

Copyright Guidelines for Copyright Protected Content

Under the *Copyright Act 1968* Cth there are four categories of **works**, and four categories of **subject matter other than works**. In order for a creation of the mind to attract copyright protection, it must be fixed in a material form and it must be able to be categorised as one of the types of works or subject matter protected by the *Copyright Act*. A material form does not have to be paper or some other hard copy. A digital file is regarded as a material form.

Works- The four categories of **works**, with some examples, are:

Literary Works

poems, books (fiction and non-fiction), articles, reports, digital texts, short stories, rules to games, instruction manuals, song lyrics, catalogues, compilations, computer programs, and all other forms of writing (except trivial expressions such as titles or slogans)

Dramatic Works

plays, film scripts, screenplays, scenarios, and other works intended to be performed, such as choreographic works.

Musical Works

musical compositions, such as those represented by musical notation in scores and sheet music. Note that songs include two types of works - literary and musical.

Artistic Works

photographs, paintings, sculptures, drawings, sketches, engineering drawings, patterns, engravings, cartoons, dress patterns, plans, maps, flow charts, diagrams, technical drawings, buildings, models of buildings, and works of artistic craftsmanship such as ceramics, wood carvings, etc.

To be given protection, a work must be "original". The level of originality required is very low, but the author must have applied some degree of independent skill or labour in creating the work. The work need not be innovative or novel in its ideas, nor is any literary or artistic merit required.

Subject matter other than works - The four categories of **subject matter other than works**, with some examples, are:

Cinematograph Films

motion pictures, including documentaries, newsreels, feature films, animated films, television programs, commercials, music videos. Common formats are DVD, videocassette, digital files, and film. Usually, there are layers of copyright in a film. For example, in a feature film there will be copyright in the script as a dramatic work, a separate copyright in the music as a musical work, as well as the film copyright in the combination of sounds and moving images.

Sound Recordings

Sounds embodied in a record of some kind – includes sound recordings of musical works, radio plays, spoken word, sounds in nature, created sounds, sound effects, traffic noise etc. Common formats are CDs, digital files, audiocassettes, and vinyl discs. Usually, there are layers of copyright in a sound recording. In the case of a recording of a song, there will be three separate copyrights: the composition as a musical work, the lyrics as a literary work, and the sound recording. The three copyrights are frequently owned by different persons.

Broadcasts

radio, television and certain satellite broadcasts, that is, the signals of sounds and/or images transmitted by the broadcaster. The copyright in the broadcast signal is in addition to the copyrights in the content carried by the signal.

Published Editions of Works

the publisher's layout, design and typesetting.

For copyright purposes, the four types of 'subject matter other than works' do not have authors.

What exclusive rights does the Copyright Act give owners?

The table below summarises the major rights for the categories of copyright material. “Works” attract more rights than the other types of material.

Category	Reproduce in material form	Publish	Perform in public	Communicate to the public	Adapt
Works					
Literary work	Yes	Yes	Yes	Yes	Dramatise, translate, picturise; make a version of a computer program.
Dramatic work	Yes	Yes	Yes	Yes	Make a non-dramatic version, translate, picturise.
Musical work	Yes	Yes	Yes	Yes	Arrange or transcribe
Artistic work	Yes	Yes	No	Yes	No
Subject matter other than works					
	Copy	Publish	Cause to be seen or heard in public	Communicate to the public	
Cinematograph Film	Yes		Yes	Yes	
Sound recording	Yes		Yes	Yes	
Broadcast	Yes			Yes	
Published Editions of Works	To make a facsimile copy of the edition				

The meaning of “communicate to the public”

The meaning of “communicate” is to make available online or electronically transmit. This right covers such activities as making material available online by uploading it to a server for access by others; making material available to others through the internet by peer-to-peer networks; broadcasting; faxing; emailing.

The meaning of “to the public” is very broad. Unless your purpose in communicating is purely private or domestic, your communication will probably be regarded as to the public. When we use the word “public” in the QUT context, we usually mean the general public – people who are not students or staff or other authorised users of University facilities. However, in the copyright context, QUT staff and students are regarded as “the public”. This means that if you put material on a server, even if you restrict access to only certain authorised users, you will still be communicating it to the public.

The rights are separate

The rights listed in the table above are separate and the various rights in the one item can be owned or controlled by different persons. The one act you perform could involve exercising several owner rights. An example is putting an item online. To start with, you have to make a digital reproduction of it for upload to a server, thus exercising the reproduction right. Then

when you make it available to others, often referred to as “publishing” in web terms, you exercise the communication right. If users are able to download or print the item from the website, and if this is the first time reproductions or copies of the item are being supplied to the public, then you may be exercising the publication right as well.

How do I infringe copyright?

You infringe copyright if you do any act in relation to a copyright item that the law has designated as an exclusive right of the copyright owner. You need not deal with the whole item to infringe – even copying a small part of the item without permission may infringe if it is a **substantial** part. Fortunately the law provides for situations when users may deal with copyright material without the permission of the copyright owner. These are explained for staff and students in the [QUT Copyright Guide](#).