



COPYRIGHT AND STUDENT PARTICIPATION IN DISCUSSION GROUPS ON THE LMS

Students using LMS sites may share unauthorised third party copyright works, e.g. e-zine articles, images, etc., with other students and staff by:

- o providing the URL of an online work; or
- o by requesting a member of staff to post the work in ECMS/eReserve; or
- o by obtaining the written permission of the copyright owner.

Students may not upload copyright protected materials to an LMS site.

Please note that the Internet is not a copyright-free zone. Websites and their contents are 'works' which are automatically protected by copyright, although that is not always immediately obvious. It is the user's responsibility to check a website for any copyright statement and/or terms of use.

(Please see [Copying Text and Images from the Internet](#) for further detail.)

Following is some of the background explaining why a student may not simply upload a copyright protected item to an LMS site.

- **Rights of copyright owners**

Infringement of copyright can occur when dealing with the whole or a 'substantial part' of a work in any of the ways reserved to the copyright owner. In the case of uploading files to a WebCT site, there are two owner rights that might be infringed:

- o the right to reproduce a work; and/or
- o the right to communicate a work to the public by making it available online.

Posting a work to a website is both a reproduction and a communication.

- **'Fair Dealing' for research or study**

The provisions for fair dealing do not cover a student posting copyright protected works to an LMS site.

S. 40(2) and (3) of the Copyright Act describe the criteria under which a copyright protected work may be reproduced as a 'fair dealing' for the purpose of research or study. Broadly: anyone may, without infringing copyright, copy a 'reasonable portion' of a work - e.g. one chapter of a book, or an article from a journal - if it is for *their own* research or study.

Because the provision applies only to individuals, if a student were to then upload the copied material to an LMS site, even though it was originally copied according to the provision allowing 'fair dealing for research or study', the purpose is no longer solely their own research or study.

Please see [Fair Dealing with Copyright Material](#) and ['Reasonable Portion' of Material to Copy](#)

- **The statutory licences: Screenrights & CAL**

Parts VA and VB of the Copyright Act provide for two statutory licences so that educational institutions can reproduce and communicate audiovisual copyright materials (Screenrights/Part VA), and print and graphic copyright materials (CAL/Part VB), without needing to seek permission from the owners for each use. Materials used under these licences are referred to as 'third-party unauthorised copyright works'; the University makes annual royalty payments for these materials via the agencies that manage the licences.

Any reproduction and communication taking place under these licences must be made by, or on behalf of, the body administering the institution i.e. a member of staff; it cannot be undertaken by a student.

Because of the complex legislation covering electronic copying and communication, Murdoch University manages all online communication of third party unauthorised copyright works through [ECMS/eReserve](#).

- **Authorisation of possibly infringing acts**

Under the Copyright Act, a person can infringe copyright by authorising another person to do an infringing act.

If university staff were to encourage students to upload copyright protected files to a website, and/or provide facilities for them to do so, and a student uploads material that is alleged to be infringing, two possibilities arise: first, that the student's act was an infringement, and secondly, that the university authorised it. In deciding whether authorisation to commit an infringing act had been given a court might look at whether the university had taken any reasonable steps to prevent or avoid the doing of the infringing act.

Avoiding copyright infringement

As well as informing students of their copyrights and responsibilities, requiring them to acknowledge a statement such as that below when posting any material to an LMS site might be considered a reasonable step in preventing or avoiding the commission of an infringing act.

Copyright Declaration

I warrant that the material I am uploading is my original work except those parts that I have acknowledged and referenced as the work of others; and that it does not infringe the copyright of any other person.

___ I agree

(You may include a quotation from a text if it amounts to less than 1% of the source work. If you have included images of any kind that you have not created, you may be infringing copyright. Do not upload recorded music that you have not composed.)

For more information on copyright, please refer to the University's copyright site at www.murdoch.edu.au/copyright ; email copyright@murdoch.edu.au ; or phone the copyright coordinator on 9360.7491.

If you have further queries about this, or other copyright matters, please contact the copyright coordinator by emailing copyright@murdoch.edu.au, or by phoning 9360.7491