Notices on Photocopiers and Other Copying Machines

This information sheet is for organisations that provide public access to machines that reproduce material (such as photocopiers, scanners, computers, printers, and audio/video recording equipment) and want to know how they can minimise the organisation’s chances of being liable for the actions of people using the machines.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

A Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For further information about the service, see copyright.org.au

We update our information sheets from time to time. Check our website at copyright.org.au to make sure this is the most recent version, and for information about our other information sheets, other publications and our seminar program.

Key points

• A person will infringe copyright if he or she uses copyright material in any of the ways controlled by the copyright owner without permission, unless a special exception applies.

• An organisation can be liable for infringing conduct if it or its staff “authorise” someone else to infringe copyright.

• An organisation can minimise its liability by placing specified warning notices on or near machines that reproduce material.

When is copyright infringed?

Direct infringement

Generally, a person directly infringes copyright if, without permission, he or she uses all, or a “substantial part”, of copyright material in one of the ways controlled by the copyright owner (such as by reproducing that material or communicating it to the public).

There is no particular percentage or number of words which will always be a “substantial part”. It is a question of whether the part used is an important, distinctive or essential part of the original work. Therefore, using even a small part of a work can infringe copyright if the part is important.

There are some special situations in which copyright material may be used without permission. For example, fair dealing of copyright material for the purpose of research or study does not infringe copyright.
Authorising infringement

A person who authorises another person to infringe copyright may be liable for the infringement. The courts have held that “authorising” an infringement means “sanctioning, approving or countenancing” it. In one case, a university which allowed unsupervised use of a photocopier in its library was liable for authorising infringement by people using the machine to make an infringing copy of a book held in the library.

Following this case, the Act was amended to remove libraries’ liability for authorising infringement by users of their photocopiers, provided that certain requirements are met. The Act also lists factors which must be taken into account to determine whether or not someone has “authorised” an infringement. These include:

- the extent (if any) of the person’s power to prevent the doing of the infringing act;
- the nature of any relationship existing between the person and the person who did the infringing act;
- whether the person took any reasonable steps to prevent or avoid the doing of the act, including whether the person complied with any relevant industry codes of practice.

Notices on or near machines used for copying

Sections 39A and 104B of the Copyright Act provide that if a “library” or “archive” puts up a prescribed notice on or near a copy machine (e.g., photocopiers, scanners, computers, printers, audio/video recording equipment, both digital and analogue) that has been installed by the library or archive (whether on or outside the premises), it will not be liable for authorising an infringement by people who use the equipment simply because it made the machine available.

The term “library” can include public libraries, libraries within educational institutions, and libraries within not-for-profit and commercial organisations. The term “archive” can include museums and galleries.

The wording for the notices is specifically set out in the Copyright Regulations 2017. These notices must be sized in dimensions of at least 297 millimetres long and at least 210 millimetres wide (i.e., no smaller than an A4 sheet of paper). There are three notices that can be used depending on the type of copyright material and/or equipment. A copy of each notice is reproduced at the end of this information sheet for your use.

The notices should be affixed in a position that is easily seen by people when they seek to use the machine. It is also a good idea to let people know where to get further information, for example, from our information sheets Research or Study, and Fair Dealing: What Can I Use Without Permission?.

For machines capable of copying works or published editions

For a machine that can copy “works” (e.g., manuscripts, textbooks, images, artworks, music scores, scripts, etc.) or published editions (e.g., books, newspapers, magazines), you may use either the notice on Page 5 or on Page 6. Examples of such machines include photocopiers, scanners, and 3D printers.

For machines capable of copying audio-visual material

For a machine that can copy audio-visual material (e.g., films, sound recordings, broadcasts), you may use either the notice on Page 6 or on Page 7. Examples of such machines include digital cameras and video recorders.
For machines capable of copying works, published editions, and audio-visual material
For a machine that can reproduce all types of media (e.g., books, articles, magazines, newspapers, images, music scores, scripts, DVDs, videos, broadcasts, sound recordings, etc.), particular in digital form, use the notice on Page 6. Examples of such machines include computers, laptops, and tablets.

Legal effects of using the notices
When a library or archive has used the prescribed notices on or near a machine used for copying, that organisation will have a statutory defence against any claim that they are authorising an infringement merely because they provided the machine which a person used to make an infringing copy.

For organisations other than libraries or archives, the use of the prescribed notices can potentially be used as evidence that the organisation has taken appropriate steps to distance itself from any infringement by people using the machine, and that it thus has not authorised an infringement by providing the equipment. Therefore, it may be a good idea to use the same notices where a copy machine is installed in other places (e.g., a classroom).

Vicarious liability
An organisation can also be vicariously liable for unauthorised copying by an employee, in the same way that it may be liable for other wrongful conduct by employees. The use of the notice will not generally protect an organisation from vicarious liability if its staff use the machine to infringe copyright.

Minimising risk where staff might use machinery to infringe copyright
While it is a good idea to put notices about copyright near machines which might be used to infringe copyright (they might act as a reminder or deterrent), it is also a good idea to make staff aware of their copyright obligations through staff training and by including copyright information in staff manuals and staff policies. Supervision and getting signed undertakings from users of the machines that they will not use it to infringe copyright may also be a good idea.

While these steps might not avoid liability if an infringement came to the attention of a copyright owner, they are likely to decrease risk by increasing copyright compliance.

For further information, see our information sheet Libraries: Introduction to Copyright.

Frequently Asked Questions

What do I need to include in the copyright warning notice?
At the end of this information sheet you can find the three copyright notices prescribed in the Copyright Regulations 2017. All must be reproduced in dimensions of at least 297 millimetres long and at least 210 millimetres wide (i.e., at least the size of an A4 sheet of paper). There is no need to edit the wording of these notices.

Is a librarian responsible for infringements done by a client or member of the public?
A librarian may infringe copyright if he or she authorises a person to make an infringing copy. This could be done by encouraging the copying, photographing or filming of copyright material in the collection, or by making copying equipment such as photocopiers available to a member of the public without warning them against infringement. Generally, a librarian will not be liable for authorising the making of infringing copies on a photocopier in the library if the prescribed warning notice is placed near the machine. It is also a good idea to have similar notices near other copying equipment such as computers.
What is the benefit of using copyright notices?

The use of copyright warning notices in libraries and archives will allow those organisations to rely on the statutory defence in response to a claim that they authorised infringement by providing a copying machine. For organisations other than libraries and archives, in the event that someone has used their machine to infringe copyright, the use of notices may be relied on as evidence that they did not authorise the infringing conduct.

Further information

For further information about copyright, and about our other publications and training program, see our website copyright.org.au

If you meet our eligibility guidelines, a Copyright Council lawyer may be able to give you free preliminary legal advice about an issue that is not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For information about the service, see the ‘Legal Advice’ tab of our website at copyright.org.au

Reproducing this information sheet

Our information sheets are regularly updated. Please check our website to ensure you are accessing the most current version. Should you wish to use this information sheet for any purpose other than your reference, please contact us for assistance.

About Us

The Australian Copyright Council is an independent, non-profit organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia’s creative industries and Australia’s major copyright collecting societies.

We are advocates for the contribution of creators to Australia’s culture and economy; the importance of copyright for the common good. We work to promote understanding of copyright law and its application, lobby for appropriate law reform and foster collaboration between content creators and consumers.

We provide easily accessible and affordable practical, user-friendly information, legal advice, education and forums on Australian copyright law for content creators and consumers.
Commonwealth of Australia

Copyright Act 1968

Notice about the reproduction of works and the copying of published editions

WARNING

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

(a) a reproduction that is a fair dealing under the Copyright Act 1968 (the Act), including a fair dealing for the purposes of research or study; or
(b) a reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for research or study, of one or more articles in a periodical publication for the same research or same course of study or, for any other work, of a reasonable portion of a work.

For a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10% of the number of pages, or one chapter, is a reasonable portion.

For a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10% of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40(2) of the Act.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.
Commonwealth of Australia

Copyright Act 1968

Notice about the reproduction of works and the copying of published editions and audio-visual items

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Reproduction of works and copying of published editions

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(b) a reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for research or study, of one or more articles in a periodical publication for the same research or same course of study or, for any other work, of a reasonable portion of a work.

For a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10% of the number of pages, or one chapter, is a reasonable portion.

For a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10% of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40(2) of the Act.

Copying of audio-visual items

Unless otherwise permitted by the Act, unauthorised use of audio-visual items in which copyright subsists may infringe copyright in that item.

It is not an infringement of copyright in an audio-visual item to use that item in a manner that is a fair dealing under section 103C of the Act.

Section 103C of the Act relates to fair dealing for the purpose of research or study and sets out the matters that must be considered in determining whether a reproduction of an audio-visual item is a fair dealing.
Commonwealth of Australia

Copyright Act 1968

Notice about the copying of audio-visual items

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