

# Copyright And Digital Rights Management: Creator To Consumer In A Digital Age

Learning element 3.3

**Copyright Commons And The Publishing Industry:**

*How can businesses survive in a copyright commons?*



*Bill Cope, Tom Davis and Mary Kalantzis*



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## Framework map

### Copyright And Digital Rights Management

	<i>Empirical And Experiential</i>	<i>Conceptual And Critical</i>	<i>Applied And Transferred</i>
<p><b>Theme 1: Copyright &amp; Intellectual Property</b></p>	<p><b>1.1</b></p> <p><b>Existing Copyright Rules</b></p> <p><i>How has copyright traditionally been determined?</i></p>	<p><b>1.2</b></p> <p><b>Freedom v Protection</b></p> <p><i>What is the best way to encourage innovation?</i></p>	<p><b>1.3</b></p> <p><b>Copyright &amp; The Publishing Industry</b></p> <p><i>How does the publishing industry deal with copyright issues?</i></p>
<p><b>Theme 2: Digital Rights Management</b></p>	<p><b>2.1</b></p> <p><b>Digital Rights Management (DRM) Systems &amp; The Law</b></p> <p><i>How do DRM systems work and how has copyright law responded?</i></p>	<p><b>2.2</b></p> <p><b>DRM &amp; Freedom</b></p> <p><i>How has technology change altered the freedom v protection debate?</i></p>	<p><b>2.3</b></p> <p><b>Industry Responsibilities Under DRM</b></p> <p><i>What copyright issues do businesses need to consider under a digital regime?</i></p>
<p><b>Theme 3: Copyright Commons</b></p>	<p><b>3.1</b></p> <p><b>Software &amp; The Intellectual Commons</b></p> <p><i>What do we mean by the 'commons' and how have some software developers attempted to keep their work within it?</i></p>	<p><b>3.2</b></p> <p><b>Protecting The Commons</b></p> <p><i>What legal, commercial and political arguments have occurred over the copyright commons?</i></p>	<p><b>3.3</b></p> <p><b>Copyright Commons &amp; The Publishing Industry</b></p> <p><i>How can businesses survive in a copyright commons?</i></p>

## Aims

### Knowledge scope

**Copyright Commons And The Publishing Industry** asks you to consider how a publishing business might be run in the context of the Copyright Commons. What are the costs and benefits a business would face if it operated in such an environment? For all of the public interest advantages of the Copyright Commons, there are considerable problems facing business practitioners. Is it possible to run a private business in these circumstances, or are public institutions—especially in higher education—the only organisations, which have the financial capacity and freedom to engage in meaningful activity in this sphere? Are there alternative business models which might be considered—ones that are less dependent on market forces? There is some suggestion that the role of the ‘patron’ might be magnified, resuming a position once held in previous centuries. Is this a workable strategy for a business or an individual wishing to make a living from the print and publishing industries? This element pushes you to apply the knowledge you have gained throughout this course in responding to these dilemmas.

### Knowledge and capability aims

By the completion of this Learning Element you will have the capacity to:

- ⊗ apply the knowledge you have gained on Copyright Commons issues to real world scenarios in the publishing industry;
- ⊗ identify industry problems associated with the Copyright Commons;
- ⊗ identify management-driven solutions to these problems, and move toward formalising those solutions in the form of strategy; and
- ⊗ better employ primary and secondary source material in forward planning responses to the intellectual property and rights management issues and structures they will (or already do) encounter in the publishing/print industry.

### Important terminology

The ‘Learning Framework’ is the overall educational endeavour of ‘*Copyright And Digital Rights Management*’. This is comprised of three ‘themes’, presented in the left-hand column of the Framework map. Each theme is divided into three learning ‘processes’, presented in the top row of the Framework map. Altogether this constitutes nine ‘elements’. The Learning Framework is also referred to as the ‘course’.

## Learning processes

The primary learning process in this element is to discuss with fellow students the questions set out below. In your discussion you are to make reference to the readings listed underneath the questions. You should also seek out other material, starting from the list of weblinks provided.

You will notice that the information included along with the reference indicates the perspective of the reading, whether it tends to be:

Business,  
Technology or  
Cultural studies oriented.

In your discussions and learning activities you should take account of the different perspectives represented by the readings and acknowledge those in your responses. You may wish to concentrate on one approach over another, such as technological change taking place in the industry.

### Learning activity: Online/Tutorial Issues

Engage in Online/Tutorial discussion in response to the following questions:

- 1) **How can a publishing business make any money in a Copyright Commons?**
- 2) **How is it possible to ensure that consumers will abide by an “honour system” when it comes to purchasing content?**
- 3) **What commercial models can authors/publishers follow in an environment where copyright either does not exist or is severely restricted?**
- 4) **What might this all mean for creators? For example, does an Internet commons mean that authors will be reduced to relying on patrons – that is, those readers who enjoy an author’s work and are prepared to support them, even though they may not directly purchase the author’s output?**

### Recommended reading:

Use the chapters by Prater to begin thinking about copyright commons issues in an applied way, but then focus on establishing which publishing businesses have actually succeeded in such an environment by exploring the Internet for case studies.

## Sources

When viewing this online you can click on a learning source title to go to the reading. Each reading in the list is provided with a label titled ‘**Perspective**’. Use this as a guide in determining its relevance to the three categories: Business, Culture and Technology.

<b>Title:</b>	<a href="#">Implications for Book Production Processes</a>
<b>Author(s):</b>	Prater, David
<b>Year:</b>	2001
<b>Book Title:</b>	Digital Rights Management and Content Development
<b>Editor:</b>	Cope, Bill; Freeman, Robin
<b>City:</b>	Altona, Vic
<b>Publisher:</b>	Common Ground Publishing Pty Ltd
<b>Pages:</b>	87-94
<b>Perspective:</b>	Technology, Business
<b>Keywords:</b>	Copyright Commons, Impact on Publishers, Subverting Usual Publishing Models, Internet Distribution and Supply Chains
<b>Abstract:</b>	This article applies copyright commons and digital distribution ideas to the business of publishing in Australia, with an emphasis on alternative publishing models. It draws on Australian examples and assesses their profitability.

<b>Title:</b>	<a href="#">Case Study: Stephen King's The Plant</a>
<b>Author(s):</b>	Prater, David
<b>Year:</b>	2001
<b>Book Title:</b>	Digital Rights Management and Content Development
<b>Editor:</b>	Cope, Bill; Freeman, Robin
<b>City:</b>	Altona, Vic
<b>Publisher:</b>	Common Ground Publishing Pty Ltd
<b>Pages:</b>	95-102
<b>Perspective:</b>	Technology, Business
<b>Keywords:</b>	Copyright Commons, Publishing Approaches, Case study
<b>Abstract:</b>	The author evaluates the success/failure of Stephen King's attempt to present his book 'The Plant' as a serial accessed through digital downloads to subscribers. While there was a high take-up rate, there were also problems with free-loading and subscriber expectations.

<b>Title:</b>	Information Transactions under UCC Article 2B: The Ascendancy of Freedom of Contract in the Digital Millennium?
<b>Author(s):</b>	Evans, Gail E.; Fitzgerald, Brian F.
<b>Year:</b>	1998
<b>Journal:</b>	University of NSW Law Journal
<b>Volume:</b>	21
<b>Issue:</b>	2
<b>Pages:</b>	Online version. Article located at <a href="http://www.austlii.edu.au/au/journals/UNSWLJ/1998/46.html">http://www.austlii.edu.au/au/journals/UNSWLJ/1998/46.html</a>
<b>Perspective:</b>	Technology, Business
<b>Keywords:</b>	Copyright, Contracts, Transaction Costs, Free Access v Paid Access, Business Implications
<b>Abstract:</b>	[Authors' introduction] "We have entered the `information age' in so far as information is a defining feature of contemporary society. The networking of the world through fibre optics, satellites and wireless communications has created a global community. We have moved beyond the Fordist-Keynesian era of mass manufacture to a post-Fordist regime of accumulation that generates and relies upon information handling to succeed. An ever increasing share of electronic commerce no longer involves trade in goods but trade in information. The explosive growth of the Internet has brought with it a new channel of distribution for information products. The Internet has created a vast global marketplace in which the information industry can not only market but actually `deliver' information products directly to the consumer. Consumers no longer have to go to a retail store to purchase software in a packaged and tangible form. The information is delivered electronically. They can receive it directly to their computers. Alternatively, they can access one of the Internet sites provided by the producer and either download their chosen software or access and extract information from the required database. Transactions in intangibles no longer involve tangible, movable items."

<b>Title:</b>	Ch 4 "Strategy Creation" in Strategy in Action
<b>Author(s):</b>	Thompson, John L.
<b>Year:</b>	1995
<b>City:</b>	London
<b>Publisher:</b>	Chapman Hall
<b>Perspective:</b>	Business
<b>Keywords:</b>	Strategy Planning, Business Planning, Market Analysis
<b>Abstract:</b>	The chapter introduces three "distinct but complementary" modes of strategy creation: planning; visionary leadership, and adaptation. In doing this it draws on real world examples and sets out a clear framework for analysing those examples.

<b>Title:</b>	<a href="#">Introduction to the strategic management process</a>
<b>Author(s):</b>	Glaister, Keith W.
<b>Year:</b>	1991
<b>Book Title:</b>	Cases in Strategic Management
<b>Editor:</b>	Clarke-Hill, Colin; Glaister, Keith
<b>City:</b>	London
<b>Publisher:</b>	Pitman Publishing
<b>Pages:</b>	3-23
<b>Perspective:</b>	Business
<b>Keywords:</b>	Strategic Management Process, Strategy Planning, Business Planning, Organisational Management
<b>Abstract:</b>	The chapter provides an overview of the strategic management process. It considers the levels and types of strategies found in organisations. It puts up a model of the strategic management process that focuses in particular on the concept of strategy formulation. It argues that such processes help organisations manage change.

**Web sources**

O'Reilly Online

[www.oreilly.com](http://www.oreilly.com)

Eldritch Press

[www.eldritchpress.org](http://www.eldritchpress.org)

Stephen King

[www.stephenking.com](http://www.stephenking.com)

MIT OpenCourseWare

[ocw.mit.edu/](http://ocw.mit.edu/)

## Assessment Task A option

You may wish to draw on the issues raised in this element, [Copyright Commons And The Publishing Industry](#), for your Assessment Task A (worth 25% of your overall grade).

To complete Assessment Task A you must write a proposal (of approximately, but not exceeding, 1,500 words) for the larger work that will constitute Assessment Task B. In choosing the format of this proposal refer to the range of assessment formats provided in the framework level description of this course. If applicable, you can draw on experience from your own workplace to provide examples of how these issues impact on the education, communication and/or business sectors.

The aim of Task A is to:

- (i) help you begin to format the structure of Task B; and
- (ii) help you begin to build the content for Task B.

You also need to consider how you will later integrate the final work you produce for Task A into Task B.

**Note: You are required to do only one Assessment Task A throughout the course.**

Choosing issues from [Copyright Commons And The Publishing Industry](#) as the springboard for your Assessment Task A does not necessarily lock you into pursuing them for Task B. For example, on completion of this task, you may decide to pursue a different theme for Task B.

Even if you choose not to base your Assessment Task on the issues raised in this element, the knowledge and capabilities you have gained here can be fed into the topic you eventually use as the basis for your Assessment Task A.

**Note: Assessment Task A must be submitted by the end of week four.**

## Learning pathways

### Transition from Learning Element 3.3

Having completed the learning process of this element (with or without completing the Assessment Task A option), you must decide which element to undertake next.

Possible transitions from this element are presented below, however it is recommended that you work out your own pathway in consultation with your teacher.

### Pathway options

By the completion of this element, **Copyright Commons And The Publishing Industry**, you should have an improved capability to apply to real world situations your knowledge of the issues in this theme as analysed from the perspectives of Technology, Business and Culture.

You may now wish to engage with a theme you have yet to undertake by attempting an **Empirical And Experiential** learning element such as **Digital Rights Management (DRM) Systems And The Law**. If you wish to tackle a **Conceptual And Critical** element from another theme at this point, you need to bear in mind that it pre-supposes knowledge of issues you may not have yet covered.

### Example pathways

	<i>Empirical And Experiential</i>	<i>Conceptual And Critical</i>	<i>Applied And Transferred</i>
<i>Theme 1: Print</i>	1.1 Existing Copyright Rules	1.2 Freedom V Protection	1.3 Copyright & The Publishing Industry
<i>Theme 2: Etext</i>	2.1 Digital Rights Management (DRM) Systems & The Law	2.2 DRM & Freedom	2.3 Industry Responsibilities Under DRM
<i>Theme 3: Convergence</i>	3.1 Software & The Intellectual Commons	3.2 Protecting The Commons	3.3 Copyright Commons & The Publishing Industry

## About this Learning Element

**Copyright Commons And The Publishing Industry** asks you to consider how a publishing business might be run in the context of the Copyright Commons. What are the costs and benefits a business would face if it operated in such an environment? For all of the public interest advantages of the Copyright Commons, there are considerable problems facing business practitioners. Is it possible to run a private business in these circumstances, or are public institutions—especially in higher education—the only organisations which have the financial capacity and freedom to engage in meaningful activity in this sphere? Are there alternative business models which might be considered—ones which are less dependent on market forces? There is some suggestion that the role of the ‘patron’ might be magnified, resuming a position once held in previous centuries. Is this a workable strategy for a business or an individual wishing to make a living from the print and publishing industries? This element pushes you to apply the knowledge you have gained throughout this course in responding to these dilemmas.

### Keywords

Contracts  
Copyright Commons  
Cost-Benefit Analysis  
Creator  
Intellectual Property  
Ownership  
Patronage  
Print Industry  
Public Institutions  
Publishing Industry  
Rights Management  
Strategy Planning