

# Copyright Guidelines

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Authorised by:

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## 1. Position statement

Swinburne University of Technology (Swinburne) is both a creator and consumer of copyright material and encourages the promotion of balanced copyright law. Together with other members of the peak industry body Universities Australia (UA) Swinburne is a member of the Australian Digital Alliance (ADA) and supports the ADA's provision of an effective voice for public interest perspectives in the copyright debate.

## 2. Purpose

These Guidelines set out Swinburne's commitment to:

1. provide access to the knowledge of the world for its staff and students, and promote the effective use of information resources by the Swinburne community;
2. ensure that its staff observe the law relating to copyright and abide by contractual commitments.

The Guidelines apply to all staff and students of Swinburne (excepting the Sarawak campus).

## 3. Statutory Licences

The Australian *Copyright Act 1968* (Cth) (the Act) provides statutory licences (Part IVA, Div 4) that allow the copying and communication of works and broadcasts by educational and other institutions. Swinburne has entered remuneration agreements with the collecting societies Copyright Agency Limited [www.copyright.com.au](http://www.copyright.com.au) (CAL) and the Audio-Visual Copyright Society Limited trading as Screenrights [www.screenrights.org](http://www.screenrights.org) (Screenrights) for the use of copyright material under the terms of the statutory licences.

Swinburne is required to undergo period sampling exercises to provide information on copying and communication undertaken under the statutory licences in nominated areas of Swinburne during the sampling periods. Swinburne staff must cooperate fully in these exercises so that Swinburne meets its contractual commitments to CAL and Screenrights. Further information about the sampling process is available at

<https://wiki.swinburne.edu.au/display/copyright/Usage+Surveys+under+Statutory+Licence>

### 3.1 Copying and communication limits

Under s.113P(1) of the Act university staff are permitted to copy and communicate an amount of a text-based copyright work that does not 'unreasonably prejudice the legitimate interests of the owner of the copyright' for educational purposes. Teaching Staff should be familiar with the copying limits applied by Swinburne which are detailed on the copyright web site at

<https://wiki.swinburne.edu.au/pages/viewpage.action?pageId=77501739>

Under s.113P(1) of the Act images may be copied and communicated in their entirety for educational purposes, subject to compliance with certain requirements. Information about these requirements is available on the copyright web site at <https://wiki.swinburne.edu.au/display/copyright/Images>

Under s.113P(2) of the Act, which covers copying and communication of broadcasts, there is no limit to the amount of a broadcast or post-broadcast podcast which can be copied and communicated for educational purposes. Teaching staff are encouraged to use the Library's databases to make television programs available to students. Further information on using broadcast material can be found on the Library website at <http://www.swinburne.edu.au/library/services-teachers/course-resources/tv/>

### 3.2 Online communication

Swinburne administers communications under s.113P(1) of the Act centrally through the Subject Materials service operated by the Library. All copyright material (other than images) communicated online at Swinburne under s.113P(1) **must** be placed in Subject Materials.

Staff **must not** make such copyright material available to students online through any other system, including the Swinburne learning management system (LMS) and network servers.

Staff may link from other internal systems to material in Subject Materials. Material held in Subject Materials is only available to enrolled students and staff of Swinburne. Students are required to enter a prescribed username and password to obtain access to the material. Further information on the use of Subject Materials is available at <http://www.swinburne.edu.au/library/services-teachers/subject-materials/>

Staff may include images used in compliance with s.113P(1) of the Act in powerpoint slides or on the LMS for educational purposes as long as access is only available to enrolled students and staff of Swinburne.

### 3.3 Copyright notices and labels

Swinburne requires a prescribed notice to be distributed and displayed with any copyright material copied or communicated under the statutory licence. Staff must attach the appropriate prescribed notice when copying or communicating copyright material under the statutory licence. Further information on when and how to use copyright notices is available at <https://wiki.swinburne.edu.au/display/copyright/Notices>

Swinburne will display the copyright warning notices referred to in ss.39A and 104B of the Act in all relevant university locations. These notices are displayed to ensure that users are aware of their obligations in relation to copyright material and that Swinburne is not taken to have authorised any copyright

infringement that may occur on copying machines located on its premises.

## 4 Assisting persons with a disability

Swinburne will copy and communicate copyright material for persons with a print or intellectual disability under the terms outlined in Part IVA, Div 2 of the Act. Staff must ensure that access to copies created under these provisions is limited to a specific person with a disability. Copies may be communicated via a secure method (e.g. email or password authentication to hosted material).

## 5 Commercial agreements

### 5.1 Databases

Swinburne enters commercial licence agreements with publishers and vendors for the provision of access to a wide range of academic journals and professional information maintained in electronic databases. Access to and use of this material is governed by the individual licences with the publisher or vendor. These terms may be more or less restrictive than the terms of the Act.

Swinburne has access to licence agreements negotiated for the tertiary education sector on favourable terms by the Council of Australian University Libraries (CAUL). Swinburne, through its membership of CAUL participates in national and international endeavours to ensure fair commercial licensing conditions for universities.

Swinburne aims to enter agreements that provide for the following if possible. However, individual licences need to be consulted to determine actual usage terms.

a)	on campus and remote access for both Higher Education and TAFE staff and students
b)	walk-in access for all users of campus libraries
c)	ability to make multiple copies for educational use
d)	ability to copy and communicate material for educational use
e)	ability to use material for Inter-Library loans under s. 49 of the Act
f)	access for staff and students participating in courses at Swinburne's offshore campuses and programs

Further information on Library databases is available at  
<https://www.swinburne.edu.au/library/search/databases>

### 5.2 Music Licence

Swinburne has entered a collective remuneration agreement (Music Licence) with the music collecting societies APRA, AMCOS, PPCA and ARIA that permits staff and students to perform, copy or communicate copyright musical works and sound recordings for educational purposes and for

university events subject to certain conditions. Further information on performing, copying and communicating musical works and sound recordings is available at <https://wiki.swinburne.edu.au/display/copyright/Music>

The music licence requires Swinburne to undergo an annual sampling exercise. Swinburne must provide information on sound recordings copied and communicated under the licence and held on the university's IT systems in central units. Staff must cooperate fully in this exercise so that Swinburne meets its contractual commitments.

### 5.3 Computer software

Computer software is protected as a literary work under the Act. Swinburne provides access for its staff and students to computer software through commercial licence agreements. These licences are managed by the IT Services Department. For further information on the use of computer software at Swinburne refer to <http://www.its.swinburne.edu.au/services/software.html>

## 6 Other provisions of the Act

Swinburne encourages the widest possible use of copyright material under the terms of the Act. Staff and students are, therefore, encouraged to be familiar with provisions other than contained in the statutory licence. These include:

a)	Fair dealing (ss. 40 – 43, 103A – 104)
b)	Format shifting or recording for private use (ss. 43C, 47J, 109A, 110AA, 111)
c)	Performance during educational instruction (s.28)
d)	Interlibrary loans (ss. 49, 50)
e)	Copying for inclusion in exams (s.200(1))
f)	Copying or communication of an unpublished thesis (s. 51(2))
g)	Use of works and other subject-matter for certain purposes (s. 200AB)

## 7 Permission from copyright owner

If permission is obtained from the copyright owner, material can be used in the manner authorised by that permission without any further reference to copyright restrictions. Swinburne staff and students make extensive use of material accessible through the Internet. Material on the internet is often made available by copyright owners for re-use under an express, implied, or open content licence. Swinburne encourages the use of such material.

The Swinburne Copyright Office can assist staff who wish to approach copyright owners to request

permission to use copyright material. Any staff member who obtains permission for the use of copyright material must maintain appropriate files recording details of permissions obtained for the full period of the use and ensure that material is no longer available once any licence term has expired.

Postgraduate students must ensure that they obtain and retain all necessary copyright permissions for material included in their thesis to enable their thesis to be made publicly available online through the National Library of Australia's Trove service <http://trove.nla.gov.au/>. Information on how to manage copyright in theses is available at <https://wiki.swinburne.edu.au/display/copyright/Copyright+for+your+students>

## 8 Swinburne owned copyright

Swinburne staff generate copyright in material produced during the course of their employment and use of such material is governed by the *Governance and Administration Statute* 2012 and the *Intellectual Property Regulations* 2012 as detailed in clause 9.2 of Swinburne's People, Culture and Integrity policy <http://www.swinburne.edu.au/about/leadership-governance/policies-regulations/policies/people-culture-integrity/intellectual-property/> Staff are encouraged to re-use material generated by Swinburne employees where appropriate for incorporation into further Swinburne teaching and research material.

Swinburne supports the use of open content licences, such as Creative Commons, to improve the public availability of Swinburne owned material where it is considered appropriate and useful. Information on the use of Creative Commons licences is available from <http://creativecommons.org/>

Staff should remain aware that if copyright material belonging to third parties (such as commercially published material) is embedded within teaching materials, further reproduction and/or communication of such material remains subject to the Act.

## 9 Research repository

To meet Swinburne's commitment to increasing the exposure and impact of Swinburne research to the wider community, researchers are encouraged to deposit their work, where appropriate into Swinburne Research Bank <https://researchbank.swinburne.edu.au/> Researchers contributing their work to Swinburne Research Bank make a deposit agreement, giving Swinburne the right to store their research outputs and make them publicly available. Staff or students must own copyright in the material deposited or have the rights necessary to provide Swinburne with a licence to make it available through ResearchBank.

## 10 Illegal file sharing

Swinburne prohibits the use of the Swinburne network to store, transmit or make available material that infringes copyright. This includes infringing material transferred via peer-to-peer networks and material illegally copied from other media.

Staff must familiarise themselves with Swinburne's Information Technology (IT) Systems Acceptable Use

Guidelines (see <https://wiki.swinburne.edu.au/display/isg/Acceptable+Use+Guidelines>) which prohibits the use of electronic communications in any manner contrary to the law or likely to contravene the law. This includes copyright infringement. Staff are expected to remain aware of the possibility for copyright infringement through the use of digital media and electronic communication. Staff must check with the Copyright Office if they are unsure about potential copyright infringement.

Swinburne reserves the right to remove infringing material or material which is likely to be infringing from any Swinburne server and to block the transfer of such material by email or other means.

## **11 International**

Swinburne is permitted to communicate material online from Australia to students overseas in reliance on the Statutory Licences if those students are included in the official Department of Education and Training <http://education.gov.au> records of Swinburne's EFTSU numbers.

Copying and communication of material from equipment located on a campus outside Australia and its territories will be governed by the laws of that country. Staff are responsible for ensuring they comply with all applicable laws governing copyright in other countries.

## **12 Moral rights**

Part IX of the Copyright Act 1968 provides for the moral rights of the creators of literary, dramatic, musical or artistic works and cinematograph films. Moral rights attach to individuals only. The two moral rights which apply within Australia are the right to be correctly acknowledged as author (attribution) and the right for a work not to be subjected to derogatory treatment (integrity). Swinburne respects the moral rights of all authors of copyright material as well as those of its staff and students.

## **13 Takedown notices**

The Swinburne Copyright Infringement Notification form is available at [www.swinburne.edu.au/copyright-form.htm](http://www.swinburne.edu.au/copyright-form.htm). Upon receiving a valid copyright infringement notification the Copyright Officer will conduct immediate investigations into the alleged breach and will inform all relevant parties of the outcomes. The act of receiving a copyright infringement notification does not constitute acceptance by Swinburne that the material identified in the notice infringes copyright of another party.

On directions from the Copyright Officer Swinburne will take immediate action to expeditiously remove or disable access to any infringing copyright material identified in a copyright infringement notification on its IT network.

## **14 Use of digital technologies**

### **14.1 Potential for infringement**

Staff and students should be aware that the use of digital technologies, devices and services, both within and external to the university, often involves the reproduction of material protected by copyright. Staff and students must remain aware of the potential for copyright infringement when using such technologies. If unsure of any copyright issues that might arise from the use of digital technologies, including web based and networked services, staff and students should contact the Copyright Office.

## 14.2 Open Access (OA) / Open Educational Resources (OER)

As part of its commitment to balanced copyright, Swinburne encourages the provision of open access to copyright material including educational resources, research outputs, data and professional resources where appropriate. This may include making Swinburne owned copyright material available under open access licences and encouraging academic publishers to support open access objectives.

Swinburne also encourages teaching staff to use and create Open Educational Resources (OER) - openly licensed teaching materials which promote academic collaboration and accessibility to educational resources. Information and resources to help teaching staff use OER can be found at <http://www.swinburne.edu.au/library/services-teachers/open-educational-resources/> and practical guidance on using, creating and sharing OER can be found by using the Open Education Licensing (OEL) toolkit at <http://www.oel.edu.au/>.

## 15 Responsibility

The Manager, Licensing, Acquisitions and Copyright is also the Swinburne Copyright Officer and is responsible for these Guidelines. The Copyright Officer has the authority to require staff to take action to ensure legal compliance in accordance with the Act, the Swinburne People, Culture and Integrity policy, these Guidelines and other directions relating to copyright. In cases of non-compliance with the provisions of the Act, the Copyright Officer or a designated representative has the authority to intervene in the distribution of non-compliant material, including recalling items already distributed or removing access to online material.

The Copyright Office maintains a web site at [www.swinburne.edu.au/copyright](http://www.swinburne.edu.au/copyright) with information for staff and students on how to use copyright material as part of their activities at Swinburne. Information contained on this web site is based on the Act and official documentation provided by UA regarding copyright use at educational institutions.

Swinburne participates in the University Copyright Network (UCN), an informal group of professional staff working in the area of academic copyright management who share information and arrange information seminars on contemporary copyright issues.

The Swinburne Copyright Office provides staff training on the interaction between copyright law and Swinburne's teaching and research activities and compliance with Swinburne's policies and the Act. The Copyright Office responds to queries from staff and students about copyright and their activities at Swinburne and the use of copyright material for educational purposes.

The Copyright Office is responsible for:

a)	ensuring that staff and students are aware of these Guidelines and other Swinburne information on copyright, and responding to staff and student enquiries regarding copyright
b)	implementing systems to ensure university-wide compliance with these Guidelines and clause 9.3 of Swinburne's People, Culture and Integrity policy <a href="http://www.swinburne.edu.au/about/leadership-governance/policies-regulations/policies/people-culture-integrity/intellectual-property/">http://www.swinburne.edu.au/about/leadership-governance/policies-regulations/policies/people-culture-integrity/intellectual-property/</a>
c)	liaising with UA, publishers, vendors and collecting societies on copyright matters
d)	coordinating activities required under the Act or agreements with collecting societies in order to comply with statutory or commercial licences
e)	managing commercial licences for the provision of access to electronic information resources
f)	training and disseminating information to staff and students on copyright compliance

In managing these Guidelines, the Copyright Officer consults with and informs other Swinburne staff. In particular the Vice Chancellor, the Vice President (Students), and Leadership and Governance are consulted. Responsibility for periodical review, update and ongoing development of procedures related to these Guidelines rests with the Copyright Officer.

## 16 Further information

Further information about copyright at Swinburne is available from the Copyright Office web site at [www.swinburne.edu.au/copyright](http://www.swinburne.edu.au/copyright). Enquires can be directed to [copyright@swin.edu.au](mailto:copyright@swin.edu.au) or ext. 4669 / 8227. The Swinburne Copyright Infringement Notification form is available at [www.swinburne.edu.au/copyright-form.htm](http://www.swinburne.edu.au/copyright-form.htm)

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