



CAVAL Reference Interest Group and CAVAL Digital Licences Group

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# Navigating the IP Legal Maze: Copyright and Licence Issues for E-Resources

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- **Overview**

- My role at Monash
- Digital licences
- Online Learning Environments
- Free Web Sites and Documents
- Authors' Rights in Open Access Environments
- Licence Provisions and Users

- **My Role at Monash**

- Law Library Manager (Nov 1999+)
- Digital licence agreements (Nov 2001+)
  - > Review and advise on negotiation of terms and conditions
  - > Liaise with University Solicitors' Office regarding final review
- Copyright
  - > Use of separately licensed digital resources
  - > Liaise with University Copyright Officer
- Privacy
  - > Liaise with University Privacy Officer

- **Digital Licences**

- Terms and conditions: some common issues
  - > Definition of “authorised users” (inclusion of walk-in users, all users across campuses, remote access)
  - > Jurisdiction (governing law provisions and court jurisdiction)
  - > Incorporation of materials in print and electronic course packs (relationship to *Copyright Act 1968* (Cth) Part VB statutory licence)
  - > Inter-Library Loans (print or electronic)
  - > Also - responsibility for user behaviour, direct links to article level via catalogue, online reading lists, WebCT and the like – see below

- **Online Learning Environments**

- Online reading lists / electronic reserves / WebCT / Blackboard etc
  - > Direct links to, or electronic copies of, articles as permitted under individual licence agreements, *Copyright Act* Part VB statutory licence
  - > Restricted access to authorised users only (Monash students, students enrolled in unit) (as per licences or statutory licence)

- **Online Learning Environments Cont**

- Centralised control

- > Digitisation requests via Monash Digitisation Centre

- Facilitates control over what material and how much of it, is being digitised and made available (under *Copyright Act*, Part VB Hardcopy Licence), particularly important as 10% or 1 chapter limits apply across whole Institution (except for journal articles).

- > Advice re staff use of material from subscription databases (see

<http://www.copyright.monash.edu.au/journaldatabases.html>)

- **Online Learning Environments Cont**

- > Establish policy on linking to free web resources (risk management)

- Monash Library policy on linking from Library websites (catalogue, online reading lists, subject pages) to external web sites:

- » precludes framing and in-line linking;

- » allows for deep-linking to non-profit, government, non-commercial sites (eg .gov) and other non-commercial sites (eg .org, .net, .asn, .edu) after checking site for restrictions;

- » allows for deep-linking to commercial sites only in the catalogue and only with express permission;

- » all links provided within context of full bibliographic citation;

- » provides express opportunity for objections to linking to be lodged and addressed.

- **Free Web Sites and Documents**

- Not free of copyright
  - > Many sites will have explicit copyright statements and notices outlining permitted uses, otherwise implied licence for personal use
  - > Material hosted overseas is protected under Australian Copyright law when used in Australia
  - > Can use Part VB Electronic Reproduction and Communication statutory licence (can be difficult to determine some things that are easier with print, conventional documents eg 10% number words or 1 chapter)
  - > Difficulties in determining ownership of the material (eg an image embedded in one web site, but taken from another)
  - > When in doubt, ask for express permission from copyright owner/author



- **Authors' Rights in Open Access Environments**

- Copyright usually remains with the author who licences another to exercise some or all of those rights under agreement without infringing copyright.
- Some examples:
  - > Creative Commons (see <http://creativecommons.org/>)
    - Allows contributing authors to choose the level of copyright protection they want by offering a variety of licences
  - > SSRN (see <http://www.ssrn.com/>)
  - > ARROW (see <http://www.arrow.edu.au/>)
    - In both SSRN and ARROW, authors can provide material to the abstract level only or fulltext (may be pre or post publication articles where the author has retained copyright or gets authorisation from publisher where they have either assigned their rights or licensed relevant rights to the publisher)

- **Licence Provisions and Users**

- Negotiate for terms and conditions within licence agreements to state: licensee will “make all reasonable efforts” to ensure user compliance (not total responsibility for all user activity)
- General statement of terms of use (see <http://www.lib.monash.edu.au/databases/terms.html>)
- Users may need to be alerted to specific restrictions (eg Factiva – no walk-in access see <http://www.lib.monash.edu/databases/f.html>)
- Some specific resources may need to be for restricted use only (eg Shoah Foundation, Bankscope)

- **Licence Provisions and Users cont**

- Acceptable use policies for staff and students (IT policies at Monash – see <http://www.adm.monash.edu.au/unisec/pol/itec12.html> and <http://www.adm.monash.edu.au/unisec/pol/itec16.html>)
- Staff advice on using materials from licensed databases (as above - see <http://www.copyright.monash.edu.au/journaldata/bases.html>)