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 music 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 CDs that includes an image of the CD 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 CD.

### **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 music student, I use a range of sort clips from commercial music as part of my assignment I am covered by fair dealing. If I then decide to enter my student music project into a competition to be shown at a festival, fair dealing no longer applies and I would need to gain permission to use the musical works.

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.