Using YouTube for educational instruction

A guide for WA TAFE Colleges

Use of YouTube videos

YouTube videos can provide valuable input to student learning when used as stimulus material and for explanation or illustration. WA TAFE lecturers may stream YouTube videos to their class under the 'show and tell' exception in section 28 of the *Copyright Act 1968* (Copyright Act), provided:

- the use is for educational purposes and not for profit; and
- anyone in the class is giving or receiving instruction or connected with the TAFE.

See 'Performance and communication of copyright material in TAFE Classes' at smartcopying.edu.au for more information.

Using YouTube videos is not completely without risk, however. This information sheet considers risk management practices when using YouTube videos for educational purposes.

Copying YouTube videos

While TAFE college teaching staff are able to show film clips and films in class for educational purposes, they may only copy YouTube videos in limited circumstances under a special exception in the Copyright Act known as flexible dealing (section 200AB), as long as all conditions of the exception are met.

The flowchart on the last page of this PDF provides guidance on when teaching staff may be able to rely on s 200AB to download and copy YouTube videos.

For more information, see <u>Department PDF</u> 'Format shifting and section 200AB' or 'Flexible Dealing Exception' at <u>smartcopying.edu.au</u>.

IMPORTANT NOTE

Whether s 200AB applies must be assessed on a case-by-case basis. If you are considering reliance on s 200AB, we recommend that you contact your TAFE college copyright representative in the first instance and seek further guidance from the Department of Training and Workforce Development (the Department) or the National Copyright Unit as required.





Smartcopying information

The general practice of downloading videos from YouTube for educational use should only be undertaken if it is consistent with the copyright advice available on the Smartcopying website.

The Smartcopying information sheet 'YouTube – Using (TAFE)' at smartcopying.edu.au discusses the risks associated with downloading YouTube videos and provides some helpful tips on managing copyright issues when using YouTube. The following information has been extracted from this information sheet.

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Risk-management tips for teaching staff using YouTube

- Link to or embed the YouTube video clip whenever possible, as linking is not a copyright activity.
- Do not use content that is likely to be an infringing copy, that is, content that has been uploaded without the consent of the copyright owner
- Only use YouTube videos for teaching purposes, not for commercial or promotional activities.
- · Only use what you need.
- Check that you cannot purchase or readily license the content you need from another source.
- Do not expose the content to further copying or communication by, for example, giving students access to an electronic file that they could copy.



Online connection to YouTube

As already stated, YouTube videos may be streamed for educational purposes from the YouTube site to a class under section 28 of the Copyright Act. The video use must be part of educational instruction, not-for-profit and the audience must be either giving or receiving instruction or connected with the organisation delivering the instruction. See information sheet 'Performance and communication of copyright material in TAFE classes' at smartcopying.edu.au.

YouTube videos may also be embedded into another non-commercial educational site where an embed code is provided. Embedding a YouTube video is like providing a link to the YouTube video. Linking or embedding is not a copyright activity, as you are not actually making a copy of the material. Therefore, linking and embedding YouTube videos is a practical copyright-management strategy.

For more information on using YouTube, visit the following pages at smartcopying.edu.au.

- YouTube Using (TAFE)'
- 'Performance and communication of copyright material in TAFE classes'
- · 'Flexible Dealing Exception'

Some content in the following flowchart is adapted from National Copyright Unit. (n.d.). Flexible Dealing Exception. smartcopying.edu.au. Under a CC BY 4.0 licence.

Flowchart for downloading or copying YouTube videos under section 200AB

Is the video covered by the Statutory Broadcast Licence or any other exception?

You cannot rely on s 200AB if a statutory licence or any other exception applies. The Statutory Broadcast Licence allows teaching staff to copy videos from YouTube where:

- the video is of an Australian free-to-air broadcast, for example, an ABC, SBS, Channel 7, Channel 9 or Channel 10 program; and
- the video has been posted by the Australian free-to-air broadcaster and not someone else. Most Australian free-to-air channels have a YouTube partner channel.

For more information, see <u>Department PDF</u> 'Copyright licences and useful exceptions' and visit 'Educational Licences' and 'Copyright exceptions' at <u>smartcopying.edu.au</u>.

Do I need the video for a specific educational instruction purpose?

An educational instruction purpose could include teaching in a classroom or remotely, preparing to teach, compiling resources for student homework or research, or doing something for the purpose of teaching. You must have a specific purpose planned when you make the copy, it cannot be 'just in case' you need it some other time

YES

NO

NO

Is my use 'unreasonable'?

To rely on s 200AB, your use must not conflict with the normal uses of the work or unreasonably prejudice the copyright owner's interests. You must consider the following factors:

- Is the YouTube video available to purchase or obtain under licence within a reasonable time at an ordinary commercial price? If it is, then your TAFE college must purchase a copy/licence.
- You should only use as much as you need for your planned specific educational purpose, no more.
- You must take reasonable steps to ensure the content is accessible only to staff/students who need it for the specific educational instruction purpose, for example, via password protection.
- Take reasonable steps to prevent further copies being made, for example, limit audio-visual content access to streaming/ viewing only, delete content when no longer required and disable downloads.
- Your use cannot be for the purpose of obtaining a profit or commercial advantage. Cost recovery is permissible.
- · The original content must be lawful and not pirated.

For more information, see 'Flexible Dealing Exception' at smartcopying.edu.au.

Seek guidance from your TAFE copyright contact or the Department and the National Copyright Unit, as required, to confirm that s 200AB applies. Attribute and label the new copy including the words 'Copied under section 200AB of the *Copyright Act 1968*'.

May be permitted under s 200AB

For more information, see the National Copyright Guidelines available at smartcopying.edu.au or contact sectorcapability.ip@dtwd.wa.gov.au. Unless otherwise indicated, the text in this resource is licensed under a Creative Commons Attribution 4.0 licence.

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