

Copyright enriching education, education enriching copyright

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The aim of the session is to review the relationship between the “world” of copyright and the “world” of education. The discussion could focus on how copyright, far from being an obstacle for education, is one of the key tools for its improvement. The session should also pay special attention to the exceptions and limitations to copyright for educational purposes, and the needs and expectations of the education sector with regard to copyrighted works, as well as how the educational institutions and authorities are -or could be- involved in and committed to copyright. The role of Reproduction Rights Organisations in relation with education, and their relationship with educational establishments will also be a major theme in this session.

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When the words “copyright and education” are punched into a quick Google search, the overwhelming majority of returns relate to the practical, operational aspect of the relationship between copyright and education.

Even the legislative and policy-related articles have a practical edge – how to interpret a piece of legislation or a particular court decision and what it means for a particular form of copying.

This is a simple – perhaps too simple – example of what I believe highlights a lack in the relationship between the “world of education” and the “world of copyright”.

The relationship largely has a utilitarian focus. In practical terms, the education sector needs access to copyright-cleared content and the copyright world needs the payments from the education sector.

Much of the legislation and litigation are in response to practical issues – new technology, innovative business models and some models based on copyright infringement or popular public practices.

Of course, the education sector has been one of main actors throughout this history.

That is not to say every aspect of our shared history is negative or narrowly focused. The development of legislation and case law has meant that copyright is now a key consideration for the education sector, not an afterthought.

And that is important. Awareness has improved and copyright and reproduction rights organisations are taken seriously. **And here’s why:**

- **85% of CAL’s revenue comes from the education sector – almost \$65million;**
- **Schools made up the largest proportion of revenue for CAL at 51%;**
- **Universities account for 25%;**
- **TAFE makes up 7% and**
- **Independent educational institutions provide 2%**

Twenty years ago educational authors received nothing from copying royalties. Now it can be a significant part of their income. That means the value of their copyright has enhanced their capacity to create more useful educational material.

In short, those who produce the core educational material – the very foundation of quality education – are better off as a result of copyright recognition.

Further enhancements to copyright recognition such as CAL’s work in Australia to gain proper reward through legislative change for the copying of illustrations that accompany educational text has enhanced the livelihoods of educational illustrators as well.

The accompanying artistic works that are most copied are likely to be the works of local artists illustrating maths texts rather than the works of Monet or Van Gogh. This work clearly enhances education in that it assists in the learning process.

Another way in which copyright enhances education is through the value of copyright to publishers of educational texts. In Australia, and no doubt in many other countries, we know publishers factor in the value of copyright – not just raw sales data – in deciding whether to commit to a particular publication.

All this means that the economic value of copyright is now seriously recognised, has increased dramatically over 20 years and adds to the rewards of educational writers and artists – thus enhancing the capacity to attract greater expertise to educational writing. The end result is better quality education material.

It was less than 20 years ago in Australia that some education institutions refused entry for records inspection by Copyright Agency Limited staff and called the police instead.

Today, CAL is in partnership with the tertiary education sector delivering copyright-cleared digital course content.

Academics choose their journals or articles on line, compile a specially-tailored digital course pack and make copyright payments over the net.

From police at the doorstep to online business partnerships - that's a long haul and it tells us that our shared history isn't all bad.

But, an anecdote from one of my staff is typical of the interaction between the copyright world and the education world.

The staff member was late for squash with a new practice partner. In fact, he had been held up working on CAL's annual report.

He explained this to his squash partner who is the head of mathematics at a leading university and who expressed interest at the very mention of CAL.

Being the Public Affairs Manager, the CAL man thought he'd test the water with...

"Your job would make you familiar with the great work of the Copyright Agency."

The frank reply came back...

"It's a damn lot of paperwork and a bloody nuisance as far as I'm concerned."

Not to be outdone, our man retorted:

"Ah yes, but it'll become all the easier the more we use digital material".

"True" was the reply and they got on with their game.

This interchange underlines the utilitarian nature of the relationship. The first response was not how interesting the copyright field must be, or how it must be nice to work for an organisation that hand out money to its members.

The first response is about the practical problem of record keeping.

And that means the more RROs improve the practical side of rights management, the more common ground we'll find with our colleagues in the education sector.

When we limit the practical differences, we can build the philosophical connection.

Copyright and education go hand in hand. In fact they support each other.

Copyright protection encourages thinkers to put their thoughts into words, into print. It encourages them because it can provide not only a financial return if others find that work good enough to copy and to use, but it gives them some professional control over that work – a sense of ownership.

It is no different in educational institutions. Educators encourage learning and original thinking and expression. Quite apart from copyright, the concept of stealing the expression of others through plagiarism is taken very seriously in the education world.

That's because learning is about building on the thoughts and findings of others to challenge and expand your own horizon, to give life to new ideas and ultimately fresh expression.

Acknowledging the work of others is a critical factor in education and it forms a solid foundation upon which respect for copyright can be based.

It is not a big step from using others' words without permission to copying others' words without permission.

It's about respectful learning which requires respectful use.

And when our students learn to respect their own original works they will be inclined to respect the original creative works of others – they will not copy without permission.

This is what should be at the core of the relationship and this is what should frame any debate between the interconnected worlds of education and copyright.

The challenge for RROs is to understand that for respectful learning to take place there must be easy access to copyright-cleared works – both the classics and those at the cutting edge.

The easier and more transparent the process of gaining access to needed works, the less room for angst and pressure on educators to avoid what is called "the copyright minefield".

If we can achieve this, we will spend more energy debating principles and not practical problems.

For example, if lawful access was easy, at a reasonable price and easy copying was easy to process, monitor and audit, how much heat would be taken out of the relationship between rightsholders, RROs and educational institutions?

We could then have a genuine debate with the “free access” movement. Then the debate would not be clouded by practical annoyances and our critics’ views that rightsholders, RROs are rigid, inflexible and out of touch.

The debate could then focus on issues much closer to the things we share – fostering original works of the mind, creative cultures of creativity, innovation and respectful use and permission.

We should sit at the table with our clients striving to improve our services, meet the needs of our clients and licensees and improve access as much as possible with just one simple condition – that permission for use has been granted.

Of course, permission can take a variety of forms – direct permission or centralised rights management. Some countries have statutory licences or levies. In addition there are the legal free exceptions such as Fair Use in the US-style system or Fair Dealing in the UK.

CAL’s experience is that the more our copyright management systems are understood – even our complex copy surveying mechanisms – the more the education sector supports them.

The Australian Government is currently reviewing the legal free exceptions to copyright and asking the question should we adopt a US-style Fair Use system.

Despite some calls for a Fair Use system to be added to the current system – a position CAL opposes as double dipping into exceptions – the schools sector indicated to CAL that, in general, they support the retention of our existing Licence scheme as it is regarded as fair and it gives them certainty.

And that is the key. Education is the prime business of the education sector.

That may sound tautological, but RROs need to be careful to remember that copyright management is *our* prime business, not that of the education sector – or any of our other clients.

Therefore, things like consistency and certainty become critical for the education sector.

Educators just want to deal with copyright as quickly and efficiently as possible, and get on with what they do best.

So, CAL finds itself in the situation where some of the harshest critics of copyright in the past have indicated support of the very system we manage.

Why, because they at least know how it works, what they have to do – even if it is an additional task. But what they don't want is different systems and different processes to do what they now have under control.

Our goal is to provide certainty and simplicity. If we can deliver that, I believe that as the world of education and the world of copyright have much in common and that community of interest will come to the fore.

We must make it as convenient and easy to copy lawfully as it has been to copy illegally. We must meet the demand from the community. We must develop sophisticated cooperative arrangements between copyright service providers and our clients.

In this community of interest the partnerships will flourish and the litigation will diminish.

The digital age gives RROs a terrific opportunity to achieve this end.

If we focus on clearing the rights to the works the educators want and providing the on-line models to streamline access, auditing and payment, then the two worlds of copyright and education can advance a culture of learning, creativity and respectful use.

And when we have differences, we will sort them out by looking at the merits of those differences without being clouded by practical problems that built the walls of the past.

We have much in common. Put simply, I admire the works of many current Australian authors and I admire some of classics from authors of years gone by.

I admire their work and I believe they should be rewarded for it and for the expression of their ideas and the challenges they bring.

Similarly, I imagine educators love the works they choose to teach. I imagine they want their students to learn from them and to express their own ideas after having been challenged.

The educator, the author, their publisher and we are happy with this arrangement – and the student also gains from the experience.

We all argue in principle that creators and producers of original works should be rewarded when others copy their works.

Like those in other walks of life, we might haggle over the price but we have much more in common than that.

Copyright and education – we were born of the same parents – creativity, learning and respect. We're related.

So let's work on being making the relationship more harmonious and more responsive to each others' needs.

It's been a while since the police were called to our copyright inspections, so let's not go backwards.

In that way we, and the whole family of students and creators alike, will thrive.